



**INDUSTRIAL
COURT**

ANNUAL REPORT

2013/14

Industrial Court Annual Report 2013/14

This report on the activities of the Industrial Court for the period 1 April 2013 to 31 March 2014 was presented by the Acting Chairman of the Industrial Court to the Department for Employment and Learning on 22 June 2015.

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Acting Chairman's Review of the Year

Caseload

The Court received six new recognition applications during the reporting period, all from the same union, Unite the Union. Two of these applications were ongoing at the end of the reporting period.

The caseload is discussed in the 'Review of Cases' at page 11.

Membership of the Court

Membership of the Court is unchanged from 2012/13.

Staffing

There were two changes to the staffing of the Secretariat during the reporting period. Alan Scott, the Court's Secretary, was replaced by Geraldine Lavery. Case Manager, Paul Cassidy, left and was replaced by Sarah Sheppard. I would like to thank the officers of the Secretariat for their continuing work to support the smooth running of the Court over the course of the year.

Full details of the Secretariat are set out on **page 17**.

Links with partner organisations

The Court has continued to benefit from its close association with our sister body in Great Britain, the Central Arbitration Committee (CAC). During the year members of the Court's Secretariat attended the CAC Deputies' meeting to inform themselves about the latest developments in that organisation's work. The well established working relationship between the Court and the CAC continues to be of real value and I very much appreciate the continuing assistance and cooperation of the CAC and its staff.

Your views

The Court is committed to maintaining a professional, efficient and user focused service. The feedback gathered through satisfaction surveys during the course of the year has continued to be positive. We strive to maintain high standards, and welcome any and all comments on the operation of the Court. For more information on how to contact us, please see **page 18**.

Roles, objectives, targets and results

The Court's role and corporate objectives are set out below. The following page sets out performance targets and measures and the degree to which these have been achieved.

Role

- Deal with statutory applications for recognition and derecognition of trade unions.
- Deal with statutory applications for disclosure of information for collective bargaining.
- Resolve disputes about the establishment and operation of employee information and consultation arrangements.
- Resolve disputes over the constitution of European Works Councils.
- Resolve disputes under European Company statute.
- Provide voluntary arbitration.

Objectives

- Manage the statutory adjudication process dealing with applications to the Industrial Court in an efficient, professional, fair and cost effective manner.
- Achieve outcomes which are practicable, fair, impartial and, where possible, voluntary.
- Provide a professional, courteous and helpful service to all who approach us.
- Publish clear, accessible and up to date guidance and other information on our procedures and requirements.
- Answer enquiries concerning our work (not including the provision of legal advice).

- Supply assistance and decisions as rapidly as is consistent with good standards of accuracy and thoroughness, taking account of the wishes of the parties and the statutory timetables.
- Maintain an Industrial Court Secretariat with the skills, knowledge and experience that are appropriate to meet operational objectives.

Performance measures and targets (based on objectives)

Performance measure	Target	Achievement
Proportion of applications for which notice of receipt is given and responses sought within one working day	95%	100%
Proportion of written enquiries and complaints responded to within three working days.	90%	100%
Delivery to the Department for Employment and Learning of an Annual Report on the work of the Industrial Court in 2012/13.		02/04/14

Membership of the Industrial Court 2013/14

Membership of the Court during the period 1 April 2013 to 31 March 2014 is recorded below.

Acting Chairman

Barry Fitzpatrick

Semi-retired Consultant

Members with experience as representatives of employers

George McGrath

*Retired Deputy Chief Executive,
BT (NI)*

Patrick Masterson

*Retired European ER Director,
Nortel*

Members with experience as representatives of workers

Robin Bell

*Executive Committee Member,
IBOA Finance Union; Pensions
Board Trustee, AIB UK*

Avril Hall-Callaghan

*General Secretary, Ulster
Teachers Union*

Members with experience as representatives of employers

Patricia O'Callaghan

*Retired Director of Head and Skeletal Services, Belfast Health and Social Care Trust
Board Member of Regulation and Quality Improvement Authority*

Members with experience as representatives of workers

Barbara Martin

Chair of Health and Safety Committee, Irish Congress of Trade Unions

Pauline Shepherd

Interim Chief Executive for Extern and Extern Ireland

Peter Williamson

Retired Irish Regional Secretary, Amicus

Neal Willis

Retired Director of Corporate Services, Newtownabbey Borough Council.

Applications and case outcomes

The Industrial Court received the following applications in the named jurisdictions during the period 1 April 2013 to 31 March 2014.

Applications for recognition for collective bargaining purposes

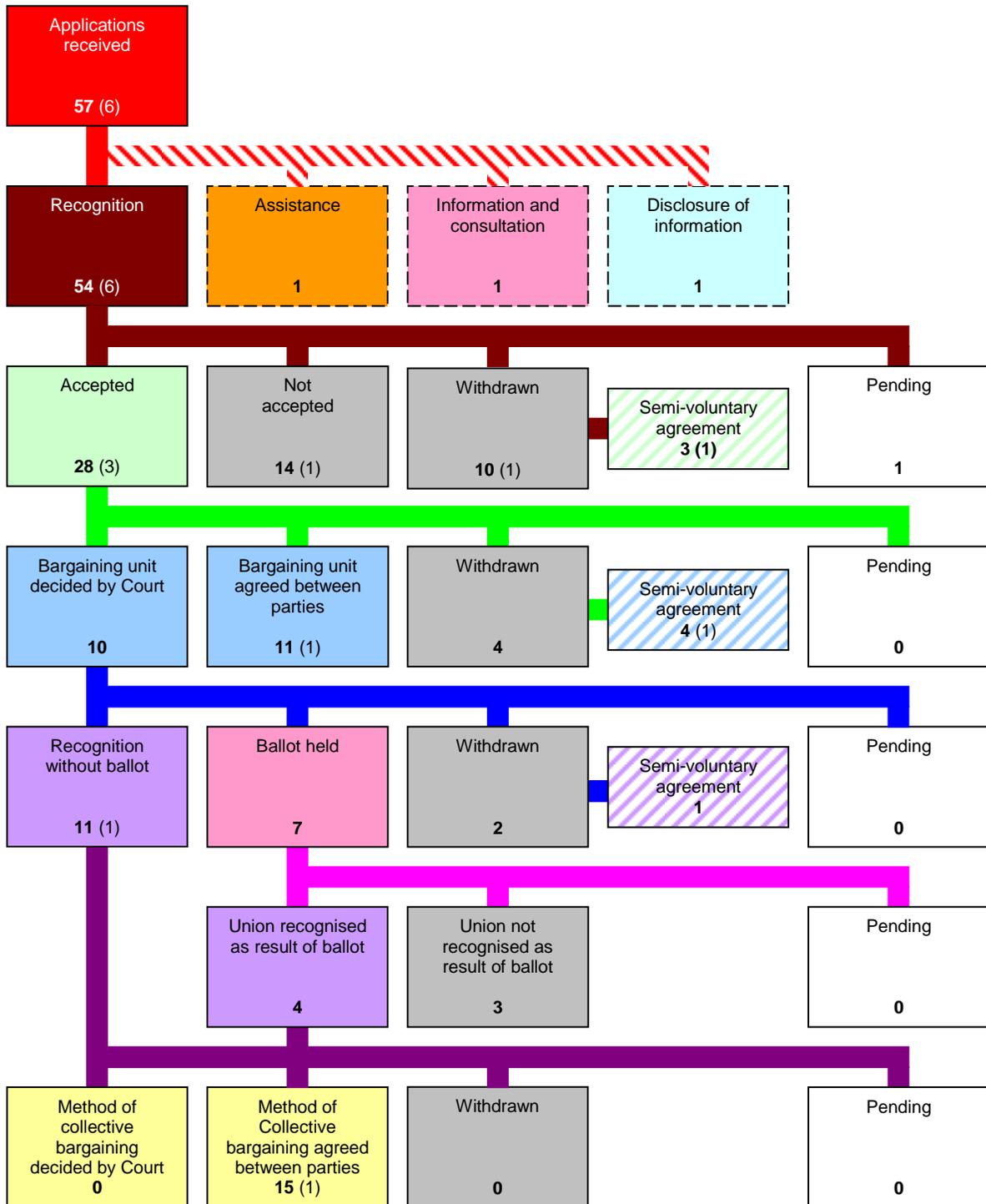
PARTIES	CASE REF NO
Unite the Union and Magellan Aerospace	IC 52/2013
Unite the Union and Andor Technologies	IC 53/2013
Unite the Union and Andor Technologies	IC 54/2013
Unite the Union and Quinn Building Products	IC 55/2013
Unite the Union and Nicholl (Fuels)	IC 56/2013
Unite the Union and Radius Systems	IC 57/2014

The text of decisions to date relating to each application can be found on the Industrial Court's website, www.industrialcourt.gov.uk. Note that a decision may not necessarily be reached in the reporting year during which the corresponding application was received.

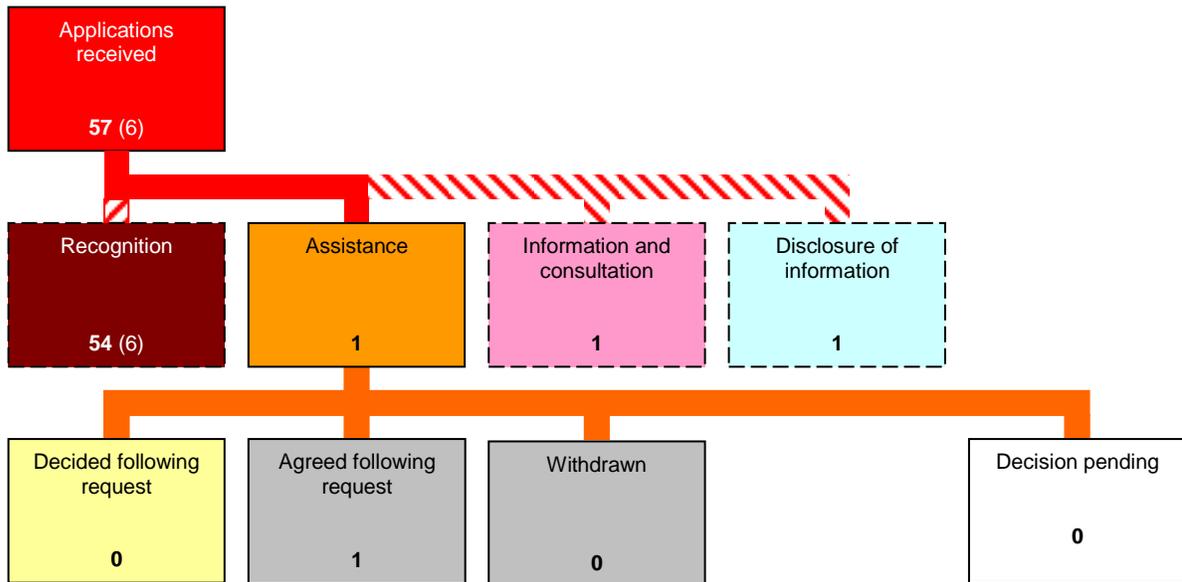
Accounts of each case may be found starting on **page 11**.

On the following pages are process maps setting out the outcomes of all cases dealt with by the Industrial Court. Figures in brackets represent changes to total figures during the reporting year and do not reflect subsequent developments.

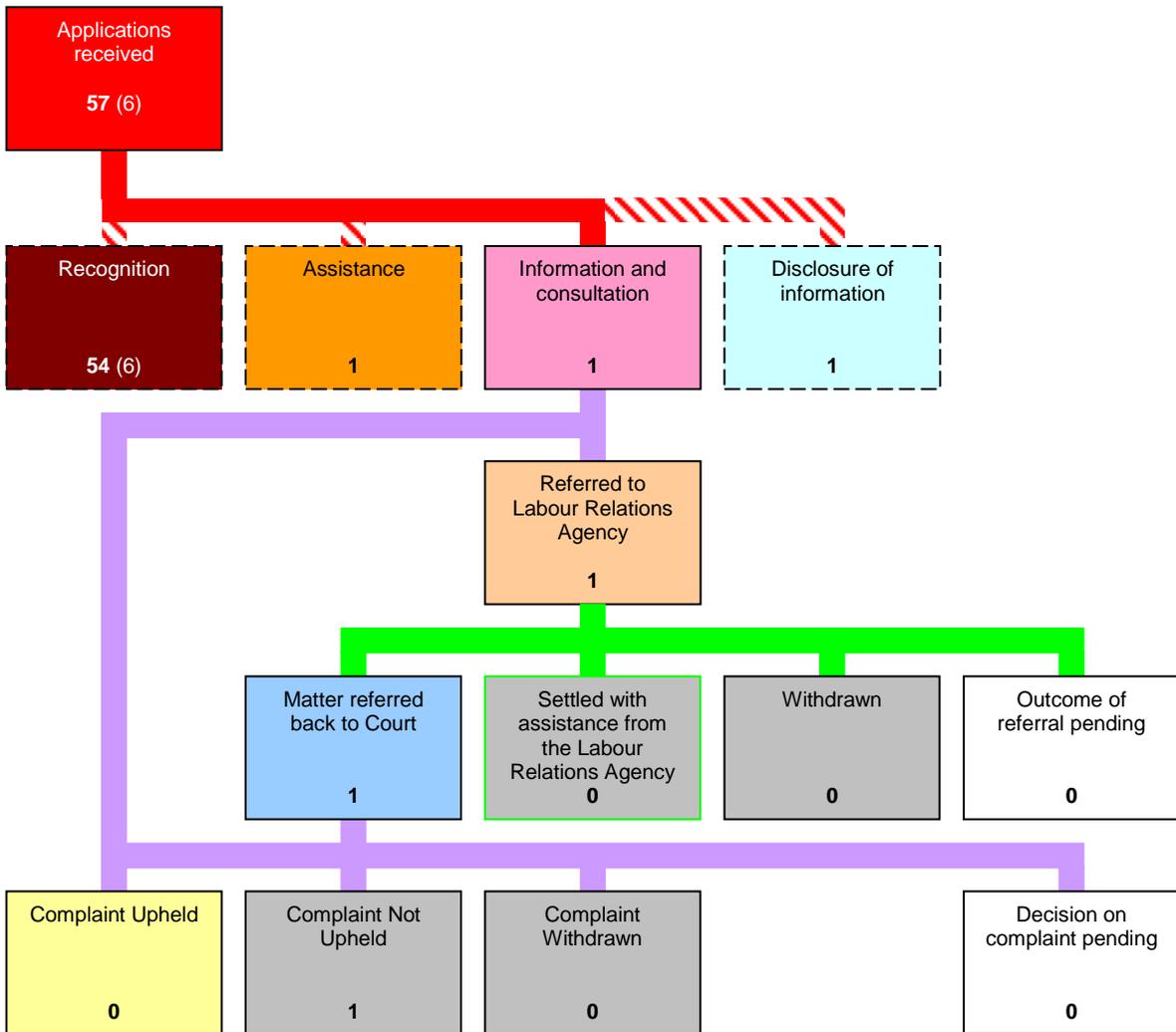
Applications for recognition



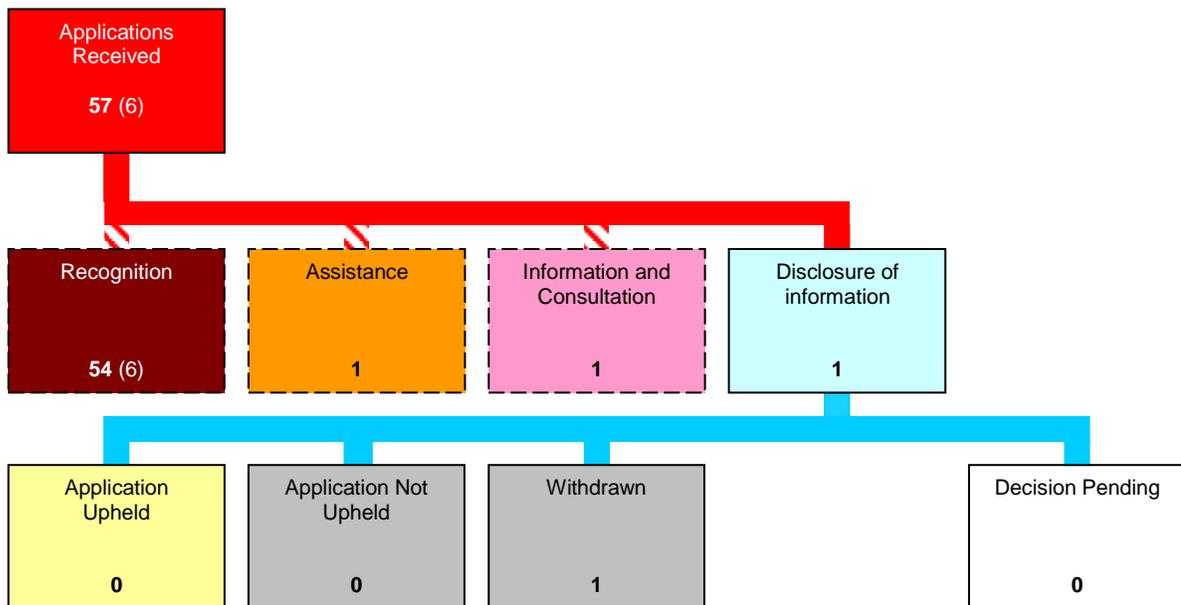
Applications for assistance



Information and consultation applications



Disclosure of information applications



Review of cases 2013/14

IC 52/2013 – Unite the Union and Magellan Aerospace

The Court received an application on 31 May 2013 from Unite the Union for recognition at Magellan Aerospace, 11 Tullykevin Road, Greyabbey, BT22 2QE. The bargaining unit description was "All employees (up to level of manager) within the shop floor, clerical and engineering groups". And the proposed bargaining unit's location was "Magellan site at 11 Tullykevin Road Greyabbey". The panel met on 25 June 2013 and accepted the application. Parties were notified of the acceptance and told what was expected of them during the bargaining unit stage.

The Parties reached a semi-voluntary agreement during the bargaining unit stage and the Court was requested to take no further action.

IC 53/2013 – Unite the Union and Andor Technologies

Unite the Union submitted an application to the Industrial Court on 27 September 2013, for recognition at Andor Technology, 7 Millennium Way, Springvale Business Park, Belfast, BT12 7AL. On 1 October 2013 the Union withdrew their application.

IC 54/2013 – Unite the Union and Andor Technologies

Unite the Union submitted an application to the Industrial Court on 6 October 2013 for recognition at Andor Technology, 7 Millennium Way, Springvale Business Park, Belfast, BT12 7AL. The bargaining unit description was "Andor Technology production employees which we believe there are between 80-90. The bargaining unit does not include temporary or casual production employees brought in to cover casual absence or holiday cover this includes agency staff". The location of the proposed bargaining unit was "Springvale Business Park, Belfast".

The Employer response was received by the Court on 16 October 2013. A Case Manager's Report was prepared and circulated on 28 October 2013. On 5 November, the date the Panel were due to meet, the Court received notification that the Parties had reached a semi-voluntary agreement. The Union withdrew the application.

IC 55/2013 – Unite the Union and Quinn Building Products (Cement Drivers)

The Court received an application on 27 November 2013 from Unite the Union for recognition at Quinn Building Products (Cement Drivers). The proposed bargaining unit was described as 'Quinn Cement Drivers attached to the Cement Plant, however, working as delivery drivers for the Quinn Group as defined as Bag drivers of which we believe there are 10, and Bulk drivers of which we believe

there are 40 making a total in the proposed bargaining unit of 50'. The location of the bargaining unit was described as 'Drivers attached to Quinn Cement Plant'.

The application was copied to the Employer on 27 November 2013 and a completed response questionnaire was received 12 December 2013.

The Union's application gave the number of workers in the bargaining unit as 50 and the number of Union members in the bargaining unit as 34. It was accompanied by a letter from the Union to the Employer dated 27 September 2013 which makes formal request for recognition. The Union's originating letter of request described the proposed bargaining unit in identical terms as the application form.

In its response, received by the Court on 12 December 2013, the Employer stated that it was not satisfied that the proposed group of 50 drivers was a self contained bargaining unit. Rather it was a small fragmented group within a larger group of drivers and that this might cause operational issues. The Employer suggested that a larger group of 145 drivers would be a more appropriate bargaining unit and, if that were not deemed appropriate, then it would consider a slightly smaller group of 98 drivers to be acceptable.

To assist the Panel in determining whether the application should be accepted, the Panel instructed the Case Manager to conduct a confidential membership check. The membership check showed that there were 29 Union members on the Employer's lists, or 60.42% of the proposed bargaining unit. In addition there were 2 signatures on the Union petition which appeared on the Employer's List but were not on the list of Union members, representing a further 4.16% of the proposed bargaining unit, giving a total level of support for the Union in the proposed bargaining unit as 31 out of 48 workers, or 64.58%.

The Panel considered the outcome of the membership check, which established that 60.42% of the workers in the proposed bargaining unit were Union members, and was satisfied that the Union's application met all the statutory criteria. The Panel accepted the application on 29 January 2014.

On 14 February 2014 the Chairman facilitated an informal meeting of the Parties in Enniskillen. This meeting gave the Parties an opportunity to state their case before the formal hearing. Following the informal meeting, the Parties requested an extension to the bargaining unit stage to allow for the continuation of negotiations. The Panel agreed to the extension.

At the end of the extension, feedback from the Parties on their progress was that agreement had not been reached. While the Employer requested a further extension, the Union were keen to move to a Hearing. Having considered the evidence, the Chairman decided to move to Hearing.

Formal submissions were requested from both Parties and the Hearing was arranged for 24 March 2014 in Enniskillen.

At the Hearing the Parties negotiated and agreed on an appropriate bargaining unit which included three drivers operating in the Republic of Ireland but from a base in Northern Ireland. The Panel accepted the agreed bargaining unit as being

appropriate. As the agreed bargaining unit was different to the proposed bargaining unit the Case Manager was requested to carry out a new membership check. The results of the fresh membership check determined a 74.4% membership within the agreed bargaining unit.

On 8 April 2014 the Court declared that Unite the Union is recognised to conduct collective bargaining on behalf of the workers described as "All drivers within the Central Industry Supplies Division of the Aventas Group".

IC 56/2013 – Unite the Union and Nicholl (Fuel Oils)

Unite the Union submitted an application to the Court on 29 November 2013, for recognition at Nicholl (Fuel Oils) Ltd, 176 Clooney Road, Greysteel, Londonderry. The bargaining unit description was described as, "39 drivers in 16 locations". The application was copied to the Employer on 2 December 2013 and a completed response questionnaire was received 10 December 2013.

In order to assist in the determination of the admissibility tests in Schedule 1A to the Trade Union and Labour Relations (Northern Ireland) Order 1995, the Panel instructed the Case Manager to conduct a membership check.

The Parties agreed to supply the information to the Case Manager by close of play Wednesday 15 January 2014.

The Employer provided the Court with the following:

- two separate lists, one with 16 workers and the other with 30 workers, which together provide a total number of 46 workers within the proposed BU. Both lists contain names, addresses and job titles, all of which are either 'HGV' or 'Tanker' Driver;

The Employer pointed out that each list represents a different company within the group. The list of 16 workers work for Oiltrans NI Ltd and are collectively described by the employer as Bulk Drivers while the list of 30 workers work for Nicholls Fuel Oils Limited and are collectively described by the employer as Domestic Drivers. The Employer stated that it considered that these should be two different bargaining units.

The Panel met on 22 January 2014. It decided that the application did not fulfil the admissibility criteria as stipulated in the Schedule, as the proposed bargaining unit covered two separate employers. It therefore was not accepted.

IC 57/2014 – Unite the Union and Radius Systems

Unite the Union submitted an application to the Court on 24 February 2014, for recognition at Radius Systems Ltd, Halfpenny Valley Industrial Estate, Parkview Street, Portadown Road, Lurgan, BT66 8TP. The bargaining unit description was "All Production Operatives".

The application was copied to the Employer 26 February 2014 and a completed response questionnaire was received 5 March 2014.

In its application the Union stated that the total number of workers employed by the employer was approximately 40, the number of workers in the bargaining unit was 21. It also stated that a membership check that had been organised and conducted by the LRA found that 18 out of 29 workers (62%) within the proposed bargaining unit were members of the union.

The application was accompanied by a letter from the Union to the Employer dated 23 January 2014 which makes a formal request for recognition. This letter described the proposed bargaining unit as "All production operatives employed at the site of Radius Systems Ltd, Halfpenny Valley Industrial Estate, Parkview Street, Portadown Road, Lurgan, BT66 8TP".

The Employer's response to the application confirmed that it received the Union's originating letter on 23 January 2014 and that the Employer responded by letter on 6 February 2014. The Employer stated that it did not agree to the proposed bargaining unit, suggesting that a larger bargaining unit was required as there are two production sites.

The Employer stated that the Lurgan site employs 39 within its Operations function, 30 of whom are Production Operatives and the Banbridge site employs 53 in its Operations function, 34 of whom are Production Operatives. The Employer also stated that, as the two sites are geographically close, Production Operatives flex from one site to the other to meet production demands. Both Banbridge and Lurgan sites are managed by the same Management Team and both sets of employees are managed under the same terms and conditions of employment.

The Employer permitted the LRA to conduct a membership check on 11 February 2014. The result was showed that 62% of the proposed bargaining unit were Union Members.

In order to assist the determination of the admissibility tests the Panel instructed the Case Manager to seek clarification on a few issues.

In particular, the Panel sought clarification as to whether the approach by the Parties to the LRA came within the terms of para 10(5) of the Schedule which provides :-

"(5) The employer and the union (or unions) may request the Agency to assist in conducting negotiations."

If the approach had been made for that purpose, an additional 'second period' of 20 working days would have been applied (by way of paragraph 10(7)) beyond the 'first period' of 10 working days between the day after the letter of request was received by the Employer and the earliest date on which the Union could make its Application.

The following information was requested from the Parties:

- *Confirmation that the involvement of the LRA, in the period between the Unions request for recognition and its application to the Court, was solely for the purposes of conducting a membership check and not to facilitate negotiations between the parties.*
- *In the letter from the LRA dated 14 February 2014 and included with the application the terms 'agreed bargaining unit' and 'Shift Production Operatives' are used. Clarification from both that they are content that the term 'Shift Production Operatives' is equal to 'Production Operatives' as stated on the application and that the 'agreed bargaining unit' is actually the proposed bargaining unit.*
- *Confirmation that since the date of the LRA membership check, there have been no significant changes to the proposed bargaining unit.*

Both Parties confirmed that LRA involvement was for the purposes of conducting a membership check and not to facilitate negotiations between parties. They also both confirmed that they were content that 'Shift Production Operatives' is equal to 'Production Operatives' and that the 'agreed bargaining unit' is the proposed bargaining unit.

The Employer confirmed that since the LRA membership check Production Operatives at the Lurgan site had increased by 4. The Union confirmed membership of 23 workers. Based on all the figures available to the Case Manager the percentage of Union membership within the bargaining unit was between 55% (18 of 33) and 69% (20 of 29).

The outcome of this application is set out in the Court's Annual Report for 2014-15.

Resources

Membership of the Court

ROLE	NUMBER
Acting Chairman	1
Panel Members	9

Secretariat to the Court (part-time staff)

PRIMARY ROLE	NUMBER
Management	1
Operations	2
Administration	1

Expenditure

COST TYPE	AMOUNT
Fees and expenses of Chairmen and Members	£19,647.02
Staff	£36,558.40
Other (including training, travel and accommodation)	£1,499.49
TOTAL	£57,704.91

Staff and contact details

Staff

Role	Name
Secretary	Mrs Geraldine Lavery
Senior Case Manager	Mr Paul Lyons
Case Manager / Head of Administration	Mrs Sarah Sheppard
Administrative Support	Mr Stephen Topping

Contact Details (temporary address)

The Industrial Court
Waterfront Plaza
8 Laganbank Road
Belfast
BT1 3BS

Telephone: 028 9025 7599
Fax: 028 9025 7555
E Mail: enquiries@industrialcourt.gov.uk
Website: www.industrialcourt.gov.uk

User satisfaction

The Industrial Court is committed to providing a professional, effective and courteous service to all of its users. If you are asked for your views on any aspect of the Court's service, we would appreciate your co-operation as this will help us to improve it in future. However, there is no need to wait until you are asked before getting in touch. All comments, complaints and suggestions are welcome; in particular, if you are dissatisfied with any aspect of our service, we would be very keen to hear from you so that we can rectify the matter. Contact details for the Court are provided on the previous page.

If you cannot resolve your problem with the person who dealt with you originally, please ask to speak to the Secretary (contact details below) who will investigate your complaint.

Mrs Geraldine Lavery
Secretary
The Industrial Court
Waterfront Plaza
8 Laganbank Road
Belfast
BT1 3BS

Telephone: 028 9025 7855

E Mail: geraldine.lavery@delni.gov.uk

In the event of any complaint, we hope that you will let us try to put things right but if necessary you can write to your MLA, who can tell you how to have your complaint referred to the Parliamentary Commissioner for Administration (the Ombudsman).