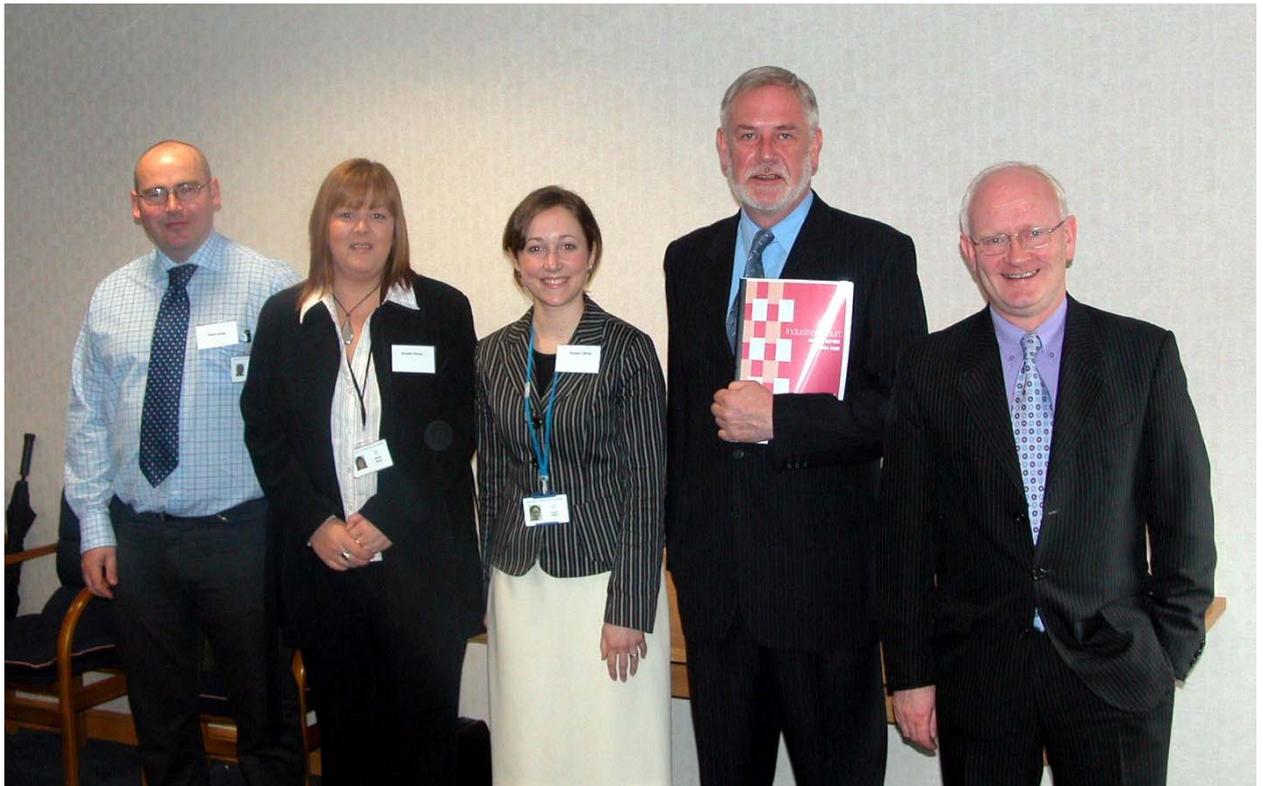


Industrial Court

ANNUAL REPORT
2005 - 2006



This report on the activities of the Industrial Court for the period 1 April 2005 to 31 March 2006 was sent by the Acting Chairman of the Industrial Court to the Department for Employment and Learning on 19 September 2006.



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Review of the Year



Mr Barry Fitzpatrick
Acting Chairman

This has been a quiet year for the Court in terms of caseload but quite busy in terms of putting into place the guidance necessary to activate the changes made to the statutory recognition procedures through the Employment Relations (NI) Order 2004 and our new jurisdiction on information and consultation by way of the Information and Consultation of Employees Regulations (Northern Ireland) 2005 which came into operation on 6 April 2005. A range of amendments to the statutory recognition procedures came into effect throughout 2005.

All of our guidance can, of course, be located on the Court's website, www.industrialcourt.gov.uk. I am particularly happy with a detailed flowchart of statutory recognition applications prepared by the Secretariat for publication.

The Court was the subject of a review undertaken by Business Development Services which is discussed further in this Report. The final Report was published in January 2006 and has been the subject of further discussions since then. In light of these discussions, appointments to the Court were renewed from 7 March 2006 for a further period.

The only application which was successfully concluded in 2005-06 was IC27/2004 – AMICUS and Atlas Communications NI Limited, discussed below, along with two other applications, in the 'Review of Cases'. The application is noteworthy because the Court was able to provide informal assistance to the parties on two occasions, once at the stage of determining an appropriate bargaining unit and, later in the process, bringing the parties together to make a voluntary agreement on the method of bargaining. What was particularly useful at that later stage was a detailed chart of the stances of both parties prepared by the Secretariat. This greatly facilitated the successful outcome of the informal meeting.

Two other applications failed initial validity tests. However, at the time of writing, both applications have been resubmitted to the Court and have advanced through the statutory recognition process. We have yet to receive an information and consultation application although inquiries have been made to the Court.

The Court maintained its engagement with stakeholders and its public presence during the course of the year. The Chairman attended events organised by the Ulster Teachers' Union, the Engineering Employers' Federation and the Irish Bank Officials Association. I made a presentation to the Confederation of British Industry on information and consultation, attended the Labour Relations Agency's Annual Conference and participated in the Spring Conference of the Industrial Law Society in London, which focused on information and consultation.

We are once again grateful to the Central Arbitration Committee for its continuing cooperation throughout the year. Members of the Court and of the Secretariat attended the four meetings of the CAC during the course of 2005-06. We were particularly pleased to attend a reception on 1 December 2005 to mark 5 years of statutory recognition and 500 statutory recognition applications, particularly since it was the Court's own caseload which brought the total to more than 500!

Internally, the Court had a successful Members' Day on 15 June 2005, which is outlined in this Report. Brian Patterson was confirmed as Secretary of the Court during the course of the year but we lost the

services of our Senior Case Manager, Joanna Calixto. I would like to pay tribute to Joanna, ably assisted by Case Manager, Brenda Slowey, for their excellent work during the year.

The Court also lost the benefit of the skills and expertise of two Members during the course of the year. Caroline Whiteside resigned from the Court in July 2005, having been a Member since its reconstitution in 2001. The appointment of Richard Steele, who had been Chairman since its reconstitution, was not renewed by the Department. I wish to pay tribute to both Caroline and Richard for their contribution to the work of the Court.

Richard oversaw the reconstitution of the Court from 2001 and ably led the Court through the process of preparing for and undertaking our new jurisdiction on statutory recognition. His enthusiasm and commonsense are sadly missed. It has therefore been necessary for me to take over as Acting Chairman from March 2006.

Roles, Objectives, Targets and Results

Main Role

- ◆ Statutory applications for recognition and de-recognition of trade unions;
- ◆ Resolve disputes about the establishment and operation of employee information and consultation arrangements;
- ◆ Statutory applications for disclosure of information for collective bargaining;
- ◆ Disputes over the constitution of European Works Councils; and
- ◆ Voluntary arbitration

Objectives

- ◆ To manage the statutory adjudication process dealing with trade union applications to the Industrial Court in an efficient, professional, fair and cost effective manner;
- ◆ To achieve outcomes which are practicable, fair, impartial, and where possible, voluntary;
- ◆ To provide a courteous and helpful service to all who approach us. We aim to publish clear, accessible and up to date guidance and other information on our procedures and requirements, and will answer enquiries concerning our work, although we do not offer legal advice;
- ◆ To provide an efficient service, and to 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; and
- ◆ To develop an Industrial Court secretariat with the skills, knowledge and experience to meet operational objectives.

Performance Measures and Targets (Based on Objectives)

- ◆ Proportion of applications for which notice of receipt is given and responses sought within one working day (target: 95%)

100% of applications received a notice of receipt and response sought from employer within one working day.

- ◆ Proportion of written enquiries and complaints to receive a substantive reply within three working days (target: 90%) and the remainder to be acknowledged within three working days and a substantive reply within ten.

100% received a substantive reply within 3 working days.

- ◆ To produce an Annual Report on the work of the Industrial Court in 2005/2006.

Report sent to the Department for Employment and Learning on 19 September 2006.



Membership of the Industrial Court 2005-2006

Chairman: *Mr Richard Steele

Deputy Chairman: Mr Barry Fitzpatrick

Members with Experience as Representatives of Employers Mr George McGrath
Retired Deputy Chief Executive
BT (NI)

Mr W F Irvine McKay
Retired Chartered Accountant and Stockbroker

Mr Maurice Moroney
Retired Employment Relations Manager
Ulster Bank Ltd

Mr Mervyn Simpson
Self Employed Business Consultant /
Ex Business Development Manager
Du Pont

**Ms Caroline Whiteside
Personnel Manager
Ulster Carpet Mills Ltd

* *Post vacant from 8th March 2006, from which time the Deputy Chairman has undertaken the role of Acting Chairman*

** *Resigned 8th July 2005*

**Members with
Experience as
Representative of
Workers**

Mr Joe Bowers
Retired Regional Officer
MSF

Mr Bob Gourley
Retired Regional Officer
USDAW

Ms Avril Hall-Callaghan
General Secretary
UTU

Mr Jim McCusker
Retired General Secretary
NIPSA

Mr Peter Williamson
Irish Regional Secretary
AMICUS

Mrs Fiona Cummins
Regional Industrial Organiser for Women
And Equality
ATGWU

Review of the Industrial Court

The Court's sponsoring body, the Department for Employment and Learning, initiated a review of the Court in April 2005, undertaken by Business Development Services, which focused on the following four main areas of the Court's activities:

- assessing different delivery mechanisms;
- performance;
- financial & corporate governance; and
- partnership working.

The Court Chairmen and its Members cooperated in this exercise. The Review's findings were published in January 2006 and the Court was pleased to note the high regard in which it is held by the many stakeholders who have been involved with it over the last five years. The Court has always been committed to working closely with the Department and all its key stakeholders with a view to ensuring it provides the highest possible standards of service. The Court, while aware of the need to protect the Court's autonomy, in its capacity as a Tribunal Non-Departmental Public Body, will therefore engage in discussions with the Department, the Labour Relations Agency and other appropriate interested parties with regard to the Review's recommendations in order to agree how they may be addressed.

The following is a summary of the recommendations:-

- the Court should continue as an independent NDPB of DEL;
- the Secretariat to the Court should be provided by the Labour Relations Agency (LRA);
- the transfer of the Secretariat function to the LRA should be managed through a formal Project Management approach;
- additional performance measures should be introduced to measure panel performance;
- the Department should ensure that existing job outlines for the Chair, Deputy Chair and Panel Members remain current and that role holders are aware of and adhere to the ranges of responsibilities;

- formal meetings should be arranged between the Chair, Deputy Chair and departmental officials to discuss policy matters;
- the public appointments process should be adhered to;
- a Chair and Deputy Chair should be appointed to provide contingency and assurance that an independent and legal/academic chair be available to all Industrial Court panels;
- Court membership should comprise a minimum of 8 and a maximum of 10 (together with a Chair and Deputy Chair);
- rolling appointments of Court membership should be considered;
- consideration should be given to introducing 360° performance appraisal reviews; and
- a structured Industrial Court communication plan should be developed and implemented.

Annual Members' Day



The Industrial Court held its Annual Members' Day on 15 June 2005 in the Board Room of Adelaide House.

The holding of this annual event afforded members a unique opportunity to discuss the various cases the Court dealt with throughout the year; share experience and knowledge; undertake necessary training; and

provide direction for the year ahead.

It also gave the Chairmen an opportunity to relay to Members details of significant changes in the legislation under which the Court operates and to inform them of developments in the Central Arbitration Committee, which is the Court's equivalent body in Great Britain. The two major legislative developments during the year were a key focus of the day's activities.

At this year's event the Chairmen provided an informative presentation on changes made to the Trade Union recognition legislation by the *Employment Relations (NI) Order 2004* and their impact on the Court. This enabled detailed discussion on how Court policy and procedure needed to change to reflect the amended legislation.

Mark McAllister of the Labour Relations Agency delivered a detailed presentation on the new jurisdiction conferred on the Court by the *Information and Consultation of Employees Regulations (NI) 2005*. This involved the numerous stages at which the Court has a role in adjudicating on complaints brought by either employees or employers. The Deputy Chairman also provided an analysis of the role of the Court under this jurisdiction and the type of applications and complaints which may be received. Court members availed of the opportunity to familiarise themselves further with the new Court guidance.



The Industrial Court's Caseload in 2005-2006

The Industrial Court has dealt with the following new applications during the period 1 April 2005 to 31 March 2006:

PARTIES:	CASE REF NO:
AMICUS and Sanmina SCI (UK) Ltd	IC29/2006
BFAWU and Doherty & Gray	IC30/2006

Specific decisions relating to each application can be found on the Industrial Court's website: www.industrialcourt.gov.uk

Review of Cases

IC27/2004 - AMICUS AND ATLAS COMMUNICATIONS NI LIMITED

Although this application was received by the Court in 2004 and was covered in last year's Annual Report, it was ongoing during the period of this report. To follow on from last year's review of this case: after the Union's application was accepted and a hearing arranged, at which the appropriate bargaining unit was decided, the Court determined a secret ballot should be held. Based on submissions from the parties the Court decided that the most appropriate form of ballot should take place by postal voting.

Electoral Reform Services was appointed as the QIP to conduct the ballot, with the closing date being 15th June 2005. The result of the ballot showed that of the 32 workers in the bargaining unit, 21 had voted (65.6% of the bargaining unit). 19 (90.5%) had voted to support the proposal that the Union be recognised by the company for collective bargaining purposes and 2 (9.5%) had voted to reject the proposal. The number of votes supporting the proposal as a percentage of the bargaining unit was 59.4%.

As the ballot established that a majority of the workers voting and at least 40% of the workers constituting the bargaining unit supported the proposal that the union be recognised for the purpose of conducting collective bargaining in respect of the determined bargaining unit, the Court declared that, in accordance with Paragraph 29(3) of Schedule 1A, the Union be recognised by the Company as entitled to conduct collective bargaining on behalf of "All engineers and stores employees working in Atlas Communications (NI) Ltd excluding managers in both stores and engineering departments".

The next stage in the statutory process afforded the parties a 30 day period in which to negotiate with a view to reaching agreement on a method by which they will conduct collective bargaining. However, in this case the parties were unable to reach agreement during this negotiation period and the Union subsequently requested the Court's assistance under paragraph 30 of Schedule 1A. This provided the Chairman with an opportunity to meet informally with both parties to encourage agreement to be reached voluntarily rather than the method of bargaining being formally decided by the Court. The Court is pleased to report that this informal meeting proved successful with an amicable recognition agreement being reached between both parties.

IC 29/2006 - AMICUS AND SANMINA SCI (UK) LTD

The Union's description of the proposed bargaining unit in its initial letter of request for recognition to the Company differed to the description given in its application to the Industrial Court. The Court considered that given this discrepancy it was not appropriate to use the information provided in the application form to determine whether the proposed bargaining unit, as set out in the letter of request, satisfied the validity and admissibility tests in the Schedule. In these circumstances, the Court concluded that the application must be rejected.

IC30/2006 – BFAWU AND DOHERTY & GRAY

The Union's initial letter of request was received by the Employer on 6th March 2006 and the application submitted to the Court was dated 15th March 2006. Paragraphs 10 and 11 of Schedule 1A refer to "the first period", namely a 10 working day period which starts on the day after that on which the employer receives the request for recognition. These paragraphs are concerned with providing a period of time, before an application is lodged with the Court, during which the union and employer have an opportunity to either agree a bargaining unit and that the union is to be recognised to conduct collective bargaining on behalf of the unit, or for the employer to inform the union that it does not accept the request but is willing to negotiate. Alternatively the employer may refuse the request or fail to respond. The Court gave thorough consideration to these paragraphs and although it felt that paragraph 11(1)(a) may be open to interpretation, in the context of paragraphs 10 and 11 it concluded that the Union's application was submitted prematurely and in these circumstances determined that the application must be rejected.

Resources

Industrial Court

Number of Members		13
Of which:		
	Chairman and Deputy Chairman	2
	Panel Members	11

Staffing

Number of Staff (part-time)		5
Of which:		
	Management/Operations	3
	Administration	2

Expenditure

Fees and Expenses of Chairmen and Members	£13,106.08
Staff Costs	£57,287.00
Other Costs (inc. travel and accommodation)	£ 7,921.93
Total	£ 78,315.01

Staff and Contact Details

Staff (as at March 2006)

Secretary:	Mr Brian Patterson
Senior Case Manager:	Mrs Joanna Calixto
Case Manager:	Miss Brenda Slowey
Head of Administration:	Mr Paul Cassidy
Administrative Support:	Miss Áine Magee

Contact Details

**The Industrial Court
Room 203
Adelaide Street
BELFAST
BT2 8FD**

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E Mail:	enquiries@industrialcourt.gov.uk
Website:	www.industrialcourt.gov.uk

User Satisfaction

If you are asked for your views on any aspect of our service, we would appreciate your co-operation. However, if you have any comments, whether of satisfaction, complaint or suggestion, please do not hesitate to contact us. If you are dissatisfied with any aspect of our service, please let us know so that we can rectify the matter/s. If you cannot resolve your problem/s with the person who dealt with you originally, please ask to speak to the Secretary who will investigate your complaint.

If you wish to complain or you have any other comments, please write to or contact:

Mr Brian Patterson
Secretary
Industrial Court
Adelaide House
39-49 Adelaide Street
BELFAST
BT2 8FD
Tel No: 028 902 57545
E-mail: brian.patterson@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).



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