

Draft Code of Practice on Industrial Action Ballots and Notice to Employers

Responses to the Northern Ireland Consultation:

There were twelve responses to the Northern Ireland Consultation:

Belfast City Council:

Belfast City Council made no response.

Confederation of British Industry (CBI):

The Confederation of British Industry stated that it would be helpful if the Code spelled out the differences between a strike and action short of a strike. They strongly support the retention of the sentence, 'a union should hold a ballot on industrial action only if it is contemplating the organisation of industrial action.' They also strongly support the retention of paragraph seven. They suggested that paragraph twelve should be strengthened to include the listed tasks of the scrutineer. The CBI stated that further guidance was needed about information to be given to the employer, prior to the commencement of industrial action, 'to allow him to make plans.' They were unclear as to why the word, 'possibly' had been used in the last line of paragraph twenty. In the second part of paragraph twenty two they thought that it could be open to interpretation and that the union could ballot those whom they thought would vote, 'Yes' to industrial action. Unions should identify by name those who are entitled to vote. Unions should describe, as narrowly as possible, the categories of employees so as to assist the employer to identify the group of employees concerned. They suggested that the '*cumulative effect*' on the outcome of a ballot of more than one accidental failure should be taken into account when considering whether to disregard these failures. They suggested also that there should be a non-exhaustive list of examples of small accidental failures. Paragraph twenty four needs clarification as to what constitutes the, 'workplace.' In order to avoid fraud the scrutineer should mark the voting papers and manage their posting. No votes should be counted, at any location, until the close of voting as in paragraph 54e of the existing code. Paragraph forty three should include that the unions should inform employers of 'the number of ballot papers issued' as in the existing code. Paragraph fifty two should be simplified.

Down District Council (DDC):

Down District Council stated that they would want a section on "intimidation". They suggested that seven days notice was too short and suggested fourteen days notice instead. They also thought it could be open to interpretation and that the union could ballot those whom they thought would vote, 'Yes,' to industrial action. They also thought unions should identify, by name, who is entitled to vote. They also thought that paragraph twenty four needs clarification as to what constitutes the, 'workplace.' They suggested that

information given to members should be copied to the employer. The scrutineer's report should be provided as of right and free of charge.

Eastern Health and Social Services Board (EHSSB):

The Eastern Health and Social Services Board suggested that the union should be required to agree an appropriate level of emergency cover particularly for essential services such as the Health Service, prior to endorsing or authorising industrial action.

Electrical Engineering Federation (EEF):

The Electrical Engineering Federation made no detailed comments but stated that as the provisions mirror Great Britain they should be of assistance to employers dealing with these matters.

The Equality Commission:

The Equality Commission suggested that 'consideration should be given to the provision of special arrangements for those employees entitled to vote who have sensory impairments, or learning difficulties and for whom English is not their first language.'

Harry Coll Elliott Duffy Garrett Solicitors:

Mr. Coll welcomes the code and sees their introduction as being of major significance in Northern Ireland. It may prevent cases being taken to the High Court.

Homefirst:

Homefirst also suggested that paragraph twelve should be strengthened to include the listed tasks of the scrutineer. They stated that the validity of the ballot will be affected, if it is sent out to employees who are not members of the union conducting the ballot, therefore the contention in paragraph twenty two that this should not be the case is incorrect. The union should ask the scrutineer to ensure that the procedures listed in bullet points have been complied with.

Institute of Directors (IOD):

The Institute of Directors have one principle concern with the Code of Practice in relation to the wording of paragraph thirty two and the words that must appear on every voting paper:

'If you take part in a strike or other industrial action, you may be in breach of your contract of employment. However, if you are dismissed for taking part in a strike or other industrial action which is called officially and is otherwise lawful, the dismissal will be unfair if it takes place fewer than eight weeks after

you started taking part in the action, and depending on the circumstances may be unfair if it takes place later.' The IOD believe that the legal position pertaining to the rights of official strikers prior to the Employment Relations Act should have been retained. They had no other significant comments on the Code of Practice.

Joan Carson MLA

Joan Carson MLA found the document to be satisfactory.

Northern Ireland Public Service Alliance (NIPSA):

The Northern Ireland Public Service Alliance welcomed the introduction of the same code as in Great Britain.

Northern Ireland Certification Office:

The Northern Ireland Certification Office had no response to make.