

## **UNFAIR SACKING OF BELFAST TRAFFIC ATTENDANTS**

### **CAMPAIGN FOR REINSTATEMENT**

#### **The Issues**

1. On 18 April 2009, the Company NSL Services Group (formerly NCP Services) decided to dismiss 26 Belfast Traffic Attendants from their jobs. The dismissals were grossly unfair and unjustified and the Traffic Attendants, with this union's full backing, are campaigning to secure reinstatement in their jobs.
2. This briefing paper provides background to the company's actions and an update on developments since the dismissals took place.

#### **Background**

3. In 2006 the Department for Regional Development (DRD) decided to hand over responsibility for the future employment of Traffic Attendants to the private sector. Traffic Wardens formerly employed by the Police Service Northern Ireland (PSNI) were transferred under TUPE legislation to the company NCP Services.
4. Traffic Attendants have had many complaints about the way they were treated by the private sector employer. As well as concerns about Health and Safety at Work issues, there were many other grievances. These included:-
  - ✦ A range of Health and Safety issues.
  - ✦ Deductions from pay.
  - ✦ Complaints of harassment and bullying not being investigated by the company.
  - ✦ Faulty and inadequate equipment (a daily occurrence).

- ✦ Alleged breaches of confidentiality - personal files shown to other non authorised staff.
  - ✦ Deplorable sanitary and toilet facilities.
5. In fact an investigation by an independent Health and Safety Consultant has now confirmed the validity of the Traffic Attendants' complaints that the Company was in breach of Health and Safety at Work Regulations.
  6. On 3 April 2009 a meeting of Belfast Traffic Attendants took place with the Company's approval. The level of frustration and despair with the unfair treatment by the employer was such that the Traffic Attendants decided to walk out in protest for a half day stoppage. This was a spontaneous reaction and not in any way planned or predetermined. However the Traffic Attendants agreed to return to normal duties the following morning, Saturday, 4 April 2009 and this was communicated immediately to the employer's management in Belfast.
  7. In fact on 3 April 2009 at the time of the walk out, Traffic Attendants' representatives held discussions with the Company's Contracts Manager. It was agreed with the representatives that 5 Traffic Attendants would meet the Company on Monday, 6 April to discuss the areas of concern under the protection of whistleblowing legislation. This was duly arranged and at no stage did the Contracts Manager state or suggest that any Traffic Attendants could or would be suspended or dismissed.
  8. However the Company's London based HQ intervened. As well as threatening this trade union with litigation action, it emerged the Company was considering suspending all Traffic Attendants from duty. To try and prevent such an escalation of the matter NIPSA immediately contacted DRD Officials to intervene so that there would be no disruption to the Traffic Attendants' services in Belfast. Regrettably however DRD did not intervene positively as requested.
  9. When Traffic Attendants reported for duty as normal on the morning of Saturday, 4 April 2009 they were stopped from starting work and instead handed letters suspending them from duty and calling each to attend disciplinary hearings which were arranged for 9 and 10 April 2009. However it was agreed on 4 April 2009 there would be further immediate discussions between NIPSA representations and NSL to address issues.

10. Consequently NIPSA representatives met the Company's Regional Manager, Contracts Manager and a representative from Human Resources on both 6 and 7 April 2009. At these meetings NIPSA made clear that Traffic Attendants wished to resume work which Company Management confirmed was their wish as well. NIPSA made it clear that the issues of grievance could not be separated from the stoppage and all factors had to be taken into account. There was a need to seriously and urgently address the issues prompting the action.

### **Disciplinary Hearings**

11. At the meeting with the Company on 7 April 2009 NIPSA put forward a draft action plan and proposed a process be put in place over a 2-3 week period to progress matters urgently. This was agreed to by the Company's Regional Manager and NIPSA therefore sought agreement that the disciplinary hearings be suspended. However the Company Management wished to proceed to the disciplinary hearings but agreed that these would provide an opportunity for staff to raise their concerns/grievances at an individual level in addition to NIPSA raising these collectively.
12. NIPSA also held concerns about the timing of the disciplinary hearings and lack of adequate preparation time for Traffic Attendants to consult their representatives. However as the agreed arrangements were to allow staff to raise their concerns rather than just a disciplinary hearing the hearings proceeded on 9 and 10 April 2009.
13. Regrettably the Company did not honour the commitments given in the earlier discussions. The hearings however were conducted as disciplinary hearings and not investigatory as had been discussed at the meetings on 6 and 7 April 2009. Those Company representatives taking the hearings pointedly refused to allow the Traffic Attendants to introduce, raise, or discuss, any of their concerns or grievances.
14. Subsequently on 18 April 2009 the Company issued letters to Traffic Attendants brutally dismissing them from their jobs with immediate effect.

### **Appeal Hearings**

15. Company Management subsequently and unilaterally arranged for appeal hearings without any consultation with NIPSA even though it was known that the union was providing representation for the members at the hearings. In fact the Company insisted that 20 appeals were to be completed in just one and a half days.

16. NIPSA therefore sought further discussions with the Company before the appeal hearings proceeded on 7 and 8 May 2009. It was clear from these discussions that the Company Managers due to conduct the hearings were not familiar with the relevant terms and conditions of employment or the provisions of the NI legislation (Employment Rights (NI) Order). As the appeals were clearly not going to be conducted properly NIPSA sought postponement. NIPSA also proposed that the Labour Relations Agency (LRA) should be asked to assist but this was rejected by the Company.
17. The Company again unilaterally rescheduled the appeal hearings to be held on 4 and 5 June 2009 without any prior consultation with NIPSA to make arrangements for representation of the Traffic Attendants. NIPSA held further discussions with the Company on 4 June 2009 in an effort to ensure that the appeal hearing process would be conducted fairly and properly.
18. Once again however the Company's approach to the process was cavalier. Company Managers claimed the Traffic Attendants grievances were unfounded and one Manger due to hear the appeals stated that Traffic Attendants were sacked fairly.
19. NIPSA's concerns have been to ensure that the appeal hearings were conducted fairly, openly and with Traffic Attendants having the right to make representations on all relevant issues and concerns. On the basis of the Company's actions and statements to date NIPSA considers the appeal process is flawed and will not accord fair treatment to the workers. NIPSA has advised the Company accordingly. However to safeguard Traffic Attendants legal rights they are proceeding with the appeal process and their appeals are due to be held in early July 2009.

#### **Representations to Minister/Department**

20. NIPSA has also made direct representations to the DRD Minister Conor Murphy to intervene with the Company. A NIPSA delegation met Mr Murphy on 9 June 2009. NIPSA urged the Minister to intervene directly with the Company to press for the Traffic Attendants' reinstatement. The key points raised with the Minister were:-
  - the Traffic Attendants had genuine grievances against the Company and were dismissed wholly unfairly;

- the Company showed little regard or respect for the Traffic Attendants who were undertaking a public service function on behalf of the Department for Regional Development; and
  - the Company was in breach of the terms and conditions of the contract between the Department and NCP particularly in relation to Health and Safety requirements.
21. The Minister confirmed that he had already written to the Company seeking assurances on the matter. The Minister had informed the Company the Department's reputation was being damaged.
22. Subsequently NIPSA provided the Minister with a copy of the independent Health and Safety Consultant's report which confirmed serious breaches of Health and Safety laws. NIPSA has again urged the Minister to intervene. Furthermore NIPSA has contended that the Department cannot abdicate its responsibility for failing to ensure that the Company complied with all Health and Safety Regulations relating to the employment of Traffic Attendants.

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