



Milford Haven Port Authority

Case Study: Milford Haven Port Authority – Acas conciliates in a dispute over pension changes

Summary

In late 2009, proposals to introduce a CARE Pension plan for employees of the Milford Haven Port Authority met with a mixed response. Whilst for some the scheme offered improvement to their pension status, for others the proposals meant revoking what was perceived as a more favourable final salary scheme. Following a consultation exercise, opposition to the proposed changes grew among certain section of the workforce. In January 2010, a union ballot among marine employees resulted in launch crew and pilots voting in favour of industrial action.

Acas was invited to conciliate and it was hoped, help avert strike action. A series of meetings were held in which Acas acted as mediator, assisting the parties as they sought common ground, and facilitating consideration of proposals and counterproposals. The conciliator was praised for her expertise, her ability to convey complex information as well as the deal with the tense emotional backdrop, while maintaining trust and impartiality with both sides in these difficult talks.

In February 2010, agreement was reached on new proposals, and industrial action was called off. Whilst new pension plans were accepted by a majority of employees, a small core elected to remain on the final salary scheme, with the agreement that the issue will be revisited within a given time-scale. This case study charts the detail of the dispute, and the Acas conciliation process.

Full case study follows.

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The Port

Situated in West Wales, Milford Haven boasts one of the world's deepest natural harbours. With a history in the fishing industry, the 1960s and onwards saw a shift towards the processing and supply of energy. The Harbour's deep water offers unique advantage for anchorage and berthing for large vessels. Today, industries around Milford Haven Port supply an estimated 30 per cent of the UK's gas and 25 per cent of its petrochemicals, with a new power station due to open in 2012.

The contribution of ports to the UK economy is significant. A 2009 study¹ found that the port sector contributes £7.7 billion to the UK GDP. Milford Haven is the third largest port in the UK in respect of tonnage. In 2009, it handled just over 59 million gross tons of shipping. Most significant in recent years has been the development of two processing centres for Liquid Natural Gas. Today, Milford Haven is rapidly becoming recognised as the 'new energy capital of the UK'.²



Milford Haven Port Authority and Proposed Changes to Pensions

Milford Haven Port Authority is a trust port accountable to both its stakeholders and Government. In autumn 2009, the Authority began a programme of consultation with its 200 employees regarding the future of their pensions. The proposal was a shift for all employees to a new contributory career adjusted pension scheme (CARE)³. From the management perspectives, objectives were two fold. First the deficit in the pension scheme was a matter of growing concern to the Board and Authority – estimated to be in the region of £9 million. Second was the desire to iron out perceived unfairness in pension status across the Authority. A hybrid arrangement existed, with many of those in the commercial side on a money purchase scheme, and around 80 employees, largely from the marine side (pilots, launch crew and port control) and central services holding final salary scheme pensions, some non contributory, some with 6% contribution depending on date of joining.

¹ "The economic contribution of ports to the UK economy", March 2009, Oxford Economics

² See "Milford Haven Port Authority – the changing face of the port, Annual report Business Review and Accounts", 2009, and www.mhpa.co.uk .

³ CARE stands for 'Career Average Revalued Earnings'. CARE, like Final Salary, is a type of 'defined benefit' pension scheme, but is based on average earnings across employment or 'career'

Consultation

Consultation meetings were organised to present options for the CARE arrangement. In the early stages, feedback was largely positive with many identifying new benefits for themselves. But in discussions with unionised marine workforce there was a growing opposition to proposals. As a result of the consultation some changes were made to the offer, for instance an increase in the late retirement factor to compensate for the increase in retirement age from 60 to 65 years.

When a letter of offer on three CARE options was dispatched in January, 2010, around two third of employees responded in favour. However a group mainly from the marine workforce responded with a cover letter supported by Unite, expressing their protest against the changes.

The union official reported scepticism among his members about the reasons behind the proposed pension changes: removal of the final salary scheme was regarded as a cost cutting exercise, and a move to address capital return targets. There was also mistrust about the figure work for the costs of maintaining the scheme into the future. He said that members were angry as some had been attracted to employment in the Port, in part, because of the pension entitlement and there was a general belief that proposed changes were tantamount to a reduction in pay.

A series of meetings with management, the full time union official, and marine side representatives were held but both parties reported that patience had begun to run out and recognised that direct negotiations were becoming ineffective.

Meetings had become unproductive and also heated at times. (Manager, HR)

Ballot for Industrial Action

Union density across the marine staff is high – near on 100%. A Unite proposal to call a consultative ballot on pension proposals was rejected by the management on the grounds that it may not prove a reliable indicator of future action. A ballot for industrial action therefore went ahead in January, 2010. Unite balloted the 55 members in three separate work groups for industrial action. The port control staff voted against action but the launch crew and pilots voted in favour. Support from the pilots was 100%.

The Threat of Industrial Action

The threat of action was a matter of great concern for all involved. Eighteen pilots are authorised by the Port Authority to take ships in and out of the Harbour, with launch crew transporting pilots to and from vessels. The pilots' unique knowledge of the waterways makes any form of cover arrangement impossible - withdrawal of labour would have led to closure or reduced use of the Port. The knock on effects on the industries around the Port would be significant. The threat to energy supplies was a matter of grave concern, as well as the potential damage to the reputation of the Authority.



[Management felt] concerned, particularly in terms of the pilots. It was going to bring the port to a close with a massive financial impact; with an impact on the customers just at a time when there so much uncertainty with the economy not doing so well and we are trying to attract new business in. We didn't want to be seen as a port that wasn't consistent in terms of its ability to deliver. (Manager, HR)

Pride in the Port, and in the contribution that it makes to the economy was shared by both management and employees. The union official reported that the decision to ballot had not been taken lightly – an aggregate meeting of all employees was held at the union office and protracted discussions had taken place before balloting for action. However, such was the depth of opposition, that marine side members felt no alternative but to take a ballot.

Did the discontent and balloting about proposals come as a surprise to management? In a sense it did. Management reported that they had thought 'long and hard' about the offer and had included some financial transitional support to reduce the impact of the change. Nonetheless, they also recognised the significance of the change for those on a final salary pension. One manager summed up the dilemma: 'the difficulty is getting people to personally accept a ... [change] in their pension entitlement, in order to maintain the long term viability of the business. ...balloting for industrial action came out of this, the core significance of the issue'.

I was totally stunned by the outcome. I honestly didn't think that they would vote as they did to take industrial action. I mean, we know the situation... what's happening with pensions around the UK... [I thought] everybody... would have at least said to everybody let's get a sense of reality... what we were replacing it with... by anybody's standards it is a very, very good pension. (Manager)

Involving Acas

With a ballot for industrial action pending, both parties jointly approached Acas to assist in resolving the dispute. Acas was held in mutual respect by both management and the union side.

The one thing we do know is that the union as well as ourselves recognise that Acas do fulfil the function [of acting impartially], and I think the union does recognise that if there's an impasse, there is at least somebody else that they can go to in order to look at the issue and find a solution...if somebody were more on the management or union side, that would actually be destroyed.. (Senior Manager)

How did they expect Acas to help? In essence both sides recognised the need for an independent third party to mediate in the talks, to act as a go-between, and put a stop to the negativity that had started to characterise the negotiations. Management described the need to find a third party who was 'viewed as independent'. One senior manager summed up his expectations of conciliation: 'to help finding a solution by seeing whether or not there was some common ground' and seeking to 'bring the two parties closer together'.



Managers described their expectations of Acas:

I think they certainly are not supporting management or representing one side; I think they're just interested in resolving the dispute, which is trying to achieve a win-win for both sides. They are about remaining impartial throughout and not imposing their opinion regardless of if they think one side has a better case. (Manager, HR)

[Following the ballot] The dice had rolled and there we were...once you've got yourself into something you need help to get yourself out of it, hence why we invited Acas... we needed somebody to try and see if we could hold the ring... to find a way forward because looking at it from the management's perspective, yes, they were faced with what people had voted for, but we still felt that with a bit of discussion, we could actually sort it out (Manager)

They chose to use Acas because of the skills and experience of the organisation which they saw as critical to addressing their difficulties:

If you've got somebody who's skilled and experienced, people who know about it, they can actually pull both parties, inch them together so that they can focus on perhaps initially the issues that they agree on, and then how are you going to deal with the issues you can't agree on. (Manager)

Both sides had prior experience of using Acas. The Authority in its annual pay negotiations had on many occasions used Acas arbitration to achieve a settlement; and the HR manager had attended Acas convened HR forums. The Union reported repeated dealings with Acas across a period of many years, in the Port Authority on its collective pay matters, but more widely across other companies in dealing with collective and individualised disputes. Prior use of Acas was an important factor – all parties said that they approached Acas with high degree of confidence and trust.

I haven't met an Acas conciliator that I haven't been able to trust yet ... I have always had the feeling that I could tell them anything that I wanted to and that would be treated in confidence... I have never had a feeling that they haven't gone back with exactly what I wanted them to back with, and what I've said. (Union Official)

The Conciliation Process

The conciliator began by conducting separate briefing sessions with the parties, seeking to understand the detail of the pension proposals, the parties' concerns and the state of play in discussions. This was followed by a joint meeting involving all the key players. However, the meeting quickly became adversarial. It was Acas' decision that all future talks should happen in parallel, with the conciliator 'shuttling' between the management and union side.

Talks involved the Unite Regional Officer and local representatives, HR and Finance Managers, the Harbour Master and Chief Executive. Discussions focussed largely around three issues: the level of employee contribution, improving the accrual rate, and the retirement age. The union official reported that the latter was considered especially contentious where the issue



was whether a proposed retirement age of 65 was appropriate to the role of the pilots and crew, given the dangerous and demanding nature of the work.

One manager described relations at the start of the process as 'not hostile, but not one of trust'.

At the start they weren't hostile, but people were becoming more and more entrenched ... more determined rather than hostile.... More determined that they weren't going to have this foisted on them' (Union Official)

The talks were reported as to be time-consuming, and emotionally charged. All parties interviewed had their own frustrations about the process. The union side felt they were being denied all the information they required to allow them to look at the viability of the final salary pension scheme. Management were frustrated at the requests for more and more information and the union's reluctance to accept the need to address the pension scheme's deficit.

While talks were ongoing, Unite gave notice of a two day strike, to be followed by a work to rule. At this point, the Authority served an injunction questioning the validity of the ballot and its application. The High Court found in favour of the Authority and upheld the injunction. Unite subsequently took the case to the Court of Appeal where the decision was overturned. Unite then issued a new notice to the Authority for the pilots to hold a 12 hour strike, followed by a work to rule including an overtime ban, not responding to call outs, and a refusal to handle ships over a certain tonnage.

Acas and the parties continued to conduct negotiations throughout the period, considering a range of proposals and counterproposals.

How Did Acas Help?

The presence of Acas was thought to have brought a number of benefits.

First was the simple fact of keeping the communication going between the two sides at a time when discussions had become fraught, and thus securing ongoing dialogue. It was recognised that the challenge was in part about bringing clarity to complex information, but it also involved managing individual personalities. The conciliator was praised for her contribution to the talks in this respect.

I think the main benefit I saw of bringing Acas in was just keeping us apart (and) keeping us communicating. (Manager, HR)

The problem with being in the room (together) is that personalities become involved... To have that barrier between the two groups and to have the Acas conciliator explaining exactly what is meant, and what the other side mean by what they are saying ... and then to ask Acas to explain the full intent of what we are asking, and why we are asking it, then that is enormously helpful in facilitating the process or progress (Union Official)



I often say that the real difficulty is when you get into a dispute position, then it's not just about resolving the dispute. Sometimes, pride and personalities and everything else comes into it. Acas actually taught me a great deal about that because they said well, its not just about this instance, its about future relationships...people forget and it's all about the here and now, and that's when an enormous amount of damage is done. The real advantage of using Acas is that it depersonalises it to a degree especially where we're in two different rooms. (Union Official)

On reflection, this benefit of maintaining dialogue was of more significance. In separate talks both sides were able to vent their frustrations, but not in a face to face situation with the opposing party. Acas presence helped to 'depersonalise' the process and in this sense assisted in 'saving face' so that no one leaves the talks with a loss of dignity. This approach also aimed to protect future relations between the parties.

Acas also helped 'break the deadlock'. Both parties said that when talks felt that they had reached an impasse, it was useful to have a third party 'with a fresh approach' and a different way of looking at the situation. The skills and experience of the conciliator meant that she went beyond simply conveying the facts between parties. She also reflected back the strength of feeling of each side on the various issues and propositions, and as such, was able to give added insight beyond the formal messages she conveyed into the true feelings and reactions of each side. Her impartiality made this possible. Overall, this brought about a greater understanding of the perspectives of the other party.

One of the great benefits of working with Acas was that it helped to clarify in the minds exactly what the Port Authority was saying...(Union official)

The fact that both parties felt they had implicit trust in Acas meant that free and open communication within their own discussion was facilitated. Having parties in separate rooms was considered the correct strategy by all.

People are more relaxed about what they are going to say, and that's then when the real skill of the conciliator comes in. It is to get the common ground from both, and to be able to judge where the common ground is, and to expand on it rather than people drifting apart. (Union official)

Both sides reported that the general pattern was for the Acas conciliator to sum up, at the end of discussions, exactly what she intended to convey back to the other party, and what was not relevant or appropriate. There was considerable trust in the integrity of the conciliator to carry out this function, and to act on her word. This process can cause frustration at times: management felt that a third party could not do justice in representing their views and expressing the value of their offer. But at the same time, the necessity of independence was recognised, and hand in hand with this went the fact that Acas was state-funded.

I think it's absolutely essential that the State funding is there....there is no way I can get over that... It can't be any other way. Just the same way as if it was funded from union dues... it couldn't work that way. (Manager)

Impartiality was also core: a belief that the conciliator was not working to favour one side over the other. All the respondents were sure of the impartiality of the conciliator in the



Authority case:

Impartiality is not trying to get a better deal for one side or the other. To be totally impartial, with a view that whatever the result, it is the result. That they wouldn't try and get a better deal for the employer than the trade unions, or get a better deal for the trade union than the employer (Union official)

Outcomes

Talks continued late into the night on the eve of industrial action. Before midnight agreement was reached on a new set of proposals, subject to confirmation by members and the Authority's Board and a 28 day extension given on further action. The industrial action due to start the next morning was called off.

Two forms of CARE scheme were offered. One mirrored the original offer, but with a lump sum award, and the second amended to allow retirement at 60 with no actuarial reduction. A third option was to remain with the final salary scheme. Further discussions took place and it was agreed that the offer should stand, but subject to a review of the viability of the final salary within 12 to 18 months. After putting the options to the employees, 19 remained with the final salary scheme and the remainder took one of the two CARE options.

Reflections from the Parties

The outcome was seen as a 'part settlement' by the Authority – and to some extent this carried disappointment. Nonetheless, it was felt that with the help of Acas, the impasse they had reached had been overcome; new proposals had been developed; and importantly industrial action avoided.

The contribution of Acas in addressing the dispute was valued, both the impartial and independent status of the organisation, and the knowledge and expertise of the specific conciliator who worked with both parties. Continuity of a single conciliator in the majority of the talks was considered important in maintaining the momentum. The fact that the particular conciliator involved had a degree of knowledge about the company was also considered a strength, though equally one manager noted that it was important that one conciliator did not develop too close a relationship with an organisation as it may erode the overall perceptions of the Acas' impartiality.

From the union's perspective, the approach ultimately chosen was to get the best options on the table so that members could individually select the scheme that suited their personal circumstances. No one option would suit all – achieving an offer of a range of options was one of the outcomes of the conciliation process.

There was also some feeling that Acas might have been called in earlier in order to facilitate talks and potentially avoid industrial action balloting. However, it was recognised that confidence in the organisation in part should rest on being able to sort out its own difficulties without third party support. For the future, challenges identified by management included the scope for improving negotiation skills, both for themselves and the employee side; and the



potential benefits of more effective communication with employees on key issues. At the time of writing, the management were prioritising opening channels of productive communication with the pilots.

Our thanks to the staff at Milford Haven Port Authority and Unite for their cooperation in this case study.

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