

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKAURAU ROHE**

[2026] NZERA 400  
3472204

BETWEEN	WORKERS FIRST UNION INCORPORATED First Applicant
AND	NEW ZEALAND PUBLIC SERVICE ASSOCIATION TE PŪKENGA HERE TIKANGA MAHI INCORPORATED Second Applicant
AND	IAG NEW ZEALAND LIMITED Respondent

Member of Authority: Jeremy Lynch

Representatives: Grace Liu, counsel for the Applicants  
Kylie Dunn, advocate for the Respondent

Investigation Meeting: On the papers

Date of Determination: 23 June 2026

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Workers First Union Incorporated (WFU) and New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi Incorporated (PSA) have lodged an application for referral to facilitation in respect of their collective bargaining with IAG New Zealand Limited (IAG).

[2] WFU, the PSA, and IAG are parties to a (now expired) collective agreement.

**Background**

[3] In summary, the background to the parties' bargaining is:

(a) IAG initiated bargaining for a new collective agreement with WFU and

the PSA on 4 March 2025.

- (b) The parties' collective agreement expired on 31 March 2025.
- (c) The parties exchanged claims on 24 November 2025.
- (d) A bargaining process agreement was entered into by the parties on 26 November 2025.
- (e) The parties first met for bargaining on 27 November 2025.
- (f) Additional bargaining has occurred on:
  - (i) 28 November 2025;
  - (ii) 25 February 2025.
- (g) The parties also attended mediated bargaining on:
  - (i) 2 April 2026;
  - (ii) 30 April 2026.
- (h) The parties have been unable to conclude a replacement collective agreement.

### **Application for facilitation**

[4] WFU and the PSA have applied to the Authority under s 50B of the Employment Relations Act 2000 (the Act) for assistance by way of urgent referral to facilitation to resolve the difficulties the parties are having in concluding their bargaining. WFU and the PSA say that one of the four grounds on which the Authority may accept a reference to facilitation is made out.

[5] WFU and the PSA's application for referral to facilitation comprised solely their statement of problem. No affidavit evidence was lodged.

[6] WFU and the PSA submit that the ground under s 50C(1)(b) of the Act is made out:

- (b) that –
  - (i) the bargaining has been unduly protracted; and
  - (ii) extensive efforts (including mediation), have failed to resolve the difficulties that precluded the parties from entering into a collective agreement.

[7] A case management conference (CMC) was held with the representatives for the parties on 12 June 2026. An oral application for urgency was made by WFU and the PSA, which was granted by the Authority.

### **IAG's position**

[8] At the 12 June 2026 CMC, IAG advised that it intended to lodge a statement in reply, but did not wish to lodge any affidavit evidence.

[9] IAG advised that it did not oppose the application for referral to facilitation.

[10] All parties agreed that the matter could be investigated on the papers, without the need for an in-person investigation meeting.

[11] In addition, the parties agreed that the Authority could determine this matter without the need for submissions to be lodged.

[12] IAG lodged its statement in reply promptly on 22 June 2026. In this, IAG accepted the evidence from WFU and the PSA as to the parties' bargaining dates, as well as in respect of the parties' mediation attendance, with IAG identifying one additional mediation date not listed in the statement of problem.

[13] IAG's statement in reply sets out that it supports the application for referral to facilitated bargaining.

### **Facilitation should be granted**

[14] In order to accept the reference for facilitation, the Authority must be satisfied that one of the grounds under s 50C(1) of the Act is made out.

[15] To meet the requirements of the ground under s 50C(1)(b) of the Act, the Authority must first be satisfied that the bargaining has been unduly protracted.

[16] In *McCain Foods (NZ) Limited v Service & Food Workers Union Nga Ringa Tota Inc*, the Court considered the meaning of unduly protracted and held that "undue protraction... is excessive or disproportionate protraction as opposed to reasonable or expected or common protraction".<sup>1</sup>

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<sup>1</sup> *McCain Foods (NZ) Limited v Service & Food Workers Union Nga Ringa Tota Inc* [2009] EMC Wellington WC5/09, 8 April 2009 at [64].

[17] The parties agree that there have been a number of bargaining dates, as well as an exchange of claims. In addition, the parties agree that bargaining has been ongoing for 15 months, and has become unduly protracted.

[18] Significant difficulties have arisen in respect of (inter alia) a proposed trial period, as well as around coverage of the proposed collective agreement.

[19] The Court in *McCain* also held that:<sup>2</sup>

If... there have been real attempts to bargain and settle, albeit that the parties' strongly held positions have precluded settlement, the bargaining may also be said in that sense to have been unduly protracted.

[20] I am satisfied that the bargaining has been unduly protracted.

[21] In *Service & Food Workers Union Nga Ringa Tota Inc v Sanford Limited*,<sup>3</sup> the Court held in respect of the approach to the interpretation of the bargaining facilitation sections of the Act, that:

The bargaining facilitation sections are therefore to be seen as part of a scheme that allows, encourages and assists collective bargaining and the timely and orderly settlement of collective agreements. This will inform the approach of the Employment Relations Authority to a reference under s 50B. Whilst the Authority must ensure that the statutory grounds exist, it should not be astute to find reasons to refuse a reference to facilitation where a common sense assessment of the overall position indicates its desirability in light of the statutory scheme for collective bargaining and collective agreements.

[22] Having fully considered the material placed before the Authority, I find the ground under s 50C(1)(b) of the Act is made out. The bargaining has been unduly protracted. The parties have made extensive efforts (including with the use of a mediator on two occasions), but have been unable to resolve the difficulties precluding the settlement of their collective agreement.

[23] Consequently, it is ordered that the parties now engage in facilitation to assist them in a pathway to settlement of a new collective agreement.

### **Next steps and costs**

[24] The Authority will convene a case management conference with the parties as soon as possible to discuss arrangements for urgent facilitation, which will be

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<sup>2</sup> Above n 1, at [63].

<sup>3</sup> *Service & Food Workers Union Nga Ringa Tota Inc v Sanford Limited* [2012] NZEmpC 168 at [42].

undertaken by a different Authority Member.

[25] The Authority's presumption with referrals to facilitation is that parties will bear their own costs.<sup>4</sup>

Jeremy Lynch  
Member of the Employment Relations Authority

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<sup>4</sup> Employment Relations Authority, *Practice Direction of the Employment Relations Authority Te Ratonga Ahumana Taimahi*, February 2024, page 5 at [6].