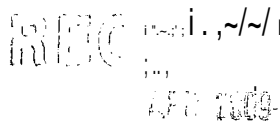


2nd April 2009

Ref: 11.7.3.1/dw



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URGENT

Dear Bob

**NOTICE OF BALLOT UNDER SECTION 226A OF THE TRADE UNION
AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992**

I am writing to you as I am advised that there are serious problems with the ballot, and felt it appropriate to raise these sooner rather than later, and hope you agree that this is a constructive approach.

In view of the number of employees potentially involved in the ballot process and the significant number of workplaces we have conducted an audit to clarify the information that was sent to us on the 13 March.

As I am sure you will be aware, Section 226A of the Trade Union and Labour Relations Act 1992 (the Act) contains specific requirements as to the notification to be given to an employer of those who are to be balloted. Where some, at least, of the relevant employees pay Union subscriptions by check off then the Union has a choice of supplying the list and figures in sub sections (2A) and (2B) and the required explanation or the information in sub section (2C). As I understand, the breakdowns attached to your Ballot Notice dated 13 March specify work places and the number of members employed by London Underground at each workplace. It also provides a separate breakdown of the number of members in each category.

The list and figures supplied under this section must be as accurate as is reasonably practicable in the light of the information in the possession of the Union at the time when it complies with this obligation.

Further for the purposes of Section 226A a workplace at which an employee works requires the Trade Union to specify a single set of premises where the employee works at or from.

On consideration of the information provided by RMT there are a number of deficiencies in the information provided, and I am able to give a comprehensive list of examples to highlight the issue. It must be said that this review of the RMT's ballot notice is still on-going, however I felt it was only fair to RMT that I bring to your attention those concerns we already identified. These are set out below.

You have told us that you have 599 members at Acton Town. These could be considered as part of the station, either one of the two train depots or Acton Works. As you will know well, all of these are separate premises.

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Those at Acton Works are occupied by former Metronet staff, now in the Maintenance Directorate. When I received your letter of 31 March 2009, you indicated that you were intending to ballot a further 64 of your members at "REW Metronet Acton Town Works" On your previous Ballot Notification you list 19 members at Acton REW. It is not clear if these are the same workplace, and whether or not these 19 are included in the 64 or not. It is also not clear to which workplace the 599 of your members at "Acton Town" refer as you have described, in your ballot of 31 March 2009, at least 3

other Acton Town workplaces, namely:

- Action Town Bollo House (a Train Depot) and
- Acton Town Group (comprising 11 separate stations)
- Acton (Please could you clarify what workplace this refers to where you have a further 9 members)

Please could you therefore confirm how you have arrived at 599 members at Acton Town,

In "Baker Street" there are again multiple addresses and workplaces at least 3 London Underground premises. In particular there are:

- Baker Street Offices 8, Service Control Centre at 13 Allsop Place.
- Premises at both the GSM's Complex and Baker Street Station, the address for which is 110 Marylebone Road.
- Two separate addresses for the Maintenance Directorate (formerly Metronet) at Baker Street at 210-212 Baker Street and 216 Baker Street.
- There are also separate Transport for London offices at 200 Baker Street. Have these also been included in the overall tally for "Baker Street"?

Furthermore, "Blackhorse Road Group" consists of five separate stations with separate addresses of which management is located at Pleiades House, Westerfield Road, London. Therefore several addresses and sets of premises (and workplaces) could potentially be included in the ballot.

In "Ealing Common", there is a station which is based at Uxbridge Road and a Rolling Stock Depot based in Granville Gardens. These are quite separate work places.

Once again at "Earls Court" there is a station, a train staff depot, a service control centre and Maintenance Directorate offices (formerly Metronet Offices).Your Notice does not provide details of the members within the station alfd the depot separately notwithstanding that employees work from separate premises and therefore workplaces. There also appears to be duplication as the Service Control Centre has duplicate entries on your Notice. (Reference Earls Court and Piccadilly Line Operations)

At East Ham you have specified East Ham and East Ham Group separately. It is not clear who the staff are that are eligible to vote at East Ham as distinct from the East Ham Group. The total number of members at East .Ham and East 'Ham Group 'ws believe is not more than 129 -(based upon an establishment report issued to Employee Relations on the 16th March 2009) and we consider that there may have been double counting in the information provided by RMT.

The same issue arises at Rickmansworth where you have distinguished between "Rickmansworth" and "Rickmansworth Group". I assume that "Rickmansworth" could refer to the Rickmansworth Train Staff Depot, but it is not clear from your letter. However if, within the number of RMT members quoted for "Rickmansworth", you have also counted any stations that I assume are included in the "Rickmansworth Group" (which comprises 12 separate stations and therefore workplaces) then there will have been double counting. This serves only to raise further doubts about RMT's ballot notification, as, in this notification, RMT goes on to list the following workplaces:

- Pinner (6 members)
- Northwood (7 members) •
- Amersham (6 members)

These are 3 stations included in the 12 within the Rickmansworth Group. I am therefore concerned that these stations have been double counted, and that this sort of error may have occurred throughout your Notification.

The same also applies to Hammersmith where you have failed to distinguish between two stations, a train staff depot and the Rolling Stock Depot (Now part of the Maintenance Directorate) that are again separate premises:

- Train Staff Depot at Hammersmith Depot, Lena Gardens, LONDON, W6 7RY,
- Hammersmith (District & Piccadilly) Station at Hammersmith (District & Piccadilly) Station, Hammersmith Broadway, LONDON, W6 8AB,
- " Hammersmith (Circle & Hammersmith) Station at Hammersmith (Circle & Hammersmith) Station, Beadon Road, LONDON, W6 7 AE and
- The Maintenance Directorate Offices at Ground Floor, 26-28 Hammersmith Grove, London, W67HU)

At Leyton we believe that your membership numbers may also include Maintenance Directorate staff. Whilst there is a station at Leyton there are also Maintenance Directorate Offices at Westdown Road, London, E18 2DA and Station at High Road, London, E10 5PS

At Hainault you have failed to distinguish between the station and depot which again have different addresses:

- " (Station address is Hainault Station, New North Road, "ford, Essex, IG6 3BD,
- " Train Staff Depot is Depot Thurlow gardens, "ford, Essex, IG6 2UU).

The same applies at Loughton, Upminster and also at Seven Sisters.

This detail serves to illustrate why we are not able to establish a clear picture of the workplaces and numbers of members at them, where RMT are balloting. We are entitled to be provided with the number of members entitled to vote at each separate workplace or single set of premises, but this has not been given.

I am also keen that you know early on that that we have reservations as to the accuracy of your membership numbers specified against job categories. As you will appreciate Section 227 of the 1992 Act requires that the entitlement to vote must be accorded (and only accorded) to all members who the Union reasonably believe it will induce to take part in the action, and to no others. Your notice states that the information you have provided has been compiled from a recently audited membership database. Comparisons with previous recent ballot notifications indicate that RMT membership amongst platform and station staff may be understated by approximately 300 people. Furthermore, we believe you may have understated membership amongst supervisor platform/station staff by approximately 50 people.

As you will appreciate it is not uncommon for RMT sometimes to confine ballots to station staff and we believe that it is entirely reasonable to expect you to distinguish between separate premises and workplaces so we can properly ascertain which staff at which locations are being balloted. In simple terms the information provided by RMT does not provide a clear description of the workplaces at which employees concerned work and the number of them that work at each of those workplaces pursuant to sub section 2(C)(c). It seems that these errors are avoidable, and would invalidate both the ballot and any subsequent action which RMT sought to take following on from it.

Should any further concerns with your ballot notifications of 31 March and 16 March be brought to my attention, then I will of course be raising these with RMT.

I hope that we are able to resolve issues when we meet. I also hope that providing you with this information now gives you some chance of responding when we do speak