

**CENTRAL ARBITRATION COMMITTEE**  
**TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992**  
**SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION**  
**DECISION ON WHETHER TO ACCEPT THE APPLICATION**

**The Parties:**

UNISON

and

Woodbridge Practice

**Introduction**

1. Unison (the Union) submitted an application to the CAC on 5 June 2015 that it should be recognised for collective bargaining by Woodbridge Practice (the Employer) for a bargaining unit comprising "Nursing staff – Nurse Practitioners, Nurses and Healthcare Assistants, Practice Team – Practice Management, Reception Staff, Secretaries, Admin, and Healthcare Team – Health Visitors" employed at the Thornaby Health Centre, Trenchard Avenue, Thornaby, Stockton on Tees and at Myton Road, Ingleby Barwick, Stockton on Tees. The CAC gave both parties notice of receipt of the application on 11 June 2015. The Employer submitted a response to the CAC dated 15 June 2015 which was copied to the Union.

2. In accordance with section 263 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), the CAC Chairman established a Panel to deal with the case. The Panel consisted of Professor Linda Dickens MBE, Chairman of the Panel, and, as Members, Mr Michael Leahy OBE and Mr Mike Regan. The Case Manager appointed to support the Panel was Nigel Cookson.

**Issues**

3. The Panel is required by paragraph 15 of Schedule A1 to the Act (the Schedule) to decide whether the Union's application to the CAC is valid within the terms of paragraphs 5 to 9; is made in accordance with paragraphs 11 or 12; is admissible within the terms of paragraphs 33 to 42; and therefore should be accepted.

### **The Union's application**

4. In its application dated 5 June 2015 the Union said that it had made its latest formal request for recognition on 2 January 2015 to which the Employer did not formally respond. Copies of both the request letter and email exchanges with the Employer were attached to the application. The Union also attached letters it had sent the Employer including a letter dated 20 February 2015 in which the Union informed the Employer that, further to its letter of 10 February 2015, it would not be proceeding with that particular application but was now formally requesting recognition in accordance with the Schedule. A letter dated 6 March 2015 gave notice that, as the Union had not received a formal response from the Employer within the 10 days specified within the legislation, it had submitted an application to the CAC. The Union then wrote to the Employer in exactly the same terms on 5 June 2015 enclosing a copy of the application.

5. According to the Union, there were approximately 35 workers employed by the Employer with the same number of workers within the bargaining unit as proposed by the Union. The Union stated that it had 21 members within the proposed bargaining unit. Asked to provide evidence that a majority of the workers in the proposed bargaining unit were likely to support recognition of the Union, it said that a ballot had been undertaken and out of the 20 ballot papers that were returned, all had voted yes. Information about the ballot, including a sample ballot paper, was enclosed with the application. The question asked on the ballot paper was: "Do you wish UNISON to pursue a recognition agreement with Woodbridge Practice?"

6. The Union's reason for selecting the bargaining unit as set out above in paragraph 1 was that it covered all staff employed in the practice and who were eligible to join the Union.

7. Finally, the Union confirmed that there had been a previous application in respect of a similar bargaining unit and there was no existing recognition agreement that covered any of the workers in the proposed bargaining unit.

### **The Employer's response to the Union's application**

8. In its response dated 15 June 2015 the Employer confirmed that it had received a valid request for recognition from the Union on or around 20 February 2015. The request made on 2 January 2015 did not comply with paragraph 8 of the Schedule. The Employer explained that it did not respond to the request made on 20 February 2015 but that following the request made on 2 January 2015, there had been communication between the Employer, the staff and the Union. The Employer also confirmed that it had received a copy of the application form directly from the Union on 6 June 2015.

9. The Employer stated that no agreement had been reached as to the appropriate bargaining unit either before it had received a copy of the application form from the Union but when asked whether it now agreed the proposed bargaining unit the Employer replied in the affirmative.

10. The Employer stated that it employed a total of 49 workers and that there were 43 workers in the bargaining unit as defined in the Union's application rather than the 35 as suggested by the Union. The Employer did not say whether it agreed or disagreed with the Union's estimate of membership in the proposed bargaining unit the Employer.

11. Asked to indicate its reasons why it did not consider that a majority of the workers in the bargaining unit were likely to support recognition the Employer said that in November 2013 it commenced a redundancy process and between March and May 2014 four workers were made redundant. In August 2014 the Union made arrangements for a ballot which was believed to have taken place on 5 September 2014. The redundancy process concluded in December 2014. In December 2014 three of the partners retired from the Employer's partnership and in January 2015 a new partnership was established. In May 2015 the previous practice manager left and a new practice manager commenced employment. The

Employer believed that relations between the Employer and the workers had significantly changed in recent months.

12. The Employer confirmed that it had not received any other applications under the Schedule from other trade unions for statutory recognition in respect of the bargaining unit as currently proposed. Finally, the Employer confirmed that there was no existing agreement for recognition in force that covered any of the workers in the proposed bargaining unit.

### **The Membership Check**

13. To assist the determination of two of the admissibility criteria specified in the Schedule, namely, whether 10% of the workers in the proposed bargaining unit are members of the union (paragraph 36(1)(a)) and whether a majority of the workers in the proposed bargaining unit would be likely to favour recognition of the union as entitled to conduct collective bargaining on behalf of the bargaining unit (paragraph 36(1)(b)), the Panel proposed an independent check of the level of union membership within the proposed bargaining unit. It was agreed with the parties that the Employer would supply to the Case Manager a list of the workers within the proposed bargaining unit and that the Union would supply to the Case Manager a list of paid up members within that unit. The information from the Union was received by the CAC on 26 June 2015, although attempts had been made to provide it earlier, and the information from the Employer was received on 24 June 2015. It was explicitly agreed with both parties that, to preserve confidentiality, the respective lists would not be copied to the other party and that agreement was confirmed in a letter from the Case Manager to both parties dated 19 June 2015. The Panel is satisfied that the check was conducted properly and impartially and in accordance with the agreement reached with the parties.

14. The Union provided a list of the full names and dates of birth of 19 members in the proposed bargaining unit and the Employer provided a list bearing the names, dates of birth and job titles of 53 individuals. However, those individuals on the Employer's list bearing the job titles "Partner", "Senior Partner", "Salaried GP" and "Long-term locum" were excluded from the comparison as they fell outside the definition of the Union's proposed

bargaining unit as set out in paragraph 1 above. This left 43 workers whose job titles were covered by the terms of the Union's proposed bargaining unit.

15. According to the Case Manager's report, the number of Union members in the proposed bargaining unit was 19, a membership level of 44.19%. A report of the result of the membership check was circulated to the Panel and the parties on 26 June 2015 and the parties were invited to comment thereon.

#### **Union's comments on the results of the membership check**

16. No comments were received from the Union by the deadline imposed.

#### **Employer's comments on the results of the membership check**

17. In an email dated 1 July 2015 the Employer said that it had nothing further to add at this moment.

#### **Considerations**

18. In determining whether to accept the application the Panel must decide whether the admissibility and validity provisions referred to in paragraph 3 of this decision are satisfied. The Panel has considered all the evidence submitted by the parties in reaching its decision. The Panel is satisfied that the Union made, in its letter dated 20 February 2015, a valid request to the Employer within the terms specified in paragraphs 5 to 9 of the Schedule to recognise it for collective bargaining in respect of the bargaining unit as described in paragraph 1 of this decision.

19. The Panel is also satisfied that the application is not rendered inadmissible by any of the provisions in paragraphs 33 to 35 and paragraphs 37 to 42. The Panel is also satisfied that the application was made in accordance with paragraph 11 of the Schedule in that, before the expiry of the first period of 10 working days following the Employer having received the formal request dated 20 February 2015, the Employer failed to respond to the request.

20. The remaining issues are whether the admissibility criteria set out in paragraph 36 of the Schedule are met. In accordance with paragraph 36(1)(a) and (b), the Panel must determine whether members of the Union constitute at least 10% of the workers in the proposed bargaining unit, and whether a majority of the workers constituting the proposed bargaining unit would be likely to favour recognition of the Union as entitled to conduct collective bargaining on behalf of the bargaining unit.

**Paragraph 36(1)(a)**

21. The membership check conducted by the Case Manager showed that the number of Union members in the proposed bargaining unit was 19, a membership level of 44.19%. The Employer, given the opportunity to comment on the results of the Case Manager's comparison, did not challenge the findings in the report.

22. As mentioned above, the Panel is satisfied that the check of membership was conducted properly and impartially and in accordance with the agreement reached with the parties. The Panel therefore finds that members of the Union constitute at least 10% of the workers in the proposed bargaining unit as required by paragraph 36(1)(a) of the Schedule.

**Paragraph 36(1)(b)**

23. The test in paragraph 36(1)(b) is for the Panel to assess whether it is *likely* that a majority of workers in the bargaining unit would support recognition of the Union for collective bargaining. At this stage we are not concerned with determining actual numerical support. Such a test occurs later if appropriate through a ballot. We have considered carefully all the evidence before us. The Union relies upon its membership density as evidence that a majority of the workers in the bargaining unit would be likely to support recognition of the Union as well as the results of a ballot that it had conducted in September 2014 prior to the application being lodged, as detailed in paragraph 5 above. The Employer has clearly set out its views as to what it believes was the reason why workers showed dissatisfaction within the workplace at the time the ballot was conducted and has detailed changes since that time which it feels has resulted in a better working environment for all

concerned. However no evidence has been provided to support the view that interest in the Union and collective bargaining has declined.

24. The check undertaken by the Case Manager shows 44% of the bargaining unit are Union members. They are likely to support recognition for collective bargaining. It would require another three people to be in support of recognition for there to be majority support in the bargaining unit. It is not uncommon in cases before the CAC for there to be people who while not currently members of the Union would nonetheless be supportive of recognition. Although this may prove not to be the case in any subsequent ballot the Panel's experience is that it is likely. Taking full account of the evidence before us we are satisfied that, on balance, and in the absence of any evidence to the contrary, a majority of the workers in the bargaining unit would be likely to support recognition of the Union and the test set out in paragraph 36(1)(b) is therefore met.

### **Decision**

25. For the reasons given above, the Panel's decision is that the application is accepted by the CAC.

### **Panel**

Professor Linda Dickens MBE, CAC Deputy Chairman

Mr Michael Leahy OBE

Mr Mike Regan.

6 July 2015