

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION
DECLARATION OF RECOGNITION

The Parties:

GMB
and
Nuaire Limited

Introduction

1. The GMB (the Union) submitted an application to the CAC dated 30 August 2014, and received by the CAC on 4 September 2014, that it should be recognised for collective bargaining by Nuaire Limited (the Employer) for a bargaining unit comprising “All permanent shop floor direct Employees/Operatives engaged in the production process who are not of managerial status within the shop floor who work flexibly across various areas of work depending their allocated work each day: Assembly Operatives, Sheet Metal operatives, Stores and Service Department Operatives located at the Western Industrial Estate Site in Caerphilly”. The CAC gave both parties notice of receipt of the application on 4 September 2014. The Employer submitted a response to the CAC dated 11 September 2014.

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 is chaired by Professor Paul Davies QC FBA, with, as Members, Ms Bronwyn McKenna and Mr Roger Roberts. The Case Manager appointed to support the Panel was Miss Sharmin Khan but, for the purposes of this declaration, was Adam Goldstein.

3. By a decision dated 6 October 2014 the Panel accepted the Union's application. The parties then entered a period of negotiation and reached an agreement on the appropriate bargaining unit. The description of the new, agreed bargaining unit was set in a letter from the CAC to the parties dated 28 October 2014 as follows:

"All permanent shop floor employees engaged in the production process who are not of managerial status, being Assembly Operatives, Sheet Metal Operatives and Distribution Operatives (in all cases including Team Leaders) who work at Western Industrial Estate Caerphilly, and Pant Glas Industrial Estate, Bedwas."

By a decision dated 20 November 2014 the Panel declared that the Union's application was not invalid and that the CAC would continue to the next stage.

4. On 20 November 2014 the Panel, not being satisfied that a majority of the workers constituting the bargaining unit were members of the Union, gave notice under paragraph 23(2) of the Schedule to the Act (the Schedule) that it intended to arrange for the holding of a secret ballot in which the workers constituting the bargaining unit would be asked whether they wanted the Union to conduct collective bargaining on their behalf. The parties were advised that the Panel would wait until the end of the notification period of ten working days, as specified in paragraph 24, before arranging for the holding of the ballot. The parties were asked for their views on the form the ballot should take.

5. The notification period elapsed without the Union, or the Union and the Employer jointly, informing the CAC that they did not want the CAC to arrange for the holding of the ballot.

6. The Union stated its preference for a workplace ballot in an e-mail dated 24 November 2014 and the Employer, in an e-mail of 25 November 2014, also stated a preference for a workplace ballot. The Panel decided that a combination ballot should take place being a workplace ballot with a postal element for those workers known advance to be absent from the workplace on the day of the ballot. This decision was communicated to the parties by a letter from the Case Manager dated 26 November 2014.

The Ballot

7. On 4 December 2014 Popularis was appointed as the Qualified Independent Person (QIP) to conduct the combination ballot and the parties were notified accordingly. The postal ballot papers were dispatched on 15 December 2014 to be returned by no later than 2pm on 5 January 2015. The workplace ballot took place on 18 December 2014.

8. The QIP reported to the CAC on 19 June 2013 that out of 207 workers eligible to vote, 196 ballot papers had been returned. No ballot papers were found to be blank or spoilt. Ninety nine (99), that is 50.51% of those voting, had voted to support the proposal that the Union be recognised for the purposes of collective bargaining with the Employer. Ninety seven (97) workers, or 49.49% of those voting, voted to reject the proposal. The number of votes supporting the proposal as a percentage of the bargaining unit was 47.83%.

9. The CAC informed the Employer and the Union on 6 January 2015 of the result of the ballot in accordance with paragraph 29(2) of the Schedule.

Declaration of Recognition

10. The ballot establishes that a majority of the workers voting, and at least 40% of the workers constituting the bargaining unit, support the proposal that the Union should be recognised by the Employer for the purpose of conducting collective bargaining on behalf of the bargaining unit. This satisfies the conditions under which the CAC must issue a declaration in favour of recognition in accordance with paragraph 29(3) of the Schedule.

11. The CAC accordingly declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising all permanent shop floor employees engaged in the production process who are not of managerial status, being Assembly Operatives, Sheet Metal Operatives and Distribution Operatives (in all cases including Team Leaders) who work at Western Industrial Estate Caerphilly, and Pant Glas Industrial Estate, Bedwas.

Panel

Professor Paul Davies QC FBA - CAC Deputy Chairman

Ms Bronwyn McKenna

Mr Roger Roberts

8 January 2015