

**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:**

Unite the Union

and

Canute Group

**Introduction**

1. Unite the Union (the Union) submitted an application to the CAC on 11 January 2017 that it should be recognised for collective bargaining by Canute Group (the Employer) for a bargaining unit comprising "Drivers". The location of the bargaining unit was "Unit B, Orion Business Park, Great Blakenham, Ipswich, IP6 0RL." The CAC gave both parties notice of receipt of the application on 11 January 2017. The Employer submitted a response to the CAC which was received on 20 January 2017 and 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 Her Honour Judge Stacey, Chairman of the Panel, and, as Members, Mr Simon Faiers and Mr Malcolm Wing. The Case Manager appointed to support the Panel was Miss Sharmin Khan.

**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 the Union explained that it had written to the Employer on 20 December with its formal request for recognition and that the Employer had written back on 28 December 2016, stating that it already had a national agreement with the Unite Road Transport union (URTU), but the Employer had not provided any evidence of such an agreement. A copy of both correspondences was enclosed with the application. In addition, the Union also provided a copy of its letter to the Employer dated 11 January 2017 in which it informed the Employer that it was making an application for statutory recognition to the CAC. The Union also stated in that letter that in accordance with the procedure it was providing a copy of the application.

5. According to the Union, there were 37 workers in total employed by the Employer, 14 of whom fell within the description of the proposed bargaining unit. The Union stated that 11 of the workers in the proposed bargaining unit were Union members. When asked to provide evidence that a majority of the workers in the proposed bargaining unit were likely to support recognition for collective bargaining, the Union answered that there had been a significant increase in the number of Unite members in the workplace over a relatively short period of time. The Regional Officer Mr Neal Evans who had submitted the application to the CAC also stated that he had met with the members and could confirm that they had joined the Union with the express intention of being able to collectively negotiate their terms and conditions of employment.

6. The Union stated that the reason for selecting its proposed bargaining unit was because it had majority membership within the group of workers. The Union also answered "No" when asked if the bargaining unit was agreed by the Employer.

7. Finally, when asked if there had been a previous application in respect of this or a similar bargaining unit and whether there was an existing recognition agreement that covered any of the workers in the proposed bargaining unit, the Union reiterated that the Employer had claimed to have a national agreement with URTU but that it had not offered to provide a copy of the agreement, and it appeared on the basis of the response of the local manager to the Union, that he was unaware of such an agreement until the question was asked. The Union also stated that it could confirm that the members in the bargaining unit remained unaware of the agreement and there was no reference to such an agreement within the relevant contracts of employment that the Union had sight of.

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

8. In its response to the application the Employer stated that it had received the Union's written request under Schedule A1 for recognition on 20 December 2016. The Employer also enclosed a copy of its response to the Union, letter dated 28 December 2016. The Employer confirmed that it had received a copy of the Union's application on 12 January 2017. When asked whether, following receipt of the Union's request, the Employer proposed that Acas be requested to assist, the Employer confirmed that it did not and answered "no".

9. When asked if it agreed with the proposed bargaining unit, the Employer did not mark the Yes/No options but confirmed that there were 14 drivers at its Ipswich site and assumed the Union was correct in its stated figure for the number of workers in the proposed bargaining unit.

10. When asked for the number of workers employed, the Employer did not provide an answer but directly below this question, when asked if agreed with the number of workers in the bargaining unit as defined in the Union's application, the Employer stated:

"Drivers 14, Warehouse 20, Office 14."

11. In reply to the questions of whether it disagreed with the Union's estimate of membership in the proposed bargaining unit and for its views as to whether a majority of the workers in the bargaining unit were likely to support recognition, the Employer inserted "N/A" for both questions.

12. Finally, the Employer explained that there was some confusion originally over the sites that were recognised by URTU but it had since transpired that the Ipswich depot was not. When asked whether it was aware of any previous application under the Schedule by the Union in respect of this or a similar bargaining unit or if it was aware of any other applications under Schedule A1 for statutory recognition in respect of any workers in the proposed bargaining unit, the Employer again inserted “N/A”.

### **Considerations**

13. In deciding whether to accept the application the Panel must determine 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.

14. The Panel is satisfied that the application is not rendered inadmissible by any of the provisions in paragraphs 33 to 35 and paragraphs 37 to 42 and that it was made in accordance with paragraph 11(2) of the Schedule. The Employer has clarified that there is no recognition agreement in place in respect of the proposed bargaining unit, contrary to its initial understanding. The remaining issue for the Panel to address is whether the admissibility criteria set out in paragraph 36(1) of the Schedule are met.

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

15. Paragraph 36(1)(a) of the Schedule calls for the Panel to determine whether members of the Union constitute at least 10% of the workers in the Union’s proposed bargaining unit. The Union and the Employer both appear to agree that there are 14 workers in the proposed bargaining unit of Drivers at the Ipswich depot. The Union states that it has 11 members amongst those 14. The Employer has made no comment to the Union’s assertion and on the basis of the information provided.

16. In light of the Union’s assertion of its level of membership that is not contradicted or disputed by the Employer in its response, and on balance of probabilities on the information available, the 10% threshold has been satisfied.

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

17. The test in paragraph 36(1)(b) is 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. In its application the Union stated that it had a majority of the workers in membership. As noted above, the Employer responded "N/A" when asked to give reasons if it did not consider that the majority of the workers in the proposed bargaining unit would support recognition of the Union.

18. Since the Employer has not disputed the Union's assertion that it has a majority of workers in the proposed bargaining unit in membership the Panel accepts the information provided by the Union at this stage for the purposes of paragraph 36(1)(b) and that membership of the Union is an indication of support for collective bargaining. We therefore conclude that in light of the Union's declaration of its level of members within the bargaining unit it is likely that a majority favour recognition.

19. For the reasons given above the Panel is satisfied that, on the balance of probabilities, a majority of the workers in the proposed 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**

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

### **Panel**

Her Honour Judge Stacey, Deputy Chairman of the CAC

Mr Simon Faiers

Mr Malcolm Wing

3 February 2017