

**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:**

RMT  
and  
Interserve FS (UK) Ltd

**Introduction**

1. RMT (the Union) submitted an application to the CAC dated 20 January 2015 that it should be recognised for collective bargaining by Interserve FS (UK) Ltd (the Employer) for a bargaining unit comprising “Station/Platform cleaners, cleaning supervisors and tow tractor drivers employed, booking on and working on the Interserve, Network Rail managed stations contract”. The CAC gave both parties notice of receipt of the application on 21 January 2015. The Employer submitted a response to the application on 27 January 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 Paul Davies QC FBA, as chair of the Panel, and, as Members, Mr Bob Hill and Ms. Gail Cartmail. The Case Manager appointed to support the Panel was Linda Lehan.

3. The CAC Panel extended the acceptance period in this case. The initial period expired on 3 February 2015. The acceptance period was extended to 15 February 2015 and then to 23 February 2015 in order to allow time for a membership check to take place and for the parties to comment on the subsequent report.

## **Issues**

4. 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 of the Schedule; and therefore should be accepted.

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

5. The Union stated that its request for recognition was hand delivered and signed for on 19 December 2014 and that no reply had been received from the company. The Union attached a copy of its request letter which was dated 20 November 2014.

6. The Union stated that there were a total of 522 workers in the agreed bargaining unit of which 284 were union members. Regarding evidence demonstrating that the majority of workers in the bargaining unit were likely to support recognition for collective bargaining, the Union stated that it had 284 paid up members in the bargaining unit who had joined to achieve collective bargaining rights. The Union also stated that it had petition signatures from workers in the agreed bargaining unit supporting their application for recognition of which 108 signatories were non union members. The Union stated that it could supply membership lists and petitions to the CAC on a confidential basis if required.

7. The Union stated that the locations of the bargaining unit were London Euston, London Kings Cross, London Liverpool Street, London Paddington, London Bridge, London Charing Cross, London Victoria, London Waterloo, Reading, Bristol Temple Meads, Birmingham New Street, Manchester Piccadilly, Liverpool Lime Street, Leeds, Edinburgh Waverley and Glasgow Central.

8. The Union stated that the reason for selecting the bargaining unit was that workers at the above mentioned locations were all part of one specific contract and constituted a coherent bargaining unit.

9. The Union stated that the bargaining unit had been agreed with the Employer and that, as far as it was aware, there was no existing recognition agreement in force covering any of the workers in the agreed bargaining unit. The Union confirmed that it held a current certificate of independence.

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

10. In its response dated 26 January 2015 the Employer confirmed that it did not accept the application.

11. The Employer stated that the Commercial Division of Interserve FS Ltd employed 33,000 with 628 workers being within the agreed bargaining unit.

12. The Employer stated that they agreed the bargaining unit and that the Union's membership figures were unknown and that evidence was required.

13. The Employer stated that a previous request for recognition was made to the CAC around July 2014 and that the application had been rejected.

### **The Membership and support Check**

14. To assist the determination of two of the admissibility criteria specified in the Schedule, namely, whether 10% of the workers in the agreed bargaining unit are members of the Union (paragraph 36(1)(a)) and whether a majority of the workers in the bargaining unit are likely to support 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 agreed bargaining unit and of the petition.

15. It was agreed with the parties that the Employer would supply to the Case Manager a list of the names, date of birth and job titles of workers within the agreed bargaining unit, and that the Union would supply to the Case Manager a list of their members within that unit and petition to enable comparisons to be undertaken. It was explicitly agreed with both parties that, to preserve confidentiality, the respective lists

and petition would not be copied to the other party. These arrangements were confirmed in a letter dated 2 February 2015 from the Case Manager to both parties.

16. The Case Manager carried out the membership check using the information that was received by the Union on the 3 and 4 February 2015 and from the Employer on 3 February 2015. A report of the check was issued to the Panel and to the parties for comment on 5 February 2015. The Panel is satisfied that the check was undertaken appropriately.

17. The Union provided a list of 262 members and the Employer provided a list of 635 workers. The job titles given for the workers by the Employer were listed as Service Management/Supervision and Service Technicians/Operatives. The contracts listed were Network Rail Birmingham New Street, Network Rail Birmingham New Street Revis, Network Rail Bristol Temple Meads, Network Rail Charing Cross, Network Rail Edinburgh Wa, Network Rail Euston, Network Rail Glasgow Central, Network Rail Kings Cross, Network Rail Leeds City, Network Rail Liverpool Lime St, Network Rail Liverpool St, Network Rail London Bridge, Network Rail Manchester P, Network Rail Picc Retail, Network Rail Paddington, Network Rail Reading, Network Rail Victoria, Network Rail Waterloo, Network Rail Waterloo Balcony and NR South – Periodic Team.

18. The Union's petition consisting of 248 signatories was set out as follows:

**RMT**

**CONFIDENTIAL**

**Petition in support of RMT Recognition**

We, the undersigned, support the campaign for recognition for collective bargaining for the RMT (National Union of Rail, Maritime and Transport Workers) to cover cleaners and cleaner supervisor grades working for Interserve FS (UK) Ltd on the Network Rail Managed Stations Contract.

Print Name	Signature	Grade	Date

19. The membership check established that there were 219 members of the Union within the bargaining unit; a membership level of 34.49%. The result of the comparison of the Union's petition with the Employer's list of workers revealed that a total of 212 workers had indicated that they wanted the Union to represent them,

which corresponded to 33.39% of the bargaining unit. 104 of the 212 were union members (16.38%) and 108 were non-members (17.01%).

20. A report of the result of the membership and support check was circulated to the Panel and the parties on 5 February 2015 and the parties were invited to comment on the results and to bear in mind the two admissibility tests set out in para 36 (1)(a) and para 36 (1)(b) in so doing.

### **Parties' comments on the result of the membership & support check**

21. The Union, in an attachment to an email dated 10 February 2015, submitted that they had three areas of concern about the result of the CAC membership check being:

#### *Contracts within the Bargaining Unit:*

22. The Union stated that the company when asked to supply details of workers employed within the agreed bargaining unit had included 4 contracts which were not part of the originally agreed bargaining unit namely:

Network Rail Birmingham New Street Revis  
Network Rail Picc Retail  
Network Rail Waterloo Balcony  
NR South – Periodic Team

#### *Job Descriptions*

23. The Union stated that job descriptions for workers in the bargaining unit were “station/platform cleaners, supervisors and tow truck drivers...” and specifically excluded managers and staff carrying out other duties. The Union stated that the job descriptions submitted by the Company described as “service management/supervision and service technician/operators...” raised the possibility that grades of workers excluded from the bargaining unit had been included.

#### *Members not on Employer's list*

24. The Union stated that the number of RMT members not appearing on the employer's list totalled 43 and had asked the Case Manager to supply them with the

names of those members not appearing on the employer's list which were provided. The Union stated that they had attempted to contact the members on the list in order to investigate and to date had discovered that 10 of those members no longer worked for the employer but six members had confirmed they did work for Interserve on the Network Rail managed stations contract and should have been included in the employer's list of workers in the bargaining unit.

#### *Level of RMT membership and support*

25. The Union stated that despite their concerns over the accuracy of the employer's information the number of RMT members names included in the employer list was 219 (34.49%) and the number of non-union members showing support for RMT recognition by signing their petition was 108 (17.01%). The Union stated that the total of those two figures was 327 resulting in 51.5% of the workers within the bargaining unit likely to support recognition.

26. Finally the Union stated that it had demonstrated that the RMT had well over 10% of the bargaining unit in membership and the above mentioned figures showed that it was likely that the majority of workers in the bargaining unit would support RMT recognition and therefore requested that the Panel award a ballot of workers in the agreed bargaining unit to decide whether the RMT was recognised for collective bargaining at Interserve.

27. Further correspondence was entered into between the parties concerning the 4 contracts highlighted by the Union. The Panel Chair decided as there had been a disagreement in relation to who was in the agreed bargaining unit a 2<sup>nd</sup> membership and support check would be carried out using the same lists as provided to the CAC, as described in paragraphs 14 – 18 above, with the 4 contracts being omitted i.e. Network Rail Birmingham, New Street Revis, Network Rail Picc Retail, Network Rail Waterloo Balcony and NR South – Periodic Team.

#### **The 2<sup>nd</sup> Membership and support Check**

28. The Union's list consisted of 262 members and the Employer's list, with the exclusion of the 4 contracts, consisted of 553 workers. The 2<sup>nd</sup> membership and

support check established that there were 203 members of the Union within the bargaining unit; a membership level of 36.7%. The result of the comparison of the Union's petition with the Employer's list of workers revealed that a total of 175 workers had indicated that they wanted the Union to represent them, which corresponded to 31.65% of the bargaining unit. 93 of the 212 were union members (16.82%) and 82 were non-members (14.83%).

29. A report of the result of the 2<sup>nd</sup> membership and support check was circulated to the Panel and the parties on 19 February 2015.

### **Considerations**

30. In determining whether to accept the application the Panel must decide whether the admissibility and validity provisions referred to in paragraph 4 above are satisfied. The Panel has considered carefully the submissions of both parties and all the evidence in reaching its decision.

31. The Panel is satisfied that the Union made a valid request to the Employer within the terms specified in paragraphs 5 to 9 of the Schedule and that its application was made in accordance with paragraph 11. Furthermore, 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 of the Schedule.

32. The remaining issues for the Panel to decide are whether the admissibility criteria contained in paragraph 36(1)(a) and paragraph 36(1)(b) are met.

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

33. In accordance with paragraph 36(1)(a) of the Schedule the Panel must determine whether or not members of the Union constitute at least 10% of the workers in the Union's agreed bargaining unit. Both checks of Union membership in the agreed bargaining unit as conducted by the Case Manager on 5 February 2015 and 19 February 2015 established that Union membership stood at over 10%. The Panel is therefore satisfied that this test is met.

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

34. The test in paragraph 36(1)(b) is whether a majority of the workers constituting the agreed bargaining unit would be likely to favour recognition of the Union as entitled to conduct collective bargaining on behalf of the bargaining unit. The Case Manager's check of the Union's petition against the list of workers provided by the Employer indicated that the level of union membership added to the non union members who had signed the petition in both cases resulted in a support level of over 50%. Therefore, given the level of Union membership and support demonstrated by the petition, and in full consideration of the evidence made available, the Panel is satisfied that, in accordance with paragraph 36(1)(b) of the Schedule, a majority of the workers in the agreed bargaining unit would be likely to favour recognition of the Union.

### **Decision**

35. The Panel is satisfied that the application is valid within the terms of paragraphs 5 to 9, is made in accordance to with paragraph 11 and is admissible within the terms of paragraphs 33 to 42 of the Schedule. The application is therefore accepted by the CAC.

### **Panel**

Professor Paul Davies QC FBA

Mr Bob Hill

Ms Gail Cartmail

23 February 2015