

**CENTRAL ARBITRATION COMMITTEE**  
**TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992**  
**SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION**  
**DECISION ON FORM OF BALLOT**

**The Parties:**

Unite the Union

and

Besana UK Ltd

**Introduction**

1. Unite the Union (the Union) submitted an application to the CAC dated 20 January 2016 that it should be recognised for collective bargaining by Besana UK Ltd (the Employer) for a bargaining unit comprising "Warehouse operatives" at the Employer's site in Bluestem Road, Ransomes Europark, Ipswich. The CAC gave the parties notice of receipt of the application on 21 January 2016. The Employer submitted a response to the application on 25 January 2016.

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, Mrs Jackie Patel and Mr Keith Sonnet. The case manager appointed to support the Panel was Nigel Cookson.

3. By a decision dated 12 February 2016 the Panel accepted the Union's application. The

parties then entered a period of negotiation in an attempt to reach agreement on the appropriate bargaining unit. In a letter dated 18 February 2016 the Employer confirmed that the appropriate bargaining unit at Besana UK Limited was "The Warehouse". On 22 February 2016, in an email to the Case Manager, the Employer confirmed that it was content to use the Union's term "Warehouse operatives" to describe the bargaining unit.

## **Issues**

4. On 22 February 2016, the Panel, satisfied that a majority of the workers constituting the agreed bargaining unit were not members of the Union, gave notice in accordance with paragraph 23(2) that a secret ballot would be held. The Panel also advised the parties that it would wait until the end of the notification period of ten working days, as specified in paragraph 24(5), before arranging a secret ballot. The parties were also asked for their views on the form the ballot should take.

5. The notification period under paragraph 24(5) of the Schedule ended on 7 March 2016. The CAC was not notified by the Union or by both parties jointly that they did not want the ballot to be held, as per paragraph 24(2).

## **The parties' submissions on the form of ballot**

6. In a letter dated 24 February 2016 the Employer expressed a preference for workplace ballot. In an email dated 26 February 2016 the Union said that, given the relatively small size of the bargaining unit, it would propose a postal ballot adding that such a ballot would also address any future suggestion of intimidation as alluded to previously by the Employer.

## **Considerations**

7. When determining the form of the ballot (workplace, postal or a combination of the two methods), the CAC must take into account the following considerations specified in paragraphs 25(5) and (6) of the Schedule:

- (a) the likelihood of the ballot being affected by unfairness or malpractice if it were conducted at a workplace;
- (b) costs and practicality;
- (c) such other matters as the CAC considers appropriate

8. The parties have put forward two different types of ballot for the Panel to consider. On the one hand the Union has asked that the ballot take the form of a postal ballot and, on the other, the Employer has submitted that the ballot should be a workplace ballot.

9. Having considered the parties' views, and having taken onto account the matters listed in paragraph 7 above, the Panel has decided that on the grounds of practicality and cost, matters that must specifically be taken into account, the appropriate form of ballot in this matter would be a postal ballot. It is our view that it would not be cost effective to conduct a workplace ballot given the relatively small size of the agreed bargaining unit, which currently stands at 19 workers. A postal ballot would also minimise the risk of allegations of voter intimidation by either side. We have therefore concluded that it would be far more practical to conduct a postal ballot on this occasion.

### **Decision**

10. The decision of the Panel is that the ballot be a postal ballot.

11. The name of the Qualified Independent Person appointed to conduct the ballot will be notified to the parties shortly as will the period within which the ballot is to be held.

**Panel**

Her Honour Judge Stacey, Chairman of the Panel

Mrs Jackie Patel

Mr Keith Sonnet.

8 March 2016