

Case Number: TUR1/941/ (2015)

29 December 2015

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:

National Union of Journalists

NUJ

and

Newsquest Media (Southern) Limited

Introduction

1. The NUJ (the Union) submitted an application to the CAC dated 12 November 2015 that they should be recognised for collective bargaining purposes by Newsquest Media (Southern) Limited (the Employer) for a bargaining unit consisting of "All journalists employed at the South Wales Argus, with the exception of the Editor and Deputy Editor." The stated location address was "South Wales Argus, Cardiff Road, Maesglas, Newport, NP20 3QN". The CAC gave the parties notice of receipt of the application on 16 November 2015. The Employer submitted a response to the application on 23 November 2015.

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, CAC Deputy Chairman

chairing the Panel, and, as Members, Mr Michael Shepherd and Mr Paul Talbot. 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 of the Schedule; and therefore should be accepted.

Summary of the Union's application

4. The Union confirmed in its application that it had a certificate of independence and attached a copy of its written request for recognition to the Employer, letter dated 19 October 2015. The Union stated that a response had not been received from the Employer.

5. The Union stated that there were 4000 workers employed by the Employer and that there were 21 workers in the proposed bargaining unit of which 14 were Union members. The Union also stated that two thirds of the bargaining unit were members of the NUJ and that it would be willing to provide its membership list to the CAC on a confidential basis, as evidence that the majority of the workers in the proposed bargaining unit were likely to support recognition for collective bargaining.

6. The Union had selected the proposed bargaining unit because these workers were all journalists or carried out editorial work and it was compatible with effective management. Senior management was excluded from the proposed bargaining unit.

7. The Union also confirmed that it had not made any previous application for workers in the proposed bargaining unit or a similar unit and it was not aware of any existing recognition agreement that covered any of the workers in the proposed bargaining unit.

Summary of the Employer's response to the Union's application

8. The Employer submitted its response to the application to the CAC on 23 November 2015.

9. The Employer confirmed it had received the Union's written request under Schedule A1 for recognition on 19 October 2015 though this was subsequent to a request received on 20 November 2014 to which the Employer had responded to on 3 December 2014, requesting information on which the request was based. The Employer had proposed that Acas be contacted in March 2015 and provided to the CAC the name and contact details of the Acas Advisor involved.

10. The Employer stated that it did not agree the proposed bargaining unit and that it should exclude any "hiring and firing" positions, such as Digital Editor, Sports Editor and Picture Editor as well as administration roles within the department.

11. The Employer stated that it employed 3234. The Employer did not agree with the Union's figure for the number of workers in the proposed bargaining unit and stated there were 23 workers in the proposed bargaining unit.

12. The Employer stated that the level of Union membership within the proposed bargaining unit was unknown but that the unit had worked very successfully for over 20 years.

13. Finally, the Employer confirmed that it had not received any other application for statutory recognition under the Schedule in respect of any of the workers in the proposed bargaining unit and that there was no existing agreement for recognition in force covering any of the workers in the proposed bargaining unit.

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 relevant bargaining unit are members of the Union (paragraph 36(1)(a)) and whether a majority of the workers in the

relevant bargaining unit are likely to support recognition of the Union as entitled to conduct collective bargaining on behalf of the relevant bargaining unit (paragraph 36(1)(b)), the Panel proposed independent checks of the level of union membership in the proposed bargaining unit.

15. The arrangements for the membership check were confirmed in a letter from the CAC to the parties dated 1 December 2015. It was agreed that the Employer would supply to the Case Manager a list of the names, addresses, and job titles of workers in the proposed bargaining unit and that the Union would supply the same (except job title) details for a list of the paid up members in the proposed bargaining unit. It was also explicitly agreed with both parties that the Case Manager would compare the Employer's information with the Union's information and to preserve confidentiality, the respective lists would not be copied to the other party. The Case Manager carried out a check of the information provided by the parties to establish the level of membership within the proposed bargaining unit.

Summary of the membership and support check

16. The comparison of the Union's list of members with the Employer's list of workers established that there were 27 workers within the proposed bargaining unit of which 14 were members of the Union; a Union membership level of 52%. The full report of the membership check including these results was issued to the parties for comment on 11 December 2015.

17. The Union had two queries in response to the membership check report which were resolved via an exchange of e-mails between the parties and the Case Manager (dated 15 to 22 December 2015). It was clarified and accepted between the parties that (a) the role of "Newsroom Co-ordinator" was not included in the Union's proposed bargaining unit and that (b) the individual in the role of "Multi Media Reporter (Politics)" was included on the list provided by the Employer for the membership check but that the "politics" part of the job title was omitted in error and this was why it was not listed as one of the job titles in the Case Manager's membership check report.

Considerations

18. In deciding 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. It is satisfied that the membership and support check undertaken by the Case Manager was conducted fairly and appropriately.

19. 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 to recognise it for collective bargaining in respect of the proposed bargaining unit as described in paragraph 1 of this decision. The request was made in writing and identified the Union, the proposed bargaining unit and that the request was made under the Schedule. The Panel is also satisfied that the application is not rendered inadmissible by any of the provisions in paragraphs 33 to 35 and 37 to 42 and that it was made in accordance with paragraph 11 of the Schedule.

20. The remaining issues for the Panel to address are whether the admissibility criteria set out in paragraph 36(1) of the Schedule are met.

Paragraph 36(1)(a)

21. 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 relevant bargaining unit. The result of the check carried out by the Case Manager established that 52% of the workers in the proposed bargaining unit were members of the Union. The Panel is therefore satisfied that this test is met.

Paragraph 36(1) (b)

22. Paragraph 36(1)(b) of the Schedule provides that, for an application to be admissible, the CAC must be satisfied that a majority of the workers constituting the relevant bargaining unit would be likely to favour recognition of the Union as entitled to conduct collective bargaining on behalf of the bargaining unit.

23. The Case Manager's check of the information provided by the parties demonstrated that there was a membership level of 52% within the proposed bargaining unit. Based on its knowledge and experience, the Panel is of the view that membership of a union can be indicative of an individual's support for recognition of a union to collectively bargain on their behalf. We note that there is no evidence or argument to the contrary from the Employer. The Panel is also mindful that at this stage we are tasked with determining only whether there is likely majority support, not whether there is actual majority support for recognition of the Union.

24. For the reasons provided above and based on the evidence before it, the Panel concludes that a majority of the Union's proposed bargaining unit would be likely to favour recognition of the Union to conduct collective bargaining on its behalf and that the requirements of paragraph 36(1)(b) of the Schedule are met.

Decision

25. The Panel is satisfied that the application is valid within the terms of paragraphs 5 to 9, is made in accordance with paragraph 11(2) and is admissible within the terms of paragraphs 33 to 42 of the Schedule. The application is therefore accepted by the CAC.

Panel

Professor Linda Dickens MBE, CAC Deputy Chairman

Mr Michael Shepherd

Mr Paul Talbot

29 December 2015