

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION
DECLARATION OF RECOGNITION WITHOUT A BALLOT

The Parties:

Unite the Union

and

Citizen Advice Merton & Lambeth

Introduction

1. Unite the Union (the Union) submitted an application to the CAC dated 11 March 2016 that it should be recognised for collective bargaining by Citizen Advice Merton & Lambeth (the Employer) for a bargaining unit comprising “all employees” and the stated offices were Lambeth, Mitcham and Morden. The CAC gave both parties notice of receipt of the application on 11 March 2016. The Employer submitted a response dated 18 March 2016 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 Linda Dickens MBE, as Chair of the Panel, and, as Members, Mr Arthur Lodge and Ms Bronwyn McKenna who for the purposes of this decision was replaced with Mr Keith Sonnet. The Case Manager appointed to support the Panel was Miss Sharmin Khan.

3. By a decision dated 8 April 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. The parties confirmed in correspondence to the CAC dated 28 April 2016 and 3 May 2016 that they had reached agreement on the appropriate bargaining unit and that it was as proposed by the Union in its application, namely "all employees" The stated locations or offices for the bargaining unit were "Lambeth, Mitcham and Morden".

Issues for the Panel

4. Paragraph 22(2) of Schedule A1 to the Act (the Schedule) requires the CAC to issue a declaration that a union is recognised as entitled to conduct collective bargaining on behalf of a group of workers constituting the bargaining unit if it is satisfied that a majority of the workers constituting the bargaining unit are members of the applicant union, unless any of the three qualifying conditions set out in paragraph 22(4) are fulfilled. If any of these conditions are met, or the CAC is not satisfied that a majority of workers in the bargaining unit are members of the applicant union, the CAC must give notice to the parties that it intends to arrange for a secret ballot to be held. The qualifying conditions in paragraph 22(4) are as follows:

a) the CAC is satisfied there should be a ballot in the interests of good industrial relations;

b) that the CAC has evidence, which it considers to be credible, from a significant number of the union members within the bargaining unit that they do not want the union (or unions) to conduct collective bargaining on their behalf;

c) membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of union members within the bargaining unit want the union to conduct collective bargaining on their behalf.

The Union's claim to majority membership

5. In an e-mail to the CAC dated 21 April 2016, the Union requested that the CAC Panel declare the Union to be recognised without a ballot given that it had demonstrated that more than 50% of the workers in the bargaining unit were members of Unite, as established in the membership and support check issued to the parties on 30 March 2016.

The Employer's submissions on the Union's claim to majority membership and the qualifying conditions

6. The Employer was invited to make submissions on both the Union's claim to majority membership within the bargaining unit and on the three qualifying conditions specified in paragraph 22(4) of the Schedule (set out in paragraph 4 above). The Employer responded to the CAC by e-mail on 28 April 2016, 10 and 12 May 2016.

Paragraph 22(4)(a)

7. On 28 April 2016 the Employer stated that a 52% majority was a small majority. The Employer's main submission was that a ballot would be in the interests of good industrial relations as there had been some upset in the organisation. A member of staff had informed the Employer in confidence that he/she was feeling pressured by the Union. Four more staff members had informed the Employer that they were not asked for their view by the Union. The Employer had copied into its e-mail to the Panel dated 12 May 2016 the wording of an e-mail it had received from a worker with the sender's name anonymised. The Employer was of the view that an independent ballot, in which the parties agreed that the information to be provided to everyone was fully informative, would give staff a confidential voice. The Employer did not refer to the qualifying conditions, under paragraph 22(4)(b) and (c).

Union's response to the Employer's case for a ballot

8. On 12 May 2016 the Employer's submissions on the qualifying conditions were copied to the Union and its comments invited. The Union responded to the CAC by e-mail on 17 May 2016 following consultation with the Unite Workplace Representatives at Citizens Advice Merton and Lambeth (CAML). The Union noted that the complaint contained in the Employer's email of 12 May 2016 was not dated and was anonymised. In its view, this was a single complaint from one member of staff out of 36. The Union could not comment on its accuracy. It was not sufficient evidence in itself of undue pressure being placed on staff.

9. With regard to the Employer's e-mail to the CAC of 28 April 2016, in which it had stated that "four staff members were not asked their view", the Union pointed out that no further

evidence to corroborate this comment had been provided by the Employer in its later e-mail to the CAC of 10 May 2016.

10. The Union reiterated its position that it had demonstrated that a majority of the staff at CAML were Union Members. Furthermore, since the CAC's membership check of 30 March 2016, its membership had increased. The Union maintained its request that the CAC declare the Union to be recognised by CAML without a ballot.

The Panel's direction for a Membership Check and a hearing to be held

11. By letter to the parties dated 23 May 2016, the parties were informed that the Panel had decided to hold a hearing on 9 June 2016 in order to assist the Panel with its decision on whether or not to hold a ballot under paragraphs 22 and 23 of the Schedule. The parties were informed that it was for each party to decide if there were any further arguments or evidence it wished to submit which addressed the qualifying conditions as set out in paragraph 22(4) of the Schedule and, if so, these were to be submitted to the CAC by no later than 2 June 2016 in advance of the hearing. The summary of the parties' written submissions as amplified at the hearing follow from paragraph 14 below onwards. The names of those who attended the hearing are appended to this decision.

12. As both parties had referred to changes the Panel instructed that the Case Manager carry out an independent check of the level of Union membership in the bargaining unit. The parties were asked to provide to the Case Manager by the submissions deadline, an up-to-date list of the fully paid up members in the bargaining unit including full names and addresses from the Union and from the Employer, a list of the workers employed in the bargaining unit, including full names, addresses and job titles. The parties were reminded that to preserve confidentiality, the respective lists would not be copied to the other party.

The Membership Check

13. The information from both parties was received by the Case Manager by 1 June 2016. The Case Manager's report established there were 35 workers in the bargaining unit of whom 21 were members of the Union, a percentage level of 60%. The full report of the check was issued to the parties on 6 June 2016. The parties were invited to comment on the report at the

hearing. Both parties subsequently confirmed for the Panel their acceptance of the results and that the Union held a majority membership within the bargaining unit.

Summary of the Parties' submissions to the Panel

Employer's case

14. The Employer's written submissions contained of a copy of an e-mail from the CEO, Hayley James dated 26 May 2016 to the four workers previously mentioned by the Employer as having approached the Employer in confidence. The Employer's cover note to the submissions explained that not all staff had been emailed because it did not want to make worse a situation in which workers may already have been feeling uncomfortable due to the behaviour of Union members. In its oral submission the Employer explained that it had not attempted to talk to the work force about the benefits or non-benefits of union membership and union recognition. It did not want to exacerbate the "them and us" culture. The Employer also enclosed a copy of 3 replies the CEO had received, referred to by the Employer and for the purposes of this decision Evidence 1,2, and 3. With the Union's agreement, the Employer submitted a further reply on the morning of the hearing which is referred to as Evidence 4.

15. The CEO's e-mail read:

"Dear staff who have spoken to me confidentially (all bcc'd)

As you know, CAML have requested an external ballot to decide whether we recognise the union. The Board, and I, are not in principle for or against union recognition. The ballot has been requested to ensure that all staff voices are heard. I'm emailing you because you have confidentially spoken to me about concerns around how the union recognition has been handled by colleagues and how you have been treated at times, or witnessed others being treated.

CAML needs to submit evidence by 1st June that staff have concerns about this issue to support the request for a ballot can be carried out. I am not able to give guidance as CAML must stay neutral, which we are happy to do. This email is to let you know that if you wish to submit in writing a statement about this situation please do so. You can email me directly and I would need this by Friday so that I can get it ready for submission.

Please do not feel that you have to do this, this is email is just to let you know you can if you wish to.

Your name will be redacted before it is submitted and so your anonymity will be protected as I know this has been a concern when considering speaking up..."

16. Summary of Evidence 1:

In this email the writer stated that they had been excluded from discussions that had taken place to gather support in favour of recognising the Union and felt discouraged from asking to be involved because s/he was not asked to participate, when s/he was aware that discussions were happening. This

person was worried about the consequences of voicing any opinion on the subject and was concerned for his/her future. They stated that a major decision was being forced through without any opportunity for open discussion. Lack of open dialogue meant there may be others who were in a similar position causing needless divisions that were upsetting. This person said they held no view about union recognition, except that it should be the subject of a discussion in which all paid staff should be allowed and encouraged to participate and therefore they supported any move that would allow this to happen.

17. Summary of Evidence 2

This email was from the Employer's Head of Operations, who wanted on record his personal disappointment with the Union's activity within the organisation. He said he had not been approached by the Union about joining the Union and therefore excluded from membership of the Union and from any Union activities because he was a senior manager. He saw this as part of a wider divisiveness that the Union's activities had deliberately fostered at CAML. The Union's assumption that as a member of the senior management team he was 'the enemy' made him feel excluded and robbed of his basic right to have an opinion. He felt like he had no choice but to stand alone should he have an employment issue with CAML. Other staff members had intimated to him and confided in him that they had been made to feel uncomfortable and excluded from group activities as a direct result of Union activity. He was a staunch supporter of the general principles of unions and membership but he was deeply concerned and offended by the way the Union had conducted its business at CAML. He was deeply concerned about the Union believing that it had the right to speak for staff without a ballot and thought its conduct demonstrated a lack of understanding of how 21st century not-for-profit organisations should be run.

18. Summary of evidence 3

This person stated that the atmosphere was obviously not great and they did not like knowing that people were being "grilled" about funding or working arrangements, pressured into joining unions or whispering in corridors, all of which was unhelpful and unprofessional. They empathised with aspects of what was being said from all sides of the debate but felt s/he could not say a great deal without it being suggested s/he would get fired. (The bottom of this e-mail was annotated "CEO clarification: To be clear, the suggestion of firing would be from colleagues, not from management.")

19. Summary of evidence 4

The writer of this email stated they had concerns about the approach taken by at least one Union representative when trying to recruit. S/he was asked on two occasions to join the Union and phrases like “We need people to join” as if it was part of a campaign was being used which s/he found uncomfortable. This person had no objection to unions or being a member of a union either but objected to pressure from the Union in a highly politicised and polarised environment where to join the Union could be viewed as taking one side against the other. This person would rather their decision about Union membership was on its own merits and not as part of some other agenda. S/he stated that a member of their team had mentioned in confidence that they felt under pressure to join the Union and that person did join the Union.

20. The Employer asserted that it was not in support or against Union recognition. It felt evidence 1 to 4 demonstrated a “them and us” culture which the Employer believed was instigated by the Union and contended that holding a ballot would assure it that workers had not been coerced into joining the Union for the purposes of recognition of the Union. Its request for the ballot was to placate a general feeling of a Union campaign against management that some workers may be experiencing. It was not against workers being union members. A ballot would also alleviate the feeling of pressure that some of the workers may have felt from the Union and ultimately give those workers a voice.

21. The Employer explained it was experiencing funding difficulties which had led to “at risk of redundancy” notices being issued to two people who happened to be the Unite workplace representatives. It was not aware that the pool of ‘at risk’ posts would consist of the two Union workplace representatives at the time the decision was taken. The Employer confirmed that the “at risk of redundancy” notices were still in effect. This was not a deliberate action against the Union. These financial decisions were simply taking place at the same time as the Employer was being approached by the Union for recognition. The date on which these were issued happened to coincide with the date of the CAC’s decision to accept the Union’s application but was not a reaction to the Union’s application to the CAC. To the contrary, it had a desire for good industrial relations. The Employer felt workers should be able to decide on whether or not they wanted recognition of the Union for collective bargaining with space

away from the current climate at CAML. Holding a ballot would mean that workers could make a sober decision about a long term outcome, expressed in confidence.

22. In its oral submission the Employer refuted the Union's contention that it did not want to engage in the process. It stated that its evidence was limited because the decision was taken only to request evidence from individuals who had already approached the Employer and was gathered because the process required it. Individuals had requested anonymity because they feared they would be approached by the Union. It contended that individuals may have felt pressure from the Union to sign the Union's petition so it was unreliable.

Union's case

23. In relation to paragraph 22(4)(a) of the Schedule (whether a ballot should be held in the interests of good industrial relation) the Union stated it believed that recognition was best achieved through agreement with the Employer. This was the Union's favoured position from the outset. It had requested voluntary collective discussions prior to its written request for recognition under the Schedule. However it found that the Employer was not interested in fostering good industrial relations. The Union had attempted to discuss staff concerns with the Employer, with a view to setting up a proper structure for those staff to raise those issues but its eventual written request for voluntary recognition under the Schedule had been rejected by the Employer.

24. The Union explained a brief history of recognition by the Employer prior to 2005 when the CABs had merged to form CAML. The Union provided a copy of a Procedural Agreement which the Association of Clerical Technical and Supervisory Staff (a trade group within a predecessor union of UNITE) had with the National Association of Citizens Advice Bureaux prior to the transfer of Lambeth CAB from that organisation in 2002. In 2011, the Union had requested a meeting with the Chair of Trustees to discuss a formal recognition agreement. An exchange of correspondence took place between the parties and a copy of the Procedural Agreement was provided to the Employer, but no meeting ever took place. However, the Union continued to provide advice and support to Unite members at the CAB.

25. On 2 February 2016 the Unite Regional Officer emailed the Employer's CEO to request a meeting to discuss a number of restructurings and TUPE transfers affecting 22 staff at CAML. At that time, Unison (which had in the pre-merger past been recognised at Merton) to the knowledge of the local Unite representatives, had no members at CAML and was not seeking recognition. No meeting with the CEO took place but instead there was a round of e-mail exchanges. The Employer expressed the view that the TUPE transfer from Lambeth CAB in 2005 applied to only one member of staff who had been transferred over.

26. On 23 February 2016 the Unite workplace representative at CAML e-mailed the CEO to inform that 21 Unite members wished for collective discussions to commence. This was declined by the Employer in its response by e-mail 25 February 2016 which made it clear to the Union that any discussions would be on an individual basis.

27. The Union then submitted its written request for voluntary recognition on 26 February 2016 under the provisions of the Schedule which was also rejected by the Employer by its letter dated 7 March 2016 from the Chair of Trustees, Terry McGregor. Consequently the Union made its application under Schedule A1 to the Trade Union and Labour Relations Act (Consolidation) Act 1992 to the CAC on 11 March 2016. The Union included in its bundle to the Panel a copy of the written exchanges between the parties which the Union contended was all evidence that the Employer was opposed to Union recognition and that it was not interested in actively engaging in a collective bargaining process. Conversely to the Employer's case, the Union was concerned that a ballot would be used by the Employer to pressure staff to reject recognition.

28. The Union did not accept the Employer's explanation of how the "at risk of redundancy" notifications came about. The Union believed that the fact that the two Unite workplace representatives at CAML were now "at risk" was direct evidence of the type of pressure the Employer could put on its workers. The Union had tabled proposals for the Employer to avoid the need for further redundancies but the Employer maintained its proposals to make the two posts redundant. The Union also asked the Employer to halt the redundancy process on the basis that the timing of the proposal was announced on 8 April 2016, the same date on which the Union's application to the CAC was accepted. The Union concluded that such a management decision was not only designed to remove at least one Unite activist from

the workplace but was also an act that would intimidate staff into not supporting recognition in a ballot.

29. The Union put its case that a decision to grant recognition without a ballot would be in the interests of both parties. It would not only recognise the Union's majority membership, but would also encourage the Employer to start entering into discussions on recognition arrangements so that the issues that had led the staff at CAML to demand collective discussions in the first place could be addressed.

30. In relation to Paragraph 22(4)(b) of the Schedule the Employer had produced no credible evidence that Unite members at CAML did not want the Union to conduct collective bargaining on their behalf, but the Union had been able to provide the CAC with a petition signed by staff which stated clearly "We the undersigned are all employees of Citizens Advice Merton and Lambeth. We want our employer to recognise Unite for the purposes of collective bargaining." The petition was dated 8 March 2016 and was signed by 22 employees. The Union had informed the CAC at the time the petition was submitted for checking that 2 of those employees were subsequently made redundant.

31. In contrast, the Employer's evidence was one anonymised message from a member of staff indicating that undue pressure was being applied to staff by Unite and four other messages from members of staff who were not happy that they had not been approached to join the Union. There was no evidence from the Employer that any of the staff referred to were Union members. The Employer's evidence did not meet the conditions set out in the Schedule nor could it be substantiated. The Employer's case was contradictory, since in its view, if undue pressure to join the Union was being applied, there would have been evidence of the Union approaching all staff.

32. The same applied in respect of the qualifying condition under paragraph 22(4)(c) of the Schedule. The Union stated that its petition and level of membership was clear evidence of staff supporting its application for recognition. At the time the application was accepted by the CAC, the CAC's membership check established that Unite had a membership level 52.63% in the bargaining unit, a majority membership level. Then the CAC's later membership check established an increased level of membership to 60%. The Employer had submitted no evidence satisfying this qualifying condition except an e-mail from one individual (Evidence

4) who mentioned that they had been approached by someone who said they felt pressured into joining the Union which was hearsay. It was not known if Evidence 3 was from a Union member.

33. The Union asked the Panel to consider that not only had it clearly demonstrated majority membership, but in addition to this, the question as to whether workers wanted their issues addressed via collective bargaining was answered by the Union's petition which was openly signed by workers desiring this. The recognition request was made on behalf of CAML employees not as a result as a fishing expedition from the Union and the Employer had given it no choice but to resort to the statutory route. The Union did not dispute that the current climate at CAML had created some tension amongst workers but the Union stated that this was why the desire for collective bargaining had emerged from staff. The Union had wanted to engage in discussion with the Employer with proper collective bargaining arrangements. A ballot in the current climate would not assist with this but only contribute to a negative environment.

34. The Union was seeking recognition without a ballot at CAML because the staff at the organisation wanted the issues that impacted on them to be addressed in a collective rather than an individual manner, through discussions with a recognised trade union. The Employer had frustrated this desire at every turn and it was the Union's view that if the CAC insisted on a ballot, the Trustees of the CAML board would use the opportunity to frustrate this desire again.

35. The Union had not applied pressure on workers. There were specific issues that staff wanted to be addressed. The Employer stated that it was not opposed to or in support of recognition but its rejection of every approach the Union had made seeking voluntary recognition demonstrated otherwise. The Employer had not attended one meeting to explore collective discussions as an option. The Union's letter of request for recognition under the Schedule was simply rejected by The Board. There was no evidence that the Employer was in favour of collective bargaining. A ballot would not be helpful in the circumstances of the case.

36. The Union maintained that it was responding to genuine concerns from CAML staff about issues arising in the workplace and the supported documents submitted to the Panel was evidence of this. Unite was not anti-management or anti-Board and had no intention of being disruptive, it had approached the Employer in a constructive manner. There was no actual

evidence submitted by the Employer that workers had been intimidated and did not want recognition of the Union. The Union accepted that the whole matter of union recognition could be uncomfortable for some people but again the main concern seemed to be that some workers were not approached at all by the Union.

37. At the invitation of the Panel the two Unite workplace representatives explained how signatures for the Union's petition were obtained and recruitment conducted. They explained that as a lot of workers were already Union members it was conveyed to staff that a few more could make 50% or more membership which could help the workers be more involved in the discussions regarding job losses. The petition was sent round in a climate where there was already a fear of job losses in an organisation which was previously quite stable and was the basis on which the approach was made to the Employer. The petition was passed around on one day in 3 separate offices. Signatures were mostly from Union members. Only one individual who was approached was doubtful and did not sign the petition. The list from each office was posted in separate envelopes to the Unite Regional Officer.

38. There was no coercion. New members of staff often had less favourable conditions in their contracts than existing members of staff so discussion amongst the workforce about this and how it could be addressed was inevitable with suggestions made by individuals that joining the Union could help everyone negotiate common terms and conditions. A few did not even know what a union was but they would be directed to the Union website where they could make their own decision on whether to sign up and be a member. It was also apparent after staff meetings that it was not necessarily just Union members that wanted protection under collective bargaining in the current climate. To refer to the Union's activities as "pressure" was an overstatement. Workers were approached to join the Union and/or sign the Union's petition to help achieve collective bargaining with the Employer. Furthermore neither of the Unite workplace representatives managed paid staff so they simply did not have any power to pressurise anyone to join the Union. Management would always have a better position when it came to access to the workers and the potential for applying pressure.

39. The statement from the Operations Manager (Evidence 2) was contradictory. He could not be pressurised if he was not approached at all. The Operations Manager was Line manager for the Workplace representative. He had expressed a view against membership in the past and

it was natural for one not to feel comfortable with approaching one's line manager about union membership.

40. The workplace representatives also noted that they were working for a voluntary organisation that in general provided advice to members of the public that union membership was beneficial, so the Employer's resistance to its request for recognition for collective bargaining was confusing.

Considerations

41. The Schedule requires the Panel to consider whether it is satisfied that the majority of the workers in the bargaining unit are members of the Union and if the Panel is satisfied that the majority of the workers in the bargaining unit are members of the Union, it must declare the Union recognised by the Employer, unless it decides that any of the three conditions in paragraph 22(4) are fulfilled. If the Panel considers any of the conditions are fulfilled it must give notice to the parties that it intends to arrange for the holding of a secret ballot.

42. The Union has asked the Panel to declare recognition of the Union for collective bargaining without a ballot. The Case Manager's recent membership check established that there were 21 members, in the bargaining unit of 35 workers, a membership level of 60% of the total in the bargaining unit. This was not contested by the Employer. We are content that the check was conducted fairly and appropriately. The Panel is satisfied that the majority of workers in the bargaining unit are members of the Union.

43. We must now consider whether any of the three qualifying conditions stated in paragraph 22(4) (described in paragraph 4 of this decision) applies in this case. In deciding this matter we have given careful consideration to all the written submissions and material provided to us during the process of this application and taken full account of the oral submissions made by the parties at the hearing.

44. It was clear from the submissions that the Employer wanted a ballot to be held but it was not clear which qualifying conditions were being argued by the Employer in support of this. At the hearing it was suggested that the evidence provided related to both qualifying condition under paragraph 22(4)(c), namely that the Panel should find that a ballot should be

held as there is membership evidence which leads to a conclusion that there is doubt on whether a significant number of Union members want the Union to conduct collective bargaining on their behalf and condition 22(4)(a) is met, namely that the Panel should find that a ballot should be held in the interests of good industrial relations. Qualifying condition (b) was not argued.

Paragraph 22(4)(c)

45. We appreciate that the Employer has not wanted to appear to put pressure on its employees and has felt the need to tread carefully in seeking and reporting their views relating to union membership and union recognition. However this is a case where little evidence – as opposed to statements of belief – has been presented to support the Employer’s desire for a ballot.

46. The Employer encouraged those who voiced concerns about the Union’s recruitment activities to put those concerns in writing so evidence might be provided to the CAC. We have four emails which were sent to the Employer (one was admitted as late evidence with the agreement of the Union). It was accepted by the Employer at the hearing that it appears none of these comes from a member of the Union. Two complain at not having been approached about joining the Union and report on what they see as a divisive and uncomfortable atmosphere; one comments on people being ‘grilled about certain funding or working arrangements, pressured into joining unions, or frankly whispering in corridors’. The third expresses concerns about the way the Union has sought to recruit him/her into the Union, having been ‘asked in the last few weeks on at least two occasions to join the union’. Phrases such as ‘We need people to join’ have been used, as if this is part of a campaign.’ In this email it is reported that the writer has been told by a member of their team that they ‘felt under some pressure to join the union’ and that they believe that this person has joined the union. At the hearing the Employer accepted the Union’s contention that this was ‘hearsay’.

47. No other evidence has been provided to support the contention that members of the Union have been intimidated into joining. We note the point made by the Union that its two workplace representatives do not have line management responsibilities for employees who are being asked to join the Union. The representatives therefore do not have the sort of positional power which could be perceived as influencing choice of whether or not to agree to join the

Union. In the experience of the Panel, what has been reported of the recruitment activity in the emails and at the hearing does not appear particularly unusual nor does it amount to anything which reasonably could be seen as intimidation or undue pressure.

48. Paragraph 22(5) of the Schedule states that ‘Membership evidence’ for the purposes of qualifying condition 24(2)(c) is evidence about the circumstances in which union members became members; evidence about the length of time union members have been members in a case where the CAC is satisfied that such evidence should be taken into account’.

49. The Employer holds the view that some people have been pressurised into joining the Union. This could be relevant to the ‘circumstances in which union members became members’. However the evidence provided in support of this contention is very weak. At the most favourable reading (from the point of view of the Employer’s argument) there is second-hand evidence that one union member may have felt pressured into joining.

50. Even if this evidence were stronger – for example a direct statement from the individual concerned – it would not lead us to conclude that ‘there are doubts whether a *significant number* of union members want the Union to conduct collective bargaining on their behalf.’ (emphasis added).

51. To protect the anonymity of these workers, all except one had their names redacted. It remains unknown to the Panel if these individuals were Union members. Of the 4 replies only one refers to the issue of pressure to join the Union by way of the author reporting that s/he was approached in confidence by a worker who “felt under some pressure” to join the Union. The content of two of the replies mainly surround the point that they have not been approached about support for recognition leaving them feeling excluded from a process that could affect them.

Paragraph 22(4)(a)

52. We have also taken full account of the emails in considering whether qualifying condition (a) is fulfilled, namely that the Panel should find that a ballot should be held in the interests of good industrial relations.

53. The Employer argues that holding a ballot would alleviate the feeling of pressure it believes some workers experienced to become Union members, allowing workers to express themselves confidentially and freely and ensure all staff voices are heard. The Employer argued that a ballot would address the “them and us” divisive atmosphere which it was concerned was being fostered in the workplace.

54. As noted above, on the evidence, we do not find that the petition signatures or the high level of Union membership have been obtained through undue pressure and so we do not accept the Employer’s contention that a ballot is required to relieve pressure or to allow voices to be heard that are otherwise suppressed.

55. We are prepared to accept the Employer’s explanation that the issuing of “at risk redundancy” notices to the two Union workplace representatives is a function of funding problems relating to the posts they hold and not, as the Union suggested, an attempt at intimidation to deter support for the Union in any ballot.

56. Nonetheless both the evidence before us and the Panel’s experience lead us to give weight to the Union contention that good industrial relations is best served in this case by moving forward without a ballot. The Union has a substantial majority membership in the bargaining unit and there is clear expression of support for collective bargaining. A ballot in this case risks aggravating rather than ameliorating the tensions and difficult climate to which both sides have alluded.

57. We recognise the Employer’s preference for a ballot. However it is not sufficient that the Employer, or some employees express a preference for a ballot. The legislation is clear that the CAC *must* award recognition where the majority of workers in the bargaining unit are

members of the Union unless any of the three stated qualifying conditions is fulfilled. In this case we find that none of the conditions is fulfilled.

Decision

58. The Panel is satisfied in accordance with paragraph 22(1)(b) of the Schedule that the majority of the workers constituting the bargaining unit are members of the Union. The Panel is satisfied that none of the conditions in paragraph 22(4) of the Schedule is fulfilled. Pursuant to paragraph 22(2) of the Schedule the CAC must issue a declaration that the Union is recognised as entitled to conduct collective bargaining on behalf of the workers constituting the bargaining unit. 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 employees” of Citizens Advice Merton and Lambeth, the stated offices for which are Lambeth, Mitcham and Morden.

Panel

Professor Linda Dickens MBE, Deputy Chairman of the CAC

Mr Arthur Lodge

Mr Keith Sonnet

30 June 2016

APPENDIX - LIST OF ATTENDEES

For the Employer

- Terry McGregor - Chair of Trustees
Hayley James - Chief Executive Officer

For the Union

- Andrew Murray - Unite Regional Officer
Rodrigo Lodwick - Unite Workplace Representatives at CAML
Anna Rodgers - Unite Workplace Representatives at CAML