

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

**The Parties:**

RMT

and

Carefree Travel Limited

**Introduction**

1. RMT (the Union) submitted an application to the CAC dated 25 January 2017 that it should be recognised for collective bargaining by Carefree Travel Limited (the Employer) for a bargaining unit comprising "All employees/workers except management grades" located at Barrow in Furness. The application was received by the CAC on 26 January 2017 and the CAC gave both parties notice of receipt of the application on 27 January 2017. The Employer submitted a response to the CAC dated 1 February 2017 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 Kenneth Miller, Chairman of the Panel, and, as Members, Mrs Maureen Chambers and Mr Paul Talbot. The Case Manager appointed to support the Panel was Linda Lehan.

3. By its written decision dated 13 February 2017 the Panel accepted the Union's application.

4. As the Employer had confirmed in their response form that they agreed with the Union's proposed bargaining unit the Case Manager, in a letter dated 13 February 2017, asked the Union whether it claimed that a majority of workers constituting the bargaining unit were members of the Union. In an email dated 15 February 2017 the Union confirmed that it was not claiming majority membership.

### **Issues**

5. On 15 February 2017, the Panel, satisfied that a majority of the workers constituting the 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.

6. The notification period under paragraph 24(5) of the Schedule ended on 28 February 2017. 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).

### **Submissions on the form of ballot**

7. In an email dated 21 February 2017 the Union stated that, following consultation, their preference was for a workplace ballot over a maximum of 2 days conducted by the Qualified Independent Person.

8. In an email dated 22 February 2017 the Employer's representative stated that it suspected that a postal ballot would be best in terms of cost. The Employer's representative stated that as there was only a relatively small number of employees involved to send a Qualified Independent Person to Barrow (perhaps over two or even three days) did not seem cost effective and the cost involved would be far greater than the cost of a few stamps.

9. The Union in a further email dated 26 February 2017 stated that the reason it had specified two days for a workplace ballot was because it felt that would achieve a better turnout

but that said as the employees worked Monday to Friday, if cost was a factor, then they would find acceptable a workplace ballot conducted over a single day as preferred to a postal ballot.

10. The CAC in a letter to the Employer's representative dated 1 March 2017 asked how long a QIP would need to attend the workplace, on any given day, to capture everyone giving them the opportunity to cast a vote. The Employer's representative in an email dated 3 March 2017 stated that their clients had instructed them that due to the nature of shift patterns in the workplace, it was highly unlikely that anyone attending the workplace would be able to see everyone on a single day and would probably need to attend over a minimum of two days which clearly had cost consequences.

11. The Employer's representative stated that the final decision was the CAC's to make but given the small number of employees and the relatively small size of their client company (who was, after all, going to be expected to pay a proportion of the costs of the ballot) they remained of the view that a postal ballot was the most appropriate way forward having regard to the specific circumstances of the case.

12. In a further email received from the Union dated 6 March 2017 it disputed the views expressed by the Employer and stated that the shifts worked for all employees were between 07.45 and around 16.30. The Union stated that drivers worked 07.45 to 16.30 and Passenger Assistants 08.00 to 10.00 and 14.30 to 16.30; all other grades also worked during those hours, and all employees worked Monday to Friday. The Union said that as stated before they would prefer two days in case workers rushed off at the end of their shift but it was entirely possible to conduct a workplace ballot in a single day.

13. The Employer's representative, in an email dated 10 March 2017, responded to the Union's email stating that their clients believed it would be difficult for any workplace ballot to be held on one day explaining that there was not really any suitable facilities on site for such a ballot to be held (there was a rest room, but otherwise the offices were in constant use). Also as employees had different start and finish times and by reason of holiday, illness etc, there could be no guarantee that all employees would actually be in over the course of one individual day.

14. Finally the Employer's representative reiterated that the Employer's request was for a postal ballot stating that the Employer was a small organisation and did not have significant reserves of cash. The Employer's representative stated that as the Employer would be expected to pay a contribution towards the whole process, it would seem only fair and reasonable (especially given the availability problems) that the process should be conducted in a way which satisfied the relevant requirements. This would put the Employer to as least cost as possible given its size and resources.

### **Considerations**

15. 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.

16. The parties have put forward two different types of ballot for the Panel to consider. The Union has argued for a workplace ballot whereas the Employer has submitted that the ballot should be a postal ballot.

17. The Panel, having carefully considered the parties' submissions, has decided that, on the grounds of cost and practicality, the appropriate form of ballot in the circumstances would be a postal ballot. The Panel feels that, given the shift patterns and the length of time the Qualified Independent Person would have to be on site to cover all workers on any given day, it would not be cost effective for a bargaining unit consisting of only 21 workers and it would be far more practical to conduct a postal ballot than a workplace ballot.

### **Decision**

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

19. 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**

Professor Kenneth Miller, Panel Chair

Mrs Maureen Chambers

Mr Paul Talbot

10 March 2017