

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION
DECLARATION THAT THE UNION IS NOT ENTITLED TO BE RECOGNISED

The Parties:

GMB

-and-

Bowood Care Homes Limited

Introduction

1. GMB (the Union) submitted an application to the CAC dated 18 January 2017 that it should be recognised for collective bargaining by Bowood Care Homes Limited (the Employer) for a bargaining unit comprising "All staff below level of manager and deputy managers". The location of the bargaining unit was given as "Bowood Court, Bowood Mews, Hewell Road, Redditch, Worcestershire B97 6AT". The application was received by the CAC on 19 January 2017 and the CAC gave both parties notice of receipt of the application that same day. The Employer submitted a response to the CAC dated 30 January 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 Lynette Harris, Chairman of the Panel and, as Members, Mr Paul Gates OBE and Mr Rod Hastie. The Case Manager appointed to support the Panel was Nigel Cookson.

3. By a decision dated 16 May 2016 the Panel accepted the Union's application. In its

response to the Union's application dated 30 January 2017, the Employer stated that it agreed the composition of the bargaining unit proposed by the Union and the Panel moved immediately to the question of whether to hold a secret ballot pursuant to paragraphs 22 and 23 of Schedule A1 to the 1992 Act (the Schedule).

4. On 16 May 2017 the Panel, in accordance with paragraph 23(2) of the Schedule, informed the parties that not being satisfied that a majority of the workers constituting the agreed bargaining unit were members of the Union, it intended to arrange for a secret ballot to be held in which the workers in the bargaining unit would be asked whether they wanted the Union to conduct collective bargaining on their behalf. The Panel also advised the parties that, as specified in paragraph 24(5) of the Schedule, it would wait until the end of the notification period of ten working days before arranging a secret ballot. The parties were also invited to submit to the Panel their views on the form of ballot.

5. The notification period under paragraph 24(5) and 24(6) of the Schedule ended on 30 May 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).

6. Both parties submitted to the Panel that their preferred form of ballot was a workplace ballot, and the parties were subsequently informed by letter dated 31 May 2017 that the Panel had decided that the ballot would take the form of a workplace ballot with a postal element for those workers known in advance to be absent from the workplace on the day of the ballot in accordance with paragraph 25(4)(a) and (6A) of the Schedule.

The Ballot

7. The Panel subsequently directed that Popularis Ltd should be appointed as the Qualified Independent Person (QIP) to conduct the ballot.

8. The QIP was appointed on 11 July 2017 and the parties were notified accordingly in a letter of the same date. The balloting period was extended by the Panel following a request by the Employer and with the consent of the Union. The parties were informed that the postal ballot papers would be dispatched on 29 August 2017 to be returned to the QIP by no later than noon on 11 September 2017 at which time the ballot closed. The workplace ballot took

place on between 12:00 hrs and 16:00 hrs on 8 September 2017.

9. The QIP reported to the CAC on 12 September 2017 that, of the 96 workers in the bargaining unit, 32 had voted in the ballot; there being 1 spoilt ballot paper. Thirteen workers (41% of those voting) had voted to support the proposal that the Union should be recognised by the Employer, and 18 workers (56% of those voting) had voted to reject the proposal. The proportion of workers constituting the bargaining unit who supported the proposal was 14%.

Declaration that the Union is not entitled to be recognised

10. In accordance with paragraph 29(2) of the Schedule the CAC informed both parties, on 13 September 2017, of the result of the ballot.

11. The ballot establishes that recognition of the Union is not supported by a majority of the workers voting and so, in accordance with paragraph 29(4) of the Schedule, the CAC declares that the Union is not recognised as entitled to conduct collective bargaining on behalf of the bargaining unit.

Panel

Professor Lynette Harris, Chairman of the Panel

Mr Paul Gates OBE

Mr Rod Hastie

15 September 2017