

**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  
  
Mears Group PLC

**Introduction**

1. Unite the Union (the Union) submitted an application to the CAC that it should be recognised for collective bargaining by Mears Group PLC (the Employer) for a bargaining unit comprising “24 craft workers - carpenters, electricians, multi traders, plumbers, painters, bricklayers, roofers, plasterers and fencers”<sup>1</sup> located at Crawley Borough Council. The application was received by the CAC on 27 April 2017. The CAC gave both parties notice of receipt of the application on 28 April 2017. The Employer submitted a response to the CAC which was received on 8 May 2017 and 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 Her Honour Judge Stacey, Chairman of the Panel, and, as Members, Mr Simon Faiers and Ms Judy McKnight CBE. The Case Manager appointed to support the Panel was Linda Lehan.

3. By a decision dated 12 May 2017, the Panel accepted the Union’s application. As the bargaining unit had been agreed by the parties, the Panel instructed the Case Manager to

---

<sup>1</sup> At the time of the request there were 24 craft workers but this number will fluctuate due to starters and leavers.

ascertain whether the Union claimed that it had a majority of the workers in the bargaining unit as its members and should therefore be granted recognition without a ballot and, if it did so claim, to seek submissions from the Employer on whether or not a ballot should be held.

## **Issues**

4. Paragraph 22 of Schedule A1 to the Act (the Schedule) provides that if the CAC is satisfied that a majority of the workers constituting the bargaining unit are members of the union, it must issue a declaration of recognition under paragraph 22(2) unless any of the three qualifying conditions specified in paragraph 22(4) applies. Paragraph 22(3) requires the CAC to hold a ballot even where it has found that a majority of workers constituting the bargaining unit are members of the union if any of these qualifying conditions is fulfilled. The three qualifying conditions are:

- (i) the CAC is satisfied that a ballot should be held in the interests of good industrial relations;**
- (ii) 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;**
- (iii) membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of the union members within the bargaining unit want the union (or unions) to conduct collective bargaining on their behalf. Paragraph 22(5) states that "membership evidence" is (a) evidence about the circumstances in which union members became members, or (b) evidence about the length of time for which union members have been members, in a case where the CAC is satisfied that such evidence should be taken into account.**

## **The Union's claim to majority membership**

5. In a letter dated 12 May 2017 the Union was asked by the CAC if it claimed majority membership within the bargaining unit, and if so, whether it submitted that it should be recognised without a ballot. By an email dated 12 May 2017 the Union confirmed that it was claiming that it had majority membership within the bargaining unit and this letter was copied to the Employer.

## **Membership Check**

6. To assist in deciding whether to arrange for a secret ballot the Panel proposed independent checks of the level of union membership in the bargaining unit. The information from the Union was received by the CAC on 15 May 2017 and from the Employer on 19 May 2017. The Employer had originally submitted a list bearing 38 names but subsequently confirmed that it had included a number of staff who did not form part of the bargaining unit, including temporary staff and staff who were not craft workers. Once the Employer had removed those employees there were 25 on the list. This was one more than the number stated in its response due to an employee transferring from another branch into Crawley which had previously been missed by the Employer. The Employer stated that based on a bargaining unit of 25 employees and a membership of 13, then the Union still had more than 50% membership. It was explicitly agreed with both parties that, to preserve confidentiality, the respective lists would not be copied to the other party and that agreement was confirmed in a letter from the Case Manager to both parties dated 15 May 2017.

7. The Union provided a list with the details of 14 members. The Employer's list contained 25 names. According to the Case Manager's report, the number of Union members in the proposed bargaining unit was 13, a membership level of 52%.

8. A report of the result of the membership check was circulated to the Panel and the parties on 22 May 2017 and the Employer was invited to make submissions on the Union's claim to majority membership and the three qualifying conditions specified in paragraph 22(4) of the Schedule.

## **Views of the Employer**

9. In a telephone conversation with the Case Manager on the 26 May 2017 the Employer confirmed that it did not wish to comment.

## **Considerations**

10. As set out in paragraph 4 above, the Act requires the Panel to consider whether it is satisfied that the majority of the workers constituting the bargaining unit are members of the

Union. If the Panel is satisfied that the majority of the workers constituting the bargaining unit are members of the Union, it must then decide if any of the three conditions in paragraph 22(4) is fulfilled. If the Panel considers that any of them is fulfilled it must give notice to the parties that it intends to arrange for the holding of a secret ballot.

11. The level of union membership in the bargaining unit has been established by way of a membership check conducted by the Case Manager as representing 52% of the agreed bargaining unit. Accordingly, the Panel accepts that the majority of workers in the bargaining unit are members of the Union.

***Paragraph 22(4) (a)***

12. The first condition is that the Panel is satisfied that a ballot should be held in the interests of good industrial relations. In this case neither party has submitted evidence that holding a secret ballot would be in the interests of good industrial relations. The Panel is therefore satisfied that this condition does not apply.

***Paragraph 22(4) (b)***

13. The second condition is 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 to conduct collective bargaining on their behalf. The CAC has no such evidence and this condition does not apply.

***Paragraph 22(4) (c)***

14. The third condition is that membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of the union members within the bargaining unit want the union to conduct collective bargaining on their behalf. No such evidence has been produced, and this condition does not apply.

## **Declaration of recognition**

15. 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 are met. 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 particularised in paragraph 1 of this decision.

## **Panel**

Her Honour Judge Stacey, Chairman of the Panel,

Mr Simon Faiers

Ms Judy McKnight CBE.

31 May 2017