

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

**The Parties:**

PCS  
and  
DOC Cleaning Ltd

**Introduction**

1. PCS (the Union) submitted an application to the CAC dated 13 February 2017 that it should be recognised for collective bargaining by DOC Cleaning Ltd (the Employer) for a bargaining unit comprising “All staff employed by DOC Cleaning to deliver the cleaning contract within the National Gallery” located at Trafalgar Square, WC2N 5DN. The CAC gave both parties notice of receipt of the application on 13 February 2017. The Employer submitted a response to the CAC dated 20 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 Linda Dickens MBE, Chairing the Panel, and, as Members, Mr David Bower and Ms Bronwyn Mckenna. The Case Manager appointed to support the Panel was Linda Lehan.

3. By a decision dated 15 March 2017, the Panel accepted the Union’s application. Although the parties had not agreed the bargaining unit prior to the Union’s application, in its response to the application the Employer stated that it agreed with the proposed bargaining unit. The Panel asked the Employer for confirmation of their agreement and in an email from

the Employer dated 17 March 2017 the Employer confirmed that it agreed with the bargaining unit as proposed by the Union.

## **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:

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

(b) 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 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 of majority membership**

5. In a letter dated 17 March 2017 the Union was asked by the CAC whether it claimed majority membership within the bargaining unit and, if so, whether it submitted that it should be recognised without a ballot. The Union, in an email to the CAC dated 21 March 2017, stated that it believed that it did have majority membership within the bargaining unit and

therefore submitted that it should be granted recognition without a ballot. The Union stated there had been staff changes and that they had 4 new staff who had recently joined the Union. The Union therefore believed it had 22 members currently employed by DOC at the National Gallery out of 38 staff or 57.89% and were happy to provide evidence of its new members.

6. As a check of membership carried out by the Case Manager for the purpose of the Panel's decision on acceptance did not show that the Union had majority membership a further membership check was undertaken. The Employer provided a list of 35 workers and the Union provided a list of 26 members. The membership check established that there were 21 members of the Union within the bargaining unit; a membership level of 60%.

### **The Employer's submissions on the qualifying conditions**

7. On the 24 March the Employer was provided with the Report on the membership check and invited to make any submissions it wished on the qualifying conditions. In an email to the CAC dated 31 March the Employer stated that it did not have any further comments and agreed with content of the report.

### **Considerations**

8. 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.

9. The Case Manager's membership check showed that 21 of the 35 workers in the bargaining unit were members of the Union, a membership level of 60%. The Panel is satisfied that the majority of the workers in the bargaining unit are members of the Union.

10. The Panel has given thorough consideration to each of the qualifying conditions laid down in paragraph 22(4) of the Schedule.

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

11. 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 no argument has been forwarded, nor has evidence been submitted, that holding a secret ballot would be in the interests of good industrial relations. The Panel has considered this issue and is satisfied that this condition does not apply.

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

12. 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)***

13. 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**

14. 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 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 comprising “All staff employed by DOC Cleaning to deliver the cleaning contract within the National Gallery” located at Trafalgar Square, WC2N 5DN.

**Panel**

Professor Linda Dickens MBE – Chairing the Panel

Mr David Bower

Ms Bronwyn Mckenna

**4 April 2017**