

CENTRAL ARBITRATION COMMITTEE
TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992
SCHEDULE A1 - COLLECTIVE BARGAINING:
DECLARATION THAT THE UNION IS TO BE DE-RECOGNISED

The Parties:

Michael Parker, Rajani Patel, Sally Wiles, Gordon Finlayson, Anish Dholakia
& Kiritkumar Bhikhulal Shah (the Applicants)

and

Boots Pharmacists Association (BPA)

&

Boots Management Services Limited

Introduction

1. Michael Parker & others (the Applicants) submitted an application to the CAC dated 14 July 2017 that a secret ballot should be held to determine whether the bargaining arrangements between the Boots Pharmacists Association (the Union) and Boots Management Services Limited (the Employer) in respect of "All pharmacists registered with the General Pharmaceutical Council (GPhC) or Pharmaceutical Society of Northern Ireland (PSNI) (excluding those of Area Management status or equivalent and those more senior to them) and pre-registration Graduates, working for Boots in the UK and employed by Boots Management Services Ltd" (the bargaining unit) should be ended. The CAC gave the parties notice of receipt of the application on 31 July 2017. The Employer submitted a response to the application to the CAC dated 7 August 2017. The Union submitted a response to the application to the CAC dated 10 August 2017. The responses were cross-copied and sent to the Applicants.

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 as Chairman, and, as Members, Mr Roger Roberts and Mr Paul Talbot. The Case Manager appointed to support the Panel was Miss Sharmin Khan.

3. By its written decision dated 15 November 2017 the Panel accepted the Applicant's application. The parties then entered a period of negotiation with a view to reaching an agreement to end the bargaining arrangements or an agreement that the workers would withdraw the application pursuant to paragraph 142 of Schedule A1 to the Act (the Schedule). As no agreement was reached, the parties requested a decision from the Panel as to the composition of the balloting constituency since they could not agree who exactly was within the scope of the bargaining unit, and which workers ought therefore to receive a ballot paper to participate in the vote. This was pursuant to paragraph 117(3) so that arrangements could be made for "the workers constituting the bargaining unit" to be balloted and asked whether the bargaining arrangements should be ended.

4. The parties were invited to supply the Panel with, and to exchange, written submissions relating to the question of the workers constituting the bargaining unit to be balloted. A hearing was held in Birmingham on 19 January 2018. After due consideration of the parties' submissions, both written and oral, the Panel decided that the workers constituting the bargaining unit in this matter should comprise of the registered and pre-registration pharmacists at levels 5, 6 and 7 who were employed by the Employer. The full description of the bargaining unit understood by all parties was:

"All pharmacists registered with the General Pharmaceutical Council and the Pharmaceutical Society of Northern Ireland (excluding those of Area Management status or equivalent and more senior to them) and pre-registration Graduates, who are employed by Boots Management Services Ltd".

5. On 24 April 2018 the parties were duly given notice in accordance with paragraph 117(11) of the Schedule that a secret ballot would be held. The parties had been invited on 23 February 2018 to submit to the Panel their views on the form of ballot, namely whether it

should be a workplace or postal ballot or a combination of the two. All parties agreed that it should be a postal ballot. The Panel also came to this decision as it was more practical and cost effective in the circumstances. The parties were then able to reach agreement as to access during the balloting period and the CAC was notified accordingly.

The Ballot

6. Kanto Elect was appointed as QIP on 24 April 2018 to conduct the ballot and the parties were notified by letter. The postal ballot papers were dispatched on 10 May 2018 to be returned by no later than noon on 23 May 2018, the date the ballot closed.

7. The Applicants requested on 26 April 2018 that the ballot timetable should be extended due to the month the ballot covered. It was their understanding that a significant number of the workers would be on annual leave in the weeks preceding the bank holiday and during the school holiday. They argued that if the CAC only permitted the 10 day period for the workers to vote in, it would deprive a sufficient number of the workers to vote. The Union and the Employer were given the opportunity to provide their views on this request before the Panel reached a decision on this. By a letter dated 10 May 2018, having considered all of the evidence from the parties, the Panel declined the Applicants' request on the basis of its industrial relations experience.

8. The Applicants submitted a second request on 15 May 2018 for the ballot timetable to be extended. They asked the Panel to review its previous decision based on the new information it had received that the Employer's database, which provided the names and addresses for the workers to be balloted contained a significant number of inaccuracies which was leading the workers to request further ballot papers. This again would impact on the workers who were on annual leave and those working away from home, to return their ballot papers. The Union and the Employer were invited to provide their views on this request. To assist the Panel in reaching its decision the Case Manager provided a report showing the number of requests received (by calls and emails) for duplicate ballot papers and what percentage this was in the bargaining unit. All of the parties were asked to provide their comments on this. By a letter to the CAC dated 18 May 2018 the CAC informed the parties that the Panel had reached its decision and the ballot period would be extended to midday on 1 June 2018.

9. The QIP reported to the CAC on 4 June 2018 that out of 6890 workers eligible to vote, 3308 ballot papers had been returned. 46 ballot papers were found to be spoiled. 2826 workers, 86.63% of those voting, had voted to support the proposal that the Union should be de-recognised and its bargaining arrangements with the Employer ended. 436 workers, 13.37% of those voting, had voted to reject the proposal. The proportion of workers constituting the bargaining unit who supported the proposal was 41.02%.

10. The CAC informed the parties on 6 June 2018 of the result of the ballot in accordance with paragraph 121(2) of the Schedule.

Declaration that the Union is to be de-recognised

11. The ballot established that a majority of workers who voted in the ballot supported the proposal that the Union should be de-recognised by the Employer and the bargaining arrangements ended.

12. In accordance with paragraph 121(3) of the Schedule and following consultation with the parties, the CAC declares that the Union (Boots Pharmacists Association) should be de-recognised by the Employer (Boots Management Services Limited) and its bargaining arrangements for the bargaining unit are to be ended with immediate effect 11 June 2018.

Panel

Her Honour Judge Stacey - Chairman of the Panel

Mr Roger Roberts

Mr Paul Talbot

11 June 2018