

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

The Parties:

GMB

And

M & A Pharmachem Ltd

Introduction

1. GMB (the Union) submitted an application to the CAC dated 21 July 2017 that it should be recognised for collective bargaining by M & A Pharmachem Ltd (the Employer) for a bargaining unit comprising “All those engaged in production and packaging up to but not including first line managers at M & A Pharmachem Ltd, Wigan Road, Westhoughton, Bolton, BL5 2AL”. The CAC gave both parties notice of receipt of the application on 24 July 2017. The Employer submitted a response to the CAC dated 28 July 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, chairing the Panel and for the purposes of this decision, was replaced with Mr Charles Wynn-Evans and, as Members, Mrs Susan Jordan and Mr David Coats. The Case Manager appointed to support the Panel was Miss Sharmin Khan.

3. By a decision dated 30 August 2017, the Panel accepted the Union’s application. The parties then entered a period of negotiation in an attempt to reach agreement on the appropriate bargaining unit. By e-mail to the CAC dated 16 October 2017 the Employer informed that it agreed with the Union’s proposed bargaining unit. Then on 17 and 18 October 2017 the parties

confirmed to the CAC that the categories of worker included in the agreed bargaining unit were:

Those engaged in production and packaging up to but not including first line managers and covering in Manufacturing: Operative, Senior operative, Skilled Senior operative, Supervisor (or line leaders, no disciplinary powers and below 1st line managers) and in Packing: Operator, Serviceman, Day supervisor (or line leaders, no disciplinary powers and below 1st line managers), Shift supervisor (or line leaders, no disciplinary powers and below 1st line managers) and Advanced Setter.

4. On 10 November 2017, the Panel, not being satisfied that a majority of the workers constituting the bargaining unit were union members, gave the parties notice in accordance with paragraph 23(2) of the Schedule that a secret ballot would 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, in accordance with 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 their views on the form of ballot to the Panel.

5. The notification period under paragraph 24(5) of the Schedule lapsed without the CAC being informed by the Union, or by both parties jointly, that they did not want the ballot to be held. On the 28 November 2017, as there was consensus between the parties, the Panel decided that a workplace ballot should take place 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) of the Schedule and the parties were informed accordingly.

The Ballot

6. The CAC appointed Popularis Ltd on 2 March 2018 as the Qualified Independent Person (QIP) to conduct the ballot and the parties were notified accordingly. The Employer provided a list of the names and addresses of workers in the bargaining unit to the CAC which was passed to the QIP. The postal ballot papers were dispatched on 19 March 2018 to be returned to the QIP by no later than noon on 29 March 2018 and the workplace ballot took

place on 26 March 2018 between 9:00 a.m. and 5:00 p.m. at Allenby Laboratories, Wigan Road, Westhoughton.

7. On 27 March 2018 and 29 March 2018 both parties submitted to the Panel the particulars of their respective complaints to the Panel under paragraph 27B(1) of the Schedule that each other had failed to comply with paragraph 27A(1) which states that the parties must refrain from using any unfair practice. Between the 27 March 2018 and 8 May 2018 the parties provided the Panel with their full written evidence and submissions for consideration.

8. By its decision dated 18 June 2018 the Panel concluded that neither of the parties' complaints were well- founded as it was not satisfied that either party had used an unfair practice that would change or was likely to change, in the case of a worker entitled to vote in the ballot, his intention to vote or to abstain from voting, his intention to vote in a particular way, or how he voted.

9. Subsequently the QIP released the report dated 29 March 2018 of the ballot results to the CAC. The report showed that out of 77 workers eligible to vote, 71 ballot papers had been returned of which 58 workers, that is 82% of those voting, had voted to support the proposal that the Union be recognised for the purposes of collective bargaining with the Employer. The number of votes supporting the proposal as a percentage of the bargaining unit was 75%. The CAC informed both parties of the result of the ballot in accordance with paragraph 29(2) of the Schedule on 18 June 2018.

Declaration of Recognition

10. The ballot establishes that a majority of the workers voting and at least 40% of the workers constituting the bargaining unit support the proposal that the Union should be recognised by the Employer for the purpose of conducting collective bargaining in respect of the bargaining unit. This satisfies the conditions under which the CAC must issue a declaration in favour of recognition in accordance with paragraph 29(3) of the Schedule.

11. The CAC declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising:

“All those engaged in production and packaging up to but not including first line managers at M & A Pharmachem Ltd Wigan i.e. in Manufacturing: Operatives, Senior operatives, Skilled Senior operatives and Supervisors (or line leaders with no disciplinary powers and below 1st line managers) and in Packing: Operators, Servicemen, Day supervisors (or line leaders with no disciplinary powers and below 1st line managers), Shift supervisors (or line leaders with no disciplinary powers and below 1st line managers) and Advanced Setters.”

Panel

Mr Charles Wynn-Evans – Panel Chair

Mrs Susan Jordan

Mr David Coats

04 July 2018