

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:

NUJ
and
BuzzFeed (UK) Limited

Introduction

1. The National Union of Journalists (the Union) submitted an application to the CAC dated 14 March 2017 that it should be recognised for collective bargaining by BuzzFeed (UK) Limited (the Employer) for a bargaining unit comprising "Editorial staff currently working at BuzzFeed UK Limited at 40 Argyll Street, 2nd Floor, London, W1F 7EB excluding senior management defined as those who manage managers". The CAC gave both parties notice of receipt of the application on 14 March 2017. The Employer submitted a response to the CAC dated 21 March 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, Chair of the Panel, and, as Members, Ms Lesley Mercer and Mr Roger Roberts. The Case Manager appointed to support the Panel was Kate Norgate. Professor Harris was replaced as Panel Chair by Professor Gillian Morris owing to Professor Harris' retirement from the CAC on 31 March 2018.

3. By a decision dated 3 May 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. No agreement was reached on the appropriate bargaining unit and a hearing to determine the issue was held in London on 6 October 2017. The Panel decided that the appropriate bargaining unit was “Editorial staff working in News and Buzz and staff supporting editorial work on the service desks at BuzzFeed UK Ltd, 40 Argyll Street, 2nd floor, London, W1F 7EB who have U.K. contracts and U.K. reporting lines but exclude senior management (defined as those who manage managers) and editorial staff who have UK contracts but US reporting lines.”

4. As the appropriate bargaining unit determined by the Panel was different from that proposed by the Union in its application, the Panel was required by paragraph 20 of Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992 (the Schedule) to determine whether the Union's application was invalid within the terms of paragraphs 43 to 50 of the Schedule. By a decision dated 5 February 2018 the Panel determined that the application was not invalid and that the CAC would proceed with the application.

The Ballot

5. By a decision dated 11 April 2018, the Panel decided that a ballot should be held in the interests of good industrial relations and gave notice to the parties accordingly, pursuant to paragraph 22(3) of the Schedule. In a letter dated 11 April 2018 the Case Manager advised the parties that the Panel would wait until the end of the notification period of ten working days, as specified in paragraph 24, before arranging for the holding of the ballot. The notification period elapsed without the Union, or both parties jointly, informing the CAC that they did not want the CAC to arrange for the holding of the ballot.

6. The parties did not agree on the type of ballot to be held; the Union favoured a postal ballot, the Employer a workplace ballot. In a decision dated 30 April 2018 the Panel informed the parties that, having considered the view of the parties and the factors specified in paragraph 25(5) of the Schedule, it had decided that a postal ballot was the most appropriate. The parties reached an agreement on the Union's access during the balloting period and the Panel subsequently directed that Electoral Reform Services should be appointed as the

Qualified Independent Person (QIP) to conduct the ballot.¹

7. The QIP was appointed on 4 June 2018 and the parties were notified accordingly. The ballot papers were dispatched on 19 June 2018 to be returned to the QIP by no later than noon on 6 July 2018.

8. On 26 June 2018 the Case Manager was contacted by four workers within the bargaining unit who had not received a ballot paper. The Case Manager was also informed that one of those workers who required a duplicate ballot paper would be on holiday overseas for the remainder of the ballot period, returning on 11 July 2018. By a letter dated 2 July 2018 the Employer informed the CAC that due to a technical “glitch” with BuzzFeed’s HR system incorrect addresses had been provided for those four individuals. The Employer submitted a revised list with the current names and addresses of all the workers in the bargaining unit. The Panel noted the problem raised, and after seeking the comments of both parties decided to extend the deadline for all postal votes until noon on 17 July 2018 in order to allow all eligible workers the opportunity to vote and to return their ballot papers. The parties were informed of the extended deadline in a letter from the Case Manager dated 5 July 2018.

9. The QIP reported to the CAC on 17 July 2018 that, of the 29 workers eligible to vote, twenty seven (27) ballot papers had been returned. One (1) ballot paper was found to be invalid. Four (4) workers (15.4% of the valid vote) had voted to support the proposal that the Union should be recognised for the purposes of collective bargaining with the Employer. Twenty two (22) workers (84.6% of the valid vote) had voted to reject the proposal. The proportion of workers constituting the bargaining unit who supported the proposal was 13.8%.

10. The CAC informed the Union and the Employer on 18 July 2018 of the result of the ballot in accordance with paragraph 29(2) of the Schedule.

¹ In a letter to the parties dated 14 May 2018 the Case Manager informed them that, following detailed submissions from the parties, the Panel had decided that the role of Assistant to the Editor-in-Chief should not be included within the bargaining unit. In its decision of 11 April 2018 on whether to arrange for the holding of a secret ballot the Panel had decided, on the basis of the more limited evidence then before it, that this role should be included.

Declaration that the Union is not entitled to be recognised

11. The ballot did not establish that a majority of workers who voted in the ballot supported the proposal that the Union should be recognised by the Employer for the purposes of collective bargaining within the bargaining unit.

12. In accordance with paragraph 29(4) of the Schedule, the CAC declares that the Union is not entitled to be recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit.

Panel

Professor Gillian Morris, Panel Chair

Ms Lesley Mercer

Mr Roger Roberts

20 July 2018