

CENTRAL ARBITRATION COMMITTEE

TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992

SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION

DECLARATION OF RECOGNITION

The Parties:

Unite the Union

and

Skanska

Introduction

1. Unite the Union (the Union) submitted an application dated 18 September 2017 to the CAC that it should be recognised for collective bargaining purposes by Skanska (the Employer) in respect of a bargaining unit comprising "General Operatives, Traffic Management, Aborist, Road Worker, Ganger, Groundman, Highways Operative, Electrician, Storeman, Overhead Lineman, Labourer, JCB Driver, Supervisor, Truck Driver and Apprentice." The location of the bargaining unit was given as "Hampshire County Council Contract – street and highways maintenance." The application was received by the CAC on 19 September 2017 and the CAC gave both parties notice of receipt of the application on 20 September 2017. The Employer submitted a response to the CAC dated 28 September 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 Gillian Morris, Panel Chair, and, as Members, Mr Simon Faiers and Mr Malcolm Wing. The Case Manager appointed to support the Panel was Kate Norgate.

3. By a decision dated 16 October 2017 the Panel accepted the Union's application. No agreement was reached between the parties as to the appropriate bargaining unit. Following a hearing held on 7 December 2017 the Panel decided, by a decision dated 19 December 2017, that the appropriate bargaining unit was "Operatives; Grounds Maintenance Operative; Highways Maintenance Operative; Stores Person; Ganger; Depot Supervisor; and Apprentices who transferred to Skanska under TUPE, working on the Hampshire County Council Highways Contract". 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 the 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 29 December 2017 the Panel determined that the application was not invalid and that the CAC would proceed with the application.

4. On 10 January 2018, the Panel, not being satisfied that a majority of the workers constituting the bargaining unit were members of the Union, gave notice in accordance with paragraph 23(2) of the Schedule that it intended to arrange for the holding of a secret ballot in which the workers constituting the bargaining unit would be asked whether they wanted the Union to conduct collective bargaining on their behalf. The parties were advised that the Panel would wait until the end of the notification period,¹ as specified in paragraphs 24(2) to (7) of the Schedule, before arranging for the holding of a ballot. The parties were also asked for their views on the form the ballot should take.

5. The notification period described in the preceding paragraph elapsed without the Union, or the Union and the Employer jointly, informing the CAC that a ballot was not required.

6. In a letter to the CAC Manager dated 15 January 2018 the Union stated that it would prefer a workplace ballot. In a letter to the Case Manager dated 16 January 2018 the

¹ The "notification period", in relation to notification by the union, is the period of 10 working days starting with the day on which the union receives the CAC's notice under paragraph 23(2) or such longer period as the CAC may specify; in relation to notification by the unions and the employer, the period of 10 working days starting with the day on which the last of the parties receives the CAC's notice or such longer period as the CAC may specify: paragraph 24(5),(6).

Employer submitted that there should be a postal ballot. In a decision dated 24 January 2018 the Panel decided that the ballot should be a postal ballot.

The Ballot

7. On 19 February 2018 Popularis was appointed as the Qualified Independent Person (QIP) to conduct the ballot and the parties were notified accordingly. The postal ballot papers were dispatched on 6 March 2018 to be returned to the QIP by no later than noon on 19 March 2018.

8. The QIP reported to the CAC on 19 March 2018 that, of the 136 workers eligible to vote, eighty six (86) ballot papers had been returned; there were no spoilt papers. Eighty one (81) workers, that is 94% of those voting, had voted to support the proposal that the Union be recognised for the purposes of collective bargaining with the Employer. Five (5) workers, that is 6% of those voting, voted to reject the proposal. The number of votes supporting the proposal as a percentage of the bargaining unit was 60%.

9. The CAC informed the Employer and the Union on 20 March 2018 of the result of the ballot in accordance with paragraph 29(2) of the Schedule.

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 accordingly declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising “Operatives; Grounds Maintenance Operative; Highways Maintenance Operative; Stores Person; Ganger; Depot Supervisor; and Apprentices who transferred to Skanska under TUPE, working on the Hampshire County Council Highways Contract”.

Panel

Professor Gillian Morris, Panel Chair

Mr Simon Faiers

Mr Malcolm Wing

26 March 2018