



**Central  
Arbitration  
Committee**

Annual Report  
2015–2016





This report of the activities of the Central Arbitration Committee (CAC) for the period 1 April 2015 to 31 March 2016 was sent by the Chairman of the CAC to the Chair of Acas on 16 June 2016 and was submitted to the Secretary of State for Business, Innovation & Skills on 17 June 2016.

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# Chairman's Review of the Year

For the second year in succession, I can report an increase in the CAC's workload. The number of applications for trade union recognition rose from 38 to 48 and, once the other jurisdictions are taken into account, the total rose from 51 to 60. No applications were received under the other parts of the recognition legislation, including derecognition. At the risk of repeating what I have said on many previous occasions, the CAC's workload has always had its peaks and troughs.

It would be misleading to attempt to see these figures as providing evidence of trends in the employment relations sphere. The recognition legislation has now been in place for nearly sixteen years and the outcomes of applications displays a consistency that is not affected by minor fluctuations in the year-on-year statistics. It remains the case that the majority of applications are accepted although, as is described later in this Report, this picture was influenced in 2015-16 by six applications involving consideration of whether an existing collective agreement was in force. This was an unusually high number. The parties continue to agree bargaining units, rather than the CAC needing to make a decision, and recognition without a ballot was granted in all the applications that reached the third stage in the process and where members of the union concerned constituted a majority of workers. Two out of six ballots supported recognition, somewhat below the historical average for CAC ballots, and we were required to issue two decisions on a method of bargaining.

It has always been one of the CAC's priorities that we should at least investigate the possibilities of a voluntary agreement, either through our own efforts or by pointing the parties in the direction of Acas. Of the 21 applications withdrawn in 2015-16, six of those were for the reason that the parties had negotiated an agreement. This is perhaps a little low compared with previous years but it does at least show that, as the legislation always intended, this is a realistic option. In addition, the parties continue to agree specific elements within the statutory process, such as the bargaining and method of bargaining, even if they are unable to agree recognition itself.

The number of disclosure of information complaints rose from six to nine and, unusually, there was a CAC decision, albeit on the preliminary point as to whether the union concerned was recognised. In terms of industrial relations, it was welcome to see that, of the nine cases closed in 2015-16, eight were resolved by way of an

agreement between the parties. The European Works Council and Information and Consultation Regulations provided, as always, only a small number of cases.

## Judicial Reviews and Appeals

I made reference last year, and indeed in the two Reports before that, to the judicial review of the CAC's decision in TUR1/823/(2012) The Pharmacists' Defence Association Union & Boots Management Services Ltd. After preliminary and final judgments from the Administrative Court, the CAC decision was quashed and, from our point of view, the outcome did at least clarify the extent to which the Human Rights Act can be applied to the statutory recognition provisions. I understand the union has submitted an appeal to the Court of Appeal, primarily on the limited grounds that parts of the judgment impinge on the union's human rights, and that this is scheduled to be heard in late 2016.

Since the inception of the recognition provisions in June 2000, there have been 11 applications for judicial review of CAC decisions. Not all have been granted permission but, of those that have, there have been four occasions on which a CAC decision has been quashed. In two of those cases, the CAC proceedings were effectively brought to an end. In the other two cases, the proceedings continued with directions from the Court. In five other cases, the CAC decision was upheld. My view is that, for a body with judicial responsibilities, this is an impressive record. Although I do not regard the CAC's performance in front of appellate courts as being its sole measure of 'success', I do welcome endorsements of our approach and thinking and it is also helpful to receive clarification and interpretation of the statutory provisions. The small number of adverse decisions has certainly not hindered our handling of our statutory responsibilities.

We record later in this report two appeals to the Employment Appeal Tribunal (EAT) in respect of decisions under the Information and Consultation Regulations 2004. Both appeals were dismissed and, again, I was very pleased to see that our interpretations of the Regulations were upheld, particularly as both involved important principles. Again, the CAC's record is noteworthy. Since the Regulations came into force in 2005, there have been four appeals which have proceeded to an EAT judgment and the CAC decisions

**Sir Michael Burton**  
Chairman



have been upheld in every case. In addition, there have been a further three appeals which were not renewed after a Judge's opinion that there were no reasonable grounds for the appeals.

## **The Committee and Secretariat**

It is my sad duty to report the passing of two long-standing members of the Committee.

Chris Chapman had been a Deputy Chairman since 2002 and was a widely respected solicitor in the employment sphere, experience which proved invaluable to the CAC. He chaired panels across all our jurisdictions and was responsible for developing precedents in a number of areas. He was an authoritative and perceptive Deputy who made important contributions to our collective meetings and was influential in resolving countless policy issues.

Jean Johnson had been a Member since 2000 and, although appointed to the CAC as an Employer Member, she also had experience as a trade union official. Jean was a committed and enthusiastic colleague who played a full part as a panel member and made constructive inputs at our meetings.

Both will be greatly missed.

The appointments of three CAC Members came to an end on 31 March 2016. They were of Sandy Boyle, a Worker Member since 2000, Bob Purkiss, a Worker Member since 2002 and George Getlevog, an Employer Member since 2002. All were very helpful and dedicated members and I am most grateful to them for their commitment and support over those periods.

I reported last year that the Department for Business, Innovation and Skills (BIS) decided in the Autumn of 2014 to run a recruitment exercise for Deputy Chairmen and Members to allow the CAC to cover the departures from the Committee over the next few years, and the selection process did indeed proceed and interviews were held some months ago. I had hoped to be able to record that the successful candidates had now been appointed. I am disappointed however that that is not the case, despite a lengthy process of consultation with Ministers and Departmental Officials. I hope that this matter will come to a conclusion in the very near future.

As always, the Deputy Chairmen, Committee Members and myself would like to place on record their appreciation of the contribution made by the CAC Secretariat who, although now small in number, continue to provide an impressively high level of support for the Committee and a professional service to the employers, unions and individuals who come our way.

This year however the CAC and I personally have had to bear the retirement on 31 March 2016 of Simon Gouldstone, who has been the backbone of the CAC, since 1986 in its old guise and then since 2000 in its present incarnation. He served the CAC, and his successive predecessors as Chief Executive, in various ever more crucial roles until he himself became Chief Executive in October 2010. It is difficult to know how we will be able to do without him. His encyclopaedic knowledge of the workings, both historic and pre-historic, of the CAC is wholly impossible to replace, and his foresight, energy and dedication have been vital in the establishment of the practices and procedures of the CAC, and then in its smooth running. He has been invaluable to me and to the Deputy Chairmen and members in giving wise advice, and he has always been available to our stakeholders as the 'front man' of the CAC, giving them reassurance and explanation. In the light of the disappointing fact that we have, despite all our hopes and efforts, not yet achieved ratification of the appointment of our new members and Deputy Chairmen, Simon has agreed to return in order to devote himself to their induction, as he has done in the past, so we will see him again soon in his retirement, but he will be very sadly missed.

**Sir Michael Burton**  
Chairman

# Membership of the Central Arbitration Committee at 31 March 2016

## Chairman

Sir Michael Burton

## Deputy Chairmen

Professor Linda Dickens MBE

Emeritus Professor of Industrial Relations,  
University of Warwick  
Arbitrator & Mediator

Professor Lynette Harris

Emeritus Professor of Human Resources Management,  
Nottingham Business School, Nottingham Trent University,  
Arbitrator & Mediator

Professor Kenneth Miller

Emeritus Professor of Employment Law,  
University of Strathclyde

Professor Gillian Morris

Honorary Professor,  
University College London in the Faculty of Laws,  
Barrister, Arbitrator & Mediator

Her Honour Judge Stacey

Circuit Judge



# Members with experience as representatives of employers

Len Aspell	Director, HSBC Bank Pension Trust (UK) Ltd, Formerly Group Head of Employee Relations, HSBC Group
David Bower	HR Consultant & Former Group Personnel Director, Rover Group Ltd
Mike Cann	Former National Negotiator, Employers' Organisation for Local Government
Maureen Chambers	HR Consultant
David Crowe	Human Resources Consultant
Simon Faiers	Director, Energypeople Former Head of Human Resources, Eastern Group plc
George Getlevog	MD, GHR, HR Consultancy Services Ltd
Rod Hastie	Human Resources & Copyright Consultant
Robert Hill	Former Executive Director of Personnel, Ford Motor Company
Bill Lockie	Human Resource Advisor, Former Head of Employee Relations and Compensation, HJ Heinz Co Ltd
Arthur Lodge	Former Human Resources Director, Allied Bakeries Ltd
Peter Martin	Employment Relations Consultant
Jackie Patel	Former Human Resources Director, Delta Crompton Cables
Michael Regan	Formerly Senior Vice President of Human Resources, AB Electrolux

Roger Roberts

Employee Relations Consultant,  
Former Employee Relations Director,  
Tesco Plc

Maureen Shaw

Former Director of Personnel Services,  
University of Aberdeen

Michael Shepherd

Human Resource Consultant,  
Former Sector HR Director,  
Rexam PLC,  
Employment Tribunal Member

Bryan Taker

Former Head of Law and Human Resources at Hilton  
International Plc

Paul Wyatt

Employee Relations Consultant,  
Former Head of Employee Relations,  
Reuters Ltd  
Chair of FalCare  
Trustee of Cornwall Film Festival

## Members with experience as representatives of workers

Sandy Boyle

Former Deputy General Secretary,  
UNIFI

Virginia Branney

Employment Relations Consultant & Mediator

Gail Cartmail

Assistant General Secretary,  
Unite the Union

David Coats

Director, Workmatters Consulting,  
Visiting Professor,  
Centre for Sustainable Work and Employment Futures,  
University of Leicester

Paul Gates OBE	Former Deputy General Secretary, Community
Michael J Leahy OBE	Former General Secretary, Community
Bronwyn McKenna	Assistant General Secretary, UNISON
Judy McKnight CBE	Former General Secretary, Napo
Lesley Mercer	Former Director of Employment Relations & Union Services, CSP
Robert Purkiss MBE	Employment Tribunal Member, Former Chair of European Monitoring Centre for Racism and Xenophobia, Former National Secretary, TGWU
Keith Sonnet	Former Deputy General Secretary, UNISON
Paul Talbot	Former Community Media and Government Affairs
Gerry Veart	Former National Secretary, GMB
Malcolm Wing	Former UNISON National Secretary, Negotiations & Services Groups

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# Chief Executive's Report

## Performance

As the Chairman has recorded, there was, for the second successive year, an increase in the number of applications submitted to the CAC. The additional workload was handled within our existing staffing complement and without any significant increase in expenditure.

We continue to monitor our own performance by way of a users' survey; all the parties to our cases, be they employers, trade unions or individual employees, are invited to submit their views, anonymously, once a case has closed. For cases that concluded in 2015-16, 95% of respondents stated that their overall level of satisfaction with the way the CAC handled their case was satisfactory or better. Looking briefly at the specific elements of the survey, most users found our written information useful, our staff helpful, and the arrangements for, and conduct of, hearings satisfactory. Some 89% of respondents said that the way their case was handled encouraged them to consider a voluntary agreement; this represents a small decrease on the previous year's figure. We are pleased to continue to receive such positive feedback.

For many years, we have measured and published the elapsed time for a recognition case, the period between the date an application is received and the date of issue of a declaration of recognition (or non-recognition as the case may be). For 2015-16 the average was 17 weeks compared with last year's figure of 16 weeks. Within this average, the figure for a case involving a ballot was 22 weeks, compared with 21 last year, and for a case in which there was a declaration of recognition without a ballot, the figure was 14 weeks, compared with 12. These are minor changes.

We have long held the view that members of staff should be readily available to answer telephone enquiries and, in the past year, we received 207 enquiries, compared with 215 last year, relating to all our jurisdictions but primarily trade union recognition. We also answered 40 written or e-mail enquiries, compared with 49 last year.

## Development activities

Knowledge-sharing continues to be a priority and we devote time and resources to maintaining an internal database and an external website.

Our revised web site, now on the gov.uk platform, has been in operation for some 18 months and we continue to update it expeditiously and to review the information we make publicly available. We welcome feedback from users on any aspect of the site and are more than willing to take any necessary steps to improve accessibility. In answer to a direct question in the users' survey, 65% of respondents said that they found the usefulness of the site satisfactory or better but it remains of some concern that 35% of respondents did not use the site. There is clearly further work for us to do to ensure that the site is seen as the first port of call for users, and perhaps potential users, to obtain information and guidance.

## Stakeholders

We have continued to keep in touch with major stakeholders, such as BIS (the Department for Business, Innovation and Skills) and some of the trade unions that most frequently submit applications. For the most part this is by way of informal contact as there have been no issues raised over the CAC's operational performance in the past year.

## Public interest

The CAC is committed to openness of information on its activities. The website provides a wide range of information and we update it regularly. We continue to publish all CAC decisions, within a short period after they have been issued to the parties concerned, and have made available, in electronic form, decisions of a more historic interest. We maintain a library of decisions from the CAC and its predecessor bodies, dating back to the Industrial Court in 1919, which members of the public are welcome to consult by appointment.

The CAC remains ready to honour its responsibilities under the Freedom of Information Act and, in the past year, received nine requests under that provision. All were answered within the prescribed timescale.

**Simon Gouldstone**  
Chief Executive



## Administration and accountability

### **CAC Costs**

CAC expenditure in 2015-16 was lower than in 2014-15. Although the number of applications increased, these were handled by smaller number of staff. A summary of the CAC's expenditure is given in Appendix 2.

### **Governance**

The CAC's secretariat and other resources are provided by Acas, and the CAC complies with Acas's corporate governance requirements. The relationship with Acas is set out in a Memorandum of Understanding, which is refreshed periodically. Although those who work for the CAC are Acas members of staff, the CAC, because it is operationally distinct from Acas, has always secured separately LLP status. I am very pleased to be able to report that our accreditation was renewed in early 2014 for a further three years. I am confident that we will secure reaccreditation in early 2017.

### **Equality**

The CAC has a responsibility to conduct its affairs fully in accordance with the principles of fair and equitable treatment for its members, staff and users. In providing services, we ensure that our policies and practices do not discriminate against any individual or group and, in particular, that we communicate information in a way that meets users' needs. In view of the fact that the CAC is resourced by Acas, the CAC is covered by the Acas Equality and Diversity Policy and aligns itself with Acas's published equality objectives. Those documents are available on the Acas website ([acas.org.uk](http://acas.org.uk)).

As this is my last Annual Report as Chief Executive, I would like to pay tribute to the commitment and professionalism of the Chairman, Deputy Chairmen and Members and the contribution they have made to dispute resolution and to thank the present and former members of staff with whom I have worked for many years for their invaluable support. I wish my successor, James Jacob, every success in the future.

**Simon Gouldstone**

Chief Executive

# THE CAC'S CASELOAD IN 2015 -16

## Trade Union Recognition

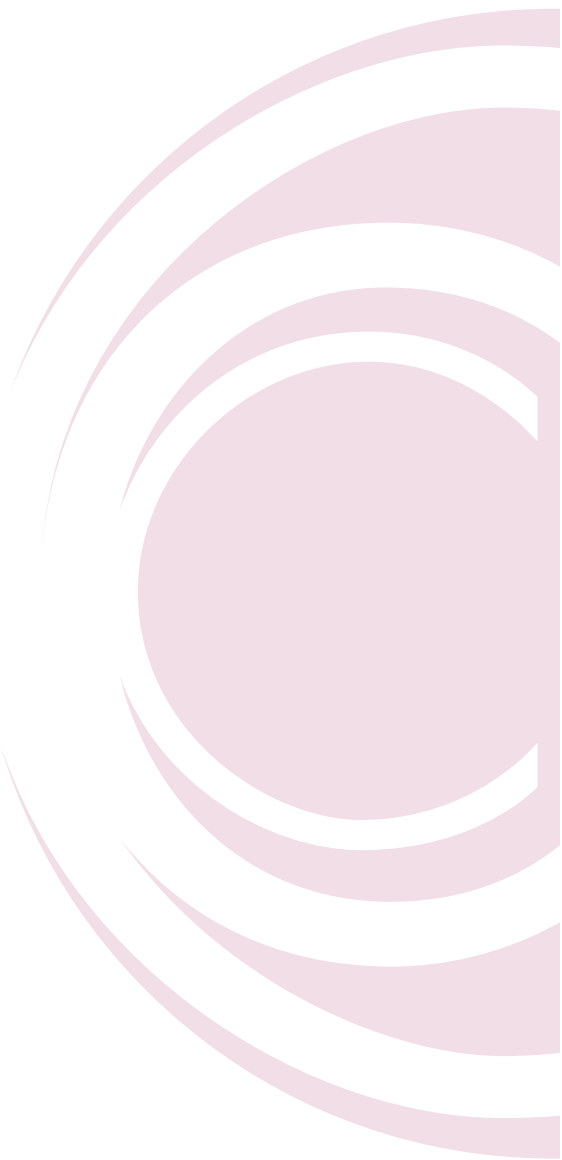
In the year ending 31 March 2016, the CAC received 48 applications for trade union recognition under Part I of the Schedule<sup>1</sup>. This compares with 38 in the previous year and 30 two years ago. There were no applications under Parts II to VI of the Schedule.

From the CAC's perspective, there are no obvious reasons for the increase and, as we have commented on many previous occasions, the number of applications for trade union recognition has never been constant. We will, as always, describe some of the characteristics of the applications in the expectation that this may, at least, generate some discussion.

One yardstick we have used in the past is the size of the employers involved in applications for recognition. The proportion of applications involving employers of fewer than 200 workers was 50%; this compares with last year's figure of 29% and 2013-14's figure of 52%. Overall, employer size ranged from 24 workers to over 85,000, the latter figure being attributable to a small number of companies that provide facilities management services. It would be meaningless to calculate an average figure for employer size but the range shows that CAC applications cover a very wide span of employment sectors. The average size of a bargaining unit was 100 workers, a reduction on last year's figure of 158 and nearer to the previous year's 91. The average size of bargaining units has also always been volatile, in the past year ranging from six to 690 workers. The proportion of applications involving a bargaining unit of 100 workers or fewer was 71% compared with 48% in 2014-15. In the broadest possible terms, it could perhaps be said that the CAC, compared with 2014-15, has dealt with smaller bargaining units and smaller employers than in the recent past. The manufacturing, transport and communication sectors continue to account for the majority of applications for recognition and those sectors, taken together, represented 52% of the applications compared with 70% in 2014-15. Applications were received from 12 different trade unions compared with nine in the previous year.

In 2015-16, 29 applications were subject to a decision as to whether they should be accepted, the first stage in the statutory process, and, of those, 20 were accepted and nine were not. The proportion of applications accepted, at 69%, was some way below the historical average of 82%. In two cases the reason for non-acceptance was that the proposed bargaining unit had been imprecisely defined or had been changed from the description in the request for recognition. In a further case, the application was not accepted because there was insufficient evidence that a majority of workers in the bargaining unit would be likely to favour recognition of the union. In the remaining six cases, the reason for non-acceptance was that there was an

<sup>1</sup> Schedule A1 to the Trade Union and Labour Relations (Consolidation) Act 1992, inserted by the Employment Relations Act 1999 and amended by the Employment Relations Act 2004



existing agreement in force with another trade union. Five of those applications had been made by one trade union, Independent Workers Union of Great Britain, in respect of five separate bargaining units on sites operated by two facilities companies; each site was within an educational establishment in London and the South East. In each case, the CAC panel found that there was an existing collective agreement in force with a different trade union. The final case involving an existing collective agreement was unrelated. Eighteen applications were withdrawn at this stage, three for the reason that the parties had reached a voluntary recognition agreement. Four of the withdrawn applications were later resubmitted.

The second stage in the process requires an agreement, or a decision from the CAC, as to an appropriate bargaining unit. In line with the pattern in recent years, in which agreements on an appropriate unit have far exceeded the number of decisions, there were, in 2015-16, 16 agreements and six decisions. That maintained the cumulative position that, from the inception of the statutory process in 2000 to 31 March 2016, some 60% of bargaining units had been agreed by the parties. Unusually for this stage in the statutory process, no applications were withdrawn. Additionally, there were no subsequent decisions that an application was invalid in a situation in which the agreed or determined bargaining unit differed from a union's proposed bargaining unit.

The next stage in the process is for the CAC to decide if recognition without a ballot should be declared or a ballot held. There were 11 decisions, in 2015-16, to declare recognition without a ballot where a majority of workers in the bargaining unit were union members. There were no decisions that a ballot should be held in those circumstances. Since the inception of the trade union recognition provisions in 2000, there have now been 172 cases in which a union has claimed majority membership in the agreed or determined bargaining unit. The CAC has declared recognition without a ballot in 137 (79.7%) of those cases.

Six ballots were held, two resulting in recognition and four not. The number of ballots resulting in recognition was noticeably lower than the historical average of 63% and the average participation rate in a CAC-commissioned ballot remains at 76%. The CAC was not called upon to adjudicate on any complaints that a party had used an unfair practice during the balloting period. There is a final opportunity at this stage, and before the balloting provisions have been triggered, for the parties to reach a voluntary agreement and, in the past year, that happened on three occasions.

The final stage in the process is for the parties to agree, or for the CAC to determine, a method of bargaining. As always, the parties come to agreements in the overwhelming majority of cases; the



figures for 2015-16 were nine agreements and two decisions. The historical average is that a method of bargaining has been agreed in 90% of the cases that reach this stage in the process.

There were no new applications under Parts II to VI of the Schedule and no applications under those jurisdictions carried forward from 2014-15.

## Disclosure of Information

The CAC also handles complaints by trade unions that an employer has failed to disclose information for the purposes of collective bargaining under section 183 of the Trade Union and Labour Relations (Consolidation) Act 1992.

The number of new complaints received in 2015-16 was nine, an increase on last year's total of six. The CAC also continued action on three cases carried forward from the previous year. Nine cases were closed which left three outstanding at the end of the year.

Our approach of encouraging the parties towards the voluntary resolution of disclosure complaints is well established and the parties are always offered the chance to meet informally under the CAC's auspices. Even if the CAC does not meet the parties, there is often a discussion between the Case Manager, the employer and the union to establish if there is any scope for resolving the issue voluntarily. Of the nine cases closed by 31 March 2016, two involved informal meetings although there were other cases in which meetings or hearings were scheduled but did not take place.

Section 183(2) of the Act provides the CAC with a duty to refer complaints to Acas where we are of the opinion that the complaint is reasonably likely to be settled by conciliation. Acas's involvement can be triggered in a number of ways: the CAC may take the initiative, the parties may suggest it or Acas itself may see if the parties are receptive particularly if there has been some previous contact. From information of which we are aware, of the nine cases closed in 2015-16 eight were for the reason that the parties reached an agreement through direct negotiations or with assistance from the CAC or Acas.

We have commented in previous Annual Reports that formal decisions on disclosure of information complaints are a rarity. In fact, since 1977 there have been only 77 decisions which represents just under 13% of complaints submitted to the CAC.

There was, nevertheless, one decision in 2015-16 in relation to the disclosure provisions, DI/10/(2014) GMB & Kuehne + Nagel. The Union made a complaint to the CAC that the employer had failed to disclose information for the purposes of negotiations about terms and conditions of employment. The employer's response was that it did not recognise the GMB for the purposes of collective bargaining. The

panel accordingly had to decide, as a preliminary issue, whether the employer was covered by section 181(1) in that it was “An employer who recognises an independent trade union...”. The employer accepted that the union was recognised for a small group of staff but not for the wider group the union believed it represented.

The factual background to the case was complex but the issue under consideration had its origins in the integration of two companies. A different trade union was recognised in one of the companies and the crucial issue was whether recognition of the GMB had continued post integration. The panel, after hearing evidence of the parties’ conduct over some eight years, decided that it was still recognised for the group described by the union. It was also submitted by the employer that, even if the GMB had at one time been recognised, it had subsequently been derecognised. The panel decided that there was no persuasive evidence that derecognition had ever been carried through. Following the panel’s decision, we understand that the disclosure of information issue was resolved by the parties. The full decision is available on the CAC web site.

## **The Information and Consultation of Employees Regulations 2004**

The CAC received one fresh complaint and carried forward action on one complaint from the previous year. One complaint was concluded by way of a decision and one was outstanding at the end of the year. That decision, and one decision from the previous year, were subject to appeals to the Employment Appeal Tribunal (EAT) and the issues are summarised below.

*IC/47/(2014) Dr Jason Moyer-Lee, Mr Henry Chango and others & Cofely Workplace Ltd*

The CAC’s decision on this application was described in last year’s Annual Report. The panel’s decision was that the application, under Regulation 13, was invalid because the employees’ request for the establishment of information and consultation arrangements had been made on behalf of the employees at the Company’s University of London site rather than all the Company’s employees. The Panel’s interpretation of the term “undertaking” in the Regulations was that it referred to the Company as a whole and not the one site in question.

The EAT judgment (UKEAT/0058/15/RN) was handed down on 19 June 2015 and the appeal was dismissed. The Tribunal supported the CAC’s interpretation that the word “undertaking” referred to the legal entity employing the employees concerned and could not be applied to, for example, an organisational unit. The Tribunal noted, as the CAC had done, that the government, at the time of enacting the Regulations, had made a conscious decision to use the term ‘undertaking’ rather than the alternative ‘establishment’.



*IC/50/(2015) Ms C Morrissey & University of London*

Ms Morrissey submitted a complaint to the CAC under Regulation 15(1) that the employer had not fulfilled one or both of the requirements in Regulation 14(2) for appointment or election of negotiating representatives. Her arguments were, in summary, that the employer was in breach of the Regulations by restricting candidates to those nominated by the two recognised trade unions, that this effectively excluded the majority of employees from making nominations and that employees were not given a proper choice as the ballot paper simply asked whether the employees did or did not support the two candidates. She also submitted that there were deficiencies in the arrangements for the ballot.

The employer accepted that it was under an obligation to initiate the process for establishing information and consultation arrangements. Its position was that, under the Regulations, it was entitled to decide if negotiating representatives should be appointed or elected and that it was good practice to accommodate any information and consultation arrangements within its existing industrial relations framework. It denied that there were deficiencies in the ballot arrangements and maintained that all employees had been given an opportunity to participate in the process.

The decision of the CAC panel was to uphold the complaint. Although it accepted that it was an employer's choice as to whether negotiating representatives should be appointed or elected, the panel was not persuaded that the process the employer adopted met the statutory requirement of providing for representation of all employees. By restricting nominations to those put forward by the two recognised trade unions, no account appeared to have been taken of the fact that the majority of employees were not union members. That was reinforced by the ballot which offered employees a simple yes/no choice. The panel concluded that not only had the employer not met the Regulations' requirements, it had fallen short of good industrial relations practice. The employer submitted an appeal to the EAT.

The EAT judgment (UKEAT/0285/15/RN) was handed down on 15 January 2016. The Tribunal dismissed the appeal and found that the CAC was entitled to make the decision it had. The Tribunal made the point that the purpose of the Regulations was to engage the whole workforce in information and consultation and that any arrangements put in place had to be effective in meeting that purpose; good industrial relations was therefore a relevant consideration. It added that it was not an employer's choice alone as to whether representatives should be appointed or elected; the Regulations provided that an employer should make arrangements to allow the employees to elect or appoint representatives.

### *Requests under Regulation 7*

The CAC did not receive any requests from employees under Regulation 7 for the establishment of information and consultation arrangements. Under this process, which has been used 20 times since the Regulations came into effect, employees make the request to the CAC which, in turn, passes on to the employer the number of employees making the request without revealing their names.

## **Transnational Information and Consultation of Employees Regulations 1999**

There were two new complaints in 2015-16 and one complaint was carried forward from 2014-15. Two complaints were closed in 2015-16. One was withdrawn and the other was closed by way of a CAC decision which is summarised in the following paragraph.

*EWC/13/(2015) Emerson Electric European Works Council and others & Emerson Electric Europe*

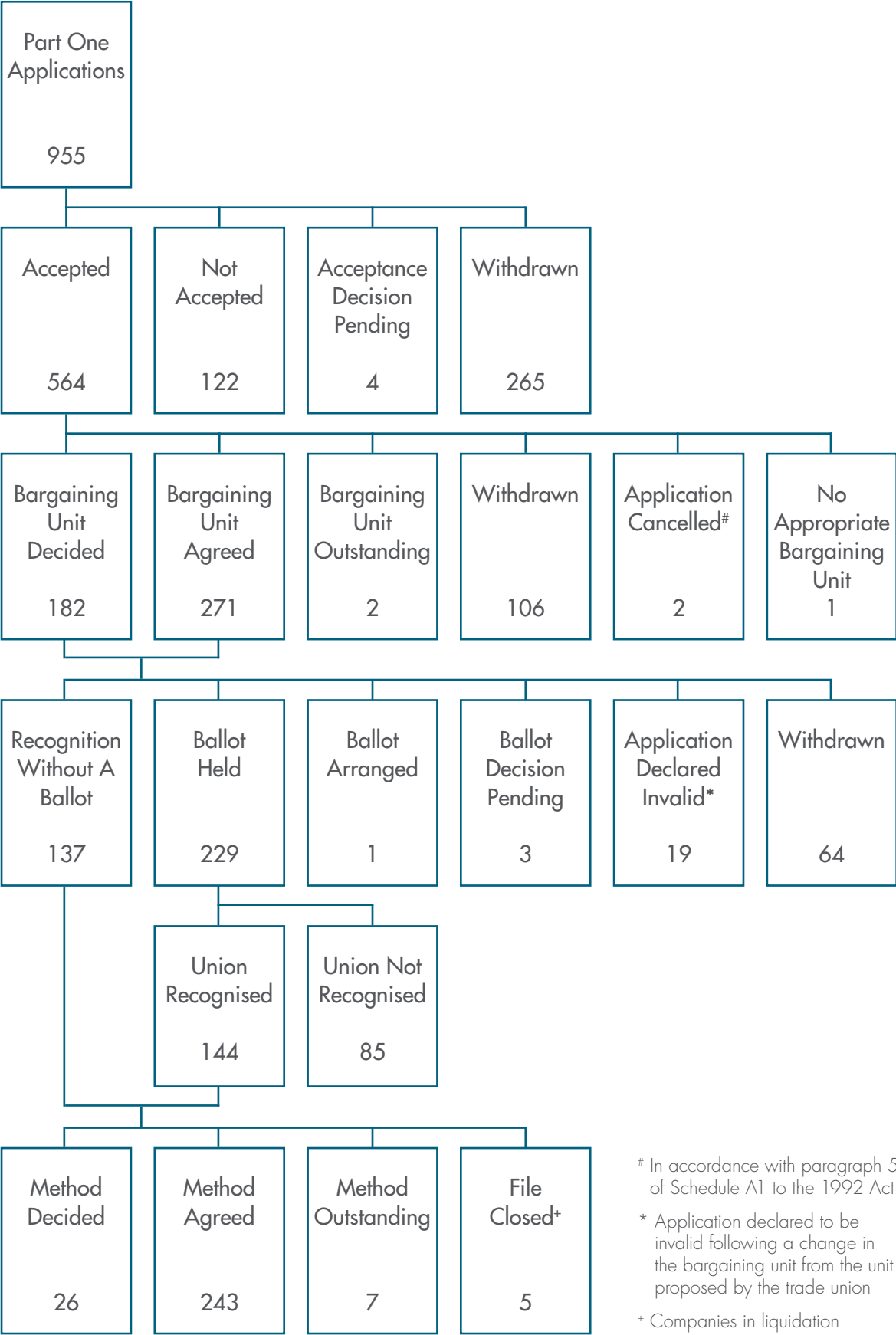
A European Works Council Agreement is in place. The Works Council submitted a complaint that the employer had breached Regulations 17, 18A, 19A, 20 and 21(1A). The full decision is available on the CAC web site but, in summary, the complaints fell into three categories: a failure to inform and consult prior to the announcement of a decision and a refusal to hold an extraordinary meeting; a failure to provide information prior to the annual meeting and to provide translations; and, complaints about the role and costs of experts.

The panel's decision was that the complaint that the employer had failed to inform and consult prior to the announcement of a decision, and its refusal to hold an extraordinary meeting, was well founded. In view of undertakings given by the employer, the panel declined to issue an order under the Regulations. The panel further decided that the complaint that the employer had failed to provide information prior to the annual meeting and to provide translations of documents was not well founded. The question of the role and costs of experts was resolved by the parties during the CAC hearing and did not require a decision from the panel. The panel did, however, find that a refusal to pay the Works Council's legal costs for pursuing a complaint to the CAC did not breach the parties' agreement or the Regulations.

## **Other jurisdictions**

There were no applications under the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009, the European Cooperative Society (Involvement of Employees) Regulations 2006 or the Companies (Cross-Border Mergers) Regulations 2007.

# Progress Chart of Applications for Recognition





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# The CAC's Aims

Our role is to promote fair and efficient arrangements in the workplace, by resolving collective disputes (in England, Scotland and Wales) either by voluntary agreement or, if necessary, through adjudication. The areas of dispute with which the CAC currently deals are:

- i. applications for the statutory recognition and derecognition of trade unions;
- ii. applications for the disclosure of information for collective bargaining;
- iii. applications and complaints under the Information and Consultation Regulations;
- iv. disputes over the establishment and operation of European Works Councils;
- v. complaints under the employee involvement provisions of regulations enacting legislation relating to European companies, cooperative societies and cross-border mergers.

The CAC and its predecessors have also provided voluntary arbitration in collective disputes. This role has not been used for some years.

## ***Our objectives are:***

1. To achieve outcomes which are practicable, lawful, impartial, and where possible voluntary.
2. To give a courteous and helpful service to all who approach us.
3. To provide an efficient service, and to supply assistance and decisions as rapidly as is consistent with good standards of accuracy and thoroughness.
4. To provide good value for money to the taxpayer, through effective corporate governance and internal controls.
5. To develop a CAC secretariat with the skills, knowledge and experience to meet operational objectives, valuing diversity and maintaining future capability.

### **Our performance measures and targets based on these objectives are:**

- Proportion of applications for which notice of receipt is given and responses sought within one working day  
Target: 95% - achieved 96%.  
*There were only two applications for which this deadline was not met.*
- Proportion of users expressing satisfaction with administration and conduct of the case and/or the procedural guidance provided to them  
Target: 85% - 80% of those who responded to the customer survey, which is sent to all users, rated their level of satisfaction as good or very good.
- Proportion of written enquiries and complaints responded to within three working days  
Target: 90% - The CAC received 40 enquiries in writing or by e-mail and we responded to 100% within this timescale.
- Proportion of Freedom of Information requests replied to within the statutory 20 working days  
*There were nine requests in 2015-16. Five related to the CAC alone and four raised issues which fell within Acas's sphere of responsibility. Replies to all requests were provided within the statutory timescale.*

## **User Satisfaction**

If you are asked for your views on any aspect of our service, we would appreciate your co-operation. But if you have comments, whether of satisfaction, complaint or suggestion, please do not wait to be asked. If you are dissatisfied with any aspect of our service, please let us know so that we can put things right. If you cannot resolve your problem with the person who dealt with you originally, please ask to speak to their manager or, if necessary, the Chief Executive who will investigate your complaint. If you wish to complain in writing, please write to:

James Jacob  
Chief Executive  
Central Arbitration Committee  
22nd Floor, Euston Tower  
286 Euston Road  
LONDON NW1 3JJ

In the event of any complaint, we hope that you will let us try to put things right. But if necessary you can write to your MP, who can tell you how to have your complaint referred to the Parliamentary and Health Service Ombudsman.

# Appendix i

## Analysis of References to the Committee: 1 April 2015 to 31 March 2016

	Brought forward from 31 March 2015	Received between 1 April 2015 and 31 March 2016	References completed or withdrawn	References outstanding at 31 March 2016
<b>Trade Union and Labour Relations (Consolidation) Act 1992:</b>				
VOLUNTARY ARBITRATION s212	-	-	-	-
DISCLOSURE OF INFORMATION s183	3	9	9	3
<b>TRADE UNION RECOGNITION</b>				
Schedule A1 - Part One	14	48	45	17
Schedule A1 - Part Two	-	-	-	-
Schedule A1 - Part Three	-	-	-	-
Schedule A1 - Part Four	-	-	-	-
Schedule A1 - Part Five	-	-	-	-
Schedule A1 - Part Six	-	-	-	-
<b>The Transnational Information and Consultation of Employees Regulations 1999:</b>				
	1	2	2	1
<b>The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009:</b>				
	-	-	-	-
<b>The Information and Consultation of Employees Regulations 2004:</b>				
	1	1	1	1
<b>The European Cooperative Society (Involvement of Employees) Regulations 2006:</b>				
	-	-	-	-
<b>The Companies (Cross-Border Mergers) Regulations 2007:</b>				
	-	-	-	-
<b>Total:</b>	<b>19</b>	<b>60</b>	<b>57</b>	<b>22</b>



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# Appendix ii

## CAC Resources and Finance: 1 April 2015 to 31 March 2016

### *CAC Committee*

Committee Members		39
Of which	Chairman and Deputy Chairmen	6
	Employer and Worker Members	33

### *CAC Secretariat*

Secretariat staff		7
Committee fees, salary costs and casework expenses		£391,759

### *Other Expenditure*

Accommodation and related costs		£113,376
Other costs		£17,075

<b><i>Total CAC expenditure from 1 April 2015 to 31 March 2016</i></b>		<b><i>£522,210</i></b>
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## CAC Expenditure

The CAC's overall expenditure was lower than in 2014-15 which was attributable to savings made in the delivery of work.

Acas, which provides the CAC with its resources, also apportions to the CAC budget the costs of depreciation and shared services. That apportionment is not included in the above figures but will be included in the Acas Annual Report and Accounts for 2015-16.

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# Appendix iii

## CAC Staff at 31 March 2016 and Contact Details

Chief Executive	Simon Gouldstone
Operations Manager	James Jacob
Case Managers	Nigel Cookson Sharmin Khan Linda Lehan
Finance Supervisor & Assistant Case Manager	Mark Siriwardana
Case Support and Administration	Laura Leaumont

Central Arbitration Committee  
22nd Floor  
Euston Tower  
286 Euston Road  
London  
NW1 3JJ

**Telephone:** 020 7904 2300

**Fax:** 020 7904 2301

**E Mail:** [enquiries@cac.gov.uk](mailto:enquiries@cac.gov.uk)

**Web Site** <https://www.gov.uk/government/organisations/central-arbitration-committee>





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