

CENTRAL ARBITRATION COMMITTEE

**ANNUAL
REPORT
2016/17**





**INVESTORS
IN PEOPLE**

Silver
Until 2020

This report of the activities of the Central Arbitration Committee (CAC) for the period 1 April 2016 to 31 March 2017 was sent by the Chairman of the CAC to the Chair of Acas on 22 June 2017, and was submitted to the Secretary of State for Business, Energy & Industrial Strategy on 23 June 2017.

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CHAIRMAN'S REVIEW OF THE YEAR

I have had the privilege of being Chairman for 17 years, since the initiation of the "New CAC" in 2000, and as my tenure comes to an end, I am particularly pleased that we reached the milestone of receiving 1000 trade union recognition applications since 2000, in fact now 1008 as I write.



I am also pleased to report for 2016-17, for the third year in succession, an increase in the CAC's workload. The number of applications for trade union recognition rose from 48 to 51 and, once the other jurisdictions are taken into account, the total rose from 60 to 66. There was one application under Part III, but no other 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 17 years and the outcomes of applications display 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. 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. Five out of seven ballots supported recognition, which was higher than the historical average for CAC ballots, and we were required to issue one decision 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 Of the 18 applications withdrawn in 2016-17, 11 of those were because the parties had negotiated an agreement. This is higher than last year's figure of six and at least shows 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 unit and method of bargaining, even if they are unable to agree recognition itself.

The number of disclosure of information complaints received was seven, a decrease from nine received last year and there were two CAC decisions which are summarised later in the report. In industrial relations terms, it was again welcome to see that of the seven cases closed in 2016-17, five were resolved by way of an agreement between the parties. The European Works Council provided three new cases and the Information and Consultation Regulations provided four new cases in 2016-17.

It was during March 2017 that we received our one thousandth trade union recognition application. To acknowledge that milestone we held a well attended event at the Royal Courts of Justice for stakeholders, members, staff and others in recognition of our work to date. Over the years, case receipts have slowed down, since it was in 2006 that we reached 500 recognition cases, but the progress nevertheless remains relatively consistent, with the slight increases in the last few years. Since 2000 we have awarded recognition in 293

cases (29%) including 144 where recognition was awarded without a ballot. The CAC has held 236 ballots with 149 cases (63%) where recognition was declared and 87 (37%) where it was not. Since 2000, until 31 March 2017, we received a total of 1006 trade union recognition cases, 14 cases under Parts II to VI, 132 disclosure of information cases, 16 EWC cases and (since 2005) 55 Information and Consultation cases.

Judicial Reviews and Appeals

In the last three Reports I have made reference to the judicial review of the CAC's decision in *TUR1/823/(2012) The Pharmacists' Defence Association Union (PDAU) & Boots Management Services Ltd*. As previously reported, after preliminary and final judgments from the High Court, the CAC decision was quashed and, from our point of view, the outcome clarified the extent to which the Human Rights Act can be applied to the statutory recognition provisions. In November 2016, the Court of Appeal heard the union's final appeal on the ground that parts of the judgment impinged on the union's human rights. The Court of Appeal upheld the High Court's decision, but outlined a possible course of action available to workers under Part VI of the legislation, involving an application for derecognition, followed by a fresh application for recognition by the PDAU.

There has been one judicial review of a CAC decision in 2016-17 in case *TUR1/953/2016 GMB & Lidl Ltd*. Here, the Panel had made a determination, after hearing oral argument at a

hearing, as to the appropriate bargaining unit, since the parties were unable to reach agreement. The Panel decided that the Union's proposed bargaining unit comprising warehouse operatives at one of the Employer's nine Regional Distribution Centres was an appropriate bargaining unit. The Employer sought judicial review of this decision. The Administrative Court, in dismissing the application for judicial review, held that the CAC had not misdirected itself as alleged by the Employer, that the CAC gave adequate reasons for its conclusions and did have regard to the question of whether the Employer operated a standardised set of policies, vis-à-vis compatibility with effective management, and the Employer's claim that the CAC failed to have regard to material considerations was likewise rejected. The Employer then submitted an appeal to the Court of Appeal and the case was heard on 22 February 2017. We have just learned that the Employer's appeal has been dismissed, thus upholding the CAC's Decision.

I have commented in previous reports on the low number of our decisions that have gone to judicial review. I welcome endorsements of our approach and it is also helpful to receive clarification and interpretation of the statutory provisions. The small number of adverse decisions has certainly not hindered, but has informed, our approach to cases.

The Committee and Secretariat

The appointments of three CAC Employer Members came to an end on 31 March 2017. They were Jackie Patel, a Member since

2000, Bryan Taker, a Member since 2002 and Paul Wyatt, a Member since 2005. All were very conscientious and dedicated Members, and I am most grateful to them for their valuable contribution over those periods.

I am pleased to report that, following the lengthy recruitment and consultation process referred to in the last two Annual Reports, BEIS finally confirmed the appointment of four new Deputy Chairmen and eight new Employer Members in July 2016, and three new Worker Members in November 2016. As a result, all new Deputies and Members were welcomed at our AGM, which took place in November 2016, and undertook induction days in October and December 2016. A two day training event for all new Deputies and Members was then held in January 2017. The induction and training days were delivered by the Secretariat with contributions from a skilled Deputy, Lynette Harris, and Member, Simon Faiers, as well as from our recently retired CEO Simon Gouldstone, who returned to give the benefit of his great experience. Feedback on the training was very positive, and, following a period of shadowing on cases, the new Deputies and Members will be given their own cases in the new reporting year. I know they are very keen to contribute to the CAC, having had to wait so long to be appointed, and we look forward to working with them in the future.

As always, I would like to place on record my appreciation and that of the Deputies and Members for the contribution made by the CAC Secretariat, who, though now small in number, have, despite staff changes in the last



year, continued to provide an impressively high level of support for the Committee, ensuring that they have a personal knowledge of the cases they handle, which enables them to give a professional service to employers, unions, and to individuals with enquiries. I appreciate that support all the more because it has been a year of change, including an office move. This move to our new premises, our fourth home since 2000, in Fleetbank House, off Fleet St, is hopefully permanent, and at last enables me to say that the Central Arbitration Committee is indeed geographically Central, at least in London terms. In addition, the team's commitment to continuous improvement was recognised by the CAC's obtaining Investors in People Silver Accreditation, which was a tremendous achievement.

Coda

My appointment as Chairman, which was due to end on 31 March 2017, was extended to

30 September 2017, until a new Chairman is appointed, following a recruitment exercise by BEIS.

From the outset of the 'New CAC' in 2000, I have been responsible for oversight of the policy, guidance and direction of the CAC. Though I have rarely appointed myself to a panel (as of this date I have one outstanding such hearing before my retirement), I have appointed every panel to each case, with a view to ensuring that all Deputies and Members had a fair distribution of cases and that they gained and retained experience in undertaking their roles, and I have advised panels when necessary, and the CEO, on legal issues, when they have arisen. I am particularly grateful for the professionalism, hard work and support of all the Deputies, Members, CEOs and Secretariat staff over the last 17 years. It has been a rewarding experience working with such gifted colleagues. I have particularly enjoyed the Deputies' meetings and AGMs, which

have enabled me to get to know all our Deputies and Members and facilitated the constructive interchange of information and views, to assist the process of establishing CAC policies and direction, and add to everyone's knowledge and experience in this specialised field.

I would normally conclude by considering where the CAC is in 2017. What I believe I can say is that the CAC has secured over its first 17 years the approbation of Parliament, after a full review in 2004, but, in particular, recognition and acceptance by both 'sides' of industry, and that it has played a not inconsiderable role in the achievement of greater industrial harmony. It has been a pleasure to undertake my role as leader of the CAC, and I wish my replacement in that role every success in the future.

Sir Michael Burton
Chairman

MEMBERSHIP OF THE CENTRAL ARBITRATION COMMITTEE AT 31 MARCH 2017

Chairman

Sir Michael Burton

Deputy Chairmen

Barry Clarke

Regional Employment Judge for Wales

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

Rohan Pirani

Employment Judge

Her Honour Judge Stacey

Circuit Judge

James Tayler

Employment Judge

Charles Wynn-Evans

Partner, Dechert LLP; Fee-Paid Employment 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
Mary Canavan	Director of Business Support, Shepherds Bush Housing Group
Mike Cann	Former National Negotiator, Employers' Organisation for Local Government
Nicholas Caton	Former Vice President, Human Resources, Ford of Europe, Ford Motor Company
Maureen Chambers	HR Consultant
David Crowe	Human Resources Consultant
Derek Devereux	HR Coach and Mentor, Former HR Director of Constellation Europe and Matthew Clark
Simon Faiers	Director, Energypeople Former Head of Human Resources, Eastern Group plc
Lizzy Firmin	Head of HR, Hutchison Ports UK
Rod Hastie	Human Resources & Copyright Consultant
Robert Hill	Former Executive Director of Personnel, Ford Motor Company
Susan Jordan	VP Human Resources
Tom Keeney	Employee Relations Director, BT Group
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
Robert Lummis	Head of Employee Experiences, Jaguar Land Rover
Peter Martin	Employment Relations Consultant
Jackie Patel	Former Human Resources Director, Delta Crompton Cables
Alistair Paton	Head of Industrial Relations, Financial Services Industry
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
Chair of Dracaena Centre Trust and Chair of the Board
of Governors of Falmouth Primary School

Members with experience as representatives of workers

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
Paul Noon OBE	Former General Secretary, Prospect
Matt Smith OBE DL JP	Former Scottish Secretary, UNISON
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)
Fiona Wilson	Head of Research and Economics, Usdaw

CHIEF EXECUTIVE'S REPORT

As the Chairman has recorded, there was, for the third 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.



Performance

We continue to monitor our own performance by way of a users' survey; all the parties to our cases, whether they are employers, trade unions or individual employees, are invited to submit their views, anonymously, once a case has closed. For cases that concluded in 2016-17, 92% 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 88% 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 2016-17 the average was 19 weeks compared with last year's figure of 17 weeks. Within this average, the figure for a case involving a ballot was 23 weeks, compared with 22 last year, and for a case in which there was a declaration of recognition without a ballot, the figure was 14 weeks, the same figure as last year. 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 152 enquiries, compared with 207 last year, relating to all our jurisdictions but primarily trade union recognition. We also answered 44 written or e-mail enquiries, which was higher than the previous year.

Development

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 30 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, 81% of respondents said that they found the usefulness of the site satisfactory or better with 19% of respondents not using the site. This is a big improvement on last year where 35% of respondents did not use the site. However there is 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.

Our internal database has been re-vamped in 2016-17, with further changes being undertaken in the new reporting year to ensure we are able to generate statistics and case information easily. In addition, staff maintain

an internal knowledge bank to assist panels and case managers in undertaking their work.

Stakeholders

We have continued to keep in touch with major stakeholders, such as BEIS (the Department for Business Energy Industrial Strategy) 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 decisions of a more historic interest, in electronic form. 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 ten requests under that provision. All were answered within the prescribed timescale.

Administration and accountability

CAC Costs

CAC expenditure in 2016-17 was lower than in 2015-16. Although the number of applications increased, these were handled by the same number of staff as last year although there were changes within the team during the year. 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 IIP status. As mentioned in the Chairman's report, we obtained Investors in People Silver Accreditation in March 2017 for the next three years. This was particularly pleasing and acknowledged how seriously we view learning and development as well as an indication of our progress in the last three years. Feedback was very positive and acknowledged the collaborative team work between the Secretariat and Committee members, staff responsibility for development, leadership styles and in particular the trust given to staff in undertaking their roles. This was a positive achievement at the end of a year where there had been many changes within the team.

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).

James Jacob
Chief Executive



THE CAC'S CASELOAD IN 2016-17

Trade Union Recognition

In the year ending 31 March 2017, the CAC received 51 applications for trade union recognition under Part I of the Schedule¹. This compares with 48 in the previous year and 38 two years ago. There were no applications under Parts II to VI of the Schedule apart from one case under Part III.

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 53%; this compares with last year's figure of 50% and 2014-15's figure of 29%. Overall, the employer size ranged from 24 workers to over 74,000, the latter figure being attributable to a company that provides support services and business facilities across a range of customers. It

would be meaningless to calculate an average figure for the 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 114 workers, an increase on last year's figure of 100 and but still lower than the 2014-15 figure of 158. The average size of bargaining units has also always been volatile, in the past year ranging from 14 to 759 workers. The proportion of applications involving a bargaining unit of 100 workers or fewer was 71%, the same as 2015-16, compared with 48% in 2014-15. In the broadest possible terms, it could perhaps be said that the CAC for the last two years, compared with 2014-15, has dealt with smaller bargaining units and smaller employers than in the recent past. The manufacturing, transport and communication sectors no longer continue to account for the majority of applications and taken together, represented 31% of the applications compared with 52% in 2015-16 with the majority of cases received from a wider range of sectors. Applications were received from 11 different trade unions compared with twelve in the previous year.

In 2016-17, 29 applications were subject to a decision as to whether they should be accepted, the first stage in the statutory process, and, of those, 23 were accepted and six were not. The proportion of applications accepted, at 79%, was slightly below the historical average of 82%. In one case the reason for non-acceptance was that the proposed bargaining unit had been changed from the description in the request for recognition while two cases were premature in submitting their applications. In a further three cases, the applications were not accepted because there was insufficient evidence that a majority of workers in the bargaining units would be likely to favour recognition of the union. Thirteen applications were withdrawn at this stage, seven for the reason that the parties had reached a voluntary recognition agreement. Six of the withdrawn applications were later resubmitted, one application was resubmitted twice.

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 2016-17, 14 agreements and four

¹ 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

decisions. That maintained the cumulative position that, from the inception of the statutory process in 2000 to 31 March 2016, some 61% of bargaining units had been agreed by the parties. Four applications were withdrawn at this stage as they had reached a voluntary agreement. Additionally, there was one further withdrawal as the union decided not to pursue the application as the determined bargaining unit differed from the union's proposed bargaining unit. There was one decision where the application was declared invalid following a change in the bargaining unit from the unit proposed by the trade union.

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 7 decisions, in 2016-17, 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 179 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 144 (76.5%) of those cases.

Seven ballots were held, five resulting in recognition and two not. The number of ballots resulting in recognition was noticeably higher (71%) than the historical average of 63% and the average participation rate in a CAC-commissioned ballot decreased to 71% from 76% last year due to a lower than average turnout on three ballots. 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 but there were no requests in the past year.

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 2016-17 were fifteen agreements (94%) which was slightly higher than the historical average of 90% at this stage. There was one decision.

There were no new applications under Parts II to VI of the Schedule apart from one new Part III case received on the last day of the reporting year. This was only the fourth Part III case the CAC has received since

2000. There were no applications under Parts II to VI 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 2016-17 was seven, a decrease on last year's total of nine. The CAC also continued action on three cases carried forward from the previous year. Seven 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. However in 2016-17, none of the cases closed by 31 March 2017, were as a result of informal meetings.

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 seven cases closed in 2016-17, five 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 and since 1977 there have only been 79 decisions which represents just under 13% of complaints submitted to the CAC. In 2016-17 there were two decisions as a result of CAC hearings and both complaints were unfounded and reported below:

DI/4/2016 Unite the Union & John N Dunn Group Ltd

The union's complaint related to an alleged failure by the employer to disclose information relating to the company accounts which were not detailed enough to develop a pay claim. The union required access to the working

accounts which the employer felt had commercially sensitive information contained therein and had therefore not disclosed.

The panel's view was that the union's case was not well founded as it had not been materially impeded by not having access to the working accounts and that the union was able to conduct collective bargaining with the information provided to them in the annual accounts.

DI/01/2017 BECTU and Rio Centre (Dalston) Ltd

The union's complaint related to an alleged failure by the employer to disclose information for the purposes of collective bargaining including agreed final minutes of two Joint Negotiating Body (JNB) Meetings, financial information and that the employer did not meet with the union as outlined in the specified method.

The employer disputed the complaint by the fact that collective bargaining had taken place with the union for over 18

months. The employer also outlined that the union had raised additional matters that were not related to disclosure of information and should not be considered by the CAC.

The panel's view was that the union had not been impeded by having agreed final minutes of meetings. In respect of the financial information requested by the union, the panel recognised that the union regarded the interim accounts as important for collective bargaining purposes but accepted the employer's position that interim working accounts could create a misleading picture of the overall financial position and that it would require extra work and expenditure to provide such information. The panel's view was that the union failed to demonstrate that it was materially impeded in conducting collective bargaining by not having access to the interim working accounts and that they were able to conduct collective bargaining with the information provided to them in the annual accounts. In

addition, it was not within the remit of the panel to consider whether or not there had been a failure to comply with the specified method and for that reason, it made no decision in respect of the union's complaint that a stage of the specified method had not been carried out. As a result, the union's complaint was unfounded.

The full decisions of both cases are on the CAC website.

The Information and Consultation of Employees Regulations 2004

The CAC received four fresh complaints and carried forward action on one complaint from the previous year, all brought under Regulation 22 (1). One complaint was withdrawn and one case was closed which left three live cases at the end of 2016-17. There were no decisions during the year.

Requests under Regulation 7

The CAC received one request from employees under Regulation 7 for the establishment of information and consultation arrangements. Under this process, which has been used 21 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 three new complaints in 2016-17 and one complaint was carried forward from 2015-16. Two complaints were closed in 2016-17 and two await determination. Of those cases that were closed, one was withdrawn by the complainant and the other was closed by way of a CAC decision, as summarised in the following paragraph.

EWC/14/2016 Facilicom Services Group

Facilicom is a facilities provider in such fields as cleaning, security, airport services and catering employing approximately 28,000 people across numerous undertakings in four Member States including the United Kingdom. Due to the nature of the business the majority of its employees are based at its client's offices. The complaint alleged that Facilicom failed to obtain and provide the information necessary in order to allow the complainant to determine whether it was a community-scale undertaking to which the Regulations applied. This included information relating to the structure of the undertaking and its workforce as well as the location of its workers. The employer argued that it had acknowledged it met the criteria to fall within the scope of TICE and, in any event, had provided details of the average number of employees in each of its undertakings and need go no further.

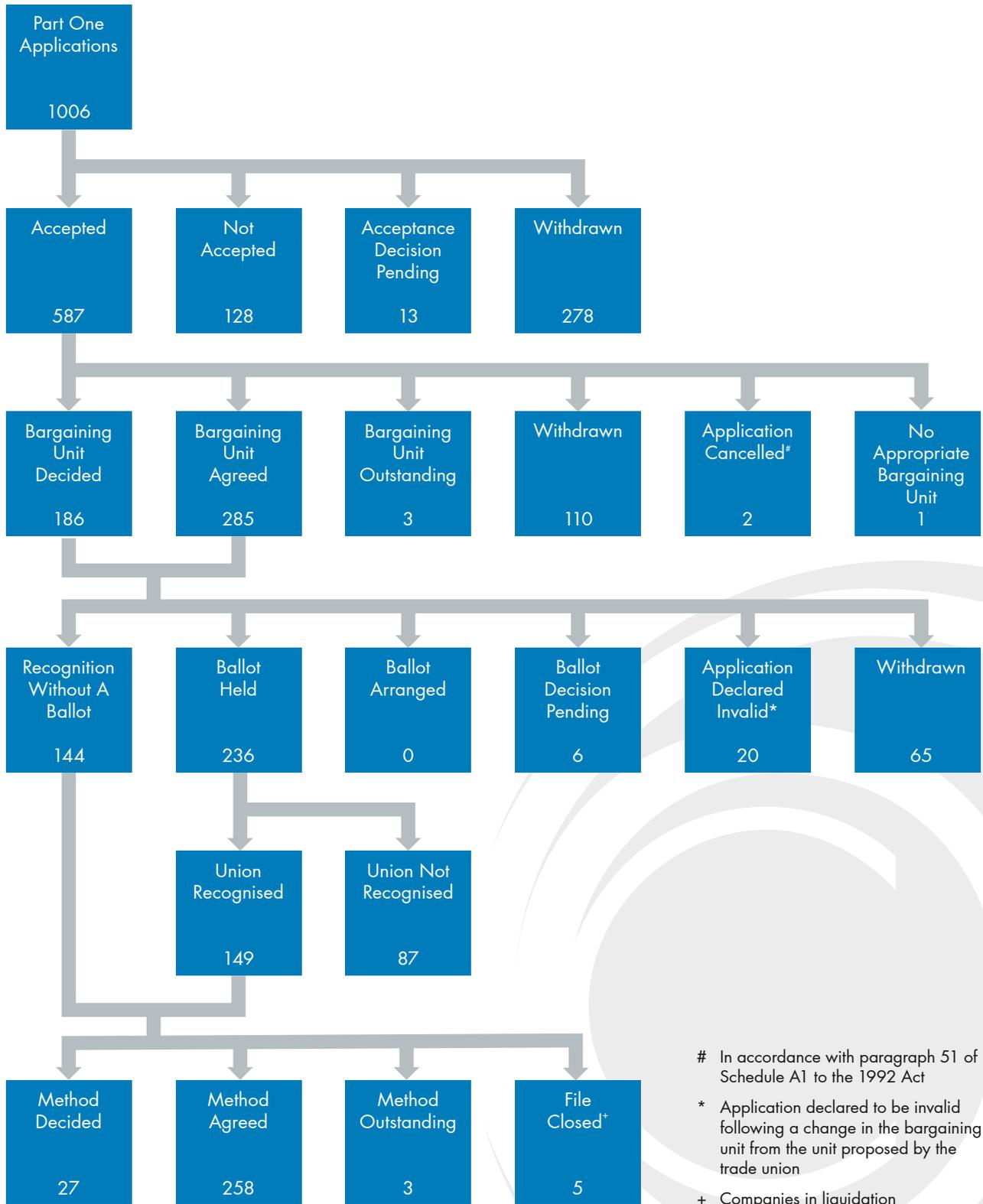
However, the panel concluded that it was not enough for the employer to make such a concession in order to avoid providing information relating to the structure of the undertaking and its workforce. It decided that without information as to where employees were assigned, the complainant was unable to ascertain if colleagues supported his request to negotiate a EWC agreement. There was no other available source for this information and the panel was persuaded as to its essential nature. The complaint was upheld and the employer ordered to provide the contact details for the Chair of each Works Council where such existed, or where collective bargaining arrangements were in place, the contact details of the relevant trade union and where there was no collective representation, the name and address of the place where employees and agency workers were assigned to carry out their duties.

The full decision can be found on the CAC website.

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



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 92%.*

There were only four 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%–92% 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 44 enquiries in writing or by e-mail and we responded to 98% within this timescale.

- Proportion of Freedom of Information requests replied to within the statutory 20 working days

There were ten requests in 2016-17. One related to the CAC alone and nine 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
Fleetbank House
2-6 Salisbury Square
LONDON
EC4Y 8JX

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 2016 to 31 March 2017

	Brought forward from 31 March 2016	Received between 1 April 2016 and 31 March 2017	References completed or withdrawn	References outstanding at 31 March 2017
Trade Union and Labour Relations (Consolidation) Act 1992:				
VOLUNTARY ARBITRATION s212	–	–	–	–
DISCLOSURE OF INFORMATION s183	3	7	7	3
TRADE UNION RECOGNITION	17	51	43	25
Schedule A1 – Part One	–	–	–	–
Schedule A1 – Part Two	–	1	–	1
Schedule A1 – Part Three	–	–	–	–
Schedule A1 – Part Four	–	–	–	–
Schedule A1 – Part Five	–	–	–	–
Schedule A1 – Part Six	–	–	–	–
The Transnational Information and Consultation of Employees Regulations 1999:	1	3	2	2
The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009:	–	–	–	–
The Information and Consultation of Employees Regulations 2004:	1	4	2	3
The European Cooperative Society (Involvement of Employees) Regulations 2006:	–	–	–	–
The Companies (Cross-Border Mergers) Regulations 2007:	–	–	–	–
Total:	22	66	54	34

APPENDIX II

CAC Resources and Finance: 1 April 2016 to 31 March 2017

CAC Committee		
Committee Members		51
Of which	Chairman and Deputy Chairmen	10
	Employer and Worker Members	41
CAC Secretariat		
Secretariat staff		7
Committee fees, salary costs and casework expenses		£403,520
Other Expenditure		
Accommodation and related costs		£93,792
Other costs		£16,020
Total CAC expenditure from 1 April 2016 to 31 March 2017		£513,332

CAC Expenditure

The CAC's overall expenditure was lower than in 2015-16 which was attributable to savings made in accommodation and other costs.

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 2016-17.

APPENDIX III

CAC Staff at 31 March 2017 and Contact Details

Chief Executive	James Jacob
Operations Manager	Maverlie Tavares
Case Managers	Nigel Cookson Sharmin Khan Linda Lehan
Finance Supervisor & Assistant Case Managers	Laura Leumont Mark Siriwardana

Central Arbitration Committee
Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

Telephone: 020 7904 2300
Fax: 020 7904 2301
E Mail: enquiries@cac.gov.uk
Web Site <https://www.gov.uk/cac>





Fleetbank House, 2-6 Salisbury Square, London, EC4Y 8JX

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