



Department for  
Business, Energy  
& Industrial Strategy

# CENTRAL ARBITRATION COMMITTEE

Tailored Review Report 2017

February 2018

---

# Contents

Executive summary	3
List of recommendations	4
Introduction	5
Form and function	5
Leaving the EU	7
Devolution	7
Efficiency and effectiveness	8
Back office and ICT	8
Location	9
Workforce	9
Corporate governance	11
Corporate governance reform	12
Effectiveness of control environment and decision-making	12
Terms of reference	14
List of interviewees	19
Progress chart of applications for recognition	20
Principles of corporate governance	21

## Executive summary

The Central Arbitration Committee (CAC) is a non-departmental public body (NDPB). It receives c£0.5m Grant-In-Aid from BEIS, has eight employees who make up the central secretariat that support the work of the CAC's Chair, Deputies and members. The CAC has not previously had a Tailored Review/Triennial Review.

This Tailored Review has been conducted in accordance with [Cabinet Office principles](#), with an emphasis on:

- Form and function;
- Improving effectiveness and efficiency; and
- Governance.

There are clear and persuasive reasons why the functions performed by the CAC should continue to be delivered, as it currently does. There is strong evidence of effectiveness; the CAC's jurisdictions are not seen as controversial and are accepted by employers, employees and trade unions, and their representative bodies, as contributing to fair and efficient working arrangements. It exercises its responsibilities in a low-key way whilst maintaining its status as a quasi-judicial body. This will continue to be the case for the foreseeable future.

The Committee has a niche but nevertheless important role that matters significantly to employers and unions. By far the most important statutory function of the CAC is adjudicating on the recognition and de-recognition of trade unions for collective bargaining in the workplace. Given the public interest issues involved, it is important that the function is delivered with absolute political impartiality and, equally, that it is delivered independently of ministerial direction.

The CEO of Acas is accountable for the CAC's resources, rather than the delivery of its functions, and there is a good relationship between the two bodies. The role of the CAC, Acas and BEIS are intertwined, and any overarching framework should aim to provide clarity around the governance arrangements, going forward.

There is an effective relationship between BEIS and the CAC. Here, there is evidence of an open dialogue and the BEIS sponsorship team has sufficient knowledge of the business to act as both an effective advocate and critical friend to the CAC.

The size of the body is small but its action and progress is commendable, and it is well-respected amongst its peers and customers.

## List of recommendations

The recommendations from the review are collated below.

**Recommendation 1: Efficiency and effectiveness** – The CAC pursues with BEIS what opportunities there may be for meeting its specific case management requirements through other routes, in partnership with BEIS or seeking best practice from other case management organisations.

**Milestone:** September 2018

**Recommendation 2: Efficiency and effectiveness** – The BEIS Policy Champion to strengthen the affinity between CAC and BEIS policy areas with case-work systems and process through: job-shadowing; sharing resources; and learning and development forums.

**Milestone:** September 2018

**Recommendation 3: Corporate governance** – BEIS to discuss with the CAC and Acas how a framework document or equivalent provides clarity on; accountability lines; roles and responsibilities; and how to escalate and resolve issues.

**Milestone:** June 2018

## Introduction

The CAC is one of BEIS' NDPBs. The CAC regulates labour law by promoting fair and efficient arrangements in the workplace. It does this through resolving collective disputes on trade union recognition, collective bargaining and employee consultation - either by voluntary agreement or, if necessary, through adjudication.

The areas of dispute it deals with are:

- i. Statutory applications for Trade Union Recognition and De-recognition;
- ii. Applications under the Information and Consultation Regulations;
- iii. Statutory applications for Disclosure of Information for collective bargaining;
- iv. Disputes over the constitution and operation of European Works Councils;
- v. Applications under legislation relating to European Companies, European Cooperative Societies and Cross Border Mergers.

In addition, the CAC and its predecessors have historically provided voluntary arbitration in collective disputes. However, the last reference to the CAC for voluntary arbitration was 1989.

The CAC was originally created by the Employment Relations Act 1975. Its function was to provide a range of arbitration services, but by the mid-1990s it was restricted to providing voluntary arbitration in trade disputes and adjudicating in disputes over disclosure of information for the purpose of collective bargaining. The Employment Relations Act 1999 re-invigorated the CAC's profile, by giving it powers to determine applications for statutory trade union recognition, and to interpret and apply the relevant regulations.

Since 1999 the focus of the CAC's work has been Trade Union Recognition. The workload associated with this is unpredictable, and fluctuates considerably. In 2016-17, for the third consecutive year, the caseload in this area increased. A trend is emerging for the CAC to deal with smaller bargaining units, and smaller employers, than previously. Tied to this is a move away from the manufacturing, transport and communications sectors that traditionally have dominated caseload to a wider range of sectors, for example cleaning contractors and a recent case concerning Deliveroo.

The CAC works closely with Acas. Acas sets out to mediate disputes concerning trade union recognition. Where this is unsuccessful the CAC acts as a separate tribunal or, as one interviewee put it, "a court of last resort".

## Form and function

The CAC performs a statutory duty. The Review Team spoke to both employer and employee representatives, and all were in agreement that if CAC did not exist then it would be necessary to create an equivalent. Without the CAC or an equivalent there would be no means to deal with disputes on trade union recognition.

Despite its name the CAC does not function as a committee, and neither is it exactly a court. It could best be described as a first-tier tribunal, with a quasi-judicial function. This clear technical function means that it is necessary that the CAC's work is delivered with absolute

political impartiality. Equally, it means that the work must be delivered independently of ministerial direction.

The Review Team considered the relationship with Acas. It is necessary that this remains close (and some recommendations around this are made in the Efficiency section of this Review). However it is equally important that the two are separate because of the different approaches with CAC being the statutory route while Acas promotes voluntary agreements. The Memorandum of Understanding (MoU) between Acas and the CAC recognises the CAC's independence.

The team considered whether Acas and the CAC could be merged. The CAC has a distinct adjudication function, and this function would still be necessary if it was merged with Acas, so there would be no gain in terms of process. Furthermore, all of the CAC's staff are Acas employees. A merger would potentially dilute both offerings – undermining the arbitration process and making the adjudication element less distinct. None of the interviewees saw any benefit in such a merger, and many thought it would be actually harmful, not least because in its particular field of expertise, the CAC has a strong reputation, fully respected by both employer and union representatives.

A merger of the CAC with the Certification Officer was considered in 2014 but did not proceed. This was because the case for a merger was not sufficiently robust. A merger would have produced at best, limited benefits and synergies, whilst potentially adding bureaucratic complexity. Section 2(a) of the Public Bodies Act 2011 (PBA) requires that any organisation resulting from a merger under the PBA must be set up as either a body corporate or an office. Neither the CAC nor the CO are constituted as such; the CAC is a crown body and the CO is an office-holder not connected to any specific body. When consideration was first given to the merger, it was intended that the resulting body would be established as a crown body. This was permitted under the PBA.

For a number of reasons, neither a body corporate nor an office is suitable for the CO and CAC. First, as a body corporate is a legal person in its own right, accountable to its members, it is not an appropriate model for an organisation which carries out the judicial functions of the CAC and the CO. A judicial decision should only be made by those members who actually considered the evidence. If the judicial functions of the CAC and the CO were carried out by a body corporate, those decisions could be or could be perceived to be influenced or overturned by members who had not heard the evidence. This would appear to run counter to the fundamental principles of natural justice and the right to a fair trial.

We also considered whether there would be a potential benefit in bringing together the CAC with the Ministry of Justice (MoJ), or bringing it within BEIS' departmental boundary. Again, interviewees were universally against these options, for evidenced reasons. In 2000, the then Lord Chancellor's department asked Sir Andrew Leggatt to carry out a review on the tribunal system (the Leggatt Report 2001). At the time, consideration was given in bringing the CAC under MoJ as the CAC is a tribunal NDPB. However, this was not pursued at the time as the consensus from the Chair as well as stakeholders, was that to bring the CAC under MoJ's jurisdiction would be a loss to the department and its stakeholders, given that the CAC was tied into the UK's industrial relations framework. If the CAC was transferred to MoJ, our departmental ministers as well as our stakeholders would have less influence on how the CAC was organised in future. Any link to the MoJ would take the CAC away from its core workplace resolution remit and turn it in to a more formal court, with the potential for greater complexity and less transparency. Furthermore, government ministers believe that appointments to the CAC are ministerial, and not judicial, appointments. This reflects the legal position under the

Trade Union and Labour Relations Consolidation Act 1992 (TULRCA). Transferring the CAC to MoJ is therefore not appropriate.

Bringing the CAC into BEIS would compromise the perception of impartiality and freedom from ministerial control. This was also confirmed by a selection of interviewees.

## Leaving the European Union

As part of the review, the impact on the CAC of the UK leaving the EU was considered. Both the CAC and its customers anticipate some limited impact. Though it is noted that the CAC has jurisdiction in a few EU areas, however, volume of EU case load has historically been very low compared to volumes from other UK jurisdictions. This will be monitored over time.

## Devolution

The work of the CAC, including labour and employment law, is not devolved across the devolved administrations of Scotland and Wales. The Northern Ireland Assembly has its own equivalent of the CAC. The CAC convenes case hearings throughout Great Britain near to the location of the parties in each case and it has members who are based regionally.

## Efficiency and effectiveness

Since taking on statutory trade union recognition in 1999, the CAC has experienced a variable case load – there is no clear trend to the demand it experiences. Understandably perhaps there was a steady rate of cases from 2000 with the confirmed focus on trade union recognition and then CAC reached its first 500 cases in six years (by 2006). The next 500 cases were heard in the following eleven years. A Progress Chart for 2016-17 is on page 20.

The CAC sets Key Delivery Targets in consultation with Acas and reports to BEIS on performance against these annually, in its report to Parliament. The CAC's performance is also included in the CAC annual assurance assessment (most recently in April 2016). In addition, on a monthly basis, the CAC provides BEIS with a short report detailing its current caseload and any issues.

The types of cases being brought to the CAC are those where there is no trade union recognition; it is not necessarily helpful to measure any perceived 'success' or effectiveness relating to case volume in isolation. In that context, in 2016/17, 92% of CAC customers stated that their case was handled satisfactorily or better. The CAC recorded in 2016-17 that amongst the cases that were withdrawn, 61% of these had reached a voluntary agreement. This is encouraging as the process of a case being heard by the CAC is seen by some as the 'court of last resort'.

There is potential value to the CAC, but also to BEIS and wider government, from some retrospective analysis of case load types and trends. For example, a retrospective analysis may be helpful as a feedback loop relating to the 'deliverable reality' of new policy areas and highlight unintended downstream consequences. Alternatively there may be value in an analysis of relative complexity of cases over time as this might provide intelligence into how the CAC could succession plan or increase resilience in the workforce for the future. The CAC and BEIS are monitoring how this develops over time.

Any opportunities for financial savings will be very limited. The modest budget has remained relatively constant in cash terms over the last few years. In real terms, any cost savings would therefore have been realised over this period. Financial efficiencies are however constantly considered throughout the year between the CAC, Acas and BEIS.

## Back office and ICT

As the CAC is a small organisation it would be neither efficient nor effective for it to stand alone in many of its back office operations.

The CAC operates within the framework of Acas policies and systems for the planning, allocation and management of resources, covering; finance; HR; training & development; IT services; estates; Health & Safety; and security.

The CAC consumes back office support services from Acas, this arrangement in general works well. They also work together to respond to departmental and cross-government efficiency targets, spending reviews and business planning cycles.

There are some risks with this arrangement as the CAC has requirements that are not matched or mirrored by Acas. One example identified was the use of specialist IT relating to case management. Case management is a key business process for the CAC and there are



many benefits and efficiencies to ways of working a digital system can offer. The CAC does not necessarily have a stand alone cost benefit case to implement a system with this specific functionality. In addition, this functionality is not an equivalent priority for Acas, and so there is not a collective case or support for future plans to deliver this.

**Recommendation 1:** The CAC pursues with BEIS what opportunities there may be for meeting its specific case management requirements through other routes, for example in partnership with BEIS or seeking best practice from other organisations familiar with case management.

**Milestone:** September 2018

## Location

The CAC is based in London with committee members based around Britain. The London location, where eight employees are based, moved to Fleetbank House on 12 April 2017. This relocation was linked to a wider accommodation review for Acas that sought operational efficiencies. This is also a shared office space with the Certification Officer, and Employment Appeal Tribunal which is also currently based in Fleetbank House. This arrangement of sharing meeting space is proving very useful in helping to forge links between these organisations

The CAC has a Great Britain-wide remit and convenes in the regional location where a case is being heard. Access to, or cost of, regional meetings rooms can prove a challenge. It looks to use government locations when it can to manage costs and as it is usual for cases to last one day costs tend not to be prohibitive.

In line with the wider government modernisation and reform agenda, there is an opportunity to seek innovation in ways of working to aid document and information sharing and ensure cohesion regardless of the location of the employee or committee member.

## Workforce

There are eight employees (Acas civil servants) that make up the central secretariat that support the work of the CAC members. The members are currently comprised of one Chair, nine deputies, 23 employer members and 15 worker members. The outgoing Chair is a retired High Court Judge. The BEIS Public Appointments Team and the CAC are committed to securing applicants from as wide a diversity pool as possible, including those from traditionally under-represented groups, as part of a campaign that is seeking to recruit 21 CAC members/deputy Chairs this year.

Through the course of the review there has been clear evidence that the CAC workforce of eight operate effectively together regardless of location. This is a small and tight knit team who take pride in sharing knowledge and best practice. There is real commitment to operating effectively, continually improving and making sure there is cohesion with the Committee members and wider stakeholders. It was also clear from interviews that this commitment to cohesion and effectiveness is recognised and valued by Committee members and stakeholders alike.

For the CAC to operate effectively there is a demand for a mix of skills and expertise. Due to its small size there is a risk there may be insufficient skills or knowledge to effectively support a case. The CAC mitigates this in a number of ways including developing and maintaining a 'knowledge bank' of previous cases and detailed desk notes that can be accessed regardless

of working location. The 'knowledge bank' is currently being upgraded and going 'live' in January 2018. Deputy Chairs tend to come from a legal background. Committee members do not require a legal background and instead complement the legal expertise by bringing a mix of experience from different sectors. Together these mean that Committee members and case managers remain informed and supported for the different types of cases brought to the CAC.

There is a culture of learning and development for the CAC workforce and this culture is valued by employees. It is clear that, whilst they value and protect their separation and independence, the workforce of the CAC and Acas share a degree of comparable skills and knowledge. Through corporate support channels, the CAC has access to the Acas learning and development offer. For this and reasons of location proximity there have been a number of secondments between CAC and Acas in both the short and longer terms. Historically there has been less scope for movement between CAC and BEIS or other organisations with similar areas of focus or qualified workforce.

Succession planning and resilience could be a risk for an organisation of this size and there is commendable evidence of it being given real consideration. The leadership team demonstrate a commitment to succession planning and an example of this is the recent introduction of assistant case managers. Assistant case managers support the lead case manager and the administration life cycle of the case.

The organisation has recently planned for the retirement of the longstanding CEO in March 2016. The current CEO has been in post since April 2016. A new Chair has been recruited through the BEIS public appointments procedure and took up post on 1st December 2017. The review heard evidence of transition planning that took place when the current CEO was appointed, and employees, members and stakeholders alike were assured from this that the more recent change of Chair would also be well-supported.

Although the CAC is operationally distinct from Acas, it has always secured separate Investors in People (IiP) status. The CAC obtained Investors in People Silver Accreditation in March 2017 for the next three years. This acknowledged the value the CAC places on learning and development as well as an indication of its progress in the last three years. The accreditation feedback 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 staff changes.

The CAC is committed to learning and development, and has reaped the benefits of this at both individual and collective levels. The review encourages the CAC to consider how further benefits might be achieved by widening opportunities to include closer working with BEIS on learning and development.

**Recommendation 2:** The BEIS Policy Champion to strengthen the affinity between CAC and BEIS policy areas with case-work systems and process through; job-shadowing; sharing resources; and learning and development forums.

**Milestone:** September 2018

## Corporate governance

The Tailored Review assessed the CAC's adherence to principles of good corporate governance. It examined how the CAC is held to account for delivery of its objectives and against the requirements of any arm's-length body, as well as the governance of decision-making.

BEIS does not fund the CAC directly. It funds Acas which in turn provides an annual budget to the CAC. As set out in their legislation (Trade Union and Labour Relations (Consolidation) Act 1992), the CAC's accommodation, IT and staff are provided by Acas.

There is no Framework Document between the CAC and BEIS. Instead, there is a Memorandum of Understanding (MoU) between the CAC and Acas. The MoU covers the statutory relationship of corporate support and associated roles and responsibilities for the two organisations. The Acas CEO who, as Accounting Officer, is responsible for the resources required by and committed to the CAC, and will consult the CAC CEO where necessary to resolve disputes about adherence to the MoU.

The CAC is responsible for determining the most effective means of delivery of its core business functions, statutory duties and compliance with public sector management and administration policies. It does this by operating within the framework of Acas policies and systems for the planning, allocation and management of resources, covering finance, human resources, training and development, IT services, accommodation, health and safety and security.

The CAC is accountable also to BEIS ministers and Parliament for the work that it does. The CAC provides BEIS with a monthly report on its activity, showing its current caseload. It also publishes an annual report and this, together with Acas' annual report, provides comprehensive information on the CAC's purpose, governance and funding.

During the course of the review, we heard evidence of an effective working relationship between the CAC and BEIS. Some specific points to note are:

- It is clear that in recent years a delay in appointing members (through the BEIS-led public appointments process) has put some strain on the relationship. There is clear commitment from BEIS to reset this relationship, but decisions are always dependent on the timings of the approvals process.
- The reliance on Acas for support services has limitations given some of CAC's specialised needs.
- The relationship between the CAC, Acas and BEIS could be clearer, in terms of accountability and reporting lines. This relationship should also be documented in the CAC's revised MoU. The review noted that there was no overarching document that describes the relationship between the CAC and BEIS. Typically, a framework document is used to describe this relationship, clarifying roles and responsibilities, defining processes for escalating and resolving disagreements between the main parties.

**Recommendation 3:** BEIS to discuss with the CAC and Acas how a framework document or equivalent provides clarity on; accountability lines; roles and responsibilities; and how to escalate and resolve issues.

**Milestone:** June 2018.

An assessment of corporate governance is given on page 21.

## Corporate governance reform

The government set out plans to raise standards of corporate governance across the business community in its response to its Green Paper on Corporate Governance Reform, published in August.

Key measures include improving shareholder scrutiny of executive pay, strengthening the employee voice in board-rooms, and building confidence in the way large private companies are run. The government intends to deliver this through a mix of changes to the non-legislative UK Corporate Governance Code, business-led action and regulation where necessary.

While these reforms do not directly require such action to be taken by public bodies or government departments, BEIS will consider the role it should play in working with both government departments and its partner organisations to ensure similar standards are maintained, including the benefits of adopting the voluntary corporate governance principles.

## Risks

There is a proportionate approach to risk management by the CAC. Risks are captured and monitored using the Acas process. Given the corporate and operational support Acas provides and the size of the CAC this is logical. Whilst the CAC does not produce its own risk register it completes an annual statement on Governance, Risk Management and Internal Control. This statement also highlights any risks the CAC poses to ACAS. In addition, the CAC would raise any issues and concerns with Acas as and when necessary. Risks in relation to the delivery of operational objectives are updated throughout the year.

BEIS has a good understanding of the risks to the CAC, as there is frequent contact between the CAC CEO and Chair, and the BEIS sponsorship team. The CAC CEO and Chair escalate issues and concerns to the sponsorship team and these are addressed, where necessary.

An annual assessment of the risks to the CAC is set out in the CAC annual risk statement as part of the Operational Plan. BEIS' risk committee has sight of this statement. The annual assessment sets out the risks to the CAC, mitigating actions, and the CAC's performance. In view of the low risk that the CAC poses to BEIS, the frequency of reporting on the CAC's risks (e.g. on an annual basis) is deemed adequate.

## Effectiveness of control environment and decision-making

The review team identified that the decision-making within CAC is inclusive. For example, the leadership team involve case managers in operational planning and this brings cohesion and ownership of corporate goals. For an organisation of this size there is a risk of 'group think'. The review found that this is something the CAC actively looks to minimise. The CAC senior management team consult with the wider team but final decisions are with the SMT. Interviews with stakeholders, members and employees did not raise undue concerns in this area.

In terms of internal audit assessments, the CAC completes a Compliance Review four times a year for ACAS to ensure that financial propriety and regulatory checks are met. The review covers all aspects of finance, staffing, health and safety, security and procurement.

As far as ensuring standards are met in panel decisions on cases, the Chair reviews every decision in each case. Case Managers also ensure the CEO and Operations Manager are kept up to date on the progress of each case to ensure standards and consistency is met.

In terms of case documentation, all case decisions and cases are kept for reference with key decisions put on the Knowledge Bank. Any documentation with confidential information is destroyed once a case moves past the appropriate stage, for example, membership and support material at the acceptance stage. This is monitored regularly by the Assistant Case Managers and Operations Manager.

Knowledge-sharing continues to be a priority and arrangements are now to be much more structured. In addition to the opportunities available at the monthly team meetings, and the Deputies and Members Meetings, the CAC secretariat's resources have been ordered electronically in an accessible fashion and Committee Members have access to a knowledge bank by way of a secure, dedicated web site. The arrangements are regularly reviewed and updated by the secretariat. Case file management guidelines are reviewed regularly and updated as required.

# Central Arbitration Committee: Tailored Review 2017 - Terms of Reference

The Central Arbitration Committee is one of BEIS' Non-Departmental Public Bodies.

The role of the Central Arbitration Committee is to promote fair and efficient arrangements in the workplace, by resolving collective disputes either by voluntary agreement or, if necessary, through adjudication. The areas of dispute it deals with are:

- i. Statutory applications for Trade Union Recognition and De-recognition;
- ii. Applications under the Information and Consultation Regulations;
- iii. Statutory applications for Disclosure of Information for collective bargaining;
- iv. Disputes over the constitution and operation of European Works Councils;
- v. Applications under legislation relating to European Companies, European Cooperative Societies and Cross Border Mergers.

In addition, the Central Arbitration Committee and its predecessors have historically provided voluntary arbitration in collective disputes.

## Previous reviews

The Central Arbitration Committee has not undergone a previous Triennial Review.

## Review priorities

This Tailored Review will be conducted in line with Cabinet Office principles and as a light touch review being proportionate, timely, challenging, inclusive, transparent and providing value for money. Considering these principles, the Central Arbitration Committee review will have specific emphasis on:

- **Efficiency:** Both reporting on measures already in progress, and recommending other opportunities for efficiencies as appropriate. More detail on Efficiency is given at Annex 1, below.
- **Governance:** Good corporate governance is central to the effective operation of organisations. The review will cover the governance arrangements for Central Arbitration Committee. The controls, processes and safeguards in place will be assessed against the relevant principles and policies set out in the code of good corporate governance which reflects best practice in the public and private sectors. This will include review of the lines of accountability, performance of the governance structures and key roles within them, approach to financial management, and associated controls and/or oversight and the associated links between Central Arbitration Committee and BEIS.

To ensure a holistic approach, the review team will also consider the remaining principles of the tailored review principles. These are:

- **Devolution:** Understanding the remit and reach of the body, dependencies and stakeholders within each of the devolved territories as well as within England, should be a fundamental part of scoping the review.
- **The UK leaving the EU:** It is appropriate to consider the extent to which the Central Arbitration Committee's functions are delivered in an environment currently directly affected by EU regulations or processes. Understanding how the body intends to respond to the UK leaving the EU should then be considered as part of the review where possible.
- **Status:** Assessing the continuing requirement for the functions performed and the current form of the Central Arbitration Committee, and determining appropriate status, form and function. Including the Cabinet Office "three tests":
  1. Is this a technical function (which needs external expertise to deliver)?
  2. Is this a function which needs to be, and be seen to be, delivered with absolute political impartiality (such as certain regulatory or funding functions)?
  3. Is this a function which needs to be delivered independently of ministers to establish facts and/ or figures with integrity?

The review will conclude by producing a clear and concise report that will describe the areas probed by the review, the evidence referred to during the course of the review, and also any recommendations. A final report will be published on GOV.UK.

## Approach and methodology

The review is conducted on behalf of the Secretary of State. A small, dedicated review team will be the day-to-day contacts for the Central Arbitration Committee and will produce the final report. The review team will be led by an individual independent of the body and sponsor function, and will include members with relevant expertise and knowledge of the specific areas being considered under the review; for example finance/Management of Public Money (MPM); corporate governance, etc.

The review team will be:

- Lead Reviewer - Stewart Gott, BEIS Partnerships Team
- Reviewer - Anurag Kher, BEIS Partnerships Team
- Reviewer - Sue Gilchrist, BEIS Partnerships Team

The approach will be participative and inclusive. Although Cabinet Office guidance does not allow organisations being reviewed, or their sponsors, to be members of the review team itself, they will be closely involved as the review progresses:

- The review team will agree Terms of Reference with the CEO of The Central Arbitration Committee, James Jacob, and its departmental sponsor team – Claire Vince and Laurence Evans.
- The review will begin with a meeting, involving James Jacob, Maverlie Tavares (CAC Operations Manager) and its sponsors, to agree the approach and agree timings;

- Following this the review team will work with the Central Arbitration Committee to set up interviews and ensure it understands the evidence base;
- The approach will be iterative and the review team will share emerging findings and recommendations with The Central Arbitration Committee and its sponsors throughout;
- Interim and final reports will be produced in draft and then finalised following discussion with the Central Arbitration Committee and sponsors.

The team will be supported by a Tailored Review programme governance structure within BEIS to ensure consistency and transparency throughout the process (Annex 2, below). As a Cabinet Office defined Tier 3 Review the Central Arbitration Committee Review final report will be cleared through Jaee Samant (as the relevant BEIS Director General) and the Permanent Secretary. It may also be subject to scrutiny from Cabinet Office Public Bodies Reform Team (as part of a random sampling of reports).

The end-to-end review is anticipated to last up to 8 weeks between June-August 2017 (from confirming the review scope to the report being completed).

Acknowledging that the review will conclude in the summer, some additional time may be required for onwards liaison with Cabinet Office and final approvals ahead of report publication.



## Annex 1 - Efficiencies

In assessing the potential for Efficiencies the Review will principally consider three types of potential benefits:

**Type A – Cash releasing or cash generative benefits:** (e.g. an increase in charging or better debt recovery). These benefits should be reflected in immediate cashable savings.

For example –

- More efficient use of estates
- More efficient and flexible procurement and commercial contracts
- Improved income generation or return on capital employed

**Type B – Efficiencies or improvements in outcomes:** (greater use of shared services, release of resources to front-line activity). These benefits should result in increased productivity/other improved performance outcomes of which some will be cashable in the short-medium term.

For example –

- Improved performance outcomes – better operational processes resulting in more for less.
- Greater efficiency in support functions and/or increased use of shared services.
- Clearer or more clearly stated organisational purpose, resulting on better focus on key areas.

**Type C – Wider benefits:** (such as improved governance, transparency, accountability, or staff engagement). These benefits may not result in cashable savings immediately, but some may yield or prompt cashable savings in the medium term.

For example –

- Stronger internal controls/governance; Better risk management processes
- Improvements in staff morale and engagement
- Increased customer satisfaction

In making these assessments the Review will consider (for example) how Central Arbitration Committee:

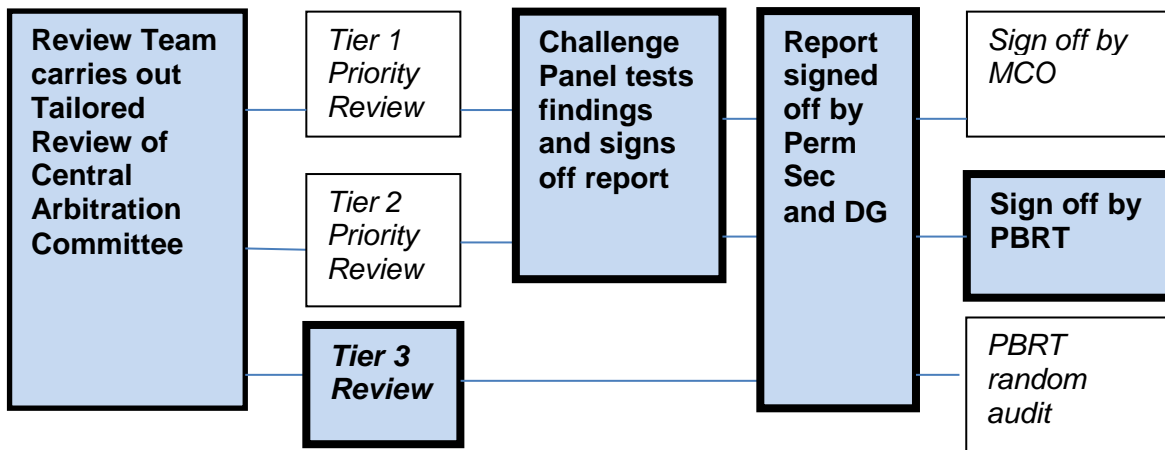
- Delivers of its current functions and responsibilities
- Prioritises and makes decisions
- Innovates and plans for the future
- Communicates internally and externally
- Manages its reputation and promotes its work
- Works with BEIS, and with other bodies
- Generates income and develops its commercial capability
- Uses digital services and technologies

## Annex 2 – BEIS Tailored Review Programme Governance

Tailored Reviews are designed to be proportionate and capable of being delivered at pace. The Cabinet Office has set a “Three Tier” approach to Reviews. The Tier to which an Organisation has been allocated will to an extent determine the conduct and the Governance of the Review.

Based on Cabinet Office criteria, including spend, size and length of time since last Triennial Review Central Arbitration Committee has been designated as a **Tier 3 Review**.

**Figure i - Governance of Central Arbitration Committee Tailored Review**



Once agreed by the Challenge Panel, the final report will be cleared by DG and the Permanent Secretary. It will then be signed off by the Public Bodies Reform Team (PBRT) in Cabinet Office.

# List of interviewees

## **Central Arbitration Committee Senior Management Team**

- Sir Michael Burton, Chair
- James Jacob, Chief Executive Officer
- Maverlie Tavares, Operations Manager
- Lynette Harris, Deputy Chair
- Prof. Linda Dickens, Deputy Chair

## **Central Arbitration Committee employees**

- Nigel Cookson, Case Manager
- Sharmin Khan, Case Manager

## **Central Arbitration Committee Members**

- Simon Faiers, Committee Employer Member
- David Coats, Committee Worker Member

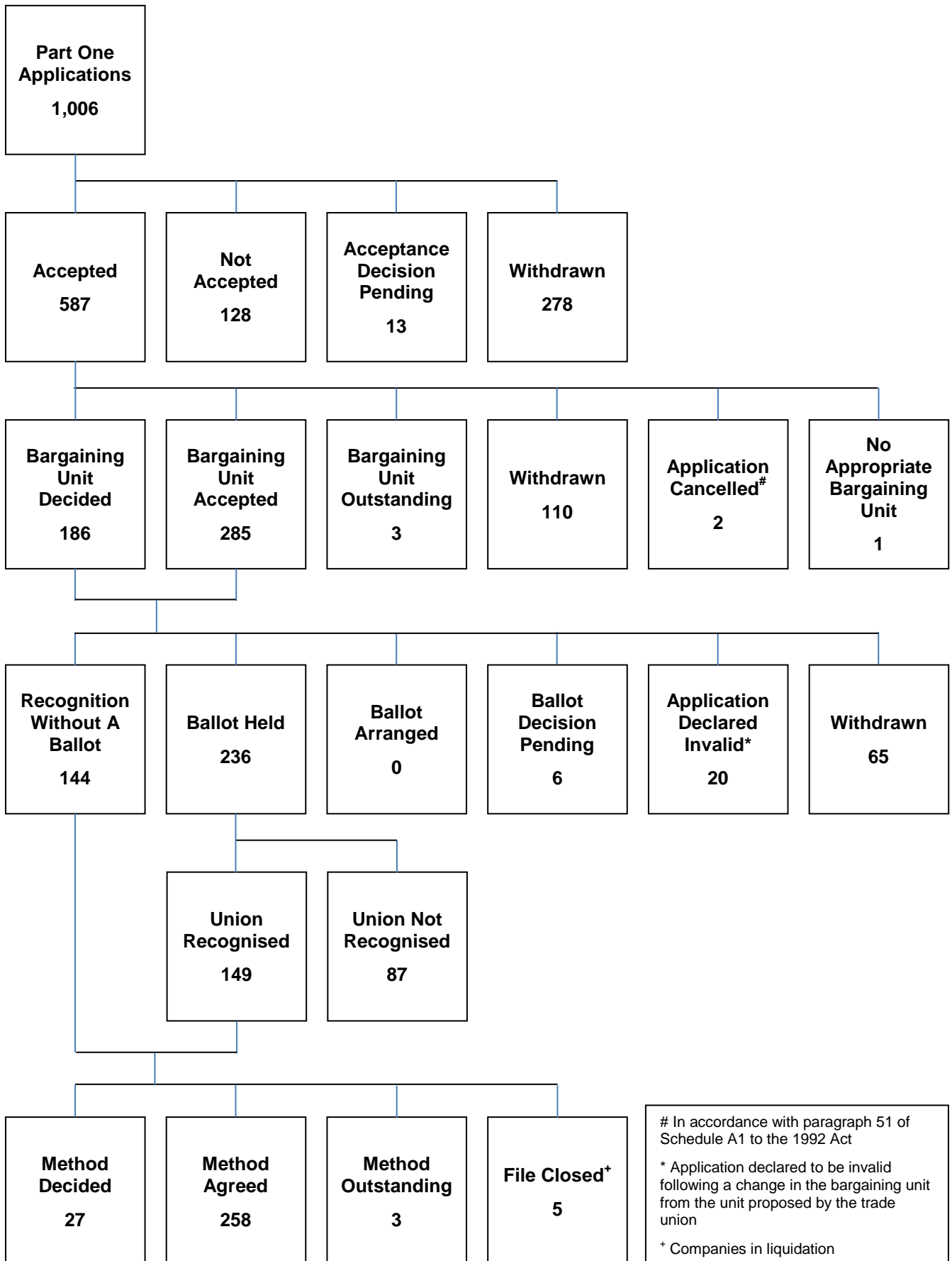
## **BEIS Sponsorship Team**

- Claire Vince, Deputy Director
- Laurence Evans, Policy Advisor

## **Customers**

- Neil Carberry, Confederation of British Industry
- Hannah Reed, Trades Union Congress

# Progress chart of applications for recognition



# Principles of corporate governance - assessment

Principles of corporate governance	Assessment	Explain
<b>Accountability</b>		
<b>Statutory Accountability:</b> The public body complies with all statutory and administrative requirements on the use of public funds (inc HMT Managing Public Money, and CO/HMT spending controls)	Compliant	BEIS does not fund the CAC directly. BEIS funds Acas who in turn provides a budget to the CAC. The Acas CEO acts as Accounting Officer and is responsible for the resources required by and committed to the CAC. The CAC provides BEIS with a monthly report on their activity. It also publishes an annual report and this, together with the Acas annual report, provides comprehensive information on CAC's purpose, governance and funding.
The public body operates within the limits of its statutory authority and in accordance with delegated authorities agreed with BEIS	Compliant	The statutory authority exists via the Act governing the CAC. Although there is therefore no Framework Document between the CAC and BEIS, there is, instead a Memorandum of Understanding (MoU) between the CAC and Acas.  The Memorandum of Understanding (MOU) between CAC and ACAS covers the statutory relationship and responsibilities between the two organisations. The funding route coming directly from Acas negates the need for BEIS to issue delegations directly to the CAC.
The public body operates in line with statutory requirements for the Freedom of Information Act (Fol)	Compliant	The CAC remains ready to honour its responsibilities under the Freedom of Information Act and, in the past year (2016-17), received ten requests under that provision. All were answered within the prescribed timescale.
The public body has a comprehensive publication scheme	Compliant	The CAC is committed to openness of information on its activities. The website provides a wide range of information and they update it regularly. The CAC continue to publish all of their 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.
The public body proactively releases information that is of legitimate public interest	Compliant	The CAC maintains 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 via the CAC page on GOV.UK.
The public body Produces Annual Reports and Accounts which are laid before Parliament	Compliant	The organisation's Annual Reports and Accounts are published on GOV.UK and laid before Parliament every year.
The public body applies with data protection legislation	Compliant	The organisation has an internal Data Protection procedure and public information charter.

Principles of corporate governance	Assessment	Explain
The public body complies with Public Records Acts 1958 and 1967	Compliant	The body does not have a Records Officer but SMT complies with record retention policies in consultation with Acas. The National Archives has the old CAC website with all records to 2014 as a result of the new website on GOV.UK which holds all records to the present.
<b>Accountability for public money:</b> there is a formally designated Accounting Officer (AO) who in particular has a responsibility to provide evidence-based assurances required by the Principal Accounting Officer (PAO)	Compliant	The Acas CEO acts as Accounting Officer and is responsible for the resources required by and committed to the CAC.
The role, responsibilities and accountability of the AO should be clearly defined and understood and the AO should have received appropriate training.	Compliant	The Acas Accounting Officer is responsible for the resourcing not just for Acas, but also for the CAC. Acas' annual report and accounts sets out the CAC expenditure and performance, as does the CAC's annual report to Parliament.
The public body should be compliant with requirements set out in Managing Public Money, relevant Dear Accounting Officer letters and other directions.	Compliant	The CAC follows the principles of Managing Public Money.
<p>The public body should establish appropriate arrangements to ensure that public funds:</p> <ul style="list-style-type: none"> <li>• are properly safeguarded;</li> <li>• are used economically, efficiently and effectively;</li> <li>• are used in accordance with the statutory or other authorities that govern their use;</li> <li>• deliver value for money for the Exchequer as a whole;</li> <li>• are subject to Treasury approval, either directly or through established delegated authority</li> </ul>	Compliant	
The annual accounts are laid before Parliament after certification by the Comptroller and Auditor General.	Compliant	Acas' annual report and accounts sets out CAC's expenditure and performance, as does the CAC annual report to Parliament.

Principles of corporate governance	Assessment	Explain
<b>Ministerial Accountability:</b> The Secretary of State (SoS) and Sponsor should exercise appropriate scrutiny and oversight of the public body.	Compliant	The CAC is also accountable to BEIS ministers and Parliament for the work that it does. BEIS has good oversight on the CAC activities and risks.
Appointments to the committee should be made in line with any statutory requirements and, where appropriate, with the <i>Code of Practice</i> issued by OCPA.	Compliant	Appointments to the Committee are made by the Secretary of State, following the OCPA code. April 2017 was the most recent Committee appointment.
The Secretary of State will normally appoint the Chair and all non-executive committee members of the public body and be able to remove individuals whose performance or conduct is unsatisfactory.	Compliant	The SoS appoints the Chair, Deputy-Chair and all members.
The Secretary of State should be consulted on the appointment of the Chief Executive and will normally approve the terms and conditions of employment.	Compliant	Acas is usually responsible for the appointment of the CEO. BEIS are consulted and approve the terms and conditions of appointment.
The Secretary of State should meet the Chair and/or Chief Executive on a regular basis.	Part-compliant	The Secretary of State has yet to meet with the CAC, but it is hoped this will take place. However there is a good working relationship between the BEIS sponsor Team and the CAC.
Parliament should be informed of the activities of the public body through publication of an annual report.	Compliant	The Annual Report and Accounts is laid before Parliament each year.
A range of appropriate controls and safeguards should be in place to ensure that the Secretary of State is consulted on key issues and can be properly held to account (e.g. Business Plan, power to require information, a general or specific power of ministerial direction over the public body, a power for the Secretary of State to be consulted on key financial decisions.)	Compliant	The CAC Operational Plan is shared with BEIS, for information.

Principles of corporate governance	Assessment	Explain
<b>Roles and Responsibilities</b>		
<p><b>Role of the Sponsoring Group:</b> The Group should scrutinise the performance of the public body. There should be appropriate systems and processes to ensure effective governance, risk management and internal control in the public body.</p>	Compliant	<p>BEIS' risk committee has sight of the CAC's annual assurance risk statement. The annual assessment sets out the risks to the CAC, mitigation actions, and the CAC's performance.</p>
<p>There should be a Framework Document in place which sets out clearly the aims, objectives and functions of the public body and the respective roles and responsibilities of the Secretary of State, the Sponsoring Group and the public body. It should be regularly reviewed and updated and follow relevant CO and HMT guidance. The Framework document should include a Financial Memorandum as an appendix.</p>	Part-compliant	<p>In view of the CAC's independence from BEIS and the arms-length relationship as set out in our trade union legislation, there is no Framework Document between the CAC and BEIS. Instead, there is a Memorandum of Understanding between the CAC and Acas, who are responsible for the CAC's funding. This MoU will need to be reviewed and updated over the next 12 months.</p>
<p>A Sponsor should be identified and there should be regular and on-going dialogue between the Sponsoring Group and the public body. Senior officials from the Sponsoring Group may as appropriate attend committee and/or committee meetings.</p>	Compliant	<p>The BEIS Sponsor Team are well-known to the CAC and have a good working relationship.</p>
<p><b>Role of the Committee:</b> The Committee of the public body should meet regularly, retain effective control over the body, and monitor the SMT, holding the CEO accountable for the performance and management of the public body.</p>	Compliant	<p>This is carried out by Acas.</p>



Principles of corporate governance	Assessment	Explain
The committee of the public body should be appropriate in size with membership from a diverse background.	Compliant	The 2016-17 Annual Report states that the CAC is committed to develop a CAC secretariat with the skills, knowledge and experience to meet operational objectives, valuing diversity and maintaining future capability. 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, the CAC ensures that its policies and practices do not discriminate against any individual or group and, in particular, that it communicates 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).
The Committee of the public body should establish a framework of strategic control specifying what matters are reserved for the board and establish arrangements to ensure it has access to relevant information, advice and recourses to carry out its role effectively.	Compliant	The deputies meet twice a year to discuss case policy and the AGM takes place every two years for deputies and members. The CEO and Chairman consult with the deputies as necessary on policy.
The Committee of the public body should establish formal procedural and financial regulations to govern the conduct of its business.	Compliant	The CAC operates within the framework of Acas policies and systems for the planning, allocation and management of resources, covering finance HR, training & development, IT, estates, Health& Safety and Security.
The Committee of the public body should make a senior executive responsible for ensuring appropriate advice is given on financial matters, procedures are followed, and that all applicable statutes and regulations and other relevant statements of best practice are complied with.	Compliant	The CAC CEO has overall responsibility for CAC Finance and reports/liases with Acas Finance Team who CAC apply to for the budget. Acas also ensure correct finance procedures are being followed.
The Committee of the public body should establish a remuneration committee to make recommendations on the remuneration of top executives. Information on senior salaries should be published. The committee should ensure that rules for recruitment and management of staff provide for appointment and advancement on merit.	Compliant	The CAC is still subject to Public Sector Pay Remit controls and has its senior salaries set by the ACAS Review Body on Senior Salaries

Principles of corporate governance	Assessment	Explain
The Committee of the public body should evaluate annually, including an evaluation of the chair and committee members.	Part-compliant	Although the Chair regularly met with the Chair of Acas, the CAC should use this review to re-establish a more formal assessment of the Chair and all members, in future.
<b>Role of the Chair:</b> The Committee should be led by a non-executive Chair, whose duties, roles and responsibilities, terms of office and remuneration should be set out clearly and formally defined in writing. Terms and conditions must be in line with CO guidance and any statutory requirement.	Compliant	This is stated by the appointment letter and associated terms and conditions.
There should be a formal, rigorous and transparent process for the appointment of the Chair, which is compliant with the Code of Practice issued by OCPA. The Chair should have a role in the appointment of non-executives.	Compliant	The appointment of Chair is made by the SoS of BEIS under the code of practice issues by OCPA.
<p>The responsibilities of the Chair can include:</p> <ul style="list-style-type: none"> <li>• representing the public body in discussions with the Secretary of State.</li> <li>• advising the Sponsor Group/the Secretary of State about committee appointments and performance of non-executive members.</li> <li>• ensuring non-executives understand their responsibilities; are trained appropriately and undergo annual assessments.</li> <li>• ensure the committee takes account of guidance provided by the Secretary of State; carries out its business efficiently and effectively, has its views represented to the public.</li> <li>• develops effective working relationships with the CEO (role of Chair and CEO must be held by different individuals.)</li> </ul>	Compliant	The roles and responsibilities are set out in the legislation.

Principles of corporate governance	Assessment	Explain
<ul style="list-style-type: none"> <li>subject to an annual appraisal by the Permanent Secretary or relevant Director General.</li> <li>appraises other committee members ensuring they are performing to standard, following disciplinary procedures if necessary and ensuring they are committing the appropriate time to the work.</li> </ul>		
<p><b>Role of the Chief Executive Officer (CEO):</b> the public body should be led by a CEO, whose duties, roles and responsibilities, terms of office and remuneration should be set out clearly and formally defined in writing. Terms and conditions must be in line with CO guidance and any statutory requirement.</p>	Compliant	The CEO is appointed by Acas following consultation with BEIS.
<p>There should be a formal, rigorous and transparent process for the appointment of the CEO.</p>	Compliant	The CEO was appointed in April 2016 following an open recruitment process.
<p>The responsibilities of the CEO can include the responsibilities of the Accounting Officer, which involve:</p> <ul style="list-style-type: none"> <li>overall responsibility for the public body's performance, accounting for any disbursements of grant to the public body.</li> <li>establish the public body's corporate and business plans and departmental targets.</li> <li>management of senior staff within the public body ensuring they are meeting objectives and following disciplinary procedures if necessary</li> <li>maintains accounting records that provide the necessary information for the consolidation if applicable.</li> </ul>	Compliant	The CEO is expected to follow the essence of the roles and responsibilities expected by an Accounting Officer.

Principles of corporate governance	Assessment	Explain
<p><b>Role of the Non-Executive Committee Members:</b> Non-executive members should form the majority of the committee.</p>	<i>Not applicable</i>	There are no Non-Executive Directors
<p>Non-executive members should be appointed under a formal, rigorous and transparent process compliant with the code of practice issued by OCPA.</p>	Compliant	All Chair, Deputy-Chair and member appointments are made by the SoS of BEIS under the code of practice issues by OCPA.
<p>Non-executive members should have their duties, roles and responsibilities, terms of office and remuneration set out clearly and formally defined in writing. Their terms and conditions must be in line with CO guidance and any statutory requirement.</p>	Compliant	Any roles and responsibilities are set out in appointment letters and in broader terms in the job descriptions outlined in recruitment campaigns.
<p>Non-executive members should be independent of management.</p>	<i>Not applicable</i>	There are no Non-Executive Directors
<p>Non-executive members should allocate sufficient time to the committee with details of their attendance published.</p>	<i>Not applicable</i>	There are no Non-Executive Directors
<p>Non-executive members should undergo proper induction, and appraisals.</p>	Compliant	In-house training provided by CAC is available for new Members
<p>Non-executive members' responsibilities include:</p> <ul style="list-style-type: none"> <li>• establishing strategic direction of the public body and oversee development and implementation of strategies, plans, priorities and performance/financial targets.</li> <li>• ensuring the public body complies with statutory and administrative requirements on the use of public funds and operates within its statutory and delegated authority.</li> <li>• that high standards of corporate governance are observed.</li> </ul>	Compliant	The duties of Committee members are outlined in the Terms of Reference of the committees they attend, as well as in the legislation.

Principles of corporate governance	Assessment	Explain
<b>Effective Financial Management</b>		
Publish on time an objective, balanced and understandable annual report which complies with Treasury guidance, and includes an Annual Governance Statement.	<i>Not applicable</i>	Not applicable. The CAC feeds into and observes the reporting cycle for Acas.
Comply with NAO requirements relating to the production and certification of their annual accounts.	Compliant	Not applicable for CAC, given the accountability to the Acas Accounting Officer.
Have effective systems of risk management as part of their systems of internal control.	Compliant	The CAC produces an annual assessment of its risk, any mitigation actions and performance. The CAC shares this with BEIS' risk committee.
Ensure an effective internal audit function is established which operates to government Internal Audit Standards in accordance with CO guidance.	Compliant	The Acas Director of Strategy and the CAC CEO meet quarterly for operational updates and exchanges of information, concerns on process in relating to the CAC Strategic Risk Statement and provide support for the CAC performance management process.
Have appropriate financial delegations in place understood by all relevant staff and stakeholders. Effective systems must be in place to ensure compliance with these delegations and the systems are regularly reviewed.	Compliant	The CAC follows Acas Policy on delegated authorities to ensure compliance with financial systems and control. Regular compliance checks are undertaken by Acas.
Have anti-fraud and anti-corruption measures in place, and clear published rules governing claiming of expenses, with systems in place to ensure compliance. Information on expenses claimed by committee members and senior staff should be published.	Compliant	Monthly checks are made on expenditure and expenses claims. Information on CAC expenditure is published in the CAC Annual Report.
Establish an audit (or audit and risk) committee with responsibility for independent review of the systems of internal control and external audit process.	Compliant	The CAC produces a Strategic Risk Statement.

Principles of corporate governance	Assessment	Explain
Take steps to ensure objective and professional relationship is maintained with external auditors.	<i>Not applicable</i>	Not applicable. The relationship is managed via Acas.
Comply with BEIS guidance with regard to any department restrictions on spending.	Compliant	Guidance on controls and restrictions is managed via the BEIS Sponsor Team, as well as relationship with Acas.
Report to Corporate Finance with management accounts and Grant In Aid authorities.	<i>Not applicable</i>	Not applicable.
<b>Communication and Engagement</b>		
The public body should establish clear and effective channels of communication with stakeholders.	Compliant	The CAC Operational Plan states that the CAC will take appropriate and proportionate steps to inform users, stakeholders and other interested parties of the work of the CAC. The CAC website has a dedicated Publication section where CAC decisions on cases can be viewed, as well as information on upcoming hearings.
The public body should make an explicit commitment to openness in all activities. Engage and consult with public on issues of public interest or concern and publish details of senior staff and committee members with contact details.	Compliant	The organisation publishes reports and data in the public interest relating hearings and decisions. This information is available via GOV.UK.
The public body should hold open committee meetings or an annual open meeting.	<i>Not applicable</i>	Not applicable to hold open Committee meetings.
The public body should proactively publish agendas, minutes of committee meetings and performance data.	<i>Not applicable</i>	Not applicable
The public body should establish and publish effective correspondence handling and complaint procedures, and make it simple for members of the public to contact them/make complaints.	Compliant	The CAC website has a published Complaints procedure with contact details.

Principles of corporate governance	Assessment	Explain
Complaints should be investigated thoroughly and be subject to investigation by the Parliamentary Ombudsman. Performance in handling correspondence should be monitored and reported on.		
The public body should comply with any government restrictions on publicity and advertising, with appropriate rules in place to limit use of marketing and PR consultants. Have robust and effective systems in place to ensure the public body is not engaged in political lobbying, includes restriction on committee members attending Party Conferences in a professional capacity.	Compliant	Any such restrictions are applied from Acas, whose CEO remains accountable to BEIS
The public body should engage the Sponsor Group appropriately especially in instances where events may have reputational implications on the department.		The regular meetings with the sponsor team are used to raise any issues that may lead to reputational impact for the organisation or BEIS.
<b>Conduct and Propriety</b>		
A Code of Conduct must be in place setting out the standards of personal and professional behaviour and propriety expected of all committee members which follows the CO Code and form part of the terms and conditions of appointment.	Compliant	CAC follow the HR policies and practices of Acas. The individual letters and terms of appointment specify this and refer to relevant codes and guidelines.
The public body has adopted a Code of Conduct for staff based on the CO model Code and form part of the terms and conditions of employment.	Compliant	CAC follow the HR policies and practices of Acas.
There are clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for committee members and senior staff which is regularly updated.	Compliant	CAC follow the HR policies and practices of Acas.

Principles of corporate governance	Assessment	Explain
There are clear rules and guidelines in place on political activity for committee members and staff with effective systems in place to ensure compliance with any restrictions.	Compliant	These are covered by the Terms and Conditions of Employment.
There are rules in place for committee members and senior staff on the acceptance of appointments or employment after resignation or retirement which are effectively enforced.	Compliant	CAC follow the HR policies and practices of Acas.
Committee members and senior staff should show leadership by conducting themselves in accordance with the highest standards of personal and professional behaviour and in line with the principles set out in respective Codes of Conduct.	Compliant	CAC follow the HR policies and practices of Acas.





© Crown copyright 2018

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk). Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available from: [www.gov.uk/beis](http://www.gov.uk/beis)

Contact us if you have any enquiries about this publication, including requests for alternative formats, at: [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)