

# Central Arbitration Committee

Annual Report  
2017–2018



INVESTORS  
IN PEOPLE

Silver  
Until 2020

This report of the activities of the Central Arbitration Committee (CAC) for the period 1 April 2017 to 31 March 2018 was sent by the Chair of the CAC to the Chair of Acas on 19 June 2018, and was submitted to the Secretary of State for Business, Energy & Industrial Strategy on 20 June 2018.

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# CHAIR'S INTRODUCTION



I am delighted to have been appointed Chair of the Central Arbitration Committee (CAC) from 1st December 2017. Four months into the role now and I am impressed with the great effort the staff make for the efficient running of the CAC on a day to day basis. I greatly recognise and value the contribution of all the Deputy Chairs and Committee Members for their sterling work throughout the year.

I have established, as the new Chair, enhanced relationships with our colleagues at Acas, CBI, TUC and BEIS (the Department for Business Energy Industrial Strategy). Long may our relationships develop and thrive.

## About Myself

I have worked, and qualified in, People Management for the past 40 years. I was employed by Josiah Wedgewood & Sons Ltd, The National Coal Board/British Coal, National Health Service and Central and Devolved Governments.

Since retiring from full time employment I have been a Non-Executive Director with the NHS Pensions Agency, Revenue and Customs Prosecutions Office, Crown Prosecutions Service and The Coal Authority.

Other roles I have held include Independent Panel Chair at the Doctors and Dentists Disciplinary Appeals Panels, Independent Panel Chair at the Judicial Appointments Commission, Panel Member at the Judicial Investigation and Conduct Office and Panel

Chair at the Nursing and Midwifery Council.

Currently, as well as my CAC role, I am Chair of the Independent Appointments Panel at the Bar Standards Board and a member at the Health and Care Professions Council.

## Finally

I would like to thank Sir Michael Burton, my predecessor, who retired at the end of November 2017. Sir Michael served as Chairman for over 17 years since the CAC was established in 2000 in its current format. During that time, he was responsible for the policy, guidance and direction of the organisation. His leadership and support to Deputies, Members and the Secretariat ensured that the CAC responded positively to the interpretation of the legislation resulting in acceptance by Trade Unions and Employers as well as stakeholders. I wish Sir Michael well for the future and I know that he successfully established the CAC and

greatly enhanced its reputation during his tenure in office.

On behalf of the CAC, I am very pleased to present this report of our work in 2017-18.

**Stephen Redmond**  
Chair

# CHAIR'S REVIEW OF THE YEAR



After a gradual increase in cases over the last three years, there has been a small decrease in the number of cases overall to the CAC for 2017-18. The number of applications for trade union recognition reduced from 51 to 35 and, once the other jurisdictions are taken into account, the total across all jurisdictions reduced from 66 to 54. However, 60 cases were completed or withdrawn compared to 54 for last year. In addition there was an increase in recognitions awarded without a ballot and an increase in ballots held against a backdrop of legal challenges to some of our decisions. There were two applications for de-recognition including one application under Part IV and one application under Part VI but no other applications were received under the other parts of the recognition legislation. At the risk of repeating ourselves and what has been 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 18 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. Seven out of 11 ballots supported recognition, which was higher than the historical average for CAC ballots, and we were not required to issue any decisions on a method of bargaining.

It has always been one of the CAC's priorities that we should at least investigate the possibilities of a voluntary agreement, either through our own efforts or by pointing the parties in the direction of Acas. Of the 21 applications withdrawn in 2017-18, 12 of those were because the parties had negotiated an agreement. This is higher than last year's figure of 11 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 11, an increase from seven received last year and there was one CAC decision which is summarised later in the report. In industrial relations terms, it was again welcome to see that of the eight cases closed in 2017-18,

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seven were resolved by way of an agreement between the parties. The European Works Council provided two new cases and the Information and Consultation Regulations provided four new cases in 2017-18.

## Judicial Reviews and Appeals

There has been one judicial review application of a CAC decision in 2017-18 in the case *TUR1/985/2016 IWGB & Rooffoods Ltd*. The Union has applied to the Administrative Court for a review of the decision as the Panel had found that the CAC could not accept the application as the 'riders' in the proposed bargaining unit were not 'workers' within the meaning of s.296 TULR(C)A. The detailed decision was made after a four day hearing with numerous submissions and witness statements by the parties at the hearing. We await a date for the hearing and outcome by the Administrative Court.

The IWGB have also given the CAC notice of their intention to apply for judicial reviews of two further cases, *TUR1/1026/2017 IWGB & Cordant Security Ltd* and *TUR1/1027/2017 IWGB & University of London*. The first case was not accepted as the Panel found that there was already an existing agreement and the second case was not accepted as the Panel found that the University was not the Employer.

There was also an appeal to the Employment Appeal Tribunal (EAT) on an

Information and Consultation (I&C) case, *I&C/54/PCS & Acas*. In this case, the Panel held a preliminary hearing as Acas argued that it was not an undertaking within Regulation 2 of the I&C Regulations. The Panel found that it was covered and that the case could proceed to a full hearing. Acas appealed to the EAT who upheld the CAC decision.

It has been commented on in previous reports on the low number of our decisions that have gone to judicial review or appeal. 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 in the past.

## The Committee and Secretariat

The appointments of two Deputies, Professor Linda Dickens MBE and Professor Lynette Harris came to an end on 31 March 2018. Professor Linda Dickens MBE had been a Deputy with the CAC since 1994 and Professor Lynette Harris, a Deputy since 2002. Both had contributed fully and successfully to the policy and direction of the CAC and had a wealth of experience due to the number of cases they had adjudicated on over the years. Their contribution and support will be missed by all of us.

In addition, the appointments of four CAC Employer Members also came to an end on 31 March 2018. They were Bob Hill, a Member since

2002, Bill Lockie, a Member since 2002, Arthur Lodge, a Member since 2002 and Peter Martin, a Member since 2005.

There were two resignations in the reporting year, Bronwyn Mckenna, a Worker Member since 2002 resigned in March 2018 and Lizzie Firmin, a new Employer Member since July 2016 resigned in May 2017. Both had taken new jobs and were unable to carry on their CAC roles. 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 last recruitment campaign and the subsequent appointments of four Deputy Chairs, eight Employer Members and three new Worker Members as reported in the last annual report, they are now receiving a full range of cases following an induction and work shadowing programme. We have asked BEIS to start the next recruitment campaign for new Deputies and Members and hope that the campaign will have started by the time this report is published.

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 continued to provide an impressively high level of support for the CAC, ensuring that they have a personal and detailed knowledge of the cases they handle, which enables them to give a professional service to employers, unions,

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and to all individuals with enquiries. I appreciate that support all the more because it has continued to be a year of change with settling into a new office, changes to the IT system and a new phone system. In addition, following on from the CAC obtaining Investors in People Silver Accreditation in April 2017, there was further positive recognition of our work in the 'Tailored Review' which was a detailed review of the CAC by BEIS as part of a wider review across departments.

## **Brexit**

It would be remiss of me not to mention Brexit. None of us know what, if any, impact leaving the European Union will have on employers and employees in Great Britain. One thing I can guarantee is that the CAC will be ready, willing and able to assist in any work that comes our way!

**Stephen Redmond**  
Chair



# MEMBERSHIP OF THE CENTRAL ARBITRATION COMMITTEE AT 31 MARCH 2018



## Chair

Stephen Redmond

## Deputy Chairs

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



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## Members with experience as representatives of employers

<b>Len Aspell</b>	Director, HSBC Bank Pension Trust (UK) Ltd, Formerly Group Head of Employee Relations, HSBC Group
<b>David Bower</b>	HR Consultant & Former Group Personnel Director, Rover Group Ltd
<b>Mary Canavan</b>	Director of Business Support, Shepherds Bush Housing Group
<b>Mike Cann</b>	Former National Negotiator, Employers' Organisation for Local Government
<b>Nicholas Caton</b>	Former Vice President, Human Resources, Ford of Europe, Ford Motor Company
<b>Maureen Chambers</b>	HR Consultant
<b>David Crowe</b>	Human Resources Consultant
<b>Derek Devereux</b>	HR Coach and Mentor, Former HR Director of Constellation Europe and Matthew Clark
<b>Simon Faiers</b>	Director, Energypeople Former Head of Human Resources, Eastern Group plc
<b>Rod Hastie</b>	Human Resources & Copyright Consultant
<b>Robert Hill</b>	Former Executive Director of Personnel, Ford Motor Company
<b>Susan Jordan</b>	VP Human Resources
<b>Tom Keeney</b>	Employee Relations Director, BT Group
<b>Bill Lockie</b>	Human Resource Advisor, Former Head of Employee Relations and Compensation, HJ Heinz Co Ltd
<b>Arthur Lodge</b>	Former Human Resources Director, Allied Bakeries Ltd
<b>Rob Lummis</b>	Head of Employee Experiences, Jaguar Land Rover
<b>Peter Martin</b>	Employment Relations Consultant
<b>Alistair Paton</b>	Head of Industrial Relations, Financial Services Industry
<b>Michael Regan</b>	Formerly Senior Vice President of Human Resources, AB Electrolux
<b>Roger Roberts</b>	Employee Relations Consultant, Former Employee Relations Director, Tesco Plc
<b>Maureen Shaw</b>	Former Director of Personnel Services, University of Aberdeen
<b>Michael Shepherd</b>	Human Resource Consultant, Former Sector HR Director, Rexam PLC, Employment Tribunal Member

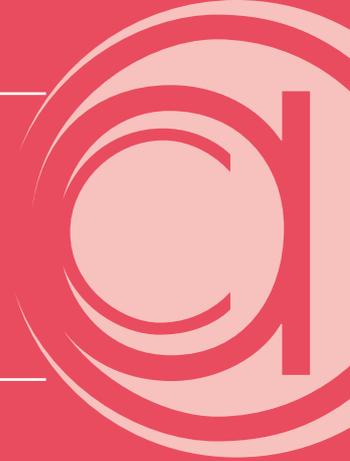
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## Members with experience as representatives of workers

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
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	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
Fiona Wilson	Head of Research and Economics, Usdaw
Malcolm Wing	Former UNISON National Secretary, (Negotiations & Services Groups)



# CHIEF EXECUTIVE'S REPORT



For the first time in four years, I have to report a small fall in the workload although, as history shows, the level of applications to the CAC has been subject to a degree of volatility.

## Performance

However, I am satisfied that we have been able to maintain our performance and as the Chair recorded we were able to clear more actual cases over the year despite the fall in case receipts. The work undertaken was handled by our existing staff complement and without any significant increase in expenditure.

We continue to monitor our own performance by way of a users' survey; all the parties to our cases, 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 2017-18, 100% 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. In addition 100% of respondents said that the

way their case was handled encouraged them to consider a voluntary agreement; this represents an increase on the previous year's figure of 88%. 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 2017-18 the average was 24 weeks compared with last year's figure of 19 weeks. Within this average, the figure for a case involving a ballot was 33 weeks, compared with 23 last year, and for a case in which there was a declaration of recognition without a ballot, the figure was 12 weeks, which is lower than the figure of 14 weeks for last year. These are minor changes apart from the average number of weeks for ballots which was higher due to one case, TUR1/953/2016 GMB & Lidl Ltd, where the ballot was delayed due to appeals

by the Employer to both the Administrative Court and Court of Appeal over the CAC bargaining unit decision which was upheld by both courts and proceeded to ballot.

We have long held the view that members of staff should be readily available to answer telephone enquiries and during the year we received a big increase of 219 enquiries, compared with 152 last year, relating to all our jurisdictions but primarily trade union recognition. We also answered 83 written or e-mail enquiries, which was higher than the figure of 40 for last 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 web site on the gov.uk platform, has been in operation for just under 4 years 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, 94% of respondents said that they found the usefulness of the site satisfactory or better with 6% of respondents not using the site. This is a big improvement on last year where 19% of respondents did not use the site. However we will continue 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 2017-18, with further changes taken throughout the 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. This is currently being

upgraded to a new internal website by a small team within the CAC which will ensure that a lot more information is held in one place. I am particularly grateful for the project team in the CAC for undertaking the work in the last year.

## Stakeholders

We have continued to keep in touch with major stakeholders, such as BEIS 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 13 requests under that provision. All were answered within the prescribed timescale apart from one where Acas had already answered on our behalf.

## Administration and accountability

### CAC Costs

CAC expenditure in 2017-18 was higher than in 2016-17. Although the number of applications decreased, as





already mentioned we cleared more cases and undertook additional work including moving office, adapting to new IT systems and developing the new internal website. One member of the team returned from a career break in the last 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' 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 last Annual

Report, we obtained Investors in People Silver Accreditation in March 2017 for the next three years. A yearly review was undertaken by the IIP Assessor in January 2018 with positive feedback. In addition, the 'Tailored Review' undertaken by BEIS also acknowledged the positive work undertaken in the CAC and acknowledged the collaborative team work between the Secretariat and Committee Members. The report also highlighted the good working relationship with Acas, BEIS and stakeholders. This was a positive outcome as there had been many changes throughout the year alongside challenging cases.

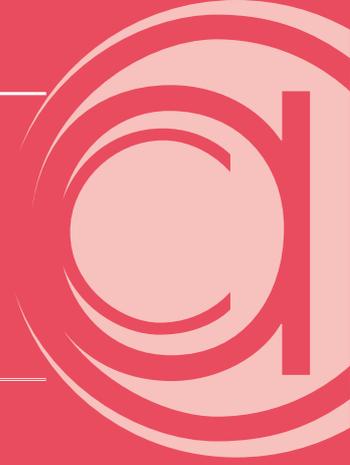
## Equality

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' published equality objectives. Those documents are available on the Acas website ([acas.org.uk](https://www.acas.org.uk)).

**James Jacob**  
Chief Executive

# THE CAC'S CASELOAD IN 2017-18



## Trade Union Recognition

In the year ending 31 March 2018, the CAC received 35 applications for trade union recognition under Part I of the Schedule<sup>1</sup>. This compares with 51 in the previous year and 48 two years ago. There was one application under Part IV and one application under Part VI with no applications under Parts II, III, V or VII of the Schedule.

From the CAC's perspective, there are no obvious reasons for the decrease 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 48%; this compares with last year's figure of 53% and 2014-15's figure of 50%. Overall, the employer size ranged from 41 workers to over 17,000, the latter figure being attributable to a construction company. 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 103 workers, a decrease on last year's figure of 114 but slightly higher than the 2015-16 figure of 100 but still short of the 2014-15 figure of 158. The average size of bargaining units has also always been volatile, in the past year ranging from 5 to

477 workers. The proportion of applications involving a bargaining unit of 100 workers or fewer was 74%, a slight increase from 71% for both 2016-17 and 2015-16. In the broadest possible terms, there is it could perhaps be said that the CAC for the last three 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 38% of the applications compared with 31% in 2016-17 with the majority of cases received from a wider range of sectors. Applications were received from 13 different trade unions compared with 11 in the previous year.

In 2017-18, 30 applications were subject to a decision as to whether they should be accepted, the first stage in the

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

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statutory process, and, of those, 26 were accepted and four were not. The proportion of applications accepted, at 87%, was higher than the historical average of 82%. In terms of the four cases not accepted, in one case, the Panel found that the proposed bargaining unit were not 'workers' within the meaning of s.296 TULR(C)A. In a further two cases, the reason for non-acceptance was that there was already an existing agreement in one and the other was deemed not to be the Employer. In the fourth case, the application was not accepted as there was insufficient evidence to show that a majority of workers in the bargaining unit would be likely to favour recognition of the union. There were 12 applications withdrawn at this stage, four for the reason that the parties had reached a voluntary recognition agreement. Two withdrawn applications were later resubmitted as the company name was wrong on one while the other was premature. Two applications were withdrawn due to existing agreements being in place while two applications were withdrawn as the bargaining unit descriptions in the request letters differed from the application forms. There was also one withdrawal as the application was not received by the Employer while the final withdrawn case was due to a change in Employer.

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 2017-18, 15 agreements and five decisions. That maintained the cumulative position that, from the inception of the statutory process in 2000 to 31 March 2018, some 61% of bargaining units had been agreed by the parties. Eight applications were withdrawn at this stage as they had all reached voluntary agreements. Additionally, there was one further withdrawal at the ballot stage as a voluntary agreement was also reached.

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 nine decisions, in 2017-18, 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 188 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 153 (81.3%) of those cases.

There were 11 ballots held, seven resulting in recognition and four not. The number of ballots resulting in recognition was noticeably higher (77%) than the historical average of 63% and the average participation rate in a CAC commissioned ballot increased to 72% from 71% last year.

The CAC was called upon to adjudicate on two complaints by both a Union and an Employer in the same ballot that each had used unfair practices during the balloting period. As a result, the ballot result is on hold while the CAC investigate and the decision will carry forward to the next reporting year. 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 2017-18 were 14 agreements (94%) which was slightly higher than the historical average of 90% at this stage. There were no decisions at this stage of the process.

There were two applications for de-recognition, one under Part IV (where recognition was achieved following a ballot) and one under Part VI (where the union is not independent) and no new applications under Parts II, III, V and VII of the Schedule. Both these cases are live. There was one Part III case carried forward from last year which was closed and the decision is reported below. There were no applications under Parts II to VI carried forward from 2015-16.

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## TUR3/4 (2017) Honda of the UK Manufacturing Ltd & Unite the Union

The CAC received an application under Part III of the Schedule (changes in the organisation that affect the bargaining unit) from Honda of the UK Manufacturing Ltd, submitted through its representative, to determine whether the original bargaining unit was no longer appropriate and, if so, what would constitute an appropriate bargaining unit. The original bargaining unit comprised of the General Associates, Lead Associates, Team Leaders and Co-ordinators (C1 and C2) employed in all factories on the company's site at South Marston.

The parties were in agreement that the original bargaining unit was no longer appropriate and pursuant to paragraph 69(1) (b) the parties had agreed a bargaining unit that differed from the original unit (the new bargaining unit) and informed the CAC of their agreement.

The Panel agreed that paragraph 69(2) did not apply and by paragraph 69(3) the CAC issued a declaration that the Union be recognised as entitled to conduct collective bargaining on behalf of the new bargaining unit of all General Associates, Lead Associates and Team Leaders, employed on the Company's site at South Marston, Swindon.

## 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 2017-18 was 11, an increase on last year's total of seven. The CAC also continued action on three cases carried forward from the previous year. Eight cases were closed which left six 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. In 2017-18, there were two informal meetings on three cases (two linked cases that are still live) while the third case was closed by 31 March 2018 as an agreement was reached.

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' 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 eight cases closed in 2017-18, seven 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 80 decisions which represents just 11% of complaints submitted to the CAC. In 2017-18 there was one decision as a result of a CAC hearing and is reported below:

## D1/04/2017 Unite the Union & Fujitsu Services Ltd

The Union was recognised by the Employer for a group of around 595 employees in Manchester. On March 7 2017 the Union requested information relating to the whole of the Employer's UK workforce, numbering just under 9,000 workers, which it said was necessary to understand pay inequalities within the Employer. The Employer refused to provide this information, stating that national-level equality data had not been required previously for the parties to conduct collective bargaining and that its absence would not impede negotiations. On April 28 2017 the Union

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complained to the CAC but following submission of that complaint the parties agreed that the CAC would be asked to defer dealing with it until July 2017. On July 13 2017 the parties signed the Manchester Pay and Benefits Agreement (“the Manchester Agreement”). Two items of the Union’s 2017 Pay and Benefits Claim were expressly placed on hold pending resolution of the CAC’s complaint. These were, in summary, a) to work with Unite to investigate and close the 17% gender pay gap and to publish information about it prior to the statutory deadline; and b) to remove a mobility clause from standard contracts unless it could be justified. At a hearing to consider the complaint the Panel decided, as a preliminary issue, that it would have been unable to grant a remedy to the Union had it found in the Union’s favour on the merits without exceeding its statutory powers as set out in *R v CAC ex parte BTP Tioxide Ltd* [1982] IRLR 60, where it was held that the CAC could not prospectively consider what an employer should in future cases disclose. In *Fujitsu* the Union submitted that it would be entitled to revisit the entire Manchester Agreement, including the pay and benefits clauses, if having read and considered the contested information it wished to formulate revised proposals, and that the matter remained a live issue. Having examined the Manchester Agreement the Panel concluded that, on the basis of the evidence before it, the parties did not intend that the Union could seek to reopen the entire Agreement. The Panel

also decided that items a) and b) above, which had been placed on hold, did not fall within the scope of “collective bargaining” on the facts of the case.

The full decision is on the CAC website.

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

The CAC received four fresh complaints and carried forward action on three complaints from the previous year, two brought under Regulation 15 (1) and two brought under Regulation 22 (1). Four complaints were withdrawn which left three live cases at the end of 2017-18. There were no decisions during the year apart from a preliminary decision on a jurisdiction point (Regulation 2) in *I&C/54/ (2016) PCS & Acas*. The decision can be found on the website.

### **Requests under Regulation 7**

The CAC received no requests 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 two new complaints in 2017-18 and two complaints were carried forward from 2016-17. Four complaints were closed in 2017-18 with no outstanding cases carried forward. Of those cases that were closed, two were withdrawn by the Complainants, one as a result of an informal meeting with the CAC. Two were closed by way of CAC decisions, as summarised below.

### **EWC/15/2017 ManpowerGroup**

In this case the Special Negotiating Body and Central Management had reached an agreement under which a European Works Council would be established but the Complainant alleged that the agreement had been reached outside of the timeframe permitted by the Transnational Information and Consultation of Employees (TICE) Regulations and there was no provision that allowed for this period to be extended. As the time period set aside for the parties to reach an agreement had expired the Complainant argued that the Special Negotiating Body no longer had a mandate and had no standing in concluding an agreement.

The Panel concluded that the Special Negotiating Body did continue to exist after the three year period had expired and so it was able to conclude



the agreement subsequently made. The result of having made such a finding was that the Complainant was not a 'relevant applicant' under TICE and so was not entitled to bring the complaint. The complaint was dismissed.

### **EWC/17/2017 Oracle Corporation UK Ltd**

This was a case in which a European Works Council (EWC) had been operating under the Subsidiary Requirements of TICE for a number of years. In the complaint it was alleged that the Central Management had failed to comply with various regulations which centred on a reorganisation it had proposed. These complaints included Central Management's refusal to share financial data on the project, that it took irreversible decisions without any exchange of views or opinions with the EWC, its failure to establish a link between European and

local consultation, its failure to provide the means required to allow for a meeting in person of the EWC Select Committee and the impacted country representatives and that it had classified any information shared in relation to the proposed restructuring as "Confidential" and "Highly Restricted" thus preventing the EWC from sharing the information with its constituents.

In its decision the Panel upheld the complaint in part but found the complaint that national action should not have been taken until a EWC opinion had been given was not well-founded. It made no order in respect of its decisions having not been requested to make any specific orders by the Complainants nor did it believe it appropriate to do so given the passage of time nor the stipulation in TICE that the CAC had no power to suspend or alter the effect of any act done by Central Management.

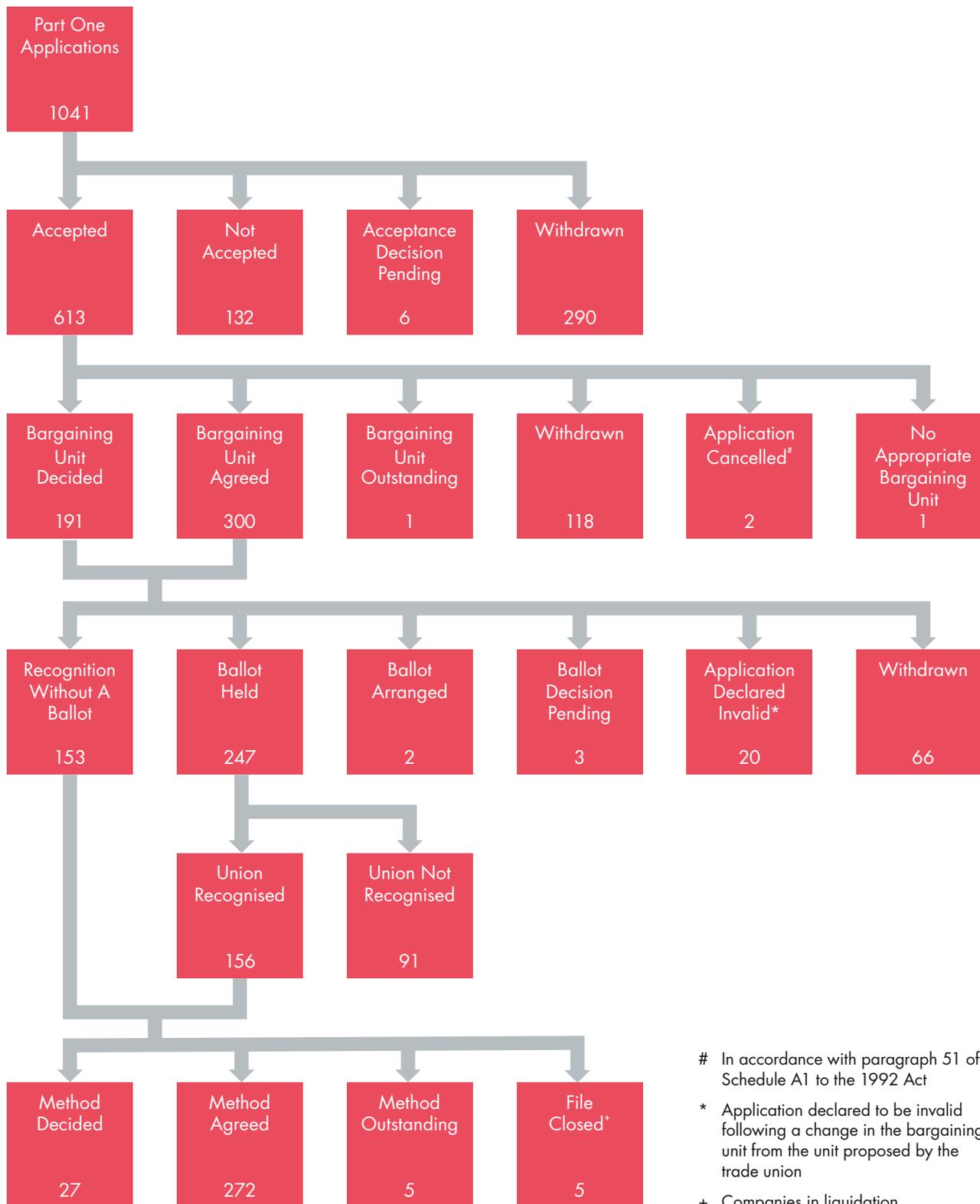
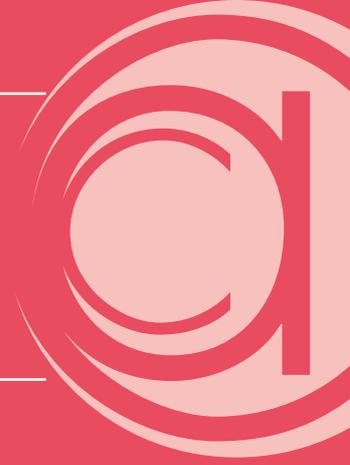
The full decision can be found on the CAC website. The Complainants have appealed the CAC's decision to the Employment Appeal Tribunal and the matter awaits being listed.

The full decisions of both cases 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



# In accordance with paragraph 51 of Schedule A1 to the 1992 Act

\* Application declared to be invalid following a change in the bargaining unit from the unit proposed by the trade union

+ Companies in liquidation

# 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 100%*.
- Proportion of users expressing satisfaction with administration and conduct of the case and/or the procedural guidance provided to them



Target: 85% – 100% 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 83 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 13 requests in 2017-18. Three related to the CAC alone and 10 raised issues which fell within Acas' sphere of responsibility. Replies to 12 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 2017 to 31 March 2018

	Brought forward from 31 March 2017	Received between 1 April 2017 and 31 March 2018	References completed or withdrawn	References outstanding at 31 March 2018
<b>Trade Union and Labour Relations (Consolidation) Act 1992:</b>				
VOLUNTARY ARBITRATION s212	-	-	-	-
DISCLOSURE OF INFORMATION s183	3	11	8	6
<b>TRADE UNION RECOGNITION</b>				
Schedule A1 – Part One	25	35	43	17
Schedule A1 – Part Two	-	-	-	-
Schedule A1 – Part Three	1	-	1	0
Schedule A1 – Part Four	-	1	-	1
Schedule A1 – Part Five	-	-	-	-
Schedule A1 – Part Six	-	1	-	1
<b>The Transnational Information and Consultation of Employees Regulations 1999:</b>	2	2	4	0
<b>The European Public Limited-Liability Company (Employee Involvement)(Great Britain) Regulations 2009:</b>	-	-	-	-
<b>The Information and Consultation of Employees Regulations 2004:</b>	3	4	4	3
<b>The European Cooperative Society (Involvement of Employees) Regulations 2006:</b>	-	-	-	-
<b>The Companies (Cross-Border Mergers) Regulations 2007:</b>	-	-	-	-
<b>Total:</b>	<b>34</b>	<b>54</b>	<b>60</b>	<b>28</b>

# APPENDIX II



## CAC Resources and Finance: 1 April 2017 to 31 March 2018

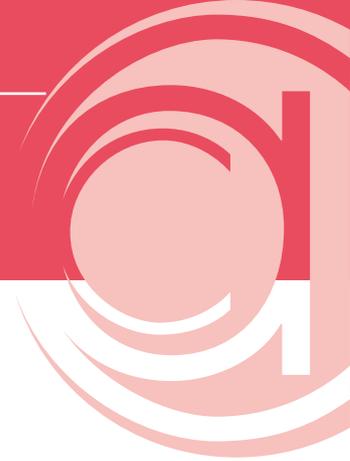
<b>CAC Committee</b>		
Committee Members		46
Of which	Chair and Deputy Chairs	10
	Employer and Worker Members	36
<b>CAC Secretariat</b>		
Secretariat staff		8
Committee fees, salary costs and casework expenses		£443,438
<b>Other Expenditure</b>		
Accommodation and related costs		£71,980
Other costs		£32,670
<b>Total CAC expenditure from 1 April 2017 to 31 March 2018</b>		<b>£548,088</b>

## CAC Expenditure

The CAC's overall expenditure was higher than in 2016-17, which was attributable to increased expenditure on casework, as well as costs arising from the CAC's relocation.

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 2017-18.

# APPENDIX III



## CAC Staff at 31 March 2018 and Contact Details

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

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

Telephone: 0330 109 3610  
E Mail: [enquiries@cac.gov.uk](mailto:enquiries@cac.gov.uk)  
Web Site: <https://www.gov.uk/cac>



**CENTRAL  
ARBITRATION  
COMMITTEE**



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

**T:** 0330 109 3610

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

**<https://www.gov.uk/cac>**