

CENTRAL ARBITRATION COMMITTEE

Annual Report 2021/22





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This report of the activities of the Central Arbitration Committee (CAC) for the period 1 April 2021 to 31 March 2022 was sent by the Chair of the CAC to the Chair of Acas on 22 June 2022, and was submitted to the Secretary of State for Business, Energy & Industrial Strategy on 22 June 2022.

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Chair's Review of the Year



Stephen Redmond
Chair

When writing last year's review, it did not occur to me that we would still be dealing with the continued impact of the global coronavirus pandemic more than two years after it first made headlines across the world. The good news is that there have been scientific developments leading to the successful rollouts of the various vaccines which, in turn, has resulted in a return to 'normality' for most of us. This has allowed industry and businesses to begin to recover, even if there are still some residual challenges that still require addressing.

These challenges have had an impact on the CAC's caseload and this has led to a downturn in the number of applications received for the second year running. The applications for trade union recognition fell from 50 in the previous year to 46. Every application received was made under Part I of Schedule A1 to the 1992 Act with no applications being made under Parts II to Part VI. When I include the applications made under the other jurisdictions of the CAC, this figure rises from 46 to 57, making a shortfall of 11 applications in comparison with the 68 cases received in the year 2020-2021. Across all jurisdictions, 61 cases were concluded or withdrawn whereas the total for the previous year was 68.

The first stage in the statutory process for trade union recognition is to determine whether an application is accepted. This simply means that an application is allowed forward for further consideration. Historically, the majority of the applications received by the CAC are accepted and this year has

not deviated from this trend. The next stage, in the absence of any agreement between the parties as to the appropriate bargaining unit, is that the panel is tasked with determining the matter. The CAC is not required to arrive at a decision in every case as very often an agreement is reached between the parties. This year the CAC was required to decide on the appropriate bargaining unit in nine cases, which coincidentally was the same as for the last year. Once a bargaining unit is agreed or decided, a union can ask that the CAC awards recognition without a ballot. This is on the basis that it has majority membership within the agreed or determined bargaining unit. If recognition is awarded on these grounds it follows that there is no need for a secret ballot to be held. The CAC made seven awards of recognition without a ballot during this year. This was a fall in comparison to last year when 21 awards were made. With the easing of the lockdown restrictions, we have seen an increase in the number of ballots taking place. Eleven ballots took place in the year ending 31 March 2022,

which is a marked increase from the five conducted in the previous year. The final stage in the statutory process is for the parties to reach agreement as to the method of collective bargaining. This is simply the mechanism that sets out how collective bargaining will operate. If no agreement is reached, the CAC can be called upon to determine the method. For this reporting period, the CAC decided the method in one case whereas last year the total was four.

That the parties are given the opportunity to reach their own agreements at every stage throughout the statutory process is an underlying principle of the legislation and one which the CAC continues to encourage. The CAC provides direct assistance to the parties or will signpost them to our colleagues in Acas. In this reporting period, I am pleased to announce that there were 15 cases where a voluntary agreement for recognition was achieved. It is to be further noted that in most cases, the parties were able to reach agreement on specific matters at one point or another during the statutory process, either with the help of our Acas colleagues or on their own accord.

The number of complaints under the Disclosure of Information provisions remains constant with a slight increase from seven to eight this year. Out of the 10 cases under this jurisdiction that were closed in this period, panels were called upon to make determinations on two occasions. In the majority of the cases, the parties were able to resolve their issues through negotiations, with the assistance of the CAC Panel Chair on an informal basis where it was required. The number of cases received under the Transnational Information and Consultation of Employee Regulations 1999 fell significantly following the

changes to the legislation due to the UK's withdrawal from the European Union. There were three cases received this year in comparison to the nine received in 2020-21. Lastly, no complaints or applications were received under the Information and Consultation Regulations compared to the two in the previous year.

Judicial Reviews and Appeals

For the fourth year in a row, I am reporting to you about the matter of *TUR1/985/2016 IWGB & Rooffoods Ltd*. As a background, this claim for judicial review was first dismissed in a judgment handed down on 5 December 2018. The union was then granted permission to appeal to the Court of Appeal. This appeal was also dismissed in a judgment handed down on 24 June 2021 and the union was refused permission to appeal to the Supreme Court. On 20 July 2021, the union applied directly to the Supreme Court for permission to appeal; a decision is awaited on this.

The employer has appealed to the EAT in the case of *EWC/32(2020) Adecco Group* on the grounds of the CAC's interpretation of "transnational matters" in the CAC decision dated 5 March 2021. This is in relation to the employer failing to convene an extraordinary meeting with the EWC regarding collective redundancies. The EWC has cross appealed to the EAT against the CAC's finding that it had no jurisdiction to consider in its decision events that took place before 24 May 2020. It argued that the alleged failure or non-compliance was not the employer's decision to make redundancies, but its decision to refuse to hold an extraordinary meeting with the EWC on the redundancies, in accordance with the EWC Agreement. The EWC has also applied to the EAT for a penalty

notice to be issued against the employer for breaching the agreement. The appeal is down to be heard sometime after 4 April 2022 but has yet to be listed at the time of writing.

The employer in the case of *EWC/36(2021) easyJet* submitted an appeal to the EAT against the CAC's decisions dated 1 June 2021 and 10 June 2021. It argued that, following the UK's departure from the European Union, the CAC did not have jurisdiction to hear the EWC's complaint. It also appealed the decision not to stay the substantive matter until the EAT had decided the jurisdiction point. It has since withdrawn the latter appeal. The CAC is currently awaiting to hear from the EAT as to the outcome of the first appeal.

On 22 September 2021, the EWC in the case *EWC/38/2021 HSBC Continental Europe* appealed to the EAT in respect of the employer relocating its Central Management representative from the UK to Ireland post-Brexit and the EWC now coming under Irish Law. The EWC has argued that the regulations prevent the exclusion of the UK from the scope of the Agreement. It has also argued that the CAC should have let it present its case and for it to have the opportunity to respond to the employer's arguments before the panel arrived at its decision.

The EWC submitted a second appeal arguing that the CAC should have decided whether it had jurisdiction under the amended Transnational Information and Consultation of Employees Regulations. There were several grounds of appeal on the CAC's construction of the Agreement itself, particularly the clause governing the location of Central Management and whether the panel erred in law in finding that because there was an EWC established in Ireland following Brexit this

meant that any pre-existing agreement which otherwise was effective under UK law, would cease to have effect. There is no information at present as to when these matters will be listed for a hearing.

The Committee and Secretariat

For the first time in the last three years, the CAC was able to hold its Biennial Meeting in-person. This had been delayed due to the global pandemic. We were very pleased to have as our guest speakers Kate Bell, the Head of Department, Rights, International, Social and Economics from the TUC and Jennifer Beckwith, the Head of Employment Policy, from the CBI. Kate shared with us her views on the effect the pandemic has had on its members, lessons learnt, and how this affected the employment relations environment following the lifting of the lockdown restrictions. Jennifer spoke about the changing attitudes to hybrid/flexible working and the threats on the horizon for business. Their views were very well received and I would like to thank them both for taking the time from their busy schedules to come and speak to us.

This year has been like no other when I consider the number of Committee Members that we have said farewell to. This was largely due to a number of Committee Members' terms of appointments not being renewed, even though the CAC had requested this. There were five Employer Members whose appointments came to an end for this reason and they were: Mary Canavan, Mike Cann, Nick Caton, Maureen Chambers, and Tom Keeney. In addition to this, there were also two Worker Members whose appointments came to an end for this same reason. These were: Virginia Branney and Fiona Wilson. This is not to say that all of those for whom we sought

reappointments were refused, but I am disappointed that such a substantial number were not renewed. We also said farewell to Deputy Chair Charles Wynn-Evans who was appointed in July 2016, and Elspeth Hayde who was appointed as an Employer Member in November 2019. Both of them made the difficult decision to relinquish their positions with us. I would like to take this opportunity to thank each and every one of them for their hard work and commitment during their tenure with us.

There were also two Committee Members whose appointments came to end on 31 March 2022. These were Deputy Chair, Professor Kenny Miller, and Employer Member, Len Aspell. Professor Miller had been a Committee Member since 2001 and Len since 2005. Whilst both Len and Professor Miller put their vast knowledge, experience, and expertise to great use to determine very complex issues during their time with the CAC, it would be amiss of me not to give special thanks to Professor Kenny Miller. He was the second



Professor Kenny Miller
Deputy Chair

longest-serving Committee Member and handled some 173 cases across all jurisdictions during his time in office. His perspective on cases was refreshing and valuable. He will be greatly missed.

On a positive note, the Secretariat welcomed two new Case Managers. These appointments came following the promotion of Nigel Cookson, which I reported on last year to the Senior Case Manager role and the retirement of Case Manager Linda Lehan. I would like to express my own appreciation for Linda's work during her time with the CAC and more will be said about her in the Chief Executive's report which follows. There is also an introduction to the new Case Managers, Kaniza Bibi and Joanne Curtis, later in this report. I welcome them wholeheartedly to the Secretariat.

Our stakeholders

The CAC continues to have a good relationship with its stakeholders namely: Acas, BEIS, CBI and TUC.

Conclusion

I would like it placed on record the high value I put on the contribution made by the Secretariat team. This is not only felt by me but by the Committee Members also. I would also like to express my appreciation for the Committee Members. It has been another difficult year where all of your hard work and professionalism have come to the fore to bring the CAC to where we are today. It is a great privilege to have you working alongside me as we move into this new post-covid era in the sphere of employment relations.

Stephen Redmond
Chair

Membership of the Central Arbitration Committee at 31 March 2022



Chair

Stephen Redmond

Deputy Chairs

Naeema Choudry

Partner at Eversheds Sutherland and Fee Paid Employment Judge

Lisa Gettins

Solicitor (England & Wales); Director, Employee Relations EMEA – Adobe Systems Europe

Sarah Havlin

Solicitor, currently serving as the Certification Officer of Northern Ireland

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

Regional Employment Judge, Employment Tribunals (England & Wales), South West Region

Laura Prince

Barrister at Matrix Chambers and specialist in Employment law

Stuart Robertson

Regional Employment Judge, Employment Tribunals (England & Wales), North-East Region

His Honour Judge Tariq Sadiq

Civil Circuit Judge, Sheffield & South Yorkshire

Members with experience as representatives of employers

Len Aspell	Chair and Trustee, HSBC Group UK Healthcare Trust, Formerly Group Head of Employee Relations, HSBC Group
David Cadger	People Director, Justice & Immigration at Serco Limited
Derek Devereux	HR Coach and Mentor, Former HR Director of Constellation Europe and Matthew Clark
Mustafa Faruqi	Head of Workplace Relations at Tesco
Richard Fulham	Head of Employee & Industrial Relations, GSK Consumer Healthcare
Kieran Grimshaw	Director of HR Business advisory and employee relations at Equinix; formerly Head of Employee Relations and European HR at easyJet
Kerry Holden	Non-Executive Director & Executive Human Resources Consultant; Member of the Armed Forces Pay Review Body
Susan Jordan	HR Consultant/NED Former VPHR/DHL
Alastair Kelly	Assistant Chief Officer for Leicestershire Police
Martin Kirke	HR Consultant, Coach and Non-Executive Director
Rob Lummis	Chair of Trustees, Jaguar Land Rover Trustees Limited, formerly Group Employee Relations Director, Jaguar Land Rover
Sean McIlveen	Honorary Teaching Fellow, Lancaster University Management School and Managing Director at Infinite Perspective Consulting Ltd
William O'Shaughnessy	Employee Relations & Wellbeing Director Automobile Association
Alistair Paton	Senior Director, Labour Relations & Change, ASDA
Roger Roberts	Employee Relations Consultant, Former Employee Relations Director, Tesco Plc
Gillian Woodcock	Director, People Development & Culture for Civils & Lintels; formerly IR Consultant, Employee Relations ASDA

Members with experience as representatives of workers

Janice Beards	Former trade union officer, NUT & NAHT. Employment Tribunal employee side non-legal member and social security tribunal disability qualified member
Anna Berry	Former Trade Union Official, UNISON and NASUWT, and Non-legal Member at London East Employment Tribunal
Joanna Brown	Former Chief Executive, the Society of Chiropodists and Podiatrists and the College of Podiatry
Nicholas Childs	Senior Regional Officer for the National Education Union
Michael Clancy	General Secretary and Chief Executive of Prospect
David Coats	Director, Workmatters Consulting, Visiting Professor, Centre for Sustainable Work and Employment Futures, University of Leicester
Steve Gillan	General Secretary of Prison Officers Association; and member of the TUC General Council
Ian Hanson QPM	Retired, previously Chair of Greater Manchester Police Federation, Chair of The Police Treatment Centres & St George's Police Children's Trust
Stephanie Marston	Former trade union official, Prospect and Connect
Paul Moloney	National Officer, Pharmacists Defence Association Union
Paul Morley	Caseworker at the Independent Workers' Union of Great Britain
Paul Noon OBE	Former General Secretary, Prospect
Hannah Reed	Co-ordinator of Constitutional Affairs at Unite the Union
Matt Smith OBE DL	Former Scottish Secretary, UNISON
Claire Sullivan	Director of Employment Relation and Union Services at the Chartered Society of Physiotherapy, with a background as a physiotherapist

Chief Executive's Report



Maverlie Tavares
Chief Executive

Performance

For the second year in a row the CAC has seen a decrease in the number of applications received. This I believe is not unexpected bearing in a mind that the employment environment is still coming to terms with the fallout from the coronavirus pandemic which began to impact the world in 2020. Nevertheless, as has been reported in previous reports the applications received are always subject to a degree of unpredictability. The good news is that throughout this period the CAC has continued to maintain the level of service which our customers have come to expect.

This is one of the CAC's objectives and we always strive to see if we can improve on the service we provide. By doing this it provides us with valuable criticism. To do this we seek feedback from our customers who are the trade unions and employers on our cases. This year there was a noticeable increase in the number of returns received. I am pleased to report that this year the level of satisfaction was 100% for the manner in which the CAC handled their cases. This is a fantastic achievement and provides a valuable endorsement for the professionalism of the Committee Members and the CAC Secretariat.

I will now report on the time lapsed for the completion of a trade union recognition case. The focus for this is from the date when an application is received to the date of issue of a declaration of recognition or non-recognition. For this reporting period the average time elapsed was 30 weeks. Within this figure were cases involving a ballot which

averaged at 39 weeks. This figure is skewed slightly due to one ballot taking 91 weeks to complete due to the impact of the coronavirus pandemic delaying the union having access to the workers in the bargaining unit. Additionally, the average elapsed time for cases in which the union was declared recognised without a ballot, was 14 weeks. Other than cases where unions were awarded recognition without a ballot, the length of time taken in these cases has once again significantly increased. As I mentioned at the beginning of this report, the effects of the pandemic have continued to impact on the statutory process. As we settle into the easing of the lockdown restrictions, this should allow there to be a reduction in this time frame going forward.

The Secretariat continues to be available to answer enquiries received by telephone and in writing covering all jurisdictions. Up to 31 March 2022 we received 105 telephone enquiries, with the majority being in respect of

trade union recognition. This is a modest increase on last year's figure of 93. For written enquiries we received 136 which is a noticeable reduction compared to last year's figure of 169.

Development

As part of the CAC's objectives to improve the service we provide, we also regularly assess our knowledge-sharing. This has been of great importance following the changes in the CAC.

There were no further developments required to the CAC's website on the gov.uk platform. We did however make some changes to the application forms which we believe makes them easier to understand and complete. Within the customer survey we issue to the parties, they were asked a question on the usefulness of the website. The respondents' level of satisfaction was 68% or better with 32% not using the site at all. This is a fall in this area, and we will look to see how this can be improved particularly as it's a useful way for potential users to obtain information and guidance from this as their first port of call.

Stakeholders

The CAC has continued to keep in touch with our major stakeholders: BEIS, CBI, TUC. This has been achieved by way of informal contact as there have been no issues raised over the CAC's operational performance.

Public interest

The CAC is dedicated to openness of information on its activities. This is principally achieved by the information being provided on our website, which is updated regularly. Every CAC decision is published within a short period after they have been issued to the parties these pertain to. Decisions of a more historic interest have also been made available in electronic form. We also maintain a library of decisions from the CAC and its predecessor bodies, dating back to the Industrial Court in 1919. These are available to members of the public by appointment.

The CAC honours its responsibilities under the GDPR (the General Data Protection Regulation) and the Freedom of Information Act. For this reporting period we have received 21 requests under the Freedom of Information Act provision which is only a slight increase from last year's total of 20. All these were answered by Acas on our behalf and all were processed within the set timescale. No requests were received under the GDPR provisions.

Administration and accountability

CAC Costs

CAC expenditure in 2021-22 has increased following the easing of the restrictions that were in place due to the ongoing coronavirus pandemic. Our work practices have changed in that we have adopted hybrid working. We were able to begin to meet in-person leading to an increase in expenses. The breakdown of the CAC's caseload can be viewed in Appendix I and our expenditure in Appendix 2.

Governance

The CAC's Secretariat and other resources are provided by Acas, and the CAC complies with Acas's corporate governance requirements. The relationship with Acas is set out in a Memorandum of Understanding, which was updated to include our relationship with BEIS. This was as a result of a recommendation arising from the BEIS "Tailored Review" in 2017. This is reviewed periodically to ensure that, as an independent body, the CAC receives suitable support. It also gives assurance to Acas and BEIS that our activities and the resources used are appropriate and compliant with public sector policies.

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. As the CAC is resourced by Acas, the CAC is covered by the Acas Equality and Diversity Policy and corresponds with Acas's published equality objectives.

Those documents on this are available on the Acas website (acas.org.uk).

Secretariat

There have been further changes this year within the Secretariat, which has been briefly touched upon in the Chair's Review of the Year, in that we have two new Case Managers. The new joiners to the team are Kaniza Bibi and Joanne Curtis. Kaniza replaced Nigel Cookson following his promotion to the Senior Case Manager position and Joanne Curtis replaced Linda Lehan following her retirement from the CAC. You will have the opportunity to learn more about Kaniza and Joanne in their introductions contained in this report.

It is only fair that I should say a few words about Linda following her departure. Linda was a very experienced Case Manager having been with the CAC since 2008. She supported Committee Members throughout this period assisting them with the management of their cases. She was well respected



Linda Lehan
Case Manager



by them and her colleagues and often received feedback from our customers praising her knowledge, helpfulness and professionalism. It was sad to say farewell to Linda, but we all wish her the very best in her future endeavours.

To finish, this year has continued to be like none other experienced before. It therefore goes without saying my gratefulness to the Secretariat. They work very hard behind the scenes to maintain an excellent service to the Chair, Committee Members and our customers. Their commitment and professionalism are second to none and they truly deserve the recognition for this.

Maverlie Tavares | Chief Executive

Remarks from Kaniza Bibi, Case Manager



Kaniza Bibi
Case Manager

It has been nearly six months since I joined the CAC as a Case Manager in a completely different role from my previous jobs. Although I have been a Civil Servant since 1989, I used to work for the Department for Work and Pensions and, most recently, Her Majesty's Passport Office. Whilst working for these government departments alongside my day-to-day job, I was also a trade union representative. As a union representative, I was passionate about giving fair representation to our members at a local level and also sat on the General Executive Committee to negotiate for contractual rights such as pension and pay. I have always had an interest in employment law and it only felt natural to join the CAC and pursue a new career.

I have achieved many in house qualifications within the Civil Service, such as Institution of Line management (ILM), Presentation skills and most recently Operational Delivery Profession (ODP). The ODP qualification allowed me to develop transferable capabilities and skills that are recognised and respected across other government departments. It also helped me to focus on delivering an excellent service to customers.

Even though my new job at the CAC is completely different from anything I have done before, I believe I have the

skills and ability to become a competent Case Manager. I am learning something new every day and with the support of a mentor; I am very optimistic about my future with the CAC. I look forward to working with new applications and engaging with different stakeholders to achieve a fair and unbiased outcome for all the parties involved.

Kaniza Bibi | Case Manager

Remarks from Joanne Curtis, Case Manager



Joanne Curtis
Case Manager

I am delighted to have been successful in becoming a case manager for the CAC effective from January 2022. Before the CAC, I worked for Her Majesty's Courts and Tribunals Service (HMCTS) as a legal adviser in the Magistrate's Court for 17 years, having qualified as a barrister in 2003. When I started with HMCTS, my intention was always to gain some practical experience and try to secure a pupillage in Chambers. After 18 months as a trainee, they offered me a permanent post, which I accepted. The variety of work and the fact no one day was the same together with a very supportive and committed team of Magistrates were some of the reasons I stayed in the role.

When the pandemic hit, I split my working week between the court and working at home. It was fascinating to see how the use of digital technology evolved so fast in the courtroom, things that had previously been ideas and still being developed were implemented almost overnight to ensure that hearings could go ahead remotely from the police station rather than bringing people into the courtroom. There was also an increased emphasis on legal advisers conducting hearings at home with a single magistrate over Microsoft Teams.

It made me evaluate my role and think about what other roles I may be able to do at home that allowed me to balance work and family life more, but still, engage me in the law and enable me to utilise my

skills. Had it not been for the pandemic and the work from home directive living in the North East of England would have meant a job within the CAC may not have been available to me. I was nervous about starting this new role; however, the CAC Secretariat has been supportive and helped ease me into my role. There is much to learn, as some areas are new to me, but I know I have the capabilities and the support to carry out the role of a case manager. I look forward to seeing how things progress within the CAC and I hope I can make an active contribution to its work.

Joanne Curtis | Case Manager

The CAC's Caseload in 2021-22

Trade Union Recognition

In the year ending 31 March 2022, the CAC received 46 applications for trade union recognition under Part I of the Schedule.¹ This compares with a slightly higher number of 50 in the previous year and 68 two years ago. There were no applications under Parts II to VI of the Schedule.

Previously the CAC has sought to identify any reasons for the fluctuations in the volume of applications received and to see whether it was possible to uncover any trends. However, it remains the case that there is no discernible pattern and that the trade union recognition caseload remains varied.

When the size of the employer in Part I recognition cases is reviewed, it is found that 43% of cases involved employers with fewer than 200 workers in comparison to last year's figure of 40% and 32% in 2019-20. The size of the employer ranged from 51 to 77,500 with the latter figure being Mitie Ltd. The average size of a bargaining unit was 158, which is the second year in row that there has been an increase. Last year's figure was 139 whereas in 2019-20 it was 118. The proportion of applications involving a bargaining unit of 100 workers or fewer was 78% which is an increase on last year's figure of 64% but the same as for 2019-20. The average size of bargaining units has also always been subject to fluctuation, and in the past year it has ranged from 18 to 3,818 workers. There has been an increase in the proportion of applications received from the manufacturing, transport and communications sectors. This year they accounted for 41% of our caseload which is much higher than the 26% of the applications received last year and the figure of 36% in 2019-20.

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

In 2021-22, 31 applications were subject to a decision as to whether they should be accepted, the first stage in the statutory process. Twenty-five were accepted and six were not. The proportion of applications accepted was 81%, a decrease on last year's figure of 88%. In the six cases that were not accepted, the union in two applications did not properly identify its proposed bargaining unit. In a further three cases, the unions did not provide sufficient evidence to demonstrate that a majority of workers in the proposed bargaining unit would be likely to favour recognition of the union. In the final case the statutory time frame for negotiations had not expired before the union submitted its application rendering the application to the CAC premature.

Twelve applications were withdrawn at the acceptance stage. Of these, one union decided that it wanted to amend its proposed bargaining unit. In another case there were issues as to whether another union already had a collective bargaining agreement with the employer for the same group of workers. In the third case, the union submitted further evidence that it had the support of the workers in the proposed bargaining unit, but this stage in the statutory process had already passed. In another case the union had concerns about the evidence it had to demonstrate it had the majority support of the workers in its proposed bargaining unit. Another application was withdrawn as the union's proposed bargaining unit differed in its application to that set out in its formal request letter to the employer. In another application the employer's name was incorrect and there were issues with the description of the union's proposed bargaining unit. In a further application there were issues with the composition of the proposed bargaining



unit. In the remaining five cases voluntary agreements were reached.

The second stage in the statutory process requires an agreement between the parties or a decision by the CAC on the appropriate bargaining unit. As in previous years, the number of agreements reached as to the appropriate bargaining unit exceed the number of cases in which it has been necessary to make a determination, but the difference is not as great as in previous times. This year there were 14 agreements and nine cases requiring decisions. This means the proportion of bargaining units agreed remains unchanged from last year's figure of 62%. Six applications were withdrawn at this stage as the parties were able to reach a voluntary agreement. This was a slight increase from last year's total of four. If a bargaining unit is changed from that originally proposed by the union, whether by agreement or a decision, the CAC is required to decide if the application remains valid. There were seven cases in which the validity of the application had to be determined and an additional application was withdrawn at this stage as the union did not believe it could demonstrate it had the likely support of the majority of the workers in the new bargaining unit.

The next stage in the process is for the CAC to decide if a union should be awarded recognition without a ballot or whether a ballot should be held. In 2021-22 there were seven cases in which recognition was declared without a ballot. Since the statutory recognition provisions were introduced in 2000, there have been 231 cases in which a union has claimed majority membership in the agreed or determined bargaining unit and the CAC has declared recognition without a ballot in 196 (85%) of these cases. There is a final opportunity at this stage, before the balloting provisions have been triggered, for the parties to reach a voluntary agreement but there were no requests at this point in the past year. Four cases were withdrawn at this stage this year with three having reached a voluntary agreement and one following legal advice. Ballots were held in a further 11 cases in which a union did not have majority membership in the bargaining unit. Of these ballots, eight were in favour of recognition and three against. The number of ballots resulting in recognition has increased to 73% which is higher than the historical average of 63%. The average participation rate in a CAC-commissioned ballot modestly increased to 76% compared to 73% in the previous year. The CAC was not required to adjudicate on any complaints that a party had used an unfair practice during the balloting period.

The last stage in the process is for the parties to agree, or, in the absence of any agreement, for the CAC to determine, a method of collective bargaining. As in previous years, the parties continue to come to an agreement in the overwhelming majority of cases. The figures for 2021-22 were 14 agreements as to method reached and only one decision

was needed. The historical average for a method of collective bargaining being agreed remains at 91% of the cases that reach this stage of the process.

There were no applications received under Parts II to VI of the Schedule and none were brought forward from 2020-21.

Disclosure of Information

The CAC received eight new complaints from trade unions in relation to an employer failing to disclose information for the purposes of collective bargaining. This provision is under section 183 of the Trade Union and Labour Relations (Consolidation) Act 1992. Action continued for three complaints carried forward from the previous year. Ten complaints were concluded with two requiring a formal decision. One complaint was outstanding at the end of the year. Most complaints continue to be resolved through further direct negotiations, with the CAC's assistance or by way of Acas conciliation.

The Information and Consultation of Employees Regulations 2004

There were no complaints received under these Regulations and no complaints were brought forward from the previous year.

Requests under Regulation 7

Under the provision Regulation 7 for the establishment of information and consultation arrangements the CAC has received two requests from employees this year. Since the Regulations came into effect, there have been a total of 31 requests made under this provision.

The Transnational Information and Consultation of Employees Regulations 1999

The CAC received three fresh complaints under these regulations and continued action on two complaints carried forward from 2020-21. Of these, four complaints were closed by way of a decision, whilst two were withdrawn. This leaves two outstanding cases being carried forward.

Below are reports for two complaints which highlight the points of wider relevance which can arise in these cases.

EWC/32(2020) Adecco Group

This complaint was made under 18A of the Transnational Information and Consultation of Employees Regulations 1999 (as amended) (TICER) and was about whether the information provided by the employer to the European Works Council (EWC) was sufficient.

The panel upheld complaints that the employer had failed to inform and consult the EWC about collective redundancies in breach of the EWC Agreement and had breached both the Agreement and regulation 18A of TICER by refusing to supply business sales performance data broken down by country. In relation to the latter complaint the panel appreciated that the information to be provided by an employer to an EWC depended on a range of factors including the nature of the industry or service and the organisational and management structure and there was no 'one size-fits all' approach to be adopted.

The panel issued a subsequent decision relating to the Complainant's request for orders to be granted (for reasons explained in that decision which can be found on the CAC website). The panel made no order in relation to the collective

redundancies complaint for reasons specified in the decision but emphasised that the fact that redundancies had already been implemented did not of itself mean that no order should be made. In relation to the business sales performance data complaint, the panel accepted that it had no jurisdiction to make an order covering the employer's future conduct. The employer stated that it would provide the EWC with the information which was the subject of the complaint. The panel made no immediate order but said it would reconsider its decision if the specified information had not been provided within 21 days of the decision; the Complainant then had 14 days to inform the CAC of that, failing which the case would be closed. The Complainant did not inform the CAC within the stated time limit and the case was then closed.

EWC/38(2021) HSBC Continental Europe

This complaint was brought under regulations 21 and 21A of amended TICER and alleged that the employer had failed to comply with the EWC Agreement by excluding the UK business from the scope of the Agreement following the end of the Brexit transition period. It was alleged the employer was excluding UK representatives from the EWC and was amending the Agreement without the consent of EWC members in breach of the Agreement. The employer submitted that the CAC had no jurisdiction under amended TICER to deal with the case and asked that the proceedings be stayed pending the outcome of an appeal to the EAT in *EWC/36(2021) easyJet Plc*. The employer also made submissions on the merits of the substantive complaints.

The panel decided that neither of the first two substantive complaints were well-founded on the basis of the panel's



interpretation of the Agreement. The panel did not at that stage consider the merits of the request for a stay given that such a stay, if granted, would have merely constituted an unnecessary delay in informing the parties of the panel's decision. The panel also decided to dispose of those complaints on the assumption that the CAC had jurisdiction to consider them under the amended TICER without determining the question of jurisdiction either way. A decision was issued dealing with the first two complaints.

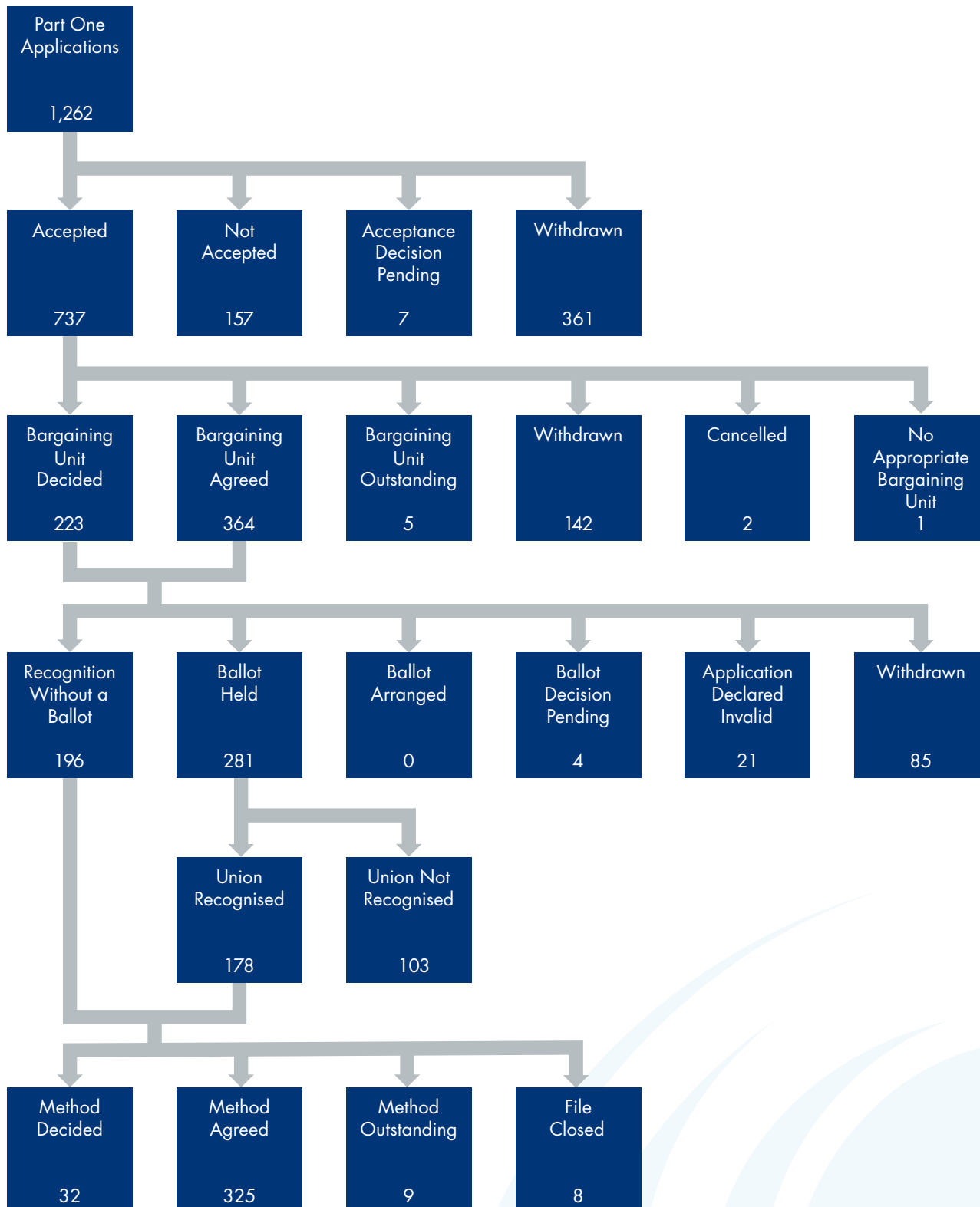
The panel did not consider it appropriate to investigate before disposing of the first two complaints whether the Complainant wished to challenge under the heading of the third complaint changes to the Agreement regarding the change of representative agent or governing law and gave the Complainant 21 days from the first decision to inform the CAC if it wished to do so. The Complainant was also asked to respond to the employer's request for a stay. The Complainant informed the CAC that it wished to

challenge these amendments and gave reasons for opposing a stay. The panel decided that the proceedings should not be stayed and asked the employer, and subsequently the Complainant, to make submissions on both the issue of jurisdiction and the merits of the substantive complaint. The panel decided that the complaint was not well-founded on the basis of the panel's interpretation of the Agreement, again on the assumption that it had jurisdiction to consider it without determining the question of jurisdiction under amended TICER either way. None of the individual complaints was well-founded and these decisions can be found on the CAC website.

The European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009

There were no applications received under the European Public Limited-Liability Company (Employee Involvement) (Great Britain) Regulations 2009.

Progress chart of applications for recognition



The CAC's Aims

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

- i. applications for the statutory recognition and derecognition of trade unions;
- ii. applications for the disclosure of information for collective bargaining;
- iii. applications and complaints under the Information and Consultation Regulations;
- iv. disputes over the operation of European Works Councils;
- v. complaints under the employee involvement provisions of regulations enacting legislation relating to European companies, where the provisions will continue to be applicable from 1 January 2021 to the UK Societas domestic framework.

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 136 enquiries in writing or by e-mail and we responded to 100% within this timescale.*
- Proportion of Freedom of Information requests replied to within the statutory 20 working days

There were 21 requests in 2020-21. All requests related to information which fell within Acas' sphere of responsibility. Replies to all requests were provided within the statutory timescale.

User Satisfaction

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

Maverlie Tavares
Chief Executive
Central Arbitration Committee
PO Box 78137
London
SW1P 9XE

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 2021 to 31 March 2022

Jurisdiction	Brought forward from 31 March 2021	Received between 1 April 2021 & 31 March 2022	References completed or withdrawn	References outstanding at 31 March 2022
Trade Union and Labour Relations (Consolidation) Act 1992:				
VOLUNTARY ARBITRATION s212	-	-	-	-
DISCLOSURE OF INFORMATION s183	3	8	10	1
TRADE UNION RECOGNITION				
Schedule A1 – Part One	27	46	48	25
Schedule A1 – Part Two	-	-	-	-
Schedule A1 – Part Three	-	-	-	-
Schedule A1 – Part Four	-	-	-	-
Schedule A1 – Part Five	-	-	-	-
Schedule A1 – Part Six	-	-	-	-
The Transnational Information and Consultation of Employees Regulations 1999:	2	3	3	2
The European Public Limited-Liability Company (Employee Involvement)(Great Britain) Regulations 2009:	-	-	-	-
The Information and Consultation of Employees Regulations 2004:	-	-	-	-
Total:	32	57	61	28

Appendix ii

CAC Resources and Finance: 1 April 2021 to 31 March 2022

CAC Committee		
Committee Members		41
Of which	Chair and Deputy Chairs	10
	Employer and Worker Members	31
CAC Secretariat		
Secretariat staff		9
Committee fees, salary costs and casework expenses		£564,402
Other Expenditure		
Accommodation and related costs		£29,828
Other costs		£18,107
Total CAC expenditure from 1 April 2021 to 31 March 2022		£612,337

CAC Expenditure

The CAC's overall expenditure was slightly higher than in 2020-21. This was due to the easing of the restrictions imposed during the coronavirus pandemic. This led to more meetings being held in person.

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 2021-22.

Appendix iii

CAC Staff at 31 March 2022 and Contact Details

Chief Executive

Senior Case Manager

Operations Manager

Case Managers

Finance Supervisor & Assistant
Case Manager

Finance & Case Support Officer

Maverlie Tavares

Nigel Cookson

Bola Olayinka

Kaniza Bibi
Joanne Curtis
Sharmin Khan
Kate Norgate

Laura Leaumont

Emma Bentley



Central Arbitration Committee
PO Box 78137
London
SW1P 9XE

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



**CENTRAL
ARBITRATION
COMMITTEE**



PO Box 78137 London SW1P 9XE

T: 0330 109 3610

E: enquiries@cac.gov.uk

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