Central Arbitration Committee: Application or Complaint under the Information and Consultation of Employees Regulations 2004

THIS FORM IS FOR A NEGOTIATING REPRESENTATIVE WHO WISHES TO COMPLAIN THAT AN EMPLOYER HAS NOT COMPLIED WITH THE REQUIREMENTS IN REGULATION 16(5) FOR A BALLOT FOR EMPLOYEE APPROVAL OF A NEGOTIATED AGREEMENT

BEFORE COMPLETING THIS FORM, PLEASE READ THE EXPLANATORY NOTES AT APPENDIX 1

1. **Person making the complaint:**

**Your Name:**

**Address for correspondence:**

**Telephone:**

**E-Mail:**

1. **Undertaking to which the complaint applies:**

**Name of undertaking:**

**Name of contact:**

**Address:**

**Telephone:**

**E-Mail:**

1. **Give the date on which you were appointed or elected as a the negotiating representative:**
2. **Give the date of the ballot for employee approval of the negotiated agreement:**
3. **Please describe the respect or respects in which you consider the employer has not satisfied the balloting requirements specified in Regulation 16(5). These requirements are summarised in Appendix 2 and the CAC Guide.**

**Signature:**

**Date:**

**Appendix 1**

## Explanatory notes

**MAKING AN APPLICATION OR COMPLAINT TO THE CAC**

* **Check whether the CAC can deal with your problem**

The Information and Consultation Regulations provide for the CAC to consider applications or complaints from employers, employees and their representatives at several stages in the process of establishing or operating information and consultation arrangements. The full list of applications or complaints is in *A Guide for Employers and Employees to the role of the Central Arbitration Committee* which is available from the CAC at the contact points given at the foot of this page or the CAC website (www.cac.gov.uk).

There is a separate application form for each application or complaint. Please make sure you have the right one.

The Department for Business and Trade (DBT) has also published guidance which is available on the DBT website (www.gov.uk/dbt) and the Regulations can also be downloaded from the website of the Office of Public Sector Information (opsi.gov.uk).

* **Check that you understand the Regulations relevant to your application or complaint**

Appendix 2 to this form contains a summary of the Regulations relevant to this application but it is not an authoritative statement of the law. You may wish to consult the Regulations themselves or the CAC or DBT guidance.

* **Completing the form:**

**Question 1 and 2 on the application form**

Give your own contact details and those of the person who is dealing with the matter on behalf of the employer.

**Question 3 on the application form**

Give the date on which you were appointed or elected as a negotiating representative. This type of complaint can only be submitted by a negotiating representative.

**Question 4 on the application form**

Give the date on which the ballot took place. A complaint to the CAC must be made within 21 days of the date of the ballot.

**Question 5 on the application form**

Give full details of the respect or respect in which you believe the ballot did not satisfy the requirements specified in the Regulations.

* **Please sign and date the form and send it to:**

Central Arbitration Committee

PO Box 80600

London

E15 9JX

Telephone: 0330 109 3610

Email: enquiries@cac.gov.uk

* **What happens next?**

The CAC will copy your form and any attachments to the employer. If you have any supporting information which you regard as confidential, do not send it to the CAC at this stage.

The CAC will ask the employer to complete a response form and this will be copied to you. A CAC Case Manager will then be in touch with you to explain the next steps in the procedure. This may include attending a formal hearing with a CAC Panel.

*A Guide for Employers and Employees to the role of the Central Arbitration Committee* contains a detailed description of the way the CAC handles applications and complaints.

## Further guidance

The [CAC website](http://www.cac.gov.uk) contains a detailed guide to the legislation and the full text of published CAC decisions.

**Appendix 2**

**Summary of the Regulations relevant to this complaint**

(Please see *A Guide for Employers and Employees to the role of the Central Arbitration Committee* for an explanation of the types of complaints and applications that can be submitted to the CAC)

*Regulation 14*: This Regulation describes the process for the appointment or election of negotiating representatives and for the conduct of the negotiations.

*Regulation 16*: This covers the characteristics of a negotiated agreement and the method by which it should be approved by the employees. Regulation 16(5) specifies the requirements where a ballot is held to seek the employees’ approval and reads as follows:

(a) the employer must make such arrangements as are reasonably practicable to ensure that the ballot is fair;

(b) all employees of the undertaking or, as the case may be, to whom the part of the agreement relates, on the day on which the votes may be cast in the ballot, or if the votes may be cast on more than one day, on the first day of those days, must be given an entitlement to vote in the ballot; and

(c) the ballot must be conducted so as to secure that -

(i) so far as is reasonably practicable, those voting do so in secret; and

(ii) the votes given in the ballot are accurately counted.

*Regulation 17*: A negotiating representative who believes that the arrangements for a ballot held under Regulation 16 did not satisfy one or more of the requirements set out in paragraph (5), may, within 21 days of the date of the ballot, present a complaint to the CAC. Where *the* CAC finds the complaint well-founded it shall make an order requiring the employer to hold the ballot again within such period as the order may specify.