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

THIS FORM IS FOR AN EMPLOYEE OR EMPLOYEES’ REPRESENTATIVE WHO WISHES TO COMPLAIN THAT AN EMPLOYER IS NOT ENTITLED TO HOLD A BALLOT TO SEEK THE ENDORSEMENT OF THE EMPLOYEE REQUEST FOR THE ESTABLISHMENT OF INFORMATION AND CONSULTATION ARRANGEMENTS

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

1. **Person making the complaint:**

**Your Name:**

**Are you:** An employee? An employees’ representative?

**Address for correspondence:**

**Telephone:**

**E-Mail:**

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

**Name of undertaking:**

**Name of contact:**

**Address:**

**Telephone:**

**E-Mail:**

1. **What was the date on which the employer notified the employees that it intended to hold a ballot?**
2. **Do you believe that a valid employee request has been made? (A request has to meet the requirements of Regulations 7 and 12; these are summarised in Appendix 2). Please answer yes or no.**
3. **If your answer to question 4. is no, please give further details:**
4. **Do you believe that the number of employee requests is at least 2%, but less than 40%, of those employed in the undertaking? Please answer yes or no.**
5. **If your answer 6. is no, please state the proportion of employees you believe to have made requests:**
6. **Do you consider that there is a pre-existing agreement between the employer and the employees which does not conform to the requirements of Regulation 8? Please answer yes or no.**
7. **Please tick the below to identify those areas in which you consider the pre-existing agreement does not conform to the requirements of Regulation 8 and give further details in question 10:**

**(a) It is not in writing**

**(b) It does not cover all the employees of the undertaking**

**(c) It has not been approved by the employees**

**(d) It does not set out how the employer is to give information to the employees or their representatives and seek their views on such information**

1. **Please give further details of any of the items you have identified in question 9:**

**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 the employer notified the employees that it intended to hold a ballot (NB the complaint to the CAC must be made within 21 days of that date).

**Question 4 and 5 on the application form**

State whether you believe a valid request has been made and complete question 5 if appropriate.

**Question 6 and 7 on the application form**

An employer is only entitled to hold a ballot if the number of requests is at least 2% but less than 40%. State whether you understand this to be the case and, if not, give the proportion of requests you understand to have been made.

**Questions 8, 9 and 10 on the application form**

State whether you consider that there is a pre-existing agreement which conforms to Regulation 8. If not, explain in question 9 why you consider the agreement does not conform and give details in question 10.

* **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](mailto: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 3*: The Regulations came into effect on 6 April 2005 and apply to undertakings in the United Kingdom with at least 150 employees. From 6 April 2007, the Regulations will cover undertakings with 100 employees and, from 6 April 2008, those with 50 employees.

Regulation 7: An employer must initiate negotiations to establish information and consultation arrangements if a request is made by 2% of the employees in an undertaking. The 2% figure is subject to a minimum of 15 employees and a maximum of 2500. The employee request must be in writing, be sent *to* the employer or the CAC, specify the names of the employees making the request and state the date on which it was sent. If employees make separate requests, they must be made within a six month period.

*Regulation 8*: This Regulation applies where a valid request has been made by fewer than 40% of the employees in the undertaking and there is a pre-existing agreement which satisfies the following conditions: it is in writing; it covers all the employees in the undertaking; it has been approved by the employees; and, it sets out how the employer is to give information to employees and seek their views.

An employer may hold a ballot to seek the endorsement of the employees for the employee request. The employer must inform the employees within one month of the date of the request that it intends to hold a ballot and arrange for the ballot to take place as soon as is reasonably practicable but *not* before 21 days has passed since the employer informed the employees that a ballot was to take place. This Regulation also requires the employer to fulfil certain conditions in relation to the conduct of the ballot and the disclosure of the result.

*Regulation 10*: An employee or employees’ representative who believes that an employer is not entitled to hold a ballot under Regulation 8 may make a complaint to the CAC within 21 days of the employer notifying the employees that it intends to hold a ballot.

*Regulation 12*: An employee request is not valid if it is made within three years of the date of a negotiated agreement or before the date of termination, within three years of the date on which the standard provisions started to apply or where there was a pre-existing agreement, within three years of a request which led to the non-endorsement of the request in a ballot