



Make Work Pay

Consultation on draft code of practice on trade unions' right of access into workplaces

Executive Summary

This response is made by Unite the Union. Unite is the UK's strongest trade union, representing over one million members across all sectors of the economy including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, hospitality, health, local government and the not-for-profit sector.

Unite welcomes the opportunity to respond to the DBT draft code of practice on the right of trade unions to access workplaces.

The new right for unions to access workplaces has the potential to transform and enhance UK industrial relations, ensuring that workers can have a voice over their working lives, can be represented at work and can access and enforce their employment rights. Most importantly, union access rights have the potential to extend collective bargaining creating benefits for workers, employers and the wider economy.

There is widespread evidence that collective bargaining leads to increased pay and living standards, reduced inequality and discrimination, better working conditions and pensions, improved work-life balance, safer working places and improved access to training. It can assist employers by improving compliance with employment law, resolving disputes in the workplace without resort to the courts and tribunals, assisting employers to retain and recruit staff, supporting innovation and skills development and enhancing productivity. Improved take home pay supports demand in local economies and protects jobs. It can boost fiscal returns and stimulate growth.

It is welcome that the government remains committed to weekly union access enabling unions to meet regularly with workers, to support and represent them and to facilitate

collective bargaining. This response sets out how these commitments should be implemented in practice.

Unite also recognises that minor improvements have been made to government proposals on access following the earlier consultation, including the extension of access rights to workers covered by the fair pay agreement on social care and the school support staff negotiating body.

However, Unite continues to have major concerns about the framing of the Code of Practice (and of the accompanying regulations).

Unite calls on the government to revise the Code of Practice in light of the comments set out below. The government must also ensure that the forthcoming regulations guarantee a right for unions access workers in their place and that the penalties accompanying the new rights create an effective deterrent against non-compliance and penalise employers who seek to block access rights.

Key Concerns

Unite believes that the draft Code (and the anticipated accompanying regulations) will mean it will be all too easy for employers to block, delay and frustrate the right of unions to meet workers. The Code does not appear to be deliver on stated government policy nor to meet the requirements of the Employment Rights Act.

Our principal concerns can be summarised as follows.

Limited Model Terms

- **The proposed model terms set out in the Code are very restricted and include glaring omissions.** For example, there is no reference in the model terms to:
 - Physical access being the default position, with union access being facilitated *in the workplace* in all but exceptional circumstances.
 - Arrangements for unions to access workers digitally via online meetings, being facilitated *whenever* requested by the union(s).
 - Workers being protected from victimisation or having a right to be paid in full when choosing to meet with union officials during working hours
 - The need for employers to protect the privacy of unions and workers by not using surveillance to monitor meetings between unions and workers.
 - Protection for workers and union activists from anti-union tactics by employers.

- The limited nature of the model terms does not deliver on Ministerial commitments to deliver “off the shelf” access agreements¹.
- The provision of wider model terms would inform and support constructive dialogue between unions and employers. It would also increase union reliance on the CAC processes. This in turn will create delays and deny workers access to unions.
- It will also increase union reliance on the CAC processes. This in turn will create delays and deny workers access to unions.
- The draft Code and the accompanying Regulations will mean the CAC is expected to exercise its discretion and determine whether access should be required and what reasonable access arrangements should involve. This is likely to provoke legal challenges and applications for judicial review.

Access denied

The Code sets out multiple grounds on which employers can argue that access – particularly physical access - should be denied. These include:

- It would be too disruptive for the operation of the business (paras 46 & 47).
- Access would present a risk to national security (paras 51). This ground for refusing access has been included even though Unite and other unions have agreed and long operated access arrangements in the Ministry of Defence, defence industries, nuclear power plants, public utilities, the energy sector.
- Access would present a risk to the detection or investigation of offences. Unite and other unions have long standing access arrangements for members who work as civilian staff in the police force and for inspectors and staff working in enforcement agencies such as the Health and Safety Executive, environmental health, the Gangmasters Licensing and Abuse Authority, etc, etc. In all these workplaces it has proved possible to facilitate union access whilst protecting the confidentiality and integrity of investigations.
- Access can be refused in schools unless there is evidence that the union official carrying out access in a school has an enhanced Disclosure and Barring Service (DBS) check (para 66). This contradicts guidance from the Department for Education Teacher Regulation, School Safeguarding and Safety Team that confirms union staff who are visiting as trade union organisers, are there to speak to adults not children, so are therefore, not engaging in regulated activity so schools are not entitled to ask for DBS checks.
- Access may jeopardise the health and safety of any person covered by that access agreement (para 55).

¹ <https://questions-statements.parliament.uk/written-statements/detail/2025-03-04/hcws490>

The inclusion of a long list of reasons for refusing access is not consistent with the principles for access² which require that qualifying union officials “should be able to physically enter a workplace or communicate with workers (or both) ***in any manner*** that does not unreasonably interfere with the employer’s business”. New section 70ZF(2)(e) also underlines that “access should be refused entirely only where it is reasonable in all the circumstances to do so.”

The Code should be revised to confirm that access should not be refused but rather should be facilitated in a way that accommodates operational, confidentiality and health and safety needs. For example, unions should be able to meet with workers during their rest breaks.

The framing of the Code

The language used in the Code often lacks clarity, detail and certainty. This inevitably favours employers and their lawyers who will be able to rely on the lack of precision to resist requests for access. For example, section C only allows for physical union access in a workplace where it is practicable for the employer. This test would allow the employer to argue that on the basis of a cost benefit analysis union access should not be permitted.

Ineffective fines:

The proposed level of fines for the refusal of access and for non-compliance with access agreements is completely inadequate and will not create an effective deterrent for employers seeking to avoid compliance. Fines of up to £75k - £500k will not deter profitable or global firms with vast resources at their disposal from refusing access.

- Multinationals such as Amazon, and Starbucks deploy £millions annually for union-busting tactics. Employers who are hostile to union organising will simply price in the proposed fines, as the cost of doing business and of keeping unions out of the workplace.
- The fact that fines will only increase from £75k to £150k to £500k where an employer is found to have committed *repeat* breaches of the regulations means that employers will be able to game the system and switch tactics to block union access and whilst simultaneously reducing any penalties incurred.
- It is also not clear whether unions will need to demonstrate repeat offences in a single workplace, or whether fines will ratchet up where employers commit the same breach in multiple workplaces.

The application of flat rate fines may prove disproportionate for smaller businesses with lower profit margins.

² See new section 70ZF of the Trade Union and Labour Relations (Consolidation) Act 1992

The application of a symmetrical system of fines, applied equally to employers and unions, creates the potential for vexatious complaints being made against unions, who could also be subject to substantial fines. Attacks on unions could deprive workers of the right to access a union at work.

Exempting employers with fewer than 21 workers means that millions of workers will be denied the fundamental right of access to a union. The exemption will disproportionately affect younger workers employed in retail and hospitality.

Absent regulations

To date, there has been no detail provided about or consultation on draft regulations on union access rights, meaning it is impossible to assess whether the policy will be implemented effectively and in line manifesto commitments.

Proposals

Unite believes that the following changes must be made to the Code of Practice and accompanying regulations to ensure that the right to union access in the workplace is implemented effectively.

Model Terms

The list of model terms should be expanded and clarified. The default access terms should underpin access agreements between employers and unions. The CAC awards for access should always reflect the model terms.

The model terms set out in the Code and in the Regulations should include the following:

- Weekly access: Arrangements should be made for unions to meet with workers in all workplaces and to all groups of workers. Access arrangements should reflect and accommodate different working patterns. In many workplaces this may involve repeat visits by union officials.
- The Code should make clear that access should be facilitated *in the workplace* where workers take their rest breaks, e.g. in staff canteens or near where they work.
- Arrangements for unions to access workers digitally via online meetings should be facilitated *whenever* requested by the union(s). Employers should not be able to substitute physical access with an offer of online access.
- The Code must confirm that workers are legally protected from victimisation if they choose to meet with union officials.
- It should be clear that access should normally take place during working hours and that workers must be paid in full when meeting with union officials. It should be unlawful for employers to make deductions from pay where a worker is meeting with a union official.

- Employers must protect the privacy of unions and workers by avoiding using surveillance to monitor meetings between unions and workers.
- Employers should be required to inform workers via email and should post information in prominent places throughout the workplace confirming that union access is authorised by the employer and that workers will not be penalised for meeting unions.
- Unfair practices by employers designed to block union access or to intimidate workers into not meeting unions should always amount to a breach of the model terms and access agreements.
- Employers should be under a clear duty to act in a manner which either supports or is neutral to union access.

Grounds for refusing access

The Code and regulations should confirm that:

- Union access should be facilitated *in the workplace* in all but exceptional circumstances. Digital access should supplement physical access.
- Employers should not be able to rely on operational, confidentiality or health and safety reasons for refusing or limiting access. Instead, the Code should make clear that employers have a responsibility to facilitate access in a manner that does not interfere with business operations, which safeguards health and safety and will allow for access to take place away from confidential areas.
- References to access presenting a risk to national security or to the detection or investigation of offences should be removed or substantially revised to make clear that access should be facilitated in a manner reducing these risks.
- References to the union official needing have completed an enhanced Disclosure and Barring Service (DBS) check in order to access schools should be revised in line with guidance from the Department for Education Teacher Regulation, School Safeguarding and Safety Team. The Code should confirm that the purpose of access arrangements is for union officials to meet adults and not children.

The Code should confirm throughout that union officials “should be able to physically enter a workplace or communicate with workers (or both) ***in any manner*** that does not unreasonably interfere with the employer’s business”.

The framing of the Code

References in section C to unions only being allowed physical union access in a workplace where it is practicable for the employer should be removed. Instead, the Code should confirm that physical access should be facilitated in all but exceptional cases.

Fines:

Fines for breaches of access rights and access agreements must be proportionate and create an effective deterrent against non-compliance, including for global companies with vast resources at their disposal. Employers must not be able simply to price in the cost of keeping unions out of the workplace.

Unite believes that fines for the most egregious breaches of access rights should be linked to a company's turnover, in line with penalties for breaches of GDPR standards, competition law and consumer rights.

Fines should also not be applied symmetrically to unions and employers.

Employers with fewer than 21 workers

The government should remove the exemption for employers with fewer than 21 workers.

It is welcome that the government has decided that the exemption should not apply to workers covered by the Fair Pay Agreement on Social Care and national bargaining arrangements for school support staff. This approach should be extended to all workplaces covered by national collective bargaining agreements, including in health, local government, education and construction.

Consulting on the regulations

It is critical that the government consults with unions on the drafting of regulations on union access. Such consultation will help to ensure the regulations effectively implement government policy and will avoid inadvertent errors.

The CAC

- Unions should be involved in shaping the guidance to the CAC as to how the enforcement of the right will work in practice, including on how rights to access will be applied and how the fines for anti-union employers will work.
- Unions should also be involved in developing a training plan to ensure CAC panel members have a strong understanding of the challenges facing unions organising in hostile environments.
- It is vital that the CAC is properly resourced and its capacity increased to respond to the potential substantial increase in workload. We are concerned that the Department's modelling risks significantly under-estimating the number of access applications that will be made, and that the CAC will not have the capacity to manage the requests within the allotted timeframes.

Responses to consultation questions

Section A: Introduction

Unite questions why the government has chosen not to consult on the Introduction to the Code, Section A.

Unite believes that this section should be edited in the following ways:

- Paragraph 9 refers to the absence of a general independent right of access for unions under *the current legislative framework*. This wording is outdated. By the time the Code is adopted the new access provisions in the 1992 Act and accompanying regulations creating a right of access will have come into effect.
- Paragraph 10 refers to contributing positively “to a workplace culture... between employers and employees”. This should be amended to refer to workers not just employees - as the new rights of access will apply it to agency workers, zero hours contract workers and freelancers and not just simply to those on contracts of employment.
- Paragraph 14 should be amended to make clear that the access purposes set out in section 70ZA(6) only apply to statutory access arrangements and not to those voluntarily agreed between employers and unions.
- Paragraph 15 should be amended to more accurately reflect the purposes of access set out in section 70ZA(6). For example, references to *types of communication* in the first line is too narrow and does not reflect different forms of access including physical and face-to-face access. The description of access in lines 4 to 6 also omits references to unions meeting workers. The reference to collective bargaining should also be broadened to refer to facilitating collective bargaining – i.e. securing union recognition as well as supporting existing recognition agreements.
- Paragraph 16 should be amended to make clear that access arrangements must comply with the model terms set out in the regulations and in this Code of Practice.
- Paragraph 18 should be edited to make clear that union access may lead to either statutory or voluntary recognition.
- Paragraph 19 and the accompanying regulations should confirm that employers should be required to pay a 25% uplift of fines where an employer fails to comply with this statutory Code of Practice.
- Unite is concerned that some employers may seek to avoid engaging with genuinely independent trade unions in their workplace by recognising staff associations or purposely or newly formed trade unions. Paragraph 20 and the accompanying regulations should emphasise that the CAC will assess whether a union seeking access is genuinely independent of the employer and has a track record in representing and negotiating on behalf of workers.

- The fourth line of Paragraph 21 should be amended to refer to an ‘employer’ rather than a ‘workplace’ with less than 21 workers.
- Paragraph 21 should also be expanded to include examples of associated employers. For example, the Code should explicit state that franchises and chains of outlets within the hospitality sector will be covered by the new access rights even where any one outlet employs fewer than 21 workers.
- Unite welcomes the inclusion of paragraph 22 relating to access to private dwellings.

Section B: Establishing an access agreement

Question 1:

Do paragraphs 23 to 28 provide sufficient detail and clear advice on how trade unions should submit an access request?

- **No**

Question 1.1:

Please provide further information to support your answer.

Voluntary agreements

Unites agrees that wherever possible unions should seek to reach voluntary access agreements with employers. However, unions should not always be expected to seek a voluntary agreement before triggering the new statutory access arrangements. Many employers have an established track record of hostility towards trade unions or will have refused union access previously. Attempting to secure a voluntary agreement is likely to prove futile and time-consuming for the union. Paragraphs 23 and 24 should be amended accordingly.

Detail to be provided by unions

The range of information unions will be required to provide when requesting access and completing the Access Request Template is too broad and should be reduced and clarified:

- Paragraphs 25, 26 & 28: Unions will often not have full or accurate information relating to all the areas of the access request template. For example, unions may not be aware of the precise addresses of an existing premises nor of the addresses of other premises or outlets run by the employer.

- Unions will often not be aware of the profile, structure and job titles of the workers employed in unorganised workplaces. It is therefore unreasonable to require unions to provide a description of the workers to which access is being sought when first requesting access.
- When first approaching an employer, unions may not be able to describe the types of access which they are requesting. Requests for access are likely to develop or change as the union becomes familiar with the workplace. Similarly, unions will not initially be aware of the layout of workplaces or where workers work. It will therefore not be possible for unions to specify the types of facilities required or where physical access should take place on an access request form. Any information provided would necessarily be very general.
- Unions should also not be required to provide a comprehensive list of reasons full access when first approaching the employer. For example, before meeting the workforce unions will not be able to confirm if the union will be seeking collective bargaining or just seeking to meet with, support and represent workers.

This section of the Code and the template forms should be amended to accommodate these points.

The Code and accompanying regulations should make clear that employers must not refuse to negotiate access and the CAC must not decline a request for access on the basis of information errors or omissions by the union.

Encrypting emails

Paragraph 27 suggests that unions may wish to 'encrypt emails'. This is not usual practice, and we question whether this is necessary. We suggest that this reference is deleted.

Question 2:

Do paragraphs 29 to 33 provide sufficient detail and clear advice on how an employer should respond to an access request?

- **No**

Question 2.1:

Please provide further information to support your answer.

There are some areas where the guidance should be strengthened and clarified.

It would be helpful if a comprehensive list of the information that the employer is expected to provide to the union is set out in the text of the Code. The text should not simply refer to the template form.

The Code and accompanying regulations should require employers to provide information relating to workers, their work locations and shift patterns when either accepting or declining an access agreement. Such information would support future discussions between the union and the employer. If the employer refuses access talks completely, this information will still be relevant to the union's submissions to the CAC and for CAC deliberations.

If the employer decides to reject a request for access, they should be required to specify the reasons for the rejection, as well as explaining which elements of the request they are rejecting.

Paragraph 29 says that the employer should inform the union where 'another trade union has recently applied for access or is awaiting a ruling from the CAC'. This should be strengthened from 'should' to 'must'. The words 'for the same workers' should also be added after 'access'. It would also be helpful for the Code to advise employer to inform the union if the same workers are already covered by a union recognition agreement.

Question 3:

Is the following guidance clear: paragraphs 34 to 41 on how trade unions and employers should negotiate the terms of an access agreement, including expectations of good-faith engagement and the process where negotiations continue beyond the initial period?

- **No**

Question 3.1:

Please provide further information to support your answer.

We recommend that the following amendments should be made to this section of the Code:

- Paragraph 35 recommends that employers and unions may find it helpful to work from a single document that acts as a draft access agreement. Whilst such advice may be good practice, we would suggest it is too detailed for a statutory Code of Practice. If the text is to be retained the Code must make clear that

unions should prepare the initial document setting out the union's proposals for access. Employers and unions should work from that text.

- Paragraphs 36 & 40: Unite is concerned by the proposition that all access agreements must be filed with the CAC. It is likely that access agreements will need to be updated on a regular basis, for example, where the dates were union officials attending a workplace vary due to changes in operational practices, shift patterns and/or the availability of the union officers concerned. It is impracticable for unions and employers to be expected to submit amended agreements on each occasion. Such a requirement will also create a significant administrative burden for the CAC.
- It is not clear what paragraph 38 means.
- Paragraph 41 b) suggests that either a union or an employer can unilaterally apply to the CAC for an extension in the negotiation. The legal basis for this subparagraph is not clear. Unite is of the view that's any request for an extension in the negotiating must be mutually agreed by the union and the employer. Employers are apply for an extension to drag out negotiations even they have no intention of reaching an agreement. Amendments should be made accordingly.

Question 4:

Does paragraph 42 provide sufficient clarity and detail on how and when an application may be referred to the CAC if negotiations on access terms are unsuccessful?

- No

Question 4.1:

Please provide further information to support your answer.

The wording of this paragraph is unclear, in particular the references to time periods.

The second sentence states 'as per the 55-day CAC referral period', but this referral period has not been mentioned previously.

We suggest that Code should include a clear timeline for access requests, responses, the negotiating period and the time limits for unions to submit applications to the CAC.

There is a concern that if an extension to the negotiation period is agreed by both parties, takes up part of the referral period. As a result, unions may be reluctant to agree to extended negotiations.

As argued in our previous consultation response, the referral period should start at the point at which the negotiations break-down or the employer says refuses to meet the union.

Question 5:

Do paragraphs 43 to 47 provide clear guidance on how the CAC will make decisions on whether access should take place, including the principles it must apply and the factors it will consider?

- No

Question 5.1:

Please provide further information to support your answer.

Unite has serious concerns about the drafting of this section of the Code. In our opinion the text is not consistent with the access principles³.

Paragraphs 46 and 47 suggest that's the CAC will be required to balance and effectively choose between the union's request for access and the operational needs of the employer. This is not an accurate reflection of the access principles. New section 70ZF provides that qualifying union officials "should be able to physically enter a workplace or communicate with workers (or both) *in any manner* that does not unreasonably interfere with the employer's business". The Code should be revised to confirm that access must not be refused on the grounds of an employer's operational needs. Rather the onus rests with the employer (and where necessary with the CAC) to facilitate access in a way that accommodates their operational, confidentiality and health and safety needs. For example, unions should be able to meet with workers during their rest breaks.

Question 6:

Are the circumstances set out in paragraphs 48 to 51, in which access must not be granted or may reasonably be refused, clear and appropriately detailed?

- No

Question 6.1:

Please provide further information to support your answer.

³ set out in new section 70ZF of the Trade Union and Labour Relations (Consolidation) Act 1992

Paragraph 48 is inaccurate. The exclusion for smaller organisations only applies where an employer has fewer than 21 workers overall. It does not apply where there are fewer than 21 workers employed in a particular workplace. The text must be revised accordingly.

Unite accepts that statutory access agreements should not last longer than two years. By the time the statutory period expires, unions will have sought to enter on-going voluntary access agreements with the employer. The two-year period ensures that unions cannot apply for a statutory access in multiple workplaces but do nothing to organise the workforce. This would have the effect of locking out other unions from that workplace and would not serve the interests of working people.

As outlined in the Executive Summary above, we believe that the proposed circumstances in which access *must* not be granted are too broad.

We are firmly opposed to the proposition in paragraph 51 that access must be denied where there is a perceived risk to national security. Unite and other unions have workable access agreements in a wide range of organisations where national security is paramount. This includes organisations with high levels of security requirements such as the Ministry of Defence and the wider defence industry, nuclear power installations, energy plants and public utilities. Security considerations may be highly relevant to the way in which access takes place but should not be a bar to access taking place safely.

Since the publication of the draft Code, unions have reported that utilities companies have sought to rely on the national defence exclusion in the draft Code as a reason for restricting access for union officials. The inclusion of this exclusion is therefore likely to damage well-established industrial arrangements.

National security should be removed from list of reasons why the CAC must not grant access. Paragraph 51 goes on to advise that “employers should make every possible effort to provide facilities that allow for access to take place in a manner that does not compromise national security”. This guidance should be retained but moved to another section of the Code.

Unite does not agree that access should be refused on the basis that it would present a risk to the detection or investigation of offences. Unite and other unions have long-standing and workable access arrangements for members who work as civilian staff in the police force and for inspectors and staff working in enforcement agencies such as the Health and Safety Executive, environmental health, the Gangmasters Licensing and Abuse Authority, etc. In all these workplaces, it has proved possible to facilitate union access whilst protecting the confidentiality and integrity of investigations. The reference to the detection and investigation of offences should be removed from this section of the Code.

Question 7:

Do paragraphs 52 to 55 provide clear and sufficient guidance on the circumstances in which it is reasonable for the Central Arbitration Committee (CAC) to refuse access, including where an employer already recognises an independent trade union, an access agreement is already in place, or where facilitating access would require significant structural changes?

- **No**

Question 7.1:

Please provide further information to support your answer.

The Code should confirm that a recognised trade union is entitled to complain to the CAC if the employer agrees to an access request for the same worker/s that are already covered by an existing recognition agreement.

It should also be possible to amend an application for access where some, but not all, workers included in their initial application were covered by an existing collective agreement.

Paragraph 54 should confirm that where access requests were initially submitted by more than one union, and one union decides to withdraw its application, the remaining union can continue to pursue its request for access.

Question 8:

Are the ‘model’ terms of access agreements set out in paragraphs 56 to 65, including the frequency and duration of access for different scenarios, sufficiently clear and detailed?

- **No**

Question 8.1:

Please provide further information to support your answer.

As outlined in the Executive Summary above, Unite is seriously concerned by the restricted nature of the proposed model terms set out in this section of the Code.

The section includes glaring omissions. For example, there is no reference in the model terms to:

- Physical access being the default position, with union access being facilitated *in the workplace* in all but exceptional circumstances.

- Arrangements for unions to access workers digitally via online meetings, being facilitated *whenever* requested by the union(s).
- Workers being protected from victimisation or having a right to be paid in full when choosing to meet with union officials during working hours
- The need for employers to protect the privacy of unions and workers by avoiding using surveillance to monitor meetings between unions and workers.
- Protection for workers and union activists from anti-union tactics by employers.

Unite is concerned that the limited nature of the does not deliver on Ministerial commitments to deliver “off the shelf” access agreements⁴.

The provision of wider model terms would inform and support constructive dialogue between unions and employers. It would also increase union reliance on the CAC processes. This in turn will create delays and deny workers access to unions.

The draft Code and the accompanying Regulations will mean the CAC is expected to exercise its discretion and determine whether access should be required and what reasonable access arrangements should involve. This is likely to provoke legal challenges and applications for judicial review.

Proposals:

The list of model terms should be expanded and clarified. The Code should also emphasise that CAC awards for access should always reflect the model terms, as follows:

- Weekly access: Arrangements should be made for unions to meet with workers in all workplaces and to all groups of workers. Access arrangements should reflect and accommodate different working patterns. In many workplaces this may involve repeat visits by union officials. See more detailed comments below
- The Code should make clear that it is a Model Term for access to be facilitated *in the workplace* where workers near where they work or where they take their rest breaks, e.g. in staff canteens.
- Arrangements for unions to access workers digitally via online meetings should be facilitated *whenever* requested by the union(s). Employers should not be able to substitute physical access with an offer of online access.
- This section of the Code must confirm that workers are legally protected from victimisation if they choose to meet with union officials.
- It should be clear that access should normally take place during working hours and that workers must be paid in full when meeting with union officials. It should be unlawful for employers to make deductions from pay where a worker is meeting with a union official.

⁴ <https://questions-statements.parliament.uk/written-statements/detail/2025-03-04/hcws490>

- Employers must protect the privacy of unions and workers by avoiding using surveillance to monitor meetings between unions and workers.
- Employers should be required to inform workers via email and should post information in prominent places throughout the workplace confirming that union access is authorised by the employer and that workers will not be penalised for meeting unions.
- Unfair practices by employers designed to block union access or to intimidate workers into not meeting unions should always amount to a breach of the model terms and access agreements.
- Employers should be under a clear duty to act in a manner which either supports or is neutral to union access.

Weekly access

It is welcome that the government remains committed to weekly union access enabling unions to meet regularly with workers, to support and represent them and to facilitate collective bargaining. However, aspects of the guidance should be strengthened and clarified.

It should be explicit that weekly access applies to all workers covered by the access agreement. Access arrangements should reflect different shift patterns and accommodate those who work part time or during unsocial hours. Paragraphs 53 and 54 of the draft Code of Practice on Access and Unfair Practices⁵ provide a useful template for guidance on accommodating the needs of atypical workers.

It is welcome that Paragraph 59 clarifies that weekly access does not mean that access will always take place on the same day or at the same time. This guidance should be expanded to confirm that it may be necessary for union officials to attend the workplace at different times of day and during any week to ensure all workers have an equal opportunity to meet with the union.

The Code should also confirm in a multi-site organisations weekly access would take place at each of the sites covered by the agreement during each week.

Paragraph 60 makes clear that averaging of weekly access over a longer time period is possible. This is welcome.

It is critical that the privacy of communications between unions and workers is protected. In our opinion, Paragraph 63 and the section on Privacy of Meetings do not meet this objective. Paragraph 63 states “The employer must also ensure that as far as reasonably possible, they ensure that direct communications between its workers and a trade union subject to the access agreement are private.” The “as far as reasonably

⁵ <https://assets.publishing.service.gov.uk/media/6981d702015e2ba11991bb61/draft-code-of-practice-access-and-unfair-practices-during-the-recognition-and-derecognition-process.pdf>

possible” test is far too weak, bearing in mind an employer’s interference with a worker’s communications with a union may lead to victimisation, blacklisting and wider abuse. Employers must be prevented from intercepting workers’ communications with unions. Any non-compliance should amount to a breach of access requirements.

Paragraph 65 is also concerning. While union officials will always seek to co-operate with employers during access visits, requiring union officials to complete health and safety inductions may be unnecessary or unreasonable. The Code should make clear that where training is necessary and justified this must be funded by the employer.

Additional matters the CAC must have regard to

The reference to DBS checks in paragraph 66 would create a significant barrier to access that goes beyond current practice. This requirement must be removed. Current statutory guidance on safeguarding in schools⁶ from the Department for Education does not require visiting union representatives to be DBS checked and there are already numerous access agreements in schools where DBS checks for visiting union reps are not required. Schools have existing systems in place for visitors, including lanyard categorisation and identification requirements.

Question 9:

Do paragraphs 68 to 69 of Section B provide sufficient clarity and detail on how joint applications for access by two or more trade unions should operate in practice?

- Yes

Question 10:

Do you have any additional comments on Section B, of the Code of Practice?

- Not currently

Section C: Operation of an access agreement

Question 11:

Do paragraphs 70 to 74, provide clear and sufficient guidance on where access can take place, including expectations around using workplace facilities, accounting for health and safety or security requirements, and reflecting local workplace circumstances?

- No

⁶ <https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

Question 11.1:

Please provide further information to support your answer.

It is vital that the Code and regulations expressly provide that unions have a clear and positive right to access workers in their actual workplace during working time.

It is welcome that this section of the Code confirms that a union should be granted access to workers at their actual workplace and in the actual location of their work in that workplace such as in a meeting room or in an adjoining work area.

However, the guidance on physical access needs to be strengthened and clarified in the following ways:

- The rights for union officials to physically access the workplace and meet workers where they work and to be able to utilise digital access when requested should be treated as core model terms in the Code and in the regulations. Specifying physical access and digital access as model terms would be consistent with and give proper effect to the access principles set out in new section 70ZF(2) of the 1992 Act.
- The use of the term ‘where practicable’ at the start of paragraph 70 is problematic and should be removed. This test would allow the employer to argue that based on a cost-benefit analysis union access should not be permitted. The Code must clearly state that physical access in the workplace, should be permitted in all but exceptional circumstances.
- In our responses relating to Sections A & B above, we explained why operational requirements, health and safety and security issues should not be treated as legitimate reasons for an employer to refuse or restrict union access. Paragraph 71 should be amended in the light of these concerns. The paragraph should make clear that employers are under a duty to facilitate union access in a workplace in a manner which accommodates operational, safety and security needs.
- The list of examples of workplace access in paragraph 71 should be expanded to illustrate how access rights can operate effectively in different industries and sectors. For example:
 - in offices, access should take place at desk areas, or in meeting rooms which adjoin work areas.
 - on construction sites, unions should be able to meet works on site or immediately after foreman’s meetings at the beginning of shifts.

- in road transport or the bus sector, unions must be able to meet with workers at the depot at the start of shifts.
- The Code should make clear that unions must be able to meet workers where they (the workers) feel comfortable, free from employer intimidation or victimisation. This will usually mean meeting a union near their place of work or where they take their rest breaks. Often employers place significant restrictions on where access can take place. For example:
 - In hotels unions are allowed to use rooms which are situated at the end of long corridors in parts of the hotel where workers would not normally go and where CCTV cameras can record their movements.
 - During union recognition campaigns, it's not uncommon for employers to allow unions to use rooms located next to the manager's office. Workers are often required to seek the agreement of the manager before going to speak to the union.
 - In some companies, unions are only allowed to meet workers in the company board room, where many staff feel intimidated.

The Code must make clear such practices are not acceptable and would amount to breaches of access principles and agreements.

- Paragraphs 72 and 73: Unite recognises that an employer's typical methods of communicating with the workforce can provide a useful *baseline* for union access in the workplace. Employers should be required to share details about their typical methods of communication with the union.
- However, union access should not be limited by the employer's typical methods of communication. The Code should be explicit that a variety of forms of access should be provided for and that a union may choose to use a combination of engagement methods.
- In some cases, large-scale meetings with workers may be appropriate. But unions should also be free to run drop-in sessions, 'surgeries', or to approach workers in their lunch breaks. Unions should also be able to meet workers in staff canteens or where workers normally congregate. This can put workers at ease and help to build familiarity between the union, workforce and employer.
- Access arrangements should also be flexible to accommodate different working patterns.
- The Code should also make clear that employers are expected to support or remain neutral about trade unions and should not be allowed to coerce workers not to join a union. The Code should make clear for example that employers should not seek to schedule worker meetings shortly before or after union access sessions to warn staff against joining a union.

- Paragraph 74 should also be expanded to refer to access arrangements in airports as well as ports. In civil aviation, employers should be expected to enable unions to meet workers on airside where staff wait to board or disembark from flights. This will involve employers supporting unions to access security passes.

Question 12:

Are the arrangements set out in paragraph 75 clear and sufficiently detailed on how access should operate where suitable meeting space is not available, including the use of off-site or digital alternatives?

- No

Question 12.1:

Please provide further information to support your answer.

Paragraph 75 should be amended to make clear that where it is necessary to hold access meetings away from the workplace premises, the meetings should still take place during normal working hours. Workers must be guaranteed pay during the period they are away from work. It should be unlawful for employers to deduct pay from workers because they met with a union.

Paragraph 75 should also make clear that digital access should only be provided when requested by the union concerned.

Question 13:

Is the guidance in paragraphs 76 to 79 clear and sufficiently detailed on when access should take place?

- Yes

Question 13.1:

Please provide further information to support your answer.

It is welcome that Paragraph 76 confirms that access should take place during 'normal working hours'. The Code should also make clear that workers should continue to be paid.

Paragraph 79 helpfully encourages employers to align access arrangements with work events that involve gatherings of workers during work time, including inductions and staff training.

The Code however should warn employers not to schedule worker meetings shortly before or after union sessions to deter staff from joining a union.

Question 14:

Do paragraphs 80 to 83 provide clear and appropriate guidance on the privacy of access meetings, including the attendance of managers or supervisors and the use of workplace surveillance or recording equipment?

- No

Question 14.1:

Please provide further information to support your answer.

The guidance on privacy in meetings is inadequate and weak. The draft is more limited than the guidance on privacy which applies during statutory recognition campaigns. For example:

- Paragraph 80 states that employers *should* respect the privacy of access meetings. This should read the employer *must* respect worker privacy. Monitoring conversations and meetings between unions and workers is likely to lead to victimisation, bullying and potentially even blacklisting. It is critical that the code protects workers from such employer tactics.
- Under the current guidance employers are only advised to inform unions about the use of CCTV and other surveillance systems. There is no expectation employers will switch such systems off during access periods, for example, in staff canteens.

The guidance on privacy should be substantially tightened.

The draft Code also fails to address the importance of protecting privacy during digital online meetings and for electronic communications. The code must make clear that employers must not eavesdrop or monitor digital access meetings and that electronic communications between the union, its representatives and workers should not be monitored or listened to, either in real time or afterwards.

The Code should also advise that privacy issues must be factored in when deciding on the location of access meetings. For example, unions should not be offered meeting room next to or opposite a manager's office. Workers must also not be required to report to managers if they wish meet with the union.

Question 15:

Is the following guidance clear and workable: paragraphs 84 to 86 on how access agreements should operate where the employer does not control the premises, including the role of third parties and referral to the CAC where access cannot be facilitated?

- No

Question 15.1:

Please provide further information to support your answer.

The examples included in this section are helpful, but the list should be expanded to illustrate how access will operate in a range of sectors, including service companies and facilities management firms which provide outsourced services to businesses and in large construction or manufacturing sites where sub-contractors often operate from other employers' sites.

The Code should also spell out in detail the responsibilities of the third-party employers who which managed sites. The guidance should advise employers to make similar arrangements for union officials to access sites as they would for service providers. Employers should also be responsible for booking meeting rooms on site which unions can use to meet with workers. Wherever possible, access meetings should be arranged when the employers' staff will be naturally congregating, e.g. as part of induction or training sessions.

The Code should also make it clear that the employer, and not the union, is responsible for any costs incurred in arranging passes or other requirements. For example, in the case of airfield-side access in civil aviation mentioned above, it is the employer who is responsible for the costs involved in arranging the necessary permissions for union representatives

Question 16:

Are the arrangements set out in paragraphs 87 to 89 sufficient and flexible on facilitating access for workers with non-typical working patterns, including shift workers, part-time workers and those who rarely attend the employer's premises?

- Yes

Question 16.1:

Please provide further information to support your answer.

Paragraphs 87 and 88 are generally helpful and rightly emphasise the need for flexibility when arranging access for non-typical workers and the requirement that access arrangements should enable a broadly equivalent level of access to typical workers. This is welcome.

This section recognises that digital access may play a role in enabling unions to access dispersed groups of workers. However, Paragraph 89 should be redrafted make clear that digital access will not be the only means of access for atypical workers.

Examples should be used to illustrate good practice in this section.

Question 17:

Does the code provide clear and workable guidance on ‘digital’ access in paragraphs 90 to 95 provide clear and appropriate guidance on digital access, including the use of indirect digital communication, consent requirements, and the role of the CAC where personal data is involved?

- No

Question 17.1:

Please provide further information to support your answer.

The guidance on digital access is not sufficiently clear or robust. For example:

- Paragraph 90 states that unions have a right to virtually access a group of workers in the workplace *provided* it does not unreasonably interfere with the employers’ business. This paragraph should be revised to make clear that digital access for unions should always be facilitated where requested. The timing of digital meetings can be adjusted to reflect operational needs. However digital access should not be refused outright on the basis it would interfere with the employer’s business.
- There should be clarity on what forms of digital communications count as weekly access, with a clear distinction made between virtual meetings and broader digital communications through email, intranet and other channels.
- As set out in response to question 14 above, the Code should set out privacy requirements relating to digital communications and underline that employers must not monitor who has opened emails or links sent from the union or who has attended virtual meetings and must not monitor, attend or record online

meetings. These rules must apply to employer representatives or agents as well as to managers.

- The section should set out rules or expectations to ensure that employers cascade union emails in a timely manner.
- The use of the expression ‘factual union communications’ in paragraph 91 is worrying. The code must make clear that employers have no right to edit union communications and must not circulate commentary on a union communication either before, after or as part a union email.
- Unite is concerned that the guidance set out in paragraphs 92 to 94 are not consistent with good data protection principles. The guidance relies heavily on individuals giving consent to receive union communications. However, guidance issued by the ICO has confirmed that consent should rarely be relied on particularly in the employment context. Consent should be genuine and freely given. However, workers may be coerced by their employer to opt out of union communications. Unions should be able to rely on wider established data processing principles, for example compliance with statutory rights in order to communicate directly with workers.
- Requiring workers to notify their employer that they are interested in talking to a union will increase the risk of victimisation or even blacklisting at work.
- The Code should emphasise that the requirements of GDPR and the Data Protection Act are compatible with access, and that ‘special category’ data can be processed for trade union purposes.
- It should also encourage voluntary data sharing agreements.
- It is disappointing that no provision has been made in Paragraph 92 for unions to appoint a suitable independent person (SIP) to act as an intermediary for communications between the union and workers. The appointments of a SIP would provide reassurance to workers that communications have not originated from and are not being monitored by the employer. It would also ensure that the contact details of workers is safeguarded.
- Paragraph 91 should also make clear that a virtual meeting can take place on a union-platform, with the link and supporting details circulated by the employer.
- The Code should clearly state that once a worker has given their personal contact details to a union, or registered for an event, the union can contact them outside the access agreement and any limitations in the agreement on frequency would not apply.

Question18:

Do paragraphs 96 to 98 provide clear guidance on how access agreements may be amended or revoked, including the requirement for agreement between the parties and notification to the CAC?

- No

Question 18.1:

Please provide further information to support your answer.

Unite strongly supports paragraph 96 which states that parties to an access agreement cannot unilaterally amend an access agreement. This stipulation should be spelt out in the regulations and retained within the Code.

However, as stated in response to question 3.1 above, Unite is concerned by the proposition that all access agreements must be filed with the CAC.

It is likely that access agreements will need to be updated on a regular basis, for example, where the dates were union officials attending a workplace vary due to changes in operational practices, shift patterns and/or the availability of the union officers concerned. In our opinion, it is impracticable for unions and employers to be expected to submit amended agreements on each occasion. Such a requirement will also create a significant administrative burden for the CAC.

Question 19:

Is the guidance in paragraph 99 helpful and appropriate on how access agreements may interact with the statutory trade union recognition process?

- No

Question 19.1:

Please provide further information to support your answer.

Paragraph 99 recognises that unions may apply for access with a view to securing collective bargaining arrangements. However, the paragraph implies that union recognition will normally be sought through the statutory recognition scheme. In most workplaces, unions will seek to secure voluntary recognition and will only apply for statutory recognition as a matter of last resort. The paragraph is therefore misleading as it suggests that unions will regularly transition from a statutory access scheme to statutory recognition. We would therefore propose that the paragraph is removed from the code.

Question 20:

Do you have any comments you have any additional comments on Section C?

- Yes

Question 20.1:

Please provide further information to support your answer.

Unite is concerned that the code fails to address the issue of anti-union tactics by employers or their agents.

The code should make clear throughout that employers should always avoid using anti-union rhetoric in all communications including in staff meetings where unions are not present. The codes should advise employers and their agents not to organise meetings with staff before or immediately after union access sessions with a view to telling staff that the employer will ignore union asks. Employers should also not circulate information to workers that undermines the union. Rather the Code and regulations should advise that employers and their agents are under a general duty to act in a neutral manner and not to undermine access. Any failure to adhere to these duties should be treated as a breach of access provisions.

There is a reference in paragraph 81 to employer campaigning, which appears to have been lifted from the Code on access and unfair practices during recognition. Employer campaigning has no place in the context of access rights and the access purposes that they fulfil. The reference to employer campaigning should be removed from the Code.

Section D: Resolving disputes and enforcement**Question 21:**

Are the arrangements set out in paragraphs 101 to 102 clear and appropriate in encouraging trade unions and employers to resolve access-related disagreements through dialogue before pursuing formal action?

- No

Question 21.1:

Please provide further information to support your answer.

Paragraph 100 should be expanded to list all the duties on employers relating to union access. This includes the requirement to respond to union requests for access, to provide unions with relevant information and to engage in constructive negotiations. App lawyers should also be placed under a duty not to obstruct access and not to engage in unfair practises towards trade unions. The paragraph and accompanying regulations should emphasise that it is unlawful for an employer to victimise or blacklist workers who seek to engage with the union in their workplace or via digital communications.

Paragraphs 102 and 103: It might well be good practice for unions to seek to resolve disputes with employers informally. However, in many cases where an employer is hostile to the union attempts at informal resolution will prove futile and will simply delay requests for access. These paragraphs must therefore make clear that seeking informal resolution is not a precondition for making a complaint to the CAC and failure to seek such resolution should not be taken into consideration by the CAC when determining the level of penalty that should be applied for breaches of access arrangements.

Question 22:

Is the guidance in paragraphs 103 to 104 clear and workable in explaining how and when a complaint may be made to the Central Arbitration Committee (CAC), including time limits and information requirements?

- **No**

Question 22.1:

Please provide further information to support your answer.

This section should be clarified as follows.

In paragraph 103, we would suggest replacing the words ‘whether a dispute is valid’ with ‘whether a complaint is well-founded’ or similar, to reflect the fact that it is the complaint, rather than the dispute, on which the CAC will adjudicate. A dispute may take place whether or not a complaint is well-founded.

Paragraph 104 says that complaints should be made ‘to the CAC case manager who will have been appointed to the case’. The process for the appointment of CAC case manager should be explained more clearly in the Code.

Paragraph 104 should also be revised to take into consideration the 55 day referral Periods where agreement on access arrangements is not reached between the union and the employer.

Question 23:

Do paragraphs 105 to 107, provide sufficient clarity on the powers available to the CAC when a complaint is upheld, including the ability to alter access agreements, issue compliance orders, and impose penalties for repeated non-compliance?

- No

Question 23.1:

Please provide further information to support your answer.

In paragraph 106, 'or' should be replaced by 'and/or' to clarify that the CAC could both extend the expiry date of an agreement and issue a remedial order to ensure compliance and these are not alternatives.

Question 24:

How clear is the guidance in paragraphs 108 to 110 on how the CAC determines the value of a financial penalty, including the factors it must consider and the treatment of repeated or cumulative breaches?

- Not clear

Question 24.1:

Please provide further information to support your answer.

As stated in the executive summary above, Unite strongly believes that the proposed level of fines for the refusal of access and for non-compliance with access agreements is completely inadequate and will not create an effective deterrent for employers seeking to avoid compliance. Fines of up to £75k - £500k will not deter profitable or global firms with vast resources at their disposal from refusing access.

Multinationals such as Amazon, and Starbucks deploy £millions annually for union-busting tactics. Employers who are hostile to union organising will simply price in the proposed fines, as the cost of doing business and of keeping unions out of the workplace.

The fact that fines will only increase from £75k to £150k to £500k where an employer is found to have committed *repeat* breaches of the regulations means that employers will be able to game the system and switch tactics to block union access and whilst simultaneously reducing any penalties incurred. The regulations and Code should be

amended to make clear that breaches need not be identical for an increased level of fine to be applied.

It is also not clear whether unions will need to demonstrate repeat offences in a single workplace, or whether fines will ratchet up where employers commit the same breach in multiple workplaces.

Unite is also concerned application of flat rate fines may prove disproportionate for smaller businesses with lower profit margins.

The application of a symmetrical system of fines, applied equally to employers and unions, creates the potential for vexatious complaints being made against unions, who could also be subject to substantial fines. Attacks on unions could deprive workers of the right to access a union at work.

Paragraph 108 refers to not having to go through the full enforcement process again for repeated breaches, which is welcome. It would be helpful to provide greater clarity about how a ‘fast-track’ process for repeated breaches would work.

Paragraph 109 suggests that breaches across different workplaces will be treated cumulatively and that the maximum fine can be reached from breaches that have taken place in different workplaces so long as the workplaces are covered by the same access agreement. The Code and regulations should be amended to make clear that any second or third breach, even if it is not identical to earlier breaches will result in increased fines.

Question 25:

Does the guidance in paragraphs 111 to 113 provide sufficient and accessible information on how parties may appeal a CAC determination, declaration or penalty order to the Employment Appeal Tribunal?

- Yes

Question 25.1:

Please provide further information to support your answer.

We urge the government to ensure that EAT has a designated specialist officer to deal with access cases and that appeals relating to access are fast tracked. This is vital to ensure that the enforcement of access and in particular the role of fines in the process operates as intended. Without a specialist officer, there is a risk that the backlog of cases at the EAT will significantly undermine the CAC’s ability to ensure that access takes place in line with access agreements.

Question 26:

Do you have any comments on Section D, 'Resolving disputes and enforcement', of the Code of Practice?

- **Not at this stage**

Question 27:

Are there any parts of Section D where the guidance is unclear, difficult to follow, or could benefit from further explanation?

- **Yes**

Question 27.1:

Please provide further information to support your answer.

Please see the answers to questions 21 to 25 above.

Question 28:

Is there anything you believe is missing or incorrect in Section D?

- **Yes**

Question 28.1:

Please provide further information to support your answer.

Please see the responses to earlier questions.

As stated above, it is vital that the Code sets out clearly that workers engaging with trade union access are protected from detriment. The CAC must have jurisdiction to deal with complaints relating to worker victimisation. Individuals should not be required to wait for 2 or more years for an employment tribunal to consider such cases.

Section E: Annexes – Standardised Templates

Question 29:

Are there any parts of Section E where the guidance or templates are unclear, difficult to follow, or could benefit from further explanation?

- Yes

Question 29.1:

Please provide further information to support your answer.

Please see detailed comments below

Question 30:

Is there anything you believe is missing or incorrect in Section E?

- Yes

Question 30.1:

Please provide further information to support your answer.

Please see detailed comments below.

Standardised template – access request

Question 31:

In your view, is the standardised template for access requests clear and easy to use for the purpose of submitting an access request?

- No

Question 31.1:

Please provide further information to support your answer.

The range of information unions will be required to provide when requesting access and completing the Access Request Template is too broad and should be reduced and clarified:

- Unions will often not have full or accurate information relating to all the areas of the access request template. For example, unions may not be aware of the precise addresses of an existing premises nor of the addresses of other premises or outlets run by the employer.
- Unions will often not be aware of the profile, structure and job titles of the workers employed in unorganised workplaces. It is therefore unreasonable to require unions to provide a description of the workers to which access is being sought when first requesting access.
- When first approaching an employer, unions may not be able to describe the types of access which they are requesting. Requests for access all likely to develop as the union becomes familiar with the workplace. Similarly, unions will not initially be aware of the layout of workplaces or where workers work. It will therefore not be possible for unions to specify the types of facilities required or where physical access should take place on an access request form. Any information provided would necessarily be very general.
- Unions should also not be required to provide a comprehensive list of reasons full access when first approaching the employer. For example, before meeting the workforce unions will not be able to confirm if the union will be seeking collective bargaining or just seeking to meet with, support and represent workers.

The Code and accompanying regulations should reduce the level of information unions are expected to provide in the request form and must make clear that employers cannot refuse to negotiate access and the CAC must not decline a request for access on the basis of information errors or omissions by the union.

Standardised template – response to an access request

Question 32:

How clear and workable is the standardised template for employer responses to an access request, including the information employers are expected to provide?

- **No**

Question 32.1:

Please provide further information to support your answer.

The Code, accompanying regulations and the template form should require employers to provide information relating to workers, their work locations and shift patterns when either accepting or declining an access agreement. Such information would support future discussions between the union and the employer. If the employer refuses access talks completely, this information will still be relevant to the union's submissions to the CAC and for CAC deliberations.

If the employer decides to reject a request for access, they should be required to specify the reasons for the rejection, as well as explaining which elements of the request they are rejecting.

In 2c, it is helpful for the employer to include the name and address of the owner where the workplace is not owned by the employer, but it must be clear that it remains the employer's responsibility to sort out any permissions with the site owner.

Section 3 – additional information where request follows previous negotiation period – is very unclear:

- It is not clear what 'additional information' refers to – whether revised elements of the access agreement, additional descriptive information of workers/workplaces etc to support access, or something else.
- The second box refers to the previously negotiated access agreement - but it is not clear where this agreement sits and how the additional information relates to it.
- It is not clear who is submitting the 'new information'.

It should be made clear how the employer contract information in 5 relates to the contact details in the 'address from' details – is this just belt and braces or does 5 have a different function?

Standardised template – notification to the CAC of an access agreement

Question 33:

Does the proposed standardised template for notifying the Central Arbitration Committee (CAC) that an access agreement has been agreed provide sufficient clarity on the information required?

- **No**

Question 33.1:

Please provide further information to support your answer.

Please see the responses to questions 3.1 and 18.1 above.

Standardised Template - notification to the CAC of a revocation or variation of an access agreement

Question 34:

Does the proposed standardised template for notifying the Central Arbitration Committee (CAC) of a variation to, or revocation of, an access agreement previously notified to the CAC provide sufficient clarity on the information required?

- No

Question 34.1:

Please provide further information to support your answer.

Please see the responses to questions 3.1 and 18.1 above.

In the case of a variation that has been agreed by both/all the parties, it is not clear why it is necessary to list the individual clauses in their original and revised form. If the form is completed inaccurately this may give rise to disputes between the parties.

It may be adequate and simpler to attach the new agreement, highlighting the areas that are new or revised.

Other

Question 35:

Do you have any comments on any other areas of the Code?

- **Not at this stage**

Question 35.1:

Please provide further information to support your answer.

Please see all the responses to questions above.

Question 36:

Do you consider the draft Code of Practice, taken as a whole, to be clear, practical and workable for use by employers, trade unions and workers in real workplace settings?

- **No**

Question 36.1:

Please provide further information to support your answer.

Please see all the responses to questions above.

In summary, Unite believes that as it stands the draft Code (and the anticipated accompanying regulations) will mean it will be all too easy for employers to block, delay and frustrate the right of unions to meet workers. The Code does not appear to be deliver on stated government policy nor to meet the requirements of the Employment Rights Act.

We therefore call on the government to revisit policy decisions relating to the level of fines which will apply where an employer breaches or blocks access arrangements.

The Code of Practice and accompanying regulations should be substantially revised to take into account points raised throughout this submission.