Consultation on Make Work Pay right of trade unions to access workplaces Acas response

19 December 2025

This is the Acas Council response to the consultation on the right of trade unions to access workplaces.

Responses to specific consultation questions

Section 1A(2): Information contained within access requests from the trade union

Question 8 – Do you agree with the proposed information to be included in a trade union's request for access?

1. We disagree with the proposed information to be included in a trade union's request for access. Requiring overly detailed information to be provided during the initial access request could create unnecessarily adversarial processes, lead to increased legal challenges on procedural points and inhibit access before negotiations have commenced. Our experience of conciliating disputes is that trade unions will not always be able to provide the information specified before discussing it with the employer. This is particularly the case for:

- a description of the group of workers
- the type and nature of access
- the date of the first visit
- the notice period
- frequency of access

2. We instead recommend a less prescriptive approach, to ensure that dialogue between parties focuses on the substance of the matter from the start. Necessary information at the access request stage should be limited to only what is necessary for initial discussions to begin. On the types of information highlighted above, however, unions will often be in a better position to make judgements about these matters only after initial discussions have taken place. Otherwise, there is a risk that unions can only provide high level or vague information, which could pose an obstacle to constructive negotiation.

Section 1B: Response, negotiation, and referral to the Central Arbitration Committee (CAC) periods

Question 12 – Do you agree with the proposed time period of 5 working days for the employer to respond to the trade union's request for access?

3. We disagree with the government's proposal of 5 working days for the employer to respond to the access request. We acknowledge the necessity of a time limit, but too short a time limit for an employer's response risks creating easily missed deadlines, cutting off reasoned dialogue, and sets a tone of urgency which may not form the basis of a constructive future relationship between the union and employer.

4. However, it is equally important that time limits are clear and encourage timely and constructive engagement between employers and trade unions. Particularly where pressing industrial relations issues exist, time limits will ensure that trade unions are able to access and support workers effectively.

5. In setting a reasonable time period, we recommend that the government considers the following factors:

- trade union recognition requests allow 10 working days to respond – the setting of a 5-day deadline for employers to respond to a trade union request for access would not be consistent with this approach
- for a small employer where HR capacity is limited, a 5-day deadline could result in an inadvertent breach if, for example, the person responsible is on annual leave for a week
- a multi-site employer may face greater complexity in communicating a trade union's access request to the relevant site manager of a particular premises – for example, when an access request is received at a national or regional level of a hospitality employer with a number of individual restaurants, it will need directing to the correct person

6. We also recommend clarity on how this response period works in practice. For example, if an employer responds before the end of this response period, it is not clear if that would trigger the next negotiation window or if the 5-day response period is fixed irrespective of the employer's early reply. We recommend the period is a fixed length. Otherwise, parties would be disincentivised from replying early.

Question 13 – Do you agree with the proposed time period of 15 working days for the employer and trade union to negotiate the terms of an access agreement?

7. We agree with the proposed time period of 15 working days for the majority of cases and recognise the need for negotiations to proceed in a timely fashion. However, we also recommend an option in limited situations, where employer and worker representatives agree, for jointly agreed extensions to the negotiating period. This would be triggered when both parties recognise that a 15-working day timeframe is inadequate to negotiate complex agreements for specific workplace circumstances.

8. This option will help to promote healthy discussion between employers and trade unions at a crucial stage of the framework. It will also not delay negotiations where negotiations are stalled, as the option to request an extension would only apply where both parties jointly agree. It should be noted too that trade union recognition requests currently allow 20 working days for negotiation and the option of an extension by mutual consent of both parties.

9. Acas collective conciliation services are also more likely to be effective if the timeline can be extended beyond 15 days for particularly complex circumstances. A 15-day limit would affect parties' ability to access Acas services at such short notice and consequently shorten the time available to negotiate. Successful conciliation via Acas could avoid some requests being submitted to the Central Arbitration Committee for an independent determination. In our experience, resort to external determination processes (such as referral to the Central Arbitration Committee) should always be a last resort, to encourage trade unions and employers to establish productive relationships and reduce unnecessary use of public resources. This is particularly the case given the new demands on limited Central Arbitration Committee capacity that may arise from this measure, and Employment Rights Bill-related changes to trade union recognition.

Question 14 – Do you agree that there should be a limit of 25 working days for a party to request that the Central Arbitration Committee make a decision on access following an access request being submitted?

10. We agree in principle on the setting of a 25-working day period for requests for access decisions to be referred to the Central Arbitration Committee. However, we also recommend that this referral period have flexibility built in to take account of any extensions elsewhere in the process, as recommended above. Alternatively, the 25-working day period could start following the end of negotiations between parties, rather than from when a union first sends a request.

11. In addition, we recommend that it be possible to extend this timeframe by the agreement of both parties. This is because there may be unintended consequences in stipulating that a request to the Central Arbitration Committee for a decision on access be lodged within 25 working days. This includes the potential for parties to curtail negotiations solely due to the existence of a statutory time limit.

12. We recommend that parties unable to reach agreement are encouraged to use Acas collective conciliation services. Acas is uniquely placed to assist given our track record: in 2024 to 2025 Acas conciliation services handled 522 disputes between trade unions and employers, and in 93% of cases we supported the parties to reach an agreement or make good progress towards one. Acas involvement would be contingent on the agreement of both parties that conciliation was the right approach.

13. We recommend that the employer should contact Acas before rejecting a request for access, and that both parties should contact us before making a referral to the Central Arbitration Committee. There is precedent for this in the Acas Code of Practice on Dismissal and Re-engagement, which states that an employer should contact Acas for advice before raising the prospect of dismissal and re-engagement.

14. Where referral to the Central Arbitration Committee has already been initiated, we recommend the option for the Central Arbitration Committee to refer cases to Acas for conciliation between parties to reduce the need for Central Arbitration Committee involvement and promote ongoing dialogue.

Question 15 – Do you agree that employers with fewer than 21 workers should be exempt from the right of access policy?

15. We acknowledge the government's rationale for aligning this proposed exemption with the existing exemption of employers with fewer than 21 employers for the statutory trade union recognition scheme, and support the benefits that trade union presence can bring to workers and employers.

16. However, we recommend that the government monitors the implementation of this measure, including its take-up and effect on different sizes of organisation. This will allow the government, employers and unions to better understand the effectiveness of establishing this exemption.

17. Formal processes can place a disproportionate burden on small employers, particularly where an organisation operates across multiple sites with few staff or facilities at any one location. Acas's behavioural insights model identifies the logistical challenges of working across multiple locations as a barrier to collective voice. The government should assess how this proposal might create operational challenges for employers with multiple premises, and devise how access requests submitted to an organisation would operate in practice when access is requested for each site, particularly if multiple unions are seeking access to different groups of workers. It is crucial that clear and comprehensible guidance is provided by the government to employers and trade unions to navigate these new processes.

18. The right of access may also be more impactful in larger employers where the complexity of operations may benefit from formal documentation and procedures. This may be inferred from data on trade union membership showing that collective bargaining coverage is only 10% in organisations with fewer than 50 employees, and increases sharply for larger organisations (18% in those with 50 to 249 staff and 56% in those with 250 or more), where the benefits of such structures are more pronounced. Acas's behavioural insights model identifies smaller company size and physical proximity as factors likely to enhance employee voice.

19. Nevertheless, organisations with fewer than 21 employees can still benefit from trade union access. Informed trade union officials can be a useful source of independent advice to employers and workers in small businesses. Carnegie UK's analysis of the CIPD's UK Working Lives Survey found that productivity among workers most satisfied with their access to voice and representation was 14% higher than those who were least satisfied (Bosworth and Warhurst, 2021).

Question 17 – Do you agree that access agreements should expire 2 years after they come into force?

20. We agree that ensuring that access agreements remain relevant by establishing an expiry date is a sensible approach. We also support the proposition that they should expire after 2 years, if they have not been varied during that timeframe. In addition, we

recommend that it should be possible for employers and trade unions to mutually agree to reset the 2-year limit on agreements if an access agreement is varied during those 2 years, as this establishes a continued relevance.

21. The government should provide further detail on the expiry process of an agreement. For example, whether existing agreements may simply be renewed, or if the parties must start a new round of negotiations with the associated time limits. This process should remain light-touch where possible, to reduce the regulatory burden of an agreement reaching its expiration date.

22. The government should future-proof access agreements to take account of the potential for significant changes in business organisation in a TUPE situation or similar. We recommend that the government should specify whether a) an access agreement lapses as a result of TUPE and the trade union is expected to make a fresh approach to the new employer, or b) whether access continues and responsibility for the access agreement is assumed by the new employer. We recommend that these details should be considered when determining the final shape of when and how access arrangements should expire.

Question 19 – Do you agree that the presence of a recognised union representing the group of workers to which the union is seeking access be considered a reasonable basis for the Central Arbitration Committee to refuse access to another union?

23. We agree with the government's proposal that the presence of a recognised union be considered a reasonable basis for the Central Arbitration Committee to refuse access, rather than an absolute ban. A consideration is more appropriate as there will be circumstances where permitting workplace access to another union is appropriate. We also note, however, that the statutory recognition framework does not permit applications at all where another union has already applied to the Central Arbitration Committee.

24. We note that the purpose of a trade union seeking access to a workplace will also differ depending on whether the union in question is recognised or unrecognised. While a recognised trade union would be requesting access to facilitate their ongoing duties in representing their members, an unrecognised trade union would be more likely to devote their access visits in recruiting new members (although expanding membership could also be an element of a recognised union's activities). The government should be clear that the intent of the policy is that access is not an opportunity to disrupt existing established collective bargaining relationships.

25. Relatedly, we recommend the government words this factor so that it addresses a situation where a large number of access requests could be possible at the same organisation. Consulting existing unions should also be an important part of the process. At the moment, it only covers requests to access the same group of workers as are currently represented. In organisations with complex workforce recognition structures, this could create conflict if employers are required to handle multiple requests for access.

26. Finally, to create effective and constructive relationships between trade unions and employers, we recommend that trade unions and employers utilise Acas collective conciliation wherever possible to mediate difficulties arising from multiple unions seeking access to the same workers within a workplace.

Question 20 – Do you agree that an access application that would require an employer to allocate more resources than is necessary to fulfil the agreement (for example, constructing new meeting places or implementing new IT systems) should be regarded as a reasonable basis for the Central Arbitration Committee to refuse access?

27. Acas agrees that employers should not be expected to allocate more resources towards the facilitation of an access agreement than is necessary. It is important to have a clear mechanism that protects employers from unreasonable demands, while ensuring unions can exercise their rights of access in a way that is fair and proportionate.

28. We recommend that the burden of proof should rest with the employer to demonstrate that a union request would impose an unreasonable demand. This would help ensure that legitimate access is not refused unreasonably, while still providing protection against disproportionate requirements. This mirrors the approach taken to the provision of reasonable facilities and accommodation to trade union representatives.

29. What is considered 'reasonable' will vary across organisations, depending on size, sector, and operational context. The examples of unnecessary demands provided by the government, of constructing new office spaces or implementing new IT systems may overstate the risks without reassuring employers. Good industrial relations are best served by an expectation that access arrangements respect operational requirements, organisational structure, customer needs and the appropriate use of public money, while providing trade unions with meaningful opportunities to recruit and support workers.

30. The impact of access requests may increase significantly where multiple unions seek concurrent access. Because of this, the government needs to provide clear guidance on how the Central Arbitration Committee should assess reasonableness in such circumstances. This would help balance the rights of unions with the need to maintain effective operations. Several overlapping requests could quickly become a source of conflict, without improving the rights of workers at the organisation.

Question 21 – Do you agree that weekly access (physical, digital, or both) be included as a 'model' term in access agreements, to help support regular engagement between trade unions and workers?

31. We do not think it is appropriate for Acas to express a view on the specific frequency of access in a model agreement. However, Acas recommends that it will almost always be better for the parties to negotiate the frequency of access. Moreover, we recommend that the circumstances of the organisation are taken into account when establishing an appropriate access frequency. Trade union access should be regular enough to create meaningful ongoing discussions, without creating unnecessary operational challenges. The appropriate frequency will depend on the context, including the size and complexity of the organisation, the nature of work, and any sector-specific considerations.

32. In developing rules and norms around frequency of access, Acas highlights some important factors for the government to consider:

- managing multiple requests – if several unions seek access at the same time, weekly arrangements for each could create significant operational strain
- practical arrangements – how unions interact with workers (for example, by approaching workers directly or expecting to engage from a designated location within the workplace) will influence how often access can realistically occur without disrupting work
- resource implications – both trade unions and employers have finite resources, so setting overly frequent access as the norm could dilute their ability to engage meaningfully – clear parameters help ensure that agreed frequency supports effective use of those resources

Question 23 – Do you agree that access agreements include a commitment from the union to provide at least 2 working days' notice to the employer before access takes place?

33. Acas's position is that a minimum of 2 working days' notice may prove challenging for employers and unions to prepare effectively for access. A slightly longer notice period would help to avoid disruption, give more time to prepare and ensure that access is practical and conducive to constructive workplace relations. Factors affecting the minimum notice period include:

- uncertainty about session length – without guidance on how long access sessions can last, employers and unions cannot plan around operational demands or shift patterns
- complexity of monitoring and protocols – employers using CCTV or other monitoring systems need time to adjust
- operational and safety considerations – in workplaces where visitors are normally escorted, or in sensitive sectors such as defence, care, or national security, 2 days may not allow sufficient time to put safeguards in place
- contracted services and shift patterns – employers may need to account to customers for time away from core duties, and multiple shifts may require unions to attend at different times

Section 3 – Maximum value of fines and how the value of fines for breaches are determined

Question 25 – Which of the following options do you consider most appropriate for setting the maximum value of the fine?

- **Option A: A fixed maximum fine of £75,000**
- **Option B: A two-stage system: £75,000 for initial breach and up to £150,000 for repeated breaches**
- **Neither of these options**

34. Our view is neither of the options presented. Instead, Acas's position is that financial penalties must be proportionate, transparent and effective in encouraging compliance. They should reflect the size and circumstances of the organisation, the nature of the breach, and whether it was deliberate or accidental.

35. Acas's view is that the proposed fine levels may not always scale appropriately to act as an effective deterrent. Without effective enforcement, the benefits of trade union access in improving collective employment relations may be weakened, particularly for larger employers who can better afford to pay a fixed fine regime.

36. A balanced approach should therefore combine a clear baseline fine with scope for escalation in cases of repeated or deliberate breaches, alongside discretion for the Central Arbitration Committee to take account of organisational size and circumstances. This would help ensure that fines are meaningful enough to deter non?compliance, while remaining fair and proportionate across different types of employer.