



**central arbitration
committee**

Disclosure of Information

The Central Arbitration Committee (CAC) is a permanent and independent body working nationally in industrial relations. Its origins go back to the Industrial Court which was set up in 1919 and renamed the Industrial Arbitration Board in 1971. The CAC's present constitution and its completely independent status are laid down in the Trade Union and Labour Relations (Consolidation) Act 1992. The Chairman is Sir Michael Burton QC.

The CAC is composed of the Chairman, Deputy Chairmen and Members who have experience as representatives of employers and as representatives of employees. Members are drawn from a wide range of industries and services in the public and private sectors, and all have extensive experience in industrial relations. Cases are normally heard by a panel three: the Chairman or one of his Deputies, one Member with experience of representing employers and one Member with experience of representing employees.

The CAC can deal with a wide range of issues: voluntary arbitration of disputes between employers and trade unions; determination of claims from trade unions for statutory recognition (for which separate guidance is available from the CAC); resolution of certain issues arising from the implementation of the European Works Council Directive and the European Company Statute; determination of applications and complaints under the Information and Consultation Regulations; and determination of complaints from a trade union that an employer has refused to disclose information for collective bargaining purposes.

The following paragraphs describe in more detail the CAC's role in disclosure of information complaints.

Trade Union and Labour Relations (Consolidation) Act 1992

Sections 183 to 185

The provisions enable an independent trade union to present to the CAC a complaint that an employer has failed to disclose information for the purposes of collective bargaining. The union must be able to demonstrate that, without the information, it would be materially impeded in carrying out collective bargaining and that disclosure would be in accordance with good industrial relations practice. Certain safeguards are built in which restrict employers' general duty to disclose. Where the Committee finds a complaint well founded, it makes a declaration specifying the information to be disclosed.

If the employer fails to comply, the trade union may make a further complaint to the CAC and may also present a claim for improved terms and conditions of employment. Where the Committee finds the further complaint well founded, it can make an award on the claim which has effect as part of the contracts of employment of the employees concerned.

In disclosure of information cases, the CAC may be guided by the Acas Code of Practice 2 *Disclosure of Information to Trade Unions for Collective Bargaining Purposes* which can be downloaded from, or purchased through, the Acas web site (acas.org.uk).

The CAC's approach

The CAC's aim is to achieve fair and lasting solutions to disputes, having regard to the continuing relationship between the parties. Its approach is flexible and is one of problem-solving using the goodwill and common sense of the parties who are encouraged to discuss the wider industrial relations issues. The CAC endeavours to take account of these in reaching decisions.

When a reference is made to the CAC the procedure initially adopted varies according to the nature of the case. In disclosure of information cases, where application may be made direct to the CAC, it is normal to arrange an informal, joint meeting of the parties with one of the CAC Deputy Chairmen. This gives an opportunity for the issues to be clarified and interim guidance to be given if appropriate. In many cases it enables the parties to resolve the matter either themselves or with the help of Acas. If the issue cannot be resolved at this informal stage, a full hearing is arranged.

The Members who sit with the independent Chairman, although drawn from each side of industry, act independently in all CAC proceedings. The Chairman has powers of umpire on the rare occasions when the Committee is unable to reach to a unanimous decision.

The CAC tries to be consistent in its decisions but does not work by precedent. No two cases are exactly alike. Each is decided on its merits and on the basis of the evidence presented by the parties.

Prior to the hearing, the parties are asked to submit and exchange evidence in the form of written statements. These provide the Committee with useful background information and are also helpful in focusing the parties' minds on the issues the Committee has been asked to determine.

The procedure at the hearing is orderly but seeks to avoid the greater formality associated with courts of law.

The parties may bring along such representatives and advisers as they wish to assist in the presentation of their case. Each party is asked to comment on and amplify its written statement and is invited to comment on the other's case. If, in the course of the hearing, it appears that there is after all a likelihood that the parties may be able to settle the issues satisfactorily on their own, or with the help of conciliation, and they are willing to make a further attempt to do so, the hearing may be adjourned for a limited period.

Hearing can normally be arranged as quickly as is convenient to the parties and are usually completed in a day. The CAC itself is based in London but as far as possible arranges hearings at locations convenient to the parties.

Disclosure of information hearings before a full Committee are normally open to the public, although in practice it is rare for anyone, other than the parties concerned, to attend.

The Committee's decision is not normally announced at the hearing but is notified by means of a written report subsequently sent to the parties. To be as helpful as possible to the parties, it is the CAC's practice to include in the report an indication of the principal considerations which led to the decision. Occasionally, depending on the facts of the case, these may include comments or advice on points which cannot be suitably dealt with in the award.

The CAC does not charge for its services and cannot award costs.

Note

This pamphlet is for general guidance only and does not provide a complete statement of the legislation under which the CAC operates.

Further information about the CAC's work is published in its Annual Reports. Requests for these and any further enquiries about the work of the CAC should be made to:

Central Arbitration Committee
22nd Floor, Euston Tower
286 Euston Road
London
NW1 3JJ

Tel: 020 7904 2300

Fax: 020 7904 2301

E-mail: enquiries@cac.gov.uk

CAC February 2011