



**UK Government**

## **Government Response**

# **Making Work Pay: trade union right of access**

**8 April 2026**

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## Government response

Make Work Pay: trade union right of access



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## Government response

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## Executive Summary

The government has set the country on the path of national renewal, building a Britain for all on the firm foundations of security, respect and opportunity. Our Plan to Make Work Pay is a central element of our mission to grow the economy, raise living standards across the country, and create opportunity for all.

Strengthening workplace rights, improving job security, and ensuring working people have a meaningful voice at work are essential to achieving these aims. Providing trade unions with fair, modern, and effective mechanisms to engage with workers is a fundamental part of this commitment. Through clearer and more consistent access arrangements between employers and unions, businesses can benefit from earlier resolution of workplace issues, better communication channels, and more collaborative employee relations - supporting continuity, efficiency and stability in the workplace.

The UK's employment laws are mostly products of the twentieth century and have not kept pace with how businesses now employ people nor how people experience work today. Under the existing legislative framework, trade unions have no general statutory right to access workplaces, leaving engagement dependent on voluntary arrangements that vary significantly between sectors and employers. This inconsistency has limited unions' ability to support workers, resolve issues early, and facilitate constructive industrial relations.

Creating an economy that delivers for working people means ensuring job security, fair competition and modern statutory frameworks. As part of the Plan to Make Work Pay, the government is modernising the framework governing trade union access into workplaces to ensure it is fair, proportionate, and reflective of contemporary working practices.

To support this modernisation, the government consulted on the *Right of Trade Unions to Access Workplaces*. This consultation attracted substantial engagement from trade unions, employers, representative bodies, workers, and other interested parties. Stakeholders provided detailed feedback on how a statutory access framework should operate in practice, including the appropriate processes, timeframes, enforcement mechanisms, and safeguards. Their insights have been invaluable in shaping the government's final policy position.

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Informed by this evidence, the government will introduce a statutory right of access for independent trade unions to engage with workers in person or digitally for the purposes of representation, support, recruitment, organisation, and collective bargaining. This modern framework will provide employers with clarity and predictability, ensure workers can exercise their rights effectively, and enable unions to carry out their core functions in a way that underpins positive industrial relations.

To deliver this, we will bring forward secondary legislation and a new statutory Code of Practice setting out how the right of access will operate. Key elements will include:

- a clear and consistent process for submitting, responding to, and negotiating access requests, ensuring transparency and efficiency for both unions and employers
- the ability for unions to request both physical and digital access, reflecting the realities of modern workplaces and hybrid working patterns
- a role for the Central Arbitration Committee (CAC) in determining whether access takes place where parties cannot agree, supported by a fair and proportionate enforcement mechanism
- a streamlined route for straightforward cases, reducing administrative burden and supporting timely access where circumstances allow
- a penalty framework that ensures compliance, with sanctions that deter repeat breaches and uphold the integrity of access agreements

Taken together, these reforms will modernise the UK's approach to workplace access, strengthen the voice of working people, and support more constructive, collaborative, and efficient industrial relations. These reforms are designed not only to support workers' rights but also to help employers build constructive, predictable, and resilient workplace relationships that reduce disputes and support efficient business operations.

The government will continue to work closely with unions, employers, and workers to ensure successful implementation and contribute to the wider ambitions of the Plan to Make Work Pay.

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# Introduction

The government is clear that the framework governing trade union rights must be modernised to reflect the twenty-first century workplace. As part of our mission to rebuild the economy so that it delivers for working people, we introduced the Employment Rights Bill within our first 100 days in office. A key component of this legislation is the creation of a statutory right for independent trade unions to access workplaces - physically and digitally - strengthening workplace voice and supporting effective, fair industrial relations.

Under the existing legislative framework in Great Britain, trade unions do not have a general independent right to access workplaces. Instead, access relies on ad-hoc arrangements, or on the presence of individual union members within a workplace. In practice, this has constrained unions' ability to perform core functions, including representing workers, supporting collective bargaining, raising awareness of employment rights, supporting wellbeing, and helping resolve workplace issues before they escalate. These limitations are particularly acute in workplaces with low union membership, contributing to inconsistent representation and less effective industrial relations.

The Employment Rights Act 2025 addresses these longstanding challenges by introducing a clear statutory right for unions to access workplaces. This right will apply to both physical access and digital access, reflecting modern working practices, hybrid work, and the increasing use of digital communication. The statutory framework is designed to support constructive dialogue between unions and employers, enabling unions to contribute positively to workplace culture, promote open communication, and support stable, collaborative industrial relations.

To ensure the statutory right of access operates in a balanced, proportionate, and practical way, the government consulted on the operational detail of this new framework. The consultation sought views on how unions should request access, how employers should respond, the factors the CAC should consider when determining whether access should be granted, and how enforcement mechanisms, including penalty fines, should operate for cases of non-compliance.

The government recognises that constructive employer-union relationships can deliver tangible benefits for businesses, including smoother communication, early identification

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of workplace challenges and reduced operational disruption. The statutory access framework aims to support a more engaged and productive workforce by making interactions surrounding access clearer, more predictable and easier to manage for employers.

This consultation forms an integral part of the government's broader Plan to Make Work Pay, which was developed through close engagement with businesses, trade unions, and representative bodies. Consistent with this approach, the consultation process included not only formal written submissions but also direct engagement through roundtables, virtual meetings, and ongoing stakeholder dialogue. The government has carefully considered the evidence gathered from these discussions and written responses. This government response summarises the views received and sets out the next steps for implementing the statutory right of access, as well as where additional detail will be developed through the Code of Practice.

The government is very grateful to all respondents to the consultation for their considered and helpful responses. This document sets out a summary of the feedback received in the consultation, the government's response and next steps.

## **Conducting the consultation**

The consultation *Make Work Pay: Right of Trade Unions to Access Workplaces* ran from 23 October 2025 to 18 December 2025 (inclusive). The consultation invited views on the operational detail of the new statutory right of access and received responses from a broad range of stakeholders. Several online submissions contained blank entries or randomised text; these were reviewed for any relevant information and, where none was present, removed from the count of completed responses.

Throughout the consultation period, the Department for Business and Trade (DBT) engaged proactively with stakeholders through targeted roundtables, with businesses, trade unions and legal companies. This ensured that the consultation captured insight not only through formal submissions but also through deeper qualitative engagement with those most directly affected by the new access framework.

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Stakeholder	Number of Responses
Employer	1,210
Individual	262
Business representative organisation or trade association	73
Trade union or staff association	22
Legal Representative	10
Charity or interest group	8
Trade Unions or staff association (specify)	5
Other	4
Shareholder	3
Academic	2
On behalf of academic/research organisation	2
Quality control compliance consultant	1
Not provided	1
<b>Total Responses</b>	<b>1,612</b>

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# **About the respondents**

As part of the consultation, respondents were asked a small number of demographic questions to help the government understand the types of individuals and organisations who engaged with the consultation. These questions, are reproduced below, supported analysis of the profile and distribution of respondents. The questions were as follows:

- Question 2 - If responding as an employer, business, business owner, or business representative, approximately what is the size of your business? If responding as an individual or worker, what size workplace are you employed in?
- Question 3 - Which region are you located in?
- Question 4 - What sector are you based in?

## **Government response to question two, three and four**

Information was provided by organisations of all sizes. Small employers made up the largest group (48.3%), followed by medium-sized businesses (21.4%), large employers (10.7%), and micro-businesses (10.6%). A further proportion of respondents did not specify the size of their organisation (8.9%). This demonstrates engagement from businesses across the full range of organisational sizes.

Those who took part were based across all regions of the UK. The largest proportions were in the South-East (20.7%), South-West (11.5%), North-West (10.2%), and West Midlands (8.9%). Responses were also received from Scotland, London, Wales, Northern Ireland, and other parts of the UK, with some selecting “UK-wide” or “not specified.”

Participants also represented a wide range of sectors. The highest representation came from manufacturing (22.4%) and construction (20.2%), followed by wholesale and retail (11.2%). Additional responses were received from health and social care, services, education, agriculture, technical and professional sectors, and various other parts of the economy. This mix reflects a broad cross-section of industries.

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## **Method of analysis**

### **Use of the Consult artificial intelligence tool**

To enhance the quality and efficiency of the analytical process, we partnered with the Department for Science, Innovation and Technology (DSIT) to employ their artificial intelligence-powered tool, Consult.

Consult uses AI and data science techniques to automatically extract patterns and themes from the responses and turns them into dashboards for policy makers. This means humans can spend less time identifying themes and mapping responses to those themes, and more time turning them into actionable insights that shape government policy.

The tool supported qualitative analysis in three main stages:

- theme generation - Consult produced an initial longlist of themes for each consultation question
- theme identification - Consult assessed each response and identified which themes were present
- dashboard production - Consult generated an interactive dashboard that summarised thematic findings and allowed policy officials to search and filter responses by theme and respondent demographic

### **Quality assurance and human oversight**

Several quality assurance measures were put in place to ensure Consult met our performance standards. First, policy officials refined the list of themes Consult generated for each question. Starting with a long list generated by Consult, the policy teams were able to add, change, split, or combine themes, to produce a concise list.

The purpose of this check was to ensure that the themes were relevant to the policy questions, and at times to identify fewer common themes from the AI-generated lengthy list that officials felt were particularly important. For each question, a final list was agreed to be used in the assessment of findings. DBT and DSIT also undertook human-led evaluations to ensure that Consult was able to accurately identify which themes were present in a consultation response.

Consult was measured against the F1 standard, a widely recognised AI quality metric. It identified how often the AI recognises the same themes in consultation responses as

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human reviewers. An F1 score of 1 means the AI and human reviewers always agree. AI is considered good quality if human reviewers agree with the AI at least as often as they agree with other humans. In our evaluation, the human benchmark was an F1 score of 0.993.

Consult exceeded the performance threshold, performing at least as well as humans in thematic analysis. The full evaluation report is available as an annex to this response.

## **Data handling and exclusions**

To ensure the integrity of the analysis, several data-handling steps were applied:

- incomplete submissions - entries that contained only a name and/or email address, and did not answer any consultation questions, were not counted as responses
- nonsensical data - responses consisting solely of random characters or other non-verbal inputs were excluded from analysis
- rounding - percentages presented throughout this document are rounded to the nearest whole number. Totals may therefore not always sum to exactly 100%
- scope of summary - this document summarises the main points raised through the consultation and the government's response. It does not attempt to restate every comment received, nor does it cover matters outside the scope of this consultation. Where the government has decided to make changes - or not to make changes - following consideration of the consultation responses, the rationale is provided

You can read more about Consult and the team behind it on the [AI.GOV.UK website](#)

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# **Responses to consultation questions**

## **Section 1- Requesting and negotiating an access agreement**

### **Section 1A: How to apply for access and respond to a request for access**

#### **1) Form and manner of access requests and responses**

##### **Question One**

- **Do you agree access requests and responses should be made in writing? If your answer is no, please explain your reasoning or give an alternative.**

A total of 1,459 respondents (97.5%) indicated that they agreed that access requests and responses should be made in writing. A further 36 respondents (2.4%) disagreed with this approach, and 1 respondent (0.1%) did not provide an answer.

Some participants felt there should be flexibility in how an access request can be made, noting that written communication may not always be practical or necessary. Others highlighted that written requests provide clarity, helping to ensure accuracy and avoid disputes about what was asked or agreed.

##### **Question Two**

- **Do you agree access requests and responses should be provided directly via email or letter. If your answer is no, please explain your reasoning or give an alternative.**

Most respondents supported the proposal for access requests and responses to be provided directly via email or letter 97.2% (1,451) of those who answered this question agreed with this approach while 2.8% (42) disagreed.

Themes raised by those who provided additional comments, covered a preference for email over letters, highlighting speed and practicality. Others suggested that access

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arrangements should reflect existing collective bargaining agreements, where relevant. Some respondents emphasised the need for safeguards when using email to ensure confidentiality and data security, while others felt that both email and letter were appropriate methods. A few submissions called for a clear protocol governing how access requests should be issued. A small proportion highlighted sector-specific challenges while others stated there should be no right of access for trade unions or selected 'other' or provided no reason for their view.

### **Question Three**

- **Do you agree access requests and responses should be made through a standardised template provided by the Government. If your answer is no, please explain your reasoning or give an alternative.**

Many respondents supported the proposal for access requests and responses to be made through a standardised template provided by the government. 95% (1,411) of the participants agreed with the proposal, while 4.8% (72) disagreed. A further 0.2% (3) did not provide an answer.

Submissions emphasised the need for flexibility, noting that a single format may not suit all workplaces or circumstances. Many respondents expressed support for a standardised template, recognising the benefits of consistency and clarity, but emphasised that it should be simple and not overly prescriptive. Several participants felt that stakeholders should have the opportunity to review and input into the design of any template before implementation. Others commented that the template should allow for personalisation, enabling adjustments for sector-specific circumstances. Concerns were also raised about government-provided templates in general, including whether they would be practical across diverse settings. A small number of participants stated that there should be no right of access for trade unions, while others selected 'other' or did not provide a reason for their view.

### **Government response to section 1A, question one, two, and three**

The government has reviewed the responses to this question and notes the strong support for access requests and responses being made in writing. We also acknowledge that flexibility is important, particularly to reflect different workplace contexts and practical considerations.

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Having carefully reviewed all consultation responses, the government considers that access requests and responses should be made in writing, primarily via email, while allowing the use of post where email is not reasonably practicable.

We note the broad support for the use of a standardised template. Respondents highlighted the benefits of consistency and clarity, while emphasising the simplicity and flexibility. We agree that any template should not be overly prescriptive and should allow for workplace-specific circumstances.

The government therefore intends to:

- set out in legislation that access requests and responses must be made in writing, with email set out as the preferred option in guidance, with flexibility to use post where appropriate
- provide a standardised template for access requests and responses. This will be included alongside a new Code of Practice
- set out additional information on this part of the access framework in the Code of Practice

A draft of the Code of Practice is currently being consulted on. This will run for six weeks, closing on 20 May we encourage all stakeholders to input their views

## 2) Information contained within access requests from the trade union.

### Question Four

- **Do you agree with the proposed information to be included in a trade union's request for access? If your answer is no, please explain your reasoning or give an alternative.**

19.2% (291) of participants supported the proposal, while 80.4% (1,218) disagreed. A further 0.3% (4) did not provide an answer, and 0.1% (2) gave mixed views.

Responses indicated broad concern that the proposed list was overly prescriptive for an initial request, which some respondents considered could lead to refusals on technical grounds or additional disputes. Some respondents supported a "minimum information" approach, with simple core details and flexibility to refine or add information through negotiation. Businesses emphasised the need for practical planning details such as site

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specifics, timing, attendees, materials, and safety or data-protection assurances framed as operational necessities rather than legal conditions. Trade unions raised concerns about membership-number disclosure due to GDPR and limited relevance, while some legal stakeholders suggested using approximate numbers. Additional points included the need for sector-specific tailoring, safeguarding considerations (particularly in care and home-care settings), protocol compliance, accreditation, and requests for clearer legal or statutory guidance.

### **Government response to section 1, question four**

The government recognises the importance of ensuring that information requirements for access requests are not overly prescriptive, while still providing employers with sufficient information to consider a request and make appropriate preparations to facilitate access.

After a careful consideration of all responses, the government will set out a baseline set of information requirements, as proposed in the consultation, in legislation. This includes:

- the purpose(s) of the access request, in line with Section 70ZA(6)
- where possible, a general description of workers access is being sought to
- a statement that this is a request under Section 70ZB of the Trade Union and Labour Relations (Consolidation) Act 1992
- type of access request - whether physical and/or digital; the nature of access (e.g. in-person meetings, access to digital worker forums) and rationale for type of access requested, as well as appropriate support required from the employer to facilitate access
- notice period - the notice period the union will provide for the initial access visit and any subsequent visits
- frequency of access - the frequency of access requested and rationale for this
- workplace locations (for physical access) - if physical access is requested, specify the workplace(s) involved. Where access is requested to multiple workplaces, there must be an explanation for this grouping
- certificate of independence - the union's certificate of independence attached or referred to
- union contact details – relevant contact information for the requesting trade union. This should also include alternative contact details for the trade union official with responsibility for the access visits.
- repeat of an access request - if the request is a repeat of a recent request for access, then the union should provide a statement that it is a repeat of a previous request for access

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with the date of that previous request, and the text of the proposed access agreement either within the request or as an attached document.

In light of the feedback received, the government has made two adjustments to the information requirements proposed in the consultation. The requirement for unions to provide workplace-level membership figures will not be taken forward, given the sensitivity of this information and the potential risk of identifying individual members. Unions will not be required to specify the exact date of the first access visit, as setting a fixed date at the initial request stage may be impractical in view of the statutory response and negotiation timeframes. Instead, the date of the first access visit will be agreed between the parties, subject to a minimum notice period of 5 working days.

Our approach is intended to provide clarity and consistency for both unions and employers, while avoiding unnecessary administrative burden. We consider this strikes the appropriate balance between enabling unions to submit access requests proportionately and ensuring employers have the information they need to assess an access request.

Further information on these information requirements can be found in the Code of Practice, a draft of which is currently subject to public consultation until 20 May. Included in this consultation is a draft standardised template of an access request recommended for unions' use. We invite stakeholders to input their views on both the draft Code and draft template.

### **3) Information contained within access responses from the employer**

#### **Question Five**

- **Do you agree with the proposed information to be included in an employer's response to a trade union's access request? If your answer is no, please explain your reasoning or give an alternative.**

20.2% (302) of participants agreed with the proposal, while 79.5% (1186) disagreed. A further 0.1% (2) did not provide an answer and 0.1% (2) provided mixed views.

Feedback focused on what information should be mandatory. Some respondents supported a structured employer response but stressed the need for practicality, proportionality and operational safeguards, including confidentiality, commercial

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sensitivity and health and safety considerations. Business respondents also highlighted potential impacts on SMEs and the need for flexibility to negotiate, request extensions, or set conditions around access. Trade unions emphasised the importance of employers providing workforce and operational information, narrower grounds for refusal and a requirement to engage in negotiation. Differing views were expressed on the responsibility for providing should provide workplace lists - with employers of the view unions should supply them, and unions of the view employers should maintain accurate records. Additional points included safeguarding considerations, the need for clearer guidance, questions around membership-number disclosure, and some expressing no right of access for trade unions, while others selected *other* or gave no reason.

### **Government response to section 1, question five**

The government recognises the importance of ensuring that employers' responses to access requests contain enough information to enable meaningful negotiation, while remaining proportionate and avoiding unnecessary administrative burden or disclosure of sensitive or confidential information.

We will set out a baseline set of information requirements for employers' responses in secondary legislation as listed out in our proposal against this question in the consultation. This includes:

- Whether the employer:
  - accepts the access request in full
  - accepts the access request in part
  - declines the access request (in whole or in part)
- A statement that this is a response under Section 70ZB of the Trade Union and Labour Relations (Consolidation) Act 1992
- Where the employer accepts the request, in whole or in part:
  - the name and contact details of the appropriate person the union should liaise with regarding access
  - a list of categories of the workers in the workplace that the trade union have sought access to and the number of workers in those categories
  - the address or addresses of the workplaces where workers being sought access to are located
  - where appropriate, details of when workers are present at the workplace or workplaces, including shift patterns, working patterns, or rotas
  - any facilities available to use for the purpose of facilitating access, if applicable

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- Where the employer rejects the access request, either in whole or in part:
  - which elements of the access request the employer rejects
  - the reasons for rejection, whether in whole or in part
  - confirmation of whether the employer has received another access request from, or is engaged in negotiations with, another trade union
  - an email address or alternative contact details for the employer
- Where the employer and trade union have previously negotiated an access agreement for the same workplace, and the trade union makes a further access request on the same agreed terms, the employer will not be required to repeat the full set of information above, but must instead confirm:
  - that the notice is a response under Section 70ZB of the 1992 Act;
  - that the request for access on the terms submitted by the trade union is accepted; and
  - any new information that was not available at the time of the original response was given and that would have been relevant to the trade union's original request

We believe these requirements provide clarity and consistency, while allowing for sufficient flexibility for employers and unions to negotiate the detail of access agreements. The government believes that the above information requirements strike the right balance. They provide a clear foundation for negotiations to begin, without imposing overly prescriptive or burdensome obligations on employers.

Further information on these information requirements can be found in the Code of Practice, a draft of which is currently subject to public consultation until 20 May. Included in this consultation is a draft standardise template of a response, recommended for employers' use in response to an access request. We invite stakeholders to input their views on both the draft Code and draft template.

## **4) Notifying the Central Arbitration Committee (CAC) that access has been agreed**

### Question Six

- **Do you agree with the proposal on how the parties should notify the CAC that an access agreement has been reached? If your answer is no, please explain your reasoning or give an alternative.**

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90.1% (1,329) of participants agreed with the proposed approach to notifying the CAC when access agreement has been reached, while 9.6% (141) disagreed. A further 0.3% (4) did not provide an answer, and 0.1% (1) gave mixed views.

Feedback referred to a range of considerations relation to the notification process. These included a simple, clear, and reliable process with limited administrative requirements including for small employers. Respondents also noted the importance of clear guidance about how the notification process should operate, including who submits the notification, in what format and how to handle multi-site or third-party environments. Several mentioned that the proposal should not apply to voluntary agreements and that the process should avoid administrative burden, particularly for SMEs. Questions were raised about the CAC's resourcing and capacity, with some calling for access to independent advice or an independent arbiter in cases of dispute. Respondents referred to co-operative partnership working between employers and trade unions, allowing minor variations to agreements without triggering re-notification and ensuring that employers are not required to explain rejections as part of the notification process.

### **Government response to section 1, question six**

The government welcomes the views shared on this question and agrees that notifying the CAC when an access agreement has been reached should be simple, clear, and proportionate, with minimal administrative burden for employers, particularly SMEs.

Reflecting consultation feedback, notifications will be submitted in writing, directly by parties, with the option to use a standardised template, which the government encourages parties to utilise. This will help to streamline the process for unions and employers and provides certainty for both parties while preserving flexibility to input any information that may be helpful to include.

The draft Code of Practice will set out practical guidance on how notifications should be made, including format, submission and handling multi-site or third-party arrangements. This ensures consistency, supports effective access agreements, and helps all parties engage efficiently.

We are currently consulting on the draft Code and the template and welcome feedback. The consultation will run for six weeks until 20 May 2026.

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## **Government response**

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### **5) Form and manner of joint notifications to the Central Arbitration Committee of a variation or revocation of an access agreement**

#### **Question Seven**

- **Do you agree with the proposal on how joint notifications to the CAC of a variation of revocation of an access agreement are made? If your answer is no, please explain your reasoning or give an alternative.**

16.5% (241) of participants agreed with proposed approach to joint notification to the CAC, while 83.4% (1220) disagreed. A further 0.1% (1) did not provide an answer and 0.1% (1) gave mixed views.

Comments received referred to several key themes. These included, joint notifications may present practical challenges, including where parties are unable to reach an agreement, or where access agreements span multi-site or complex organisational structures. Several mentioned the need for independent notifications or an independent CAC mechanism, to address situations where agreement cannot be reached on variation or revocation. Respondents also referred to a standard CAC form, clear guidance on timescales and process, and the option for email or digital notification to minimise administrative requirements, especially for SMEs. Some suggested that only significant or material changes should trigger notification and that minor variations should not require re-submission. Additional themes included calls for an expedited process for urgent changes, clarity on a CAC revocation mechanism, and the principle that employers must not be able to unilaterally revoke an agreement.

#### **Government response to section 1A, question seven**

The government has taken account of the views provided, and recognises the importance of a clear, proportionate process that balances both union and employer interests. We will proceed with the proposal for joint notification. It is integral to the effectiveness of the statutory access framework that variations and revocations of an access agreement are to only take effect where both parties agree and notify the CAC together. This approach encourages collaboration between employers and unions and ensures that any changes are agreed rather than made unilaterally. Doing so in writing also ensures that a clear audit trail is maintained throughout the statutory access process, providing transparency and certainty for both parties.

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To support consistency and to streamline this process for both parties, a standardised template of this notification and additional guidance on the process will be included in the Code of Practice, a draft of which is currently being consulted on until 20 May 2026.

## Section 1B: Response, negotiation, and referral to the Central Arbitration Committee periods

### 6) Response period for employers

#### Question Eight

- **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? If your answer is no, please explain your reasoning or give an alternative.**

14.7% (64) of participants agreed that employers should have 5 working days to respond to a trade unions access request, while 85.1% (370) disagreed. A further 0.2% (1) did not provide an answer and 0.1 (1) gave mixed views.

Responses indicated that a five-day response period may be too short, considering operational, staff availability challenges, and the risk of unnecessary CAC referrals. Views expressed favoured flexibility, including the option to extend timelines, and stressed the distinction between acknowledging receipt of a request and providing a substantive response. Other comments referred to consistency with existing standards, while a smaller number felt that five days was sufficient for statutory access.

### 7) Negotiation period

#### Question Nine

- **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? If your answer is no, please explain your reasoning or give an alternative.**

38.8% (114) of participants agreed with the 15-day timeframe while 60.9% (179) disagreed. A further 0.3% (1) gave a mixed view.

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## **Government response**

Make Work Pay: trade union right of access

Key themes focused on the practicality of the timeframe. Some respondents felt that 15 working days may be too short, citing operational pressures, staff availability and sector-specific considerations, and noting that shorter timeframes could affect the quality of agreements or increase the likelihood of referrals to CAC. There was support for a more flexible approach, including the ability to extend negotiations where needed, with several suggesting an alternative window of 20-30 working days. Others suggested that negotiations periods must accommodate requests for external advice, avoid disrupting normal business activities and allow sufficient time for meaningful engagement.

## **8) Period for Central Arbitration Committee (CAC) referral**

### **Question Ten**

- **Do you agree that there should be a limit of 25 working days for a party to request that the CAC make a decision on access following an access request being submitted? If your answer is no, please explain your reasoning or give an alternative.**

11.4% (169) of participants supported the proposal, while 88.4% (1306) disagreed. A further 0.1% (2) did not give an answer.

Responses referred to views that 25 working days is too short and risks driving unnecessary referrals to the CAC. Comments cited CAC capacity constraints, sectoral and operational challenges and the need for a more flexible framework that allows extensions where negotiation is ongoing. Some respondents suggested that the timeframe should be aligned with, or linked to, the negotiation period, while others proposed alternative limits or a shorter period in straightforward cases. Other suggestions included introducing mediation before CAC involvement, ensuring that automatic invalidation does not occur at 25 days, and offering clearer mechanisms to manage delays or disputes.

### **Government response to section 1B, questions eight, nine and ten**

The government recognises respondents' concerns surrounding operational availability on employers and unions, the need for flexibility, and the importance of ensuring timeframes allow for meaningful engagement and reduce unnecessary escalations to the CAC.

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## **Government response**

Make Work Pay: trade union right of access

In response, the government is extending the time-periods as follows:

- employer response period - from 5 to 15 working days, providing sufficient time for employers to consider and respond to access requests, including to account for staff availability and operational pressures
- negotiation period - from 15 to 25 working days, ensuring employers and unions have adequate time for constructive negotiations
- CAC referral period - from 25 to 55 working days, to reflect the lengthening of the response and negotiation period, respectively

These extensions balance the need for timely access with practical considerations for both employers and unions. The government has also published a draft Code of Practice, providing guidance on how these periods operate in practice. We invite stakeholders to share their views on the draft Code as it undergoes consultation.

Furthermore, we understand the response period might not always be met due to factors like staff absence, limited capacity, or predetermined periods such as school holidays. Therefore, employers and unions can mutually agree an extension to the response period. Both parties must agree the length of the extension, and there will be a straightforward process, before notifying the CAC of the agreement.

The detail, including revised timescales, and information that must be provided by both parties, will be set out in secondary legislation, will be set out in secondary legislation, which will be submitted for Parliamentary consideration in the coming months, as well as the Code of Practice which is currently under consultation until 20 May.

## **Section 2 – Central Arbitration Committee (CAC) determinations**

### **Section 2A: Circumstances where access must not be granted**

#### **1) Size of the employer**

##### **Question One**

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## **Government response**

Make Work Pay: trade union right of access

- **Do you agree that employers with fewer than 21 workers should be exempt from the right of access policy? If your answer is no, please explain your reasoning or give an alternative.**

43.3% (209) agreed employers with fewer than 21 workers should be exempt from the right of access policy, while 56.7% (274) disagreed.

Responses centred on concerns of exploitation in small businesses, sector specific vulnerabilities, and the risk of avoidance by employers keeping workforce numbers below threshold. Reference was also made to the potential for two tier workforces, with smaller workplaces missing protections available elsewhere. Views supporting the exemption pointed to the burden on SMEs, arguing that compliance could be disproportionate in very small workplaces. Other comments referred to a higher threshold, site-specific thresholds, or a focus on larger organisations. Other suggestions included independent oversight, middle-ground options, and ensuring the policy balances practical impacts with worker protections including those in more vulnerable settings.

### **Government response to section 2A, question one**

The government has reviewed the feedback received on this question and considered the range of views expressed regarding the threshold for exemption from the statutory access provisions.

We recognise the concerns raised about the potential impact of the new right of access on smaller employers, who may find it more difficult to facilitate access in practice. In light of this, the government will proceed with the proposal to exempt employers with fewer than 21 workers from the trade union right of access framework.

This threshold mirrors that used within the statutory union recognition scheme, under which trade unions may apply for statutory recognition through the CAC only where an employer has at least 21 workers. We consider that adopting the same threshold here provides consistency across related statutory frameworks. It also strikes an appropriate balance between ensuring unions can seek access in workplaces where there is the greatest potential for a viable recognition bid, while limiting administrative burden on smaller employers.

The government also recognises that there may be issues where a significant proportion of employers within sectors covered by national bargaining processes fall below this threshold, potentially limiting engagement between trade unions and workers in those sectors. This may

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## Government response

Make Work Pay: trade union right of access

particularly arise where workplaces are covered by national bargaining processes, such as with the Fair Pay Agreement (FPA) in adult social care. Without an adjustment to the framework, the 21-worker threshold could limit the practical ability of trade unions to engage with workers who are covered by a national bargaining process but employed across many smaller workplaces. It is therefore important that the statutory access framework can operate coherently alongside sector-level national collective bargaining agreements. For this reason, the government intends to make a targeted adjustment to the framework from 2027 so that statutory access provisions can apply in workplaces covered by a statutorily supported national bargaining frameworks. This will include the national bargaining frameworks in place in relation to adult social care and school support staff. This means that, in those cases, the sized-based exemption will not apply. In turn, this supports the effectiveness of sector-level bargaining processes by ensuring that worker voices across the full workforce – including those in smaller workplaces – can be heard.

This approach ensures that the right of access framework can operate effectively where workers are dispersed across a large number of smaller workplaces in a sector where sector-level bargaining processes are in place, while maintaining the 21-worker threshold as the general safeguard across the wider economy.

It will also be important to monitor how it functions in practice once the framework is implemented and statutory access begins to be exercised. The government will therefore keep the threshold under review to ensure that it continues to support the overall objectives of the right of access policy. As part of this, we will conduct a review after implementation, assessing how the threshold is operating across sectors and whether any adjustments may be required to maintain effectiveness of the framework.

## 2) Initial notice period

### Question Two

- **Do you agree that the CAC should refuse access unless the access agreement specifies that there will be a minimum of 5 working days between when the terms of the initial access agreement are finalised and when access takes place for the first time? If your answer is no, please explain your reasoning or give an alternative.**

14.8% (218) supported requiring a minimum of 5 working days between finalising the initial access agreement and the first access visit, while 85.2% (1,256) disagreed.

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## **Government response**

Make Work Pay: trade union right of access

Comments referred to the suitability and flexibility of the proposed notice period. Some respondents considered that more than 5 working days is needed, highlighting operational pressures, staffing constraints, and particular challenges for SMEs. Others mentioned a fixed minimum altogether, emphasising the need for flexibility to accommodate different workplace contexts and proposing exemptions for specific circumstances. Several respondents considered the proposed period too short, stating that it could undermine effective preparation for access.

### **Government response to section 2A, question two**

The government has taken account of the views provided and will proceed with the proposal to require a minimum of five working days' notice before the first access visit. This strikes a proportionate balance between giving employers sufficient time to prepare and ensuring that the statutory right of access can operate effectively in practice. A clear minimum also provides certainty for both employers and unions at the outset of an access agreement.

To ensure the framework remains practical and adaptable, unions are not required to specify the exact date of the first access visit in the access agreement itself. Instead, it will be sufficient for the agreement to confirm that at least five working days' notice will be given ahead of the initial visit. This allows parties to focus on agreeing workable access terms, while retaining flexibility over scheduling.

## **3) Access agreement expiry dates**

### **Question Three**

- **Do you agree that access agreements should expire two years after they come into force? Please explain your answer.**

8.4% agreed that access agreements should expire after two years, while the majority expressed alternative views: 2.4% (37) favoured no expiry at all, 1.3% (20) supported removing dormant agreements through another mechanism, 4.1%(64) disagreed without proposing an alternative, 82.9% (1,280) wanted a different time limit, and 0.8%(12) did not provide an answer.

Feedback received centred on the appropriate duration and flexibility of access agreements. Some suggested a shorter time limit, often linked to immediate operational needs or the list of long-term agreements becoming outdated. Others preferred longer limits for stability or

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## **Government response**

Make Work Pay: trade union right of access

supported a two-year period provided it included options for review. Several respondents expressed views against automatic expiry, instead referring to renewal mechanisms, case-by-case assessments, or requiring unions to make a fresh application where ongoing access is justified. Practical concerns included the impact on business operations, especially for SMEs, and whether long-term access is ever warranted. Additional themes included the need for alternative mechanisms to remove dormant agreements, ensuring expiry aligns with genuine need, and allowing extensions or modifications through employer-union negotiation. A small number of respondents supported time limits in principle but sought sector-specific approaches or modifications to ensure proportionality.

### **Government response to section 2A, question three**

The government has reviewed all feedback submitted in response to this question and considered the different views put forward on the appropriate duration of statutory access agreements.

We will take forward the proposal that access agreements under the statutory framework should not be granted by the CAC without an expiry date, and that their duration should be limited to a maximum of two years from the point they come into force

A two-year period provides a clear window for access agreements to support its access purpose - whether that is enabling unions to build relationships in the workplace, fostering constructive dialogue between employers and workers, or supporting the pathway towards statutory recognition and collective bargaining. We believe this timescale creates the right conditions for access to have a tangible and positive impact.

Setting a defined end point also brings clarity and predictability for both parties. It ensures that access arrangements remain current and responsive to workplace developments, and that agreements which have become inactive, outdated, or no longer reflective of the needs of workers or employers can be updated or allowed to conclude naturally.

Where both parties agree that continued access would be beneficial, they will be able to apply jointly to the CAC to vary the agreement and extend or reset its duration.

## **4) Further circumstances which the CAC must refuse access**

### **Question Four**

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## **Government response**

Make Work Pay: trade union right of access

- **In general, are there other circumstances under which you think that the CAC must refuse access? (This question refers to section 2A generally).**

Responses referred to a range of views, including health and safety, security, and safeguarding, particularly in sensitive settings where access may raise additional sensitivities to staff or service users. Others suggested that access could be refused where it would cause significant operational disruption, where existing union agreements already govern access, or where questions had been raised about the conduct of union representatives. Some respondents also suggested that the CAC should be able to refuse access in cases involving multiple or repeated requests, or where an access request is unclear, incomplete, or improper.

Additional points raised included data protection, confidentiality, and cyber-security considerations, including where access may expose sensitive information, as well as references to the role of employee consent in certain contexts. Other respondents expressed views against expanding the grounds on which the CAC may refuse access, warning that further restrictions could undermine the purpose of statutory access.

### **Government response to section 2A, question four**

The government has carefully considered the views shared on whether there are additional circumstances in which access should be refused. Respondents raised a wide range of considerations, including health and safety, security, safeguarding, and data protection, alongside concerns about operational impacts, and the need to protect the purpose of the statutory right of access.

The government's approach is to avoid introducing a broad or overly prescriptive list of mandatory refusal grounds. Many of the issues raised are already addressed through existing legal duties (e.g. GDPR) that will continue to apply to the new statutory access framework or can be considered by the CAC when determining whether access should take place and on what terms. This helps ensure that the access framework remains workable, proportionate, and focused on enabling constructive engagement between employers and trade unions.

Alongside this, the government considers it appropriate to provide a small number of clear and narrowly defined safeguards where access must be refused. These will apply where granting access would be contrary to the interests of national security or where access would be likely to prejudice the prevention, detection, or prosecution of offences.

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## **Government response**

Make Work Pay: trade union right of access

These safeguards are intended to operate as exceptional protections, reflecting established public-interest principles. Further guidance on their application will be set out in the Code of Practice to support consistent and proportionate decision making.

## **Section 2B: Circumstances where it is reasonable for access not to be granted**

### **5) Presence of a recognised union**

#### **Question Five**

- **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 CAC to refuse access to another union? If your answer is no, please explain your reasoning or give an alternative.**

93.6% (1,385) supported treating the presence of a recognised union representing the relevant group of workers as a reasonable basis for the CAC to refuse access to another union. 6.1% disagreed, 0.2%% (3) did not provide an answer and 0.1% (1) gave a mixed view.

Comments referred to views that the presence of a recognised union can provide a reasonable basis for refusal. Some respondents supported automatic denial of duplicate access requests to avoid destabilising existing relationships and unnecessary administrative burden or workplace disruption. Others preferred that the CAC retain discretion rather than an absolute ban, particularly where different unions represent distinct worker categories, or where sector-specific application may be appropriate. Additional themes included concerns about sweetheart deals, the need for a certificate of independent, the importance of preserving worker representation choice, and support from some for encouraging diverse union membership.

#### **Government response to section 2B, question five**

The government welcomes all the views expressed on how the statutory access framework should operate where a recognised union is already in place. Respondents highlighted the

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## **Government response**

Make Work Pay: trade union right of access

importance of protecting effective existing recognition agreements, whilst also ensuring that the framework remains fair, flexible and responsive to workers' interests.

Following careful consideration of the responses against this question, the government will proceed with the proposal that the presence of a recognised union representing one or more of the workers that the union is seeking access to, may constitute a reasonable basis for the CAC to refuse access. This means that an employer may decline an access request where it already recognises an independent union for that specific group of workers, unless the union requesting access is the recognised union.

In circumstances where such a case is referred to the CAC for determination, the CAC is likely (though not necessarily in all cases) to uphold this position, as the legislation provides that it is to be regarded as reasonable for the CAC to treat existing recognition for the relevant group of workers as a ground for refusing access.

This approach is intended to support stable and constructive industrial relations, avoid unnecessary duplication of access applications, and ensure that access arrangements add value rather than create confusion or disruption in workplaces where representation is already functioning effectively.

At the same time, we recognise that worker choice and representation needs may evolve over time. Therefore, we will be setting out in legislation that the presence of a recognised union does not by default mean a new access request from a different union is rejected.

### **Existence of a live recognition bid or presence of an access agreement**

Additionally, it may also be reasonable for the CAC to refuse access where there is an ongoing statutory recognition process at the workplace, concerning one or more workers that the access request is seeking access to, or where a statutory access agreement with an independent union— is already in place. This applies both where the group of workers covered is identical, and where the group the requesting union seeks access to overlaps with the group already covered by recognition or an existing access agreement. This helps to provide clarity for all parties and prevents parallel processes running at the same time.

### **Multiple simultaneous access requests**

The government recognises that handling multiple access requests at once can be difficult for employers, particularly SMEs. Our aim is to address this challenge while still ensuring that necessary access provisions remain in place for workplaces that require them.

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## Government response

Make Work Pay: trade union right of access

Consistent with this approach, where a second union issues an access request after a first union has already submitted a request covering the same or overlapping workers, and the first request has been referred to the CAC and is awaiting decision – with no access agreement reached and no CAC decision made – it will be reasonable for the CAC to refuse both, or all, such requests. This mirrors the protocol for simultaneous applications in the statutory recognition process. By creating a clear and predictable point at which competing applications are resolved, employers avoid having to manage overlapping requests, and access discussions are encouraged to be progressed in a coordinated way.

We encourage trade unions to work collaboratively where possible when seeking access, helping to ensure that requests are targeted, proportionate and supportive of positive workplace relationships.

## **6) Ensuring employers are not obliged to allocate more resource than is required to fulfil the terms of the access agreement**

### Question Six

- **Do you agree that an access application that would require an employer to allocate more resources than is necessary to fulfil the agreement (e.g., constructing new meeting places or implementing new IT systems) should be regarded as a reasonable basis for the CAC to refuse access? If your answer is no, please explain your reasoning or give an alternative.**

23.8% (353) agreed that an access application requiring an employer to allocate more resources than necessary should be the grounds for the CAC to refuse access, while 76% (1128) disagreed. A further 0.1% (2) did not provide an answer, and 0.1% (1) gave a mixed view.

Participants expressed differing views of what constitutes ‘necessary’ versus ‘excessive’ resource use. A number of respondents were concerned about broad or automatic refusal, stressing the need for clear guidelines and cautioning against misuse or malicious citation of resource demands. Some supported the principle but raised practical concerns, including operational impact, health and safety considerations, and digital access security risks. Others noted that existing infrastructure is often sufficient and argued for distinguishing reasonable from excessive resource requirements. Additional views included the need to recognise

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## **Government response**

Make Work Pay: trade union right of access

voluntary access agreements, avoid creating a blanket ground for refusal, and ensure employers are not required to make major investments such as new meeting spaces or IT systems.

### **Government response to section 2B, question six**

The government have considered the views raised on the extent to which employers should be required to allocate resources to facilitate trade union access. Respondents highlighted the importance of proportionality and the need to guard access arrangements imposing unnecessary or excessive operational burdens, and conversely, employers using this factor to frustrate or obstruct legitimate access requests. The government's position is that employers must take reasonable steps to facilitate access, but should not be required to make significant, structural, technological, or operational changes solely for that purpose. Access should ordinarily be facilitated using existing facilities and systems.

Therefore, we are proceeding with the consultation's proposal to make it reasonable for the CAC to refuse access where an application would require excessive resource allocation. This includes, for example, constructing new meeting spaces, procuring new IT systems, or making capital investments purely to facilitate access. This approach ensures that statutory access operates effectively without imposing disproportionate costs or disruption on the employer.

In broad terms, excessive requirements may include new buildings, new IT systems, capital expenditure, significant recurring costs, or material operational disruption, while reasonable steps may include proportionate use or adaption of existing facilities, arrangements for meetings, secure communications, or issuing building passes event genuine attempts of access.

## **7) 'Model' agreements**

### **A. Frequency of access**

#### **Question Seven**

- **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? If your answer is no, please explain your reasoning or give an alternative.**

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## **Government response**

Make Work Pay: trade union right of access

4.6% (70) supported including weekly access as a model term in access agreements, while 95.3% (1462) disagreed.

Participants questioned the practicality and proportionality of weekly access. Some respondents highlighted concerns about the strain on resources as well as operational feasibility, and the burden on HR and management, particularly in smaller or high-pressure workplaces. Several drew attention to sector-specific considerations, including privacy and safety risks in certain environments. There was limited support for a uniform weekly standard, preferring flexible arrangements or an alternative access frequency better suited to operational needs. Some referenced potential economic impacts, while a few noted that digital communication can already support ongoing engagement without formal weekly access.

### **Question Eight**

- **Please describe any other terms that you think should be regarded as ‘model’ terms**

Comments emphasised that any model terms should remain flexible and reflect business considerations, with several respondents emphasising the need for approaches suitable for SMEs. Many suggested that the frequency of access should be “reasonable” rather than weekly, and that terms should account for service continuity, confidentiality, and safeguarding - particularly in the care sector. Additional themes included protection against surveillance, defining the scope of digital access, and clarity on location, timing, and duration of access visits. Respondents also proposed terms relating to union conduct and training, use of employer communication channels, standardised communications, and provisions for dispute resolution, termination, and renegotiation.

### **Government response to section 2B, question seven and eight**

The government has reviewed the feedback submitted to this question and considered the views expressed on whether weekly access should form part of the ‘model’ terms for statutory access agreements, and which other access terms should also be included in this.

Firstly, we are proceeding with specifying weekly access a model term, though access agreements proposing lower frequencies can still be approved. This means that, where a case is referred to the CAC for determination on whether access should be granted, the CAC will take into account whether the proposed agreement includes a provision for access on a weekly basis when considering its eligibility for review by a single-person panel. This may support a

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## **Government response**

Make Work Pay: trade union right of access

more streamlined and timely process for progressing access applications, potentially alleviating caseloads for the CAC.

The CAC will also consider the inclusion of weekly access when determining whether access should be granted. Where a proposed access agreement reflects this model term, the CAC is more likely to consider it consistent with the aims of the statutory framework.

The government considers weekly access to provide an appropriate level of regularity to support effective engagement between unions and workers. It allows unions to maintain constructive engagement, provides continuity to their discussions with workers, increases the likelihood that unions representatives can reach workers operating across different shifts and working patterns, and supports the steady flow of information needed for workplace engagement to be meaningful. Weekly access also offers employers a predictable and structured pattern of engagement, reducing uncertainty and assisting with workplace planning.

Where a case is referred to the CAC for determination, amongst other things, it will consider the whether the proposed agreement is consistent with the access principles at Section 70ZF. This includes that a trade union official should be able to physically enter a workplace or communicate with workers (or both) for any of the access purposes in any manner that does not unreasonably interfere with the employer's business. However, weekly access is not the default for every access agreement. The government expects unions and employers to engage and negotiate in good faith, and unions are free to apply for the frequency of access best suited to their needs, which may be less frequent than weekly.

We are also legislating for the inclusion of additional model terms relating to matters that the CAC must consider reasonable for both employers and unions to comply with. These terms cover issues such as health and safety and safeguarding requirements. Further detail on these provisions is set out in the government response to Section 2B, Question 10.

### **B. Notice periods for access**

#### **Question Nine**

- **Do you agree that access agreements include a commitment from the union to provide at least two working days' notice to the employer before access takes place? If your answer is no, please explain your reasoning or give an alternative.**

7.5% (111) supported requiring unions to provide at least two working days' notice before an access visit, while 92.4% (1374) disagreed.

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## **Government response**

Make Work Pay: trade union right of access

Respondents emphasised that two working days' notice is insufficient for operational planning, they highlighted many workplaces would require an extended notice period to plan safely and effectively. Others favoured a flexible notice period, allowing arrangements to be tailored to workplace needs, with some proposing SME exemptions due to capacity constraints. Several respondents also emphasised the importance of providing for urgent access provision in exceptional cases.

### **Government response to section 2B, question nine**

The government recognises the concerns about operational planning, capacity constraints and the need for flexibility across different workplace contexts.

On this basis, the government will move forward with the proposal that the CAC must consider the provision of a minimum of two working days' notice before each access visit (other than the initial visit where the minimum notice period is five days) as a reasonable access term for unions to comply with, and therefore a model term. This requirement is intended to establish a clear and predictable baseline that supports effective planning to facilitate access, while ensuring access is timely and practical for unions.

Under this approach, an access agreement requiring the union to provide at least two working days' notice before each visit is to be regarded as consistent with the model terms and may therefore be eligible for streamlined consideration by the CAC. As a result, proposed access agreements incorporating this notice period are more likely to be accepted than those specifying shorter ones.

This requirement, however, does not prevent employers and unions from agreeing longer notice periods where this better reflects the needs of a particular workplace, nor does it preclude flexibility where access arrangements already operate effectively. The two-day notice period operates as a floor rather than a ceiling, enabling tailored access arrangements while ensuring a basic level of preparedness.

Further guidance on the application of notice periods can be found in the Code of Practice – a draft of which is currently under consultation until 20 May.

## **8) Further matters for the Central Arbitration Committee (CAC) to consider when determining access**

### **Question Ten**

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## **Government response**

Make Work Pay: trade union right of access

- **Are there any further matters to which you think the CAC must have regard when making determinations on access? If so, what are they? For example, you might want to suggest practical, legal, or workplace-specific considerations that have not already been covered.**

Responses varied across a range of considerations that participants felt the CAC should consider when determining access.

Respondents identified a range of themes including sector specific access considerations, such as setting with heightened safeguarding, confidentiality, or operational constraints. Some noted the importance of respecting conscientious or religious objections, alongside broader, health, safety and security requirements that may limit when and how access can occur. Several noted that the CAC should consider the operational impact of access, including scheduling pressures or disruption to essential activities, and the financial implications for employers. Other themes included ensuring that access supports genuine employee demand for union involvement, protecting sensitive activities, and considering the overall quality of employment relations within the workplace.

### **Government response to section 2B, question ten**

The government is grateful for the feedback provided against this question. We have thoroughly considered the range of views provided on any further matters the CAC should have regard to when making determinations on access. Respondents emphasised the importance of ensuring that access arrangements operate safely, lawfully and proportionately across different sectors and workplace settings.

We will set out in legislation additional terms the CAC must consider reasonable for employers and unions to comply with. This will include the existing arrangements that visitors to the workplace in question are required to be adhered to. Furthermore, the CAC must have regard to type of workplace covered by the access agreement, and whether provision for safeguarding needs to be included in the access agreement. This includes workplaces such as schools that require safeguarding considerations for a visitor to enter the premises. Where relevant, the CAC must also have regard to any steps the employer has taken to contact a party who is not a party to the agreement, where that is necessary to enable access to take place.

In addition to a minimum of two working day notice period before an access visit, it will be reasonable – where it is appropriate and proportionate – for the CAC to expect compliance with: applicable health and safety requirements; reasonable site security, identification and

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## **Government response**

Make Work Pay: trade union right of access

visitor arrangements agreed with the employer; relevant qualifications or certifications (e.g. DBS checks), where appropriate to the nature of the workplace; and relevant legal obligations, such as data protection and confidentiality requirements.

With regard to employers, reasonable steps to facilitate access includes making available existing meeting spaces, communication channels or facilities ordinarily used for engagement with worker, where it is possible and appropriate; facilitate access through existing digital channels where this is appropriate to the workforce and working arrangements; take reasonable administrative steps to enable access (e.g. arranging building access or passes for authorised representatives). These steps, however, should not require excessive resource allocation or material operational disruption.

Additionally, we have also set out further guidance in the Code for employers and unions on maintaining privacy during access meetings and visits, including considerations related to surveillance practices.

The government's approach is to deliberately limit these matters to those necessary to support safe, effective and workable access, without setting an overly prescriptive list in legislation. Further detail can be found in the Code of Practice – a draft of which is currently under public consultation until 20 May.

## **Section 3: Maximum value of fines and how the value of fines for breaches are determined**

### **1) Maximum value of the fine**

#### **Question 1**

- **Which of the following options do you consider most appropriate for setting the maximum value of the fine? Please explain your answer or suggest an alternative approach.**

Participants offered a wide range of views on how the maximum value of fines should be set. A small number supported Option 1, a fixed maximum fine of £75,000, while others supported Option 2, which introduces a two-stage system with a standard cap of £75,000 and a higher

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## **Government response**

Make Work Pay: trade union right of access

cap of £150,000 for repeated breaches. However, most respondents (76.3%) preferred neither option, instead suggesting alternative approaches. A minority did not provide a view.

Respondents identified several principles they felt should guide the setting of maximum fines. These included proportional fines that take account of employer size and context, warning that excessive penalties could harm businesses, particularly smaller organisations. Some supported retaining a fixed maximum of £75,000 for clarity and consistency, while others argued for higher fines to ensure compliance in cases of persistent or deliberate breaches. Several respondents felt that employers should be given an opportunity to improve before fines are imposed, with warnings or remedial steps forming an initial stage. Several participants preferred that serious or repeated non-compliance be escalated through court action, and some expressed general disagreement with the use of fines within the access framework.

### **Government response to section 3, question one**

The government has carefully considered the views expressed in response to this question. We recognise that for the new access framework to effectively facilitate and support union access in workplaces where it is most needed, it must be supported by a credible and proportionate enforcement mechanism. Therefore, the government is proceeding with the three-tier enforcement model proposed in the consultation, while increasing the maximum penalty caps available to the CAC.

The revised caps will ensure that the enforcement model provides a meaningful deterrent against deliberate non-compliance. In particular, they are intended to address the risk that a small minority of rogue employers might otherwise seek to treat financial penalties as a manageable cost of non-compliance and deliberately deny workers the access to trade unions provided under the framework.

### **Three-tier model – Maximum penalty of £75,000 for first breach, £150,000 for second breach and £500,000 for third and repeated breaches**

Under the revised framework, the CAC will be able to issue penalties with maximum limits of:

- Up to £75,000 for a first penalty;
- Up to £150,000 for a second penalty, and;
- Up to £500,000 fine for the third breach subsequent non-compliance under the same access agreement.

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## **Government response**

Make Work Pay: trade union right of access

These penalty levels are intended to provide a clear and credible deterrent against conduct that egregiously and repeatedly disregard the terms of a statutory access agreement. It is important that the enforcement framework is capable of addressing the most serious cases of deliberate and repeated non-compliance, while continuing to operate proportionately across the full range of organisations who may fall within scope.

When setting the level of penalty, including the CAC will take into account a host of factors, which will be set out in secondary legislation. These factors will ensure that penalties reflect the circumstances of each case, including any relevant mitigating considerations such as the scale and resources of the liable party.

Once an initial breach has led to a £75,000 penalty, a second penalty has the higher £150,000 maximum. Any further penalties would have a maximum of £500,000. This allows the larger penalty to be issued repeatedly where non-compliance continues without requiring parties to go through the full enforcement process again. This enforcement framework is further supported by the CAC's ability to vary an access agreement upon well-founded complaints (such as, for example, extending an access agreement by a certain length of time), order steps for the liable party to take to ensure compliance, and publish information relating to issued penalties, including the name of the liable party.

Given that this is a new statutory right, it is important to monitor how it beds in across different sectors and workplace contexts. We will, therefore, review this enforcement model after implementation to assess whether this model achieves the right balance between deterrence and fairness, and whether it is operating as anticipated for both employers and trade unions. In particular, this review will look any evidence of deliberate non-compliance and whether the levels set for fines is a sufficient deterrent for such activity.

## **2) Matters the Central Arbitration Committee (CAC) must consider when deciding value of fines**

### **Question 2**

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## **Government response**

Make Work Pay: trade union right of access

- **Do you agree with the proposed matters the CAC must consider when determining fines? If your answer is no, please explain your reasoning or give an alternative.**

16.4% (240) agreed, 83.3% (1,221) disagreed, and 0.3% (5) did not provide a view.

Some responses preferred a proportionate and flexible approach to setting fines, calling for a distinguishing accidental one-off breaches from deliberate or systemic breaches, with higher penalties only for the latter. Others emphasised leniency or corrective action for first-time breaches, particularly for SMEs, including proposals for exemptions or lighter treatment for smaller employers. Several respondents wanted fines to reflect severity, duration, cause, number of people affected, and previous conduct, while some suggested turnover-based fines for large organisations. Additional themes included concerns about the administrative burden on the CAC, questions over whether fines would be effective, calls for sector-specific considerations, and suggestions for reasonable-refusal defences, court involvement, or periodic government review.

### **Government response to section 3, question two**

The government have considered the views expressed on the matters that the CAC should take into account when determining fines, including calls for a proportionate and flexible approach that reflects the circumstances of each government case.

We will be moving forward with the proposed matters set out in the consultation. Fines play an important role in supporting an effective statutory access framework, where other routes to resolution and compliance have been unsuccessful. However, we are keen that financial penalties are applied carefully and proportionately, rather than as a punitive or automatic response.

To support this, we will set out in legislation for the CAC to have regard to the following factors when setting the level of fines:

- the gravity of the breach - for example this could include, the nature and seriousness of the breach, including its impact on effective operation of statutory access
- the duration of the breach - for example this could include whether it was an isolated incident or part of a sustained or repeated pattern of behaviour
- the reasons for the breach - allowing the CAC to distinguish between deliberate obstruction, negligence, or genuine error
- the number of workers affected by the breach - for example this could include whether the breach directly impacts a group of workers, how many workers

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## **Government response**

Make Work Pay: trade union right of access

were affected, whether through being denied access to union officials, or through access provisions exercised in a way that caused disruption.

- the size or administrative resource of the liable party - to ensure that fines are proportionate across organisations of different sizes
- any relevant history of non-compliance - including previous failures to comply with access agreements, where the CAC considers this relevant to the cases before it.

Our aim is to promote consistency and confidence in how fines are determined, while preserving the CAC's discretion to weight the relevance of each factor in light of the facts of each case.

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## Government response

Make Work Pay: trade union right of access

## Next steps

The government would like to thank all respondents for their submissions to this consultation. Your input has been invaluable and has directly informed the operational and practical details that will now be set out in secondary legislation. We are also consulting on the draft Code of Practice for a period of six weeks, from 8 April to 20 May 2026, and we encourage all stakeholders to provide their views. The Government will carefully consider all feedback received before finalising the Code and implementing the statutory right of access.

## Summary of Policy Positions

Policy Area	Description
Access requests	<p><u>Format</u></p> <p>Access requests must be made in writing, with email as the preferred method. A government issued template will be provided alongside the Code of Practice, which unions can opt to use.</p> <p><u>Content</u></p> <p>At a minimum, unions are required to include the following information in their access requests, though we encourage parties to disclose as much information as appropriate so as to enable to meaningful and productive negotiation of an access agreement.</p> <ul style="list-style-type: none"><li>• The purpose(s) of the access request, in line with Section 70ZA(6)</li><li>• Where possible, a description of workers access is being sought to</li><li>• A statement that this is a request under Section 70ZB of the Trade Union and Labour Relations (Consolidation) Act 1992</li><li>• Type of access request: whether physical and/or digital; the nature of access (e.g. in-person meetings, access to digital worker forums) and rationale for type</li></ul>

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## Government response

### Make Work Pay: trade union right of access

	<p>of access requested, as well as appropriate support required from the employer to facilitate access.</p> <ul style="list-style-type: none"><li>• Notice period: the notice period the union will provide for the initial access visit and any subsequent visits.</li><li>• Frequency of access: the frequency of access requested and rationale for this</li><li>• Workplace locations (for physical access): if physical access is requested, specify the workplace(s) involved. Where access is requested to multiple workplaces, there must be an explanation for this grouping.</li><li>• Certificate of independence: the union's certificate of independence attached or referred to</li><li>• Union contact details: relevant contact information for the requesting trade union</li><li>• Repeat of an access request: if the request is a repeat of a recent request for access, then the union should provide a statement that it is a repeat of a previous request for access with the date of that previous request, and the text of the proposed access agreement either within the request or as an attached document</li></ul>
Employers' response to access requests	<p><u>Format</u></p> <p>An employer's response to an access request must be made in writing, with email as the preferred method. A government issued template will be provided, which employers can opt to use.</p> <p><u>Content</u></p> <p>At a minimum, employers are required to include the following information in their responses to access requests, though we encourage parties to disclose as much information as appropriate so as to enable to meaningful and productive negotiation of an access agreement.</p> <ul style="list-style-type: none"><li>• Whether the employer:<ul style="list-style-type: none"><li>○ accepts the access request in full</li></ul></li></ul>

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## Government response

### Make Work Pay: trade union right of access

	<ul style="list-style-type: none"><li>○ accepts the access request in part</li><li>○ declines the access request (in whole or in part)</li><li>● Where the employer accepts the request, in whole or in part:<ul style="list-style-type: none"><li>○ the name and contact details of the appropriate person the union should liaise with regarding access, as well as an alternative contact details for the employer</li><li>○ a list of categories of the workers in the workplace that the trade union have sought access to and the numbers of those workers</li><li>○ details of the workplaces where workers being sought access to are located</li><li>○ where appropriate, details of shift/working patterns/ rotas</li><li>○ any facilities available to use for the purpose of facilitating access, if applicable</li></ul></li><li>● Where the employer rejects the access request, either in whole or in part:<ul style="list-style-type: none"><li>○ elements of the access request the employer rejects</li><li>○ reasons for rejection, whether in whole or in part</li><li>○ confirmation of whether the employer has received another access request from, or is engaged in negotiations with, another trade union</li><li>○ an email address or alternative contact details for the employer</li></ul></li><li>● Where the employer and trade union have previously negotiated an access agreement for the same workplace, and the trade union makes a further access request on the same agreed terms, the employer will not be required to repeat the full set of information above, but must instead confirm:<ul style="list-style-type: none"><li>○ that the notice is a response under Section 70ZB of the 1992 Act;</li></ul></li></ul>
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## Government response

Make Work Pay: trade union right of access

	<ul style="list-style-type: none"><li>○ that the request for access on the terms submitted by the trade union is accepted; and</li><li>○ any new information that was not available at the time of the original response was given and that would have been relevant to the trade union's original request.</li></ul>
Time periods	<ul style="list-style-type: none"><li>● Employer response period: from 5 to 15 working days, providing sufficient time for employers to consider and respond to access requests, including to account for staff availability and operational pressures.</li><li>● Negotiation period: from 15 to 25 working days, ensuring employers and unions have adequate time for constructive negotiations.</li><li>● CAC referral period: from 25 to 55 working days, to reflect the lengthening of the response and negotiation period, respectively.</li></ul> <p>Unions and employers will have the ability to mutually agree an extension to the response period. Both parties must agree the length of the response period, before notifying the CAC.</p>
CAC Notifications – Variations and Revocations	Joint notification to the CAC will be required for any variation or revocation of a statutory access agreement. Minor variations will not require re-notification. Further detail on the notification process, including the use of standard templates, will be provided in the Code of Practice.
CAC must refuse access (mandatory refusal)	The CAC must refused access where: <ul style="list-style-type: none"><li>● the employer whose workers are being sought access to have fewer than 21 workers overall</li></ul>

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## Government response

Make Work Pay: trade union right of access

	<ul style="list-style-type: none"><li>• the proposed access agreement does not provide for at least five working days of notice ahead of the first access taking place</li><li>• the proposed access agreement is to last more than two years from the date the access agreement is finalised</li><li>• access would prejudice the national security of the United Kingdom, or the investigation or detection of offences.</li></ul>
CAC may reasonably refuse access	<p>It may be reasonable for the Central Arbitration Committee (CAC) to refuse access where:</p> <ul style="list-style-type: none"><li>• an employer already recognises an independent trade union to negotiate on behalf of one or more of the workers another union is seeking access to</li><li>• there is an ongoing statutory recognition process at the workplace, concerning the group of workers that the access request also is seeking access to</li><li>• the request for access requires the employer to make significant structural changes to their infrastructure, such as implementing a new IT system or building a facility</li><li>• where the employer receives two or more access requests, and at least one worker falls within the two or more of the bargaining units specified in the requests and: (1) no access agreement has yet been reached, and (2) the CAC has not yet made a determination, it is reasonable for the CAC to refuse all such requests</li><li>• if a workplace already has a statutory access agreement in place with an independent union for the same group of workers covered by the current access request, the CAC may consider it reasonable to deny access to the other union seeking access.</li></ul>
Model Terms	The CAC may be able to consider an access case can be reviewed by a single person panel, instead

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## Government response

Make Work Pay: trade union right of access

	<p>of a tripartite panel, if a union's access request is consistent with the following 'model' access terms.</p> <p>Where a union's request is consistent with these terms, the CAC is more likely to consider the request to be less complex and grant access:</p> <ul style="list-style-type: none"><li>• Two-working days' notice period for each access visit after the first one</li><li>• Weekly access</li><li>• Employer should make available existing accommodation and facilities as is reasonable in the circumstances in order to facilitate access in line with the terms of the access agreement.</li><li>• 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.</li><li>• The trade union official seeking access to the workplace must comply with all reasonable instructions given by the employer.</li></ul>
Enforcement	<p><u>Enforcement Model</u></p> <p>A three-tier enforcement mechanism with penalties of:</p> <ul style="list-style-type: none"><li>• Up to £75,000 for a first penalty,</li><li>• Up to £150,000 for a second penalty, and</li><li>• Up to £500,000 for subsequent non-compliance under the same access agreement</li><li>• A despatch box commitment to review this £500,000 maximum, with a view to this potentially becoming higher for deliberate non-compliance.</li></ul> <p>Once an initial breach has led to a £75,000 penalty, a second penalty has the higher £150,000 maximum. Any further penalties would have a maximum of £500,000. This allows the larger penalty to be issued repeatedly where non-</p>

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## Government response

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	<p>compliance continues without requiring parties to go through the full enforcement process again.</p> <p>The CAC may be able to vary an access agreement upon well-founded complaints, order steps for the liable party to take to ensure compliance, and publish information relating to issued penalties, including the name of the liable party.</p> <p>Matters the CAC must consider when calculating the penalty amount:</p> <ul style="list-style-type: none"><li>• the gravity of the breach – for example this could include, the nature and seriousness of the breach, including its impact on effective operation of statutory access</li><li>• the duration of the breach, for example this could include whether it was an isolated incident or part of a sustained or repeated pattern of behaviour</li><li>• the reasons for the breach, allowing the CAC to distinguish between deliberate obstruction, negligence, or genuine error</li><li>• the number of workers affected by the breach, for example this could include whether the breach directly impacts a group of workers, how many workers were affected, whether through being denied access to union officials, or through access provisions exercised in a way that caused disruption</li><li>• the size or administrative resource of the liable party, to ensure that fines are proportionate across organisations of different sizes</li><li>• any relevant history of non-compliance, including previous failures to comply with access agreements, where the CAC considers this relevant to the cases before it.</li></ul>
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## Government response

Make Work Pay: trade union right of access

# Annex A

## Right of Access

*Table 1: Summary of theme mapping performance - double review*

Comparison - 25% double review	Identical	Mean F1 Score	95% CI F1 Score
Reviewer Group 1 vs. Reviewer Group 2	98.8%	0.993	[0.991, 0.995]
Consult vs. Reviewer Group 1	98.9%	0.993	[0.991, 0.995]
Consult vs. Reviewer Group 2	99.9%	0.999	[0.998, 1.000]

*Table 1: Summary of theme mapping performance - single review*

Comparison - 100% single review	No reviewed	Identical	Mean F1 Score	95% CI F1 Score
Consult vs. Human Reviewers	22150	99.5%	0.997	[0.997,0.998]

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## Government response

Make Work Pay: trade union right of access



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