

ACS Submission: trade union right of access

To be submitted via online form:

https://ditresearch.eu.qualtrics.com/jfe/form/SV_0GkGNSHjZhf0ajQ

Section 1 – Requesting and Negotiating an Access Agreement

Form and Manner of Access Requests and Responses

Question 1: Do you agree access requests and responses should be made in writing? **Yes**

If no, please explain your reasoning or give an alternative.

Question 2: Do you agree access requests and responses should be provided directly via email or letter? **Yes**

If no, please explain your reasoning or give an alternative.

Both a letter and email would be preferable, retailers don't always monitor inboxes daily.

Question 3: Do you agree access requests and responses should be made through a standardised template provided by the government? **Yes**

If no, please explain your reasoning or give an alternative.

It should be written in clear, accessible language and proportionate to retailers with limited back-office capacity.

Information Contained Within Access Requests (Trade Unions)

Question 4: Do you agree with the proposed information to be included in a trade union's request for access? **Yes**

If no, please explain your reasoning or give an alternative.

Information Contained Within Employer Responses

Question 5: Do you agree with the proposed information to be included in an employer's response to a trade union's access request? **Yes**

If no, please explain your reasoning or give an alternative.

We agree with the proposed information requirements for employer responses. Retailers should be able to explain if there are any operational constraints, particularly where stores operate with lone workers.

Notification to the CAC

Question 6: Do you agree with the proposal on how the parties should notify the CAC that an access agreement has been reached? **Yes**

If no, please explain your reasoning or give an alternative.

We agree that the notification to the CAC should be made jointly, in writing and directly. A standardised notification process will reduce confusion and ensure accurate records.

Question 7: Do you agree with the proposal on how joint notifications to the CAC of a variation or revocation of an access agreement are made? **Yes**

If no, please explain your reasoning or give an alternative.

For convenience retailers, where operational challenges, (such as store relocations, changes to staffing models or closing periods) are common, it is particularly important that this process is simple, quick, and supported by a standardised template to minimise administrative burden.

Section 1B – Time Periods

Question 8: 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? **No**.

If no, please explain your reasoning or give an alternative.

We recommend a period of 10 working days. Many independent retailers, often without defecated HR or legal support, would find the 5-day timeframe challenging. Store owners may be on leave, off sick or working long hours and it might be harder to properly assess and respond within a 5-day timeframe.

10 working days would still ensure timely progress and allow retailers to take advice, assess operational impacts and respond properly.

Question 9: 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? **Yes**.

If no, please explain your reasoning or give an alternative.

However, flexibility must be built into the framework to reflect the practical constraints facing retailers. Negotiations may need to account for:

- Lone-working environments
- Limited availability of managers or owners
- Seasonal trading pressures

Question 10: 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? **Yes**.

Section 2A – Circumstances Where Access Must Not Be Granted

Question 11: Do you agree that employers with fewer than **21 workers** should be exempt from the right of access policy? **Yes**.

If no, please explain your reasoning or give an alternative.

The average store employs only 9 people, often relying heavily on owner-operators and lone working models. Applying the statutory framework to these businesses would create disproportionate administrative burden, operational disruption and heightened safety risks in small, open retail environments.

Question 12: Do you agree that the CAC should refuse access unless the access agreement specifies that there will be a **minimum of 5 working days’ notice** between when the terms of the initial access agreement are finalised and when access takes place for the first time? **Yes**.

If no, please explain your reasoning or give an alternative.

Flexibility might be needed to ensure retailers can arrange appropriate staffing cover, conduct health and safety safeguarding checks and ensure access does not compromise customer or staff safety.

Question 13: Do you agree that access agreements should expire **two years** after they come into force? **Yes.**

Question 14: In general, are there other circumstances under which you think that the CAC **must refuse access**?

The CAC must refuse access in the following circumstances:

- Lone-working environments where physical access would compromise worker or customer safety
- During live trading hours where access would present a material risk to queue management, customer flow or theft prevention
- Premises with space constraints
- High-risk retail locations with documented issues of violence, armed robbery or antisocial behaviour.

Section 2B – Circumstances Where It Is Reasonable to Refuse Access

Question 15: Do you agree that the presence of a recognised union representing the group of workers to which the union is seeking access should be considered a reasonable basis for the CAC to refuse access to another union? **Yes.**

Question 16: 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? **Yes.**

If no, please explain your reasoning or give an alternative.

Strongly agree. Retailers operate on tight margins, limited floorspace and constrained IT infrastructure. It would be wholly disproportionate to require retailers to construct new meeting spaces or implement new IT systems to facilitate access. Access should be accommodated with existing facilities only and where this is not practically possible, refusal should be considered reasonable.

‘Model’ Access Agreement Terms

Question 17: Do you agree that **weekly access** (physical, digital, or both) should be included as a ‘model’ term in access agreements? **No**

If no, please explain your reasoning or give an alternative.

This would be operationally burdensome and disproportionate. Monthly access should be the ‘model’ baseline.

Question 18: Please describe any other terms that you think should be regarded as ‘model’ terms.

- Physical access to take place outside peak trading hours wherever possible

- Advance confirmation of attendees from the union side for safeguarding and security purposes.
- Clear limits on in-store activity, to prevent interference with tills, queues, CCTV coverage, or age-restricted sales.
- A named point of contact on both sides to manage scheduling and disputes efficiently.

Question 19: Do you agree that access agreements should include a commitment from the union to provide at least **two working days' notice** to the employer before access takes place?
No.

If no, please explain your reasoning or give an alternative.

This is nowhere near enough time, given the need for retailers to rearrange staffing, manage lone-worker risk, ensure safeguarding and security and maintain service levels during busy periods.

A minimum of five working days' notice is needed for each access visit, with longer periods required in higher-risk or constrained premises.

Further Matters for CAC Consideration

Question 20: Are there any further matters to which you think the CAC must have regard when making determinations on access? If so, what are they?

Please see answer to question 14.

Section 3 – Maximum Fines and Penalties

Question 21: Which of the following options do you consider most appropriate for setting the **maximum value of the fine**?

- A fixed maximum fine of **£75,000**
- A two-stage system: **£75,000** for initial breach and up to **£150,000** for repeated breaches

Neither of these options

Please explain your answer or suggest an alternative approach.

Any maximum fine should be linked to business size and turnover which a much lower cap for micro and small businesses or a scalable, percentage based approach for larger employers.

Question 22: Do you agree with the proposed matters the CAC must consider when determining fines? **Yes, with additional safeguards.**

We agree with the proposed factors set out, including gravity/duration of failure, reason for the failure, number of workers effected etc. However we believe the CAC must also be required to consider whether any breach was administrative or procedural rather than obstructive. The CAC must also consider good-faith engagement by the employer, including any evidence of attempts to comply.