

No. 286/26

26th October 2026

To: All Branches

Dear Colleagues,

CWU'S APPROACH TO NEW ACCESS RIGHTS

Following the National Briefing held last week to discuss the new access rights coming into force on Friday, 30th October, and to share the CWU's approach going forward, we committed to provide the following additional information with branches:

- A detailed overview of the New Access Rights legislation
- The CWU's Approach to Access – presentation slides

Following a request made during the briefing and as part of our coordinated approach to access, branches wishing to share information on target companies and/or local activity can do so by emailing a central email, which will then be shared with the relevant constituency: TradeUnionAccess@cwu.org.

Any enquiries on the above LTB should be addressed to the interim access coordinator, mdaykin@cwu.org.

Yours sincerely,



Dave Ward
General Secretary

[The New Statutory Right of Trade Union Access to Workplaces - briefing Oct 2026](#)
[National Briefing Slides - Trade union Access 231026 final](#)

The New Statutory Right of Trade Union Access to Workplaces

Overview

The Employment Rights Act 2025 introduces a new statutory right for independent trade unions to access workplaces for organising and representational purposes. This is one of the most significant changes to UK industrial relations in recent decades and is scheduled to come into force on **30 October 2026**.¹ From that date, qualifying independent unions will be able to submit formal access requests under the statutory process.

The new framework is intended to make it easier for trade unions to communicate with workers, recruit members, organise workplaces and facilitate collective bargaining, particularly in workplaces where unions currently have little or no presence.²

The right of access is separate from statutory recognition. A union does not need to be recognised by the employer, nor demonstrate any minimum level of membership or support amongst workers before seeking workplace access.

Key access provisions

The new right of access represents a major opportunity for trade unions to recruit and organise by:

- Creating a statutory route into workplaces where unions currently have little or no presence.
- Removing the need for workforce support before seeking access.
- Providing both physical and digital organising opportunities.
- Establishing a presumption in favour of access.
- Giving unions access to an independent dispute resolution mechanism through the CAC.
- Backing access rights with substantial financial penalties for employer non-compliance.

Key documents

The principal documents governing the new regime are:

- **Employment Rights Act 2025 (Section 59)**, which introduces a statutory right for independent trade unions to access workplaces, both physically and digitally, for the

¹ [The Trade Unions \(Right to Access Workplaces\) Regulations 2026](#), legislation.gov.uk; and [Trade union access rights – new reforms confirmed](#), Lewis Silkin 17th July 2026; and [Microsoft Word - Right of Trade Unions to Access Workplaces final rules\(10338938884.5\)](#), Clifford Chance, August 2026.

² [Trade Union Access Rights: Employer Preparation for 2026 Changes](#), CMS Law, 30th July 2026

purposes of meeting, supporting, representing, recruiting, or organising workers, and facilitating collective bargaining, but not to organise industrial action.³

- **The Trade Unions (Right to Access Workplaces) Regulations 2026**,⁴ which prescribes relevant regulatory time periods, including the period within which an employer must respond to an access request and how long the parties have to negotiate an access agreement. It also sets the circumstances in which the Central Arbitration Committee (CAC) must refuse access, and the maximum penalties that can be imposed by the CAC.
- **Code of Practice: Right of trade unions to access workplaces**⁵, which is intended to be the primary source for practical guidance to trade unions and employers to support the understanding and delivery of the right of trade unions to access workplaces. It includes model forms, procedural guidance and examples of access arrangements.
- **Government response to the consultation on trade union right of access**.⁶ This explains that the reforms are designed to modernise the UK's approach to workplace access, strengthen the voice of working people, and support more constructive, collaborative, and efficient industrial relations. It says the government will continue to work closely with unions, employers, and workers to ensure successful implementation of the new rights.

[Applying and qualifying for union access](#)

Any qualifying independent trade union may apply for a right of access. The Government's intention is that workplace access can be used to help unions establish contact with workers and build organisation within workplaces. A union does not need to be recognised, or demonstrate minimum membership, or show workforce support before applying.

[How the access process works](#)

Stage 1: Access Request

The union submits an access request to the employer. The Code sets out that the request for access should be completed using the **standardised form** available in Section E (Annexes). Trade unions are not legally required to use the standardised template, but should refer to this template when making a request for access.⁷ Any access request must provide the employer with at least **five working days** of notice before the first instance of access under the agreement takes place.

Stage 2: Employer Response

Upon receipt of the application, the **employer can take up to 15 working days from the day an access application is given**, to respond to a request for access. Employers should use the response template available in Section E (Annexes). If the employer agrees to the terms in the request, then it should make clear its acceptance in the response to the trade union. The parties should then notify the CAC using the CAC's mailbox to record the agreement and proceed.

³ Employment Rights Act 2025, Section 59, accessed at: [Employment Rights Act 2025](#)

⁴ The Trade Unions (Right to Access Workplaces) Regulations 2026, accessed on 21st October at: [The Trade Unions \(Right to Access Workplaces\) Regulations 2026](#)

⁵ Code of Practice, Right of Trade Unions to access workplaces, Department for Business & Trade, July 2026, accessed on 9th October 2026 at: [Code of Practice: Right of trade unions to access workplaces](#); and [Make Work Pay: trade union right of access - GOV.UK](#)

⁶ Making work pay, [Government Response to the consultation on trade union right of access](#), 8th April 2026

⁷ [Code of Practice: Right of trade unions to access workplaces](#), para 27, p.7

Stage 3: Negotiation

If access is not agreed, the parties have **25 working days** to negotiate an access agreement. The employer and trade union are expected to engage with negotiations on access in good faith, but if the employer is rejecting the terms of access provided in the request, then it should notify the trade union of this in clear language. The parties can agree that the response period is extended. To do this they must agree the length of the extension.

Stage 4: CAC Determination

If agreement cannot be reached, either party may apply to the Central Arbitration Committee (CAC). The application will generally need to be made within 55 working days of the original access request.⁸

The CAC can determine:

- Whether access should be granted.
- Whether access should be physical, digital or both.
- The terms of the access agreement.

Presumption in favour of access

The legislation establishes a strong presumption that access should be granted. The Code states that *“The CAC is guided by several principles and factors when taking a decision on whether access takes place or not. These principles reflect the intention that **there is a presumption towards access taking place.**”*⁹ The statutory access principles therefore require the CAC to approach cases on the basis that access should generally be allowed and only refused where refusal is reasonable in all the circumstances.

Exemptions from union access

Businesses with fewer than 21 workers will be exempt from access. This includes workers employed by group and associated companies (rather than being assessed on a workplace or entity-specific basis). The government has committed to consider lowering this threshold further in future, especially in the adult social care and education sectors.

There are also **narrow exemptions for national security and criminal justice**. If access would prejudice the national security of the UK or the investigation and detection of crimes, the CAC must refuse the request. However, this won't provide a complete exemption for relevant employers, who would still be required to facilitate access in less disruptive ways – for example, through rooms which visitors use on a day-to-day basis, digital methods, or at off-site meetings away from sensitive locations.

The CAC can also deny access **where it might jeopardise the health and safety** of any person. However, the Code makes clear that access will only be refused on these grounds in exceptional circumstances, and employers and unions will be expected to cooperate to mitigate any health and safety risks.¹⁰

⁸ [Code of Practice: Right of trade unions to access workplaces](#)

⁹ [Code of Practice: Right of trade unions to access workplaces](#) para 12. p.4

¹⁰ [Trade union access rights – new reforms confirmed | Lewis Silkin](#), 17th July 2026

[Existing recognition agreements and competing unions](#)

The legislation contains specific provisions dealing with overlapping access arrangements.

In summary, **recognition by another union does not automatically prevent a new access request**. However, **existing recognition arrangements may be a significant factor** considered by the CAC.

Although a union does not need recognition to apply for access, the regulations provide that it may be regarded as reasonable for the CAC to refuse access where granting access would create overlapping arrangements involving workers already covered by:

- a recognised trade union;
- an existing access agreement; or
- an ongoing statutory recognition application.

This is contained in Regulation 13 of The Trade Unions (Right to Access Workplaces) Regulations 2026.¹¹

In particular, the regulations provide that overlapping arrangements may arise where an employer already recognises another qualifying trade union and the workers covered by the access request fall within that recognised bargaining unit.

Where the employer has received at least one other access request that is still 'live', in addition to the request that led to the application to the CAC, and at least one worker is within scope of both requests - it is reasonable for the CAC to refuse both requests.¹²

[How access arrangements will work in practice](#)

There will be 'model terms' for access agreements. They will not operate as statutory default terms as happens in the context of statutory recognition, but a union's request for access based on them will make it much more likely to be ordered by the CAC, so they are likely to strongly influence how things work in practice.

The model terms are that:

- The union will be entitled to have access (whether physically or digitally) up to once per week;
- After the first occasion, which requires five working days' notice, the union must give at least two working days' notice for each subsequent access visit, and must specify whether the access is to be physical or digital;
- The employer must make available existing meeting spaces and communication channels as is reasonable in all the circumstances to enable agreed arrangements;
- The employer must ensure, as far as reasonably possible, the privacy of direct communications between workers and the union; and

¹¹ [The Trade Unions \(Right to Access Workplaces\) Regulations 2026](#), Regulation 13

¹² [Code of Practice: Right of trade unions to access workplaces](#), para 57, p.13

- Union officials visiting the workplace must comply with all reasonable instructions from the employer (which may include providing identification or completing health and safety inductions).¹³

Physical Access

The Code states that “*where practicable, a union should be granted access to the workers at their actual workplace, and in the actual location of their work in that workplace, such as in a meeting room, or in an adjoining work area*”.

The specific space(s) allocated to union officials will depend on the workplace, including health and safety and security considerations as well as the availability of meeting rooms. However, the Code recommends that the union be allowed to use whatever the employer typically uses to communicate with employees.

In exceptional circumstances, a business may not be able to accommodate union meetings on its own premises. In that scenario, the Code envisages that the union may be required to hold meetings off-site at its own expense, with the employer taking reasonable steps to inform employees about the meeting.

Digital Access

As well as the right to visit a workplace in-person, the Employment Rights Act specifically gives unions new rights to communicate electronically with workers. This is a major victory for the union movement, which has long seen ‘digital access’ as critical to modernising its organising strategies and recruiting workers in hard-to-reach sectors.

The Code states that “*Not all access has to take the form of the physical presence of a trade union in a physical workplace if the trade union does not want it to. **It is important to note that digital access is not an alternative or replacement for physical access.** Access can take place in a ‘digital’ manner alongside or instead of physical access, depending on what the trade union has put in their application for access.*”¹⁴

Digital access can take place through, but not limited to, the channels used by the employer in question. There will be different forms of digital access, such as online meetings or the distribution of union communications through an employer intranet or messaging system.

Duration of an access agreement

No access agreement will last longer than two years, starting from the date at which the access agreement is either agreed between the parties, or imposed by the CAC, unless the parties have agreed to extend the length of the agreement.¹⁵

Joint applications by two or more trade unions

Two or more trade unions may make a joint application for access to a workplace. A joint agreement could consist of two or more trade unions having access to the same workers, or to two or more trade unions having access to different workers employed by the same employer.¹⁶

¹³ [Trade union access rights – new reforms confirmed | Lewis Silkin](#), 17th July 2026

¹⁴ [Code of Practice: Right of trade unions to access workplaces](#), para 95, p.21

¹⁵ [Code of Practice: Right of trade unions to access workplaces](#), para 53, p.11

¹⁶ [Code of Practice: Right of trade unions to access workplaces](#), para 72, p.17

Dispute resolution mechanism through the CAC

The Code states that *“Trade unions and employers should seek to resolve disagreements about access-related matters through dialogue wherever possible. The parties should make full use of any mechanism to resolve such disputes that they may have established in the access agreement. If the parties are unable to resolve disputes through dialogue, then a party may request that the CAC decide whether a complaint is well founded or not. Complaints to the CAC must be made no more than three months after the matter complained of is alleged to have occurred.”*¹⁷

Enforcement and Financial Penalties

Where an employer breaches a statutory access agreement or a CAC access determination, the CAC can impose financial penalties. The maximum penalty rises for repeated non-compliance: £75,000 for the first penalty, £150,000 for the second and £500,000 for third and subsequent breaches. The amount imposed will depend on various factors, including the gravity and duration of the breach.¹⁸ The Code states that the enforcement mechanism is designed to be a sufficient deterrent against wilful disregard for an access agreement, including deliberate attempts to obstruct access. The CAC will take into account the circumstances of the breaches and consider the factors for determining the value, such as any wider patterns of non-compliant behaviour from the liable party.

Weaknesses in the enforcement regime from a union perspective

There is no mechanism under which financial penalties are paid to an affected trade union as damages or compensation. In addition, there is no provision giving trade unions a routine entitlement to recover legal expenses incurred in bringing enforcement proceedings.

¹⁷ [Code of Practice: Right of trade unions to access workplaces](#), para 112, p.24

¹⁸ [Workplace access for trade unions framework | Mills & Reeve](#), 28th August 2026

CWU TRADE UNION ACCESS

The new access arrangements fundamentally change how the movement organises in non-recognised workplaces. The removal of this major barrier offers the CWU an opportunity to grow in non-recognised areas. Previously organising from the periphery, we can now speak directly to workers and quickly establish whether there is a genuine appetite to self-organise.

Legislation

Trade Unions (Right to Access Workplaces) Regulations 2026 will come into force on 30th October 2026 (TULR Con. 1991, Chapter V – Rights of Trade Unions).

Basic provisions:

- To meet
- Support
- Represent
- Recruit or organise workers (whether or not they are members of a trade union)
- To facilitate collective bargaining

This can be carried out face-to-face in the workplace and through online sessions. Access arrangements can also include the ability to share communications via the employer's network (posters, leaflets, email, teams, slack etc).

CWU Trade Union Access



The Legal Process

Access request is sent to the employer, this can be for a single workplace or whole company

Access terms are agreed through negotiation, or it is referred to the Central Arbitration Committee to make a decision and impose terms.

If agreed, access begins and runs for up to two years

One-Union Approach to Access Requests

- We have an agreed union approach/process.
- Working as one union to identify which employers to target will benefit not only the workers, but also help to strengthen and secure the CWU as a whole.
- Working with each of the constituencies, target selection will be overseen by the General Secretary and Senior Leadership Team.
- Access negotiations will be led by a nominated National Officer, and the legal forms will be coordinated by a central coordinator.
- Once access is established, progress will be closely monitored to ensure we provide support to build on successes and that a worker-led model is adopted.

Moving from Access to Activism – Self-Organised Model

The drive for a unionised workplace must come directly from the workers themselves; worker-led activism helps to build the sustainable union structures needed to achieve collective bargaining.

- Membership grows steadily as a result of an access session
- Natural workplace leaders emerge with a genuine desire to organise their own workplaces
- Workers encourage their colleagues to join the union and to be active
- Workplace leaders begin to identify others who also want to be more actively involved
- The CWU supports the workers by giving them access to resources and training that support their aims

Branch Involvement

- Branches' local knowledge will continue to be important in identifying potential target employers, but to ensure we are legally compliant, branches cannot submit their own access requests.
- The union recognises the difficulties encountered in branches servicing potential members in non-recognised companies.
- We will be taking input from branches to assist us in building membership growth, including identifying individuals as potential future organisers.