

## London Chamber of Commerce and Industry

### **Make Work Pay: Consultation on (1) the revised Code of Practice on Access and Unfair Practices and (2) unfair practices in electronic ballots - Response to consultation.**

Submitted on 1 April 2026

#### **About the London Chamber of Commerce and Industry (LCCI)**

The London Chamber of Commerce and Industry (LCCI) is London's key hub for the business community, representing over 11,000 companies across all sectors and boroughs. Our membership includes microbusinesses, SMEs, large employers, universities, colleges and multinational firms, offering a broad and diverse perspective on the operational pressures shaping London's economy.

LCCI champions the interests of London's businesses and works to ensure their views are reflected in policymaking at local, regional and national levels. Our policy positions are informed by regular engagement with members, research and polling, and insights gathered through sector forums and committees representing companies operating across the capital's diverse economy.

Through this engagement, LCCI provides evidence and recommendations to government consultations, parliamentary inquiries, and policy reviews, helping ensure that regulatory frameworks remain practical, proportionate, and supportive of business growth. LCCI also works closely with policymakers and partners to promote London's international competitiveness, support skills development, and address the barriers businesses face when investing, expanding, and creating jobs across the capital.

LCCI has a keen interest in this consultation due to its implications for workplace practices, employer responsibilities, and the practical implementation of recognition processes across London's diverse business community.

#### **Submission summary**

Our response highlights areas where greater clarity or practical guidance would support proportionate and workable implementation for businesses of all sizes while upholding strong safeguards for workers during recognition processes.

From a business implementation perspective, the following areas would benefit from further clarification or refinement within the Code and related guidance:

- 1. Clarifying the CAC's interpretation of "reasonable conduct".**  
Providing further detail on the factors the CAC considers when evaluating reasonable conduct during negotiations, especially within compressed timelines, would assist predictable implementation.
- 2. Improving the usability and structure of the Code.**  
Clearer sequencing of stages, concise summaries of key obligations, and

consistent use of mandatory (“must”) and advisory (“should”) language would help non-specialist managers in navigating the recognition process.

**3. Maintaining flexibility in access arrangements.**

Meeting frequency and duration requirements should provide proportionate flexibility to accommodate workplace diversity, including shift-based, multi-site, and operationally sensitive environments.

**4. Clarifying the boundaries of digital communication and system management.**

Guidance should clearly differentiate routine digital governance (like cybersecurity or system administration) from behaviour that could be seen as interference during recognition processes.

**5. Providing practical examples of lawful communication.**

Including plain-language examples that distinguish legitimate employer communication from undue influence would boost confidence and reduce uncertainty about compliance.

**6. Ensuring proportionate standards for electronic balloting.**

As recognition ballots move to digital environments, enforcement should target intentional actions that significantly undermine ballot integrity, with clear examples of prohibited behaviour.

Taken together, these points show where clearer structure and practical guidance would help keep the framework transparent and accessible for employers.

## Consultation questions

### Consultation on Code of Practice

**Question 1: Do you have any comments about the changes to the Code to reflect the updated legal framework?**

LCCI believes that the revised framework will operate effectively only if it provides clear, predictable and proportionate guidance that employers can follow in practice. Managers without specialised legal expertise should be able to understand their obligations and comply with the process without extensive interpretation, particularly in SMEs with limited capacity for employee relations. This is especially important given that the Code now applies from an earlier stage of the recognition process.

The earlier trigger point at which access and unfair practice protections begin, once the CAC accepts an application, materially increases procedural sensitivity at the early stage. Coupled with shorter timelines, such as the five-day window for access requests and reduced negotiation periods, this creates a cumulative procedural burden. The Code should recognise the interplay between earlier regulatory exposure, tighter timelines, and the removal of the previous evidential threshold. For SMEs, multi-site or shift-based businesses, the administrative impact of these changes should be explicitly acknowledged.

Removing the “impact on outcome” test improves enforceability and lowers the evidentiary threshold for decisions. This may increase the risk that minor or inadvertent procedural errors lead to formal complaints. To preserve trust in the framework, enforcement should focus on conduct that significantly distorts workers’ choices rather than on trivial or accidental mistakes.

Providing clearer guidance on how the CAC assesses reasonable conduct during negotiations would reduce uncertainty and prevent overly cautious behaviour. Clearly defining the boundaries between lawful management communication and undue influence is particularly important under the earlier trigger model. A transparent explanation of how the CAC interprets “reasonable conduct”, including relevant factors within the compressed timetable, would further support predictable implementation.

### **Question 2: How well do the structural changes to the Code reflect the changes being made by the Employment Rights Act?**

For employers, the key question is whether the structure of the Code enables the recognition process to be followed clearly. Managers without specialist legal knowledge should be able to understand the sequence of steps, responsibilities, and timelines without extensive interpretation. Clear signposting within the document would help reduce procedural errors.

A more structured presentation would further improve usability. Concise summaries of key obligations at each stage, along with clearer separation between mandatory requirements (“must”) and recommended practices (“should”), would enhance navigation. This approach would be especially beneficial for SMEs and organisations with limited employee-relations capacity, helping them to confidently meet compliance across various business contexts.

### **Question 3: Do you agree that the suggested minimum meeting frequency during the access period should be once every 5 working days?**

#### No

Meaningful and proportionate access during the access period is vital to ensure workers can receive information and engage with the union. However, requiring a meeting at least every five working days risks creating operational rigidity that does not reflect workplace diversity.

In practice, this requirement would function as a weekly obligation. While feasible in some settings, it might be more difficult to manage in shift-based, customer-facing, or multi-site environments where releasing staff requires coordination and operational cover. Businesses with smaller teams or limited capacity may find it challenging to maintain a fixed meeting schedule alongside their usual operations.

A more adaptable approach would better mirror workplace diversity. Instead of setting a strict frequency, the Code could specify an expectation for “regular and

reasonable” access, adapted to workforce size, shift patterns, and operational constraints. Digital access methods could also lessen reliance on fixed meeting schedules and might deserve explicit recognition. This would promote meaningful engagement without imposing unnecessary scheduling pressure.

**Question 4: Do you agree that the suggested minimum duration of meetings be increased from 30 minutes to 45 minutes?**

No

Meetings during the access period should allow sufficient time for meaningful engagement so workers can receive information and ask questions. The current 30-minute baseline already sets a clear minimum standard. Increasing the minimum duration might shift focus from the quality of discussion to the amount of time spent.

The effectiveness of engagement depends on factors such as workforce size, meeting format, and the nature of the issues being discussed. In some workplaces, shorter meetings may be sufficient to communicate information clearly and facilitate questions, while longer sessions might be more suitable in others.

Maintaining a baseline while permitting parties to agree on meeting durations would better reflect these differences. A more flexible approach would support effective engagement without adding unnecessary prescriptive requirements.

**Question 5: Do you think the updates to the Code appropriately reflect the increased use of digital communication in workplaces?**

Yes

The updated Code appropriately recognises the role of digital communication in modern workplace engagement. The use of channels such as intranet pages, email, and virtual meetings reflects contemporary hybrid and remote working patterns and supports access to information without unnecessary disruption to business operations.

As digital access becomes more widespread, clearer compliance boundaries are required. Employers routinely implement cybersecurity, privacy, and system-management controls as part of standard IT governance. The Code’s references to confidentiality, privacy, and data-protection obligations are appropriate and should be retained. However, clearer guidance is needed to distinguish legitimate system administration from prohibited interference, particularly when automated processes may affect the delivery of communications.

Consistency with the emerging framework for electronic balloting would further strengthen the Code. Harmonising digital expectations across the recognition process would support predictable implementation and minimise the risk of disputes as engagement increasingly takes place through employer-managed systems.

These considerations relate specifically to communication during the recognition process and are separate from the technical requirements addressed later in this submission.

**Question 6: Do you think the role of the CAC in resolving disputes is adequately explained in the Code?**

Yes

The role of the Central Arbitration Committee within the recognition process is clear in the draft Code. However, providing a more detailed explanation of when and how disputes move from negotiation to CAC determination would improve usability for employers.

Greater visibility into escalation points in the process would help businesses understand when CAC intervention might be needed and which responsibilities are involved at each stage. A straightforward flowchart or stage overview would enhance accessibility, especially for employers unfamiliar with CAC procedures. A clearer explanation of these stages would reduce the risk of misunderstanding and support a more predictable approach to dispute resolution.

**Question 7: Do you think that the Code includes sufficient information in relation to Section D of the Code, which covers the elements in an access agreement?**

Yes

The guidance on access agreements provides a helpful reference point for employers, especially those unfamiliar with recognition procedures. The Code also makes clear that the elements listed in Section D are not mandatory but can be considered by the CAC if the parties cannot agree.

These elements should not be interpreted as a rigid template. Access arrangements should mirror specific workplace conditions, including workforce size, operational structure, and the nature of the access requested. Emphasising that not all elements will be relevant in every workplace would reinforce this flexibility and reduce the risk of overly formalistic interpretation.

Maintaining this flexibility will help ensure access agreements remain practical and proportionate across various business environments.

**Question 8: Do you think the Code provides sufficient guidance on how unfair practices might be used to influence the outcome of an application?**

Yes

The Code is sufficiently comprehensive at a principles level. However, targeted clarification would nonetheless improve predictability in application. Businesses need to differentiate between legitimate factual communication, such as providing information or expressing views, and conduct that could be interpreted as undue influence. Additional plain-language examples illustrating this boundary would support consistent interpretation and reduce compliance uncertainty, including avoiding overly cautious or defensive approaches to communication.

Proportionate enforcement is essential. While serious misconduct must be dealt with firmly, minor or non-material deviations should not result in excessive consequences. Clarifying how the CAC assesses materiality in complaints would help reinforce consistent standards and build confidence in the framework.

### **Question 9: Are there any areas or topics of the Code of Practice which relate to access that you think would benefit from further guidance?**

#### Yes

The access framework in the Code is generally clear, but some areas would benefit from further clarification to support consistent implementation. Any extra guidance should aim to simplify compliance rather than add procedural complexity.

Greater clarity would be helpful in the following areas:

- **Access arrangements.** Further guidance could emphasise that the frequency, duration and format of access should remain proportionate to workplace circumstances rather than be treated as a fixed template.
- **Digital access.** Providing clearer guidance on employer responsibilities when using digital communication channels would help distinguish standard system management from conduct that might be interpreted as obstruction.
- **Communication during recognition processes.** Additional clarification on the boundary between legitimate employer communication and undue influence would facilitate a more consistent interpretation.
- **Non-typical working patterns.** Further guidance on access arrangements for shift-based, remote or peripatetic roles would help ensure consistent application across different workforce models.

Focused clarification in these areas would help sustain a flexible and business-operable access framework across various business settings.

### **Question 10: Are there any areas or topics of the Code of Practice which relate to unfair practices that you think would benefit from further guidance?**

#### Yes

Safeguards against undue influence are a crucial element of the recognition framework. Further clarification would help ensure the regulations are enforced consistently and fairly.

Placing greater emphasis on proportionality would be advantageous. Enforcement should target conduct that significantly distorts worker choice, rather than minor or non-material irregularities. A clearer distinction between serious misconduct and minor deviations would improve predictability and minimise the risk of unnecessary escalation.

Providing further clarification on employer communication during recognition processes, including in digital contexts, would promote consistent understanding. Additional guidance on how such communication is assessed, particularly in relation to digital campaigning, would assist employers in engaging with confidence while protecting the integrity of the recognition system.

## **Consultation on Unfair Practice**

### **Q1. Do you think that the existing requirements in Schedule A1 are sufficient to prohibit interference with a pure electronic ballot?**

No

Protecting ballot integrity is essential. The current requirements in Schedule A1 are designed for postal and workplace ballots and do not fully address the specific risks associated with purely electronic voting. Electronic ballots depend on employer-managed digital infrastructure, such as email systems, network protections, and access controls, which introduces points of interaction that the existing framework does not explicitly cover.

Routine system functions such as email routing, spam filtering, automated security checks, and metadata generation may influence the delivery or visibility of ballot communications without any deliberate action by the employer. These processes are part of standard IT governance and are not designed to influence recognition procedures.

The issue is that normal system behaviour might be mistaken for interference, especially when employers use outsourced or standardised IT services and have limited control over system settings. To prevent this confusion, the framework should clearly differentiate between routine system management and deliberate actions intended to influence a ballot.

To support consistent interpretation, the Code or accompanying guidance should clearly specify the principles governing digital-system interactions. Specifically, routine system behaviours, such as email routing, automated spam filtering, security scanning, metadata creation, and other standard IT governance functions, should not be regarded as interference unless there is evidence of deliberate action to influence ballot access or outcomes. Clarifying this principle from the outset would provide a stable reference point for future responsibilities and reduce ambiguity as employers increasingly rely on standardised or outsourced IT systems.

#### **Q1.1 Please provide any further information to support your answer above.**

Electronic ballots operate within digital systems that generate automated activity as part of routine infrastructure management. Tasks such as email routing or security filtering may affect how communications are delivered or accessed without the employer's intentional action.

In this context, routine technical processes should not be regarded as interference when ballot communications pass through employer-managed infrastructure.

This supports an approach where enforcement targets conduct that deliberately and significantly undermines ballot integrity, while avoiding unnecessary compliance uncertainty and disproportionate burdens for employers, especially SMEs and micro businesses operating standard digital systems.

**Q2. Do you agree that the government should add a duty prohibiting interference with the delivery of a ballot to eligible voters (proposed duty 1) to the list of unfair practices for pure electronic ballots?**

Yes

Electronic ballots rely on digital communication channels for delivery, which may involve automated processes within employer-managed systems.

As stated in our response to Q1 of this consultation, routine digital-system processes should not be considered interference unless undertaken deliberately. Applying this principle here ensures the duty targets intentional obstruction rather than accidental technical effects.

This supports an approach where enforcement targets conduct that intentionally and substantially disrupts ballot delivery, rather than incidental system effects.

**Q2.1 Please provide any further information to support your answer above.**

Building on the principles outlined in our response to Q1 of this consultation, the main consideration is whether behaviour exceeds routine system operations and constitutes a deliberate attempt to obstruct ballot delivery.

Interference is most likely to arise when actions directly impact the transmission or accessibility of ballot communications. For instance, intentionally blocking, delaying, or redirecting messages would hinder the process, whereas normal routing or automated handling within communication systems should not, in itself, be considered interference.

Providing targeted examples of such scenarios would help ensure consistent application of the duty whilst maintaining accessible and reliable ballot delivery.

**Q3. Do you agree that the government should add a duty to prevent parties seeking to determine how or whether a worker participated in a ballot**

**(proposed duty 2) to the list of unfair practices to prohibit interference with a pure electronic ballot?**

Yes

Protecting ballot secrecy is fundamental to the legitimacy of the recognition process. In a fully electronic ballot, parties may have technical access to participation-related information, especially when ballot communications are sent through workplace systems. Therefore, a prohibition on attempts to determine whether or how a worker participated is appropriate.

This aligns with the principle established in response to Q1 of this consultation: system-generated data arising from routine governance should not be regarded as interference unless it is deliberately utilised to decide participation.

Enforcement should focus on conduct that intentionally and significantly threatens ballot secrecy, while avoiding interference with standard digital procedures. This distinction aligns with the proportionality considerations outlined in our response to Q1.1 of this consultation. Clear boundaries, supported by practical examples, would help ensure consistent enforcement while protecting ballot integrity.

**Q3.1 Please provide any further information to support your answer above.**

As mentioned earlier in our response to Q1 of this consultation, metadata and access logs are standard features of digital systems. Their presence alone does not amount to interference unless deliberately used to identify individual voting behaviour.

This creates a distinction between passive visibility and active efforts to determine participation. For instance, the presence of access logs does not inherently mean interference, but utilising such data to monitor or deduce individual involvement would.

Examples showing how such scenarios are assessed would help ensure consistent application of the duty while safeguarding ballot secrecy.

**Q4. Do you think the government should add a duty to prevent parties from seeking to interfere with a ballot or submit a vote on behalf of a worker (proposed duty 3) to the list of unfair practices to prohibit interference with a pure electronic ballot?**

Yes

Electronic ballots introduce a risk that parties may manipulate vote submissions or attempt to cast votes on behalf of workers through digital systems used to manage the ballot. Therefore, there is a need to establish a duty to prevent such conduct and safeguard the integrity of the voting process.

In line with the principle outlined in Q1 of this consultation, the duty should focus on intentional misuse of digital systems, such as attempts to access another worker's voting credentials, while excluding normal system activity.

Clear examples of conduct that amount to interference with ballot submission would support consistent interpretation and predictable enforcement while maintaining legitimacy.

**Q4.1 Please provide any further information to support your answer above.**

As with previous duties in this consultation, the main difference is between standard digital procedures and deliberate attempts to influence the vote submission.

Recognising these actions from routine system interactions is vital to ensure the duty targets deliberate misconduct. Illustrative scenarios showing how such conduct is identified would help in consistent application while preserving the integrity of the ballot.

**Q5. Do you think the government should add a duty to prevent parties from misleading a worker about the secrecy or anonymity of their vote to discourage participation in a ballot in which they are eligible to vote (proposed duty 4) to the list of unfair practices to prohibit interference with a pure electronic ballot?**

Yes

In electronic ballots, confidence that participation remains secret is essential to ensuring workers feel free to vote. Deliberate statements suggesting that votes can be traced or monitored could discourage participation and undermine the legitimacy of the process. A duty addressing such conduct is therefore appropriate.

The scope of the duty should nevertheless be well-defined. It should focus on intentional misrepresentation that falsely suggests ballot anonymity can be compromised. Enforcement should focus on conduct that intentionally and materially discourages participation rather than inadvertent inaccuracies or good-faith misunderstandings of ballot procedures.

At the same time, employers and unions must be able to communicate factual information about the ballot process. A meaningful distinction should be maintained between legitimate explanations and deliberate misinformation, ensuring the duty operates predictably while maintaining confidence in ballot secrecy.

**Q5.1 Please provide any further information to support your answer above.**

Electronic voting systems can sometimes create uncertainty among workers regarding how their participation is recorded or whether activity on digital platforms is visible to administrators. Misrepresenting the anonymity of participation may

discourage engagement and should be clearly distinguished from accurate explanations of ballot processes.

This makes the way information about ballot secrecy is presented particularly important, as communications should not suggest monitoring or traceability where none exists. Illustrative examples of acceptable and misleading messaging would support consistent application of the duty.

**Q6. Do you have any other comments on the government's proposals for unfair practices for electronic balloting?**

Yes

The principles outlined in response to Q1 of this consultation establish a clear basis for proportionate and predictable enforcement across digital environments. Recognising deliberate interference by routine system behaviour remains essential and should be applied consistently across different organisational and technical contexts, as detailed in our response to Q1.1.

**Q 6.1 Please provide any further information to support your answer above.**

Consistency in terminology and scope across the proposed duties would facilitate predictable interpretation and application of the rules.

This is particularly important when electronic ballots interact with workplace digital systems, as clear drafting is crucial for supporting confident and consistent implementation.

We would be happy to discuss our submission in more detail. If you have any questions, please contact Igor Bartkiv (Policy and Research Manager at the LCCI) at [ibartkiv@londonchamber.co.uk](mailto:ibartkiv@londonchamber.co.uk).