

# Consultation on Making Work Pay creating a modern framework for industrial relations Acas response

2 December 2024

This is the Acas Council response to the [consultation on creating a modern framework for industrial relations](#).

## Our response

1. Acas (the Advisory, Conciliation and Arbitration Service) welcomes the opportunity to respond to [the government's consultation on creating a modern framework for industrial relations](#). This response addresses Questions 1 and 2 of the consultation on the principles that should underpin a modern industrial relations framework and how the framework can balance the interests of all stakeholders.

2. Acas is an independent, non-departmental public body with a duty to promote the improvement of industrial relations in Great Britain (s.209 TULR(C)A 1992). We fulfil this duty by exercising our powers to provide general advice on matters concerned with or likely to affect industrial relations (s.213), issue Codes of Practice (s.199), and provide collective conciliation in trade disputes (s.210). Acas also provides individual conciliation and early conciliation services in actual and potential employment tribunal cases.

3. Acas has considerable practical experience of industrial relations and of the issues that can be experienced by employers, workers, and representatives across all areas of employment law and workplace practice. Our insights are based on decades of experience in Acas of brokering confidential talks.

4. We work with millions of employers and employees every year to improve workplace relationships. We provide free and impartial advice on employment rights, good practice and policies, and preventing and resolving workplace conflict. In 2023 to 2024 we saw: approximately 18 million visits to our website; 12 million visits to our advice; almost 600,000 calls to the Acas helpline, and over 2,000 training sessions delivered by Acas advisers.

5. During a period of heightened industrial unrest, in 2023 to 2024 demand for our collective conciliation service rose and we handled over 600 collective conciliations, achieving a positive outcome in 94% of such cases, almost half of which involved threatened or actual industrial action. We also handled 105,000 early conciliation notifications, bringing about a settlement or other positive outcome in 39% of early conciliation notifications, the highest since early conciliation began in 2014; and 33,500 individual conciliations in employment tribunal cases with a resolution rate of 78% (see [Acas annual report 2023 to 2024](#)).

6. An [independent research paper estimating the economic impact of Acas services](#) calculated an overall benefit-cost ratio of £12 for every £1 invested in Acas services delivered during the 2018 to 2019 financial year, with a total net benefit to the economy of Acas services of £644 million.

7. We also have significant experience in effective social partnership working. Acas is governed by an independent Council of social partners with members who speak as representatives for employers and workers as well as independent members. Our tripartite model enables us to effectively pool specialist knowledge and develop consensus-driven, authoritative views on the principles and solutions to the challenges in today's industrial relations landscape.

8. The government's 'Make Work Pay' programme presents a welcome opportunity to consider a shared vision for a modern industrial relations framework and the wider policies that can best support its practical implementation. This response sets out the Acas Council's consensus views on these questions.

### **Question 1(a): The government's proposed principles for a modern industrial relations framework**

9. Acas agrees with the government's proposal to build a modern, positive industrial relations framework around the four key principles of: collaboration and partnership between unions, businesses, and employees; ensuring that proportionality is at the heart of the framework; relationships built on trust and accountability; and balancing the interests of all parties.

10. Acas is well-positioned to advise and support the government in the practical application of these principles given our extensive operational experience and insights from our research as outlined in this response.

11. In addition to these four key principles, Acas recommends that the Industrial Relations Framework also:

- forges a shared view on 'what good looks like' for the future of employment relations in Great Britain. Lasting changes to industrial relations frameworks at a national level are more likely to be sustainable if rooted in a shared view across social partnership stakeholders on how the changes enable individual, organisation and national ambitions to be achieved. Given Acas's stature as an independent, impartial and trusted authority on good industrial relations, we would welcome being commissioned to forge the consensus on this.
- is explicit on the socio-economic outcomes the Framework is enabling. Healthy employment relations are a critical enabler to productivity, innovation for customers and clients, and workforce engagement and wellbeing. The expected outcomes from the Industrial Relations Framework to the government's ambitions around Growth and the commitment to Make Work Pay should be made clear so that the impact of interventions can be assessed.
- is explicit on how the institutional architecture of national and regional bodies in Great Britain needs to evolve to enable the desired outcomes. This needs to cover the whole spectrum of national bodies from regulation and enforcement to certification and dispute resolution. It also needs to cover how the remits of these national bodies need to evolve to enable the desired socio-economic aims to be delivered.

12. In Acas's experience, core values such as collaboration, mutual trust and respect are the essential ingredients to creating healthier and more inclusive workplaces for all parties. A focus on shared goals and outcomes enables constructive discussions in all areas of working life, as well as the early resolution of both collective and individual conflict, so that issues are prevented from escalating unnecessarily into formal disputes wherever possible.

13. We know that investing in relationships, taking time to prepare for talks, and being committed to finding resolution is essential. We also know that third party support, such as Acas conciliation, can bring fresh eyes to critical situations, defuse tensions and build pathways out of damaging disputes.

14. Acas emphasises that these ingredients of good employment relations are equally vital to the government's wider ambitions for its reform programme aimed at both 'making work pay' and securing sustainable, inclusive economic growth (see further Acas's response to the government's Invest 2035 Green Paper). There is a wealth of evidence showing that organisations with greater levels of trust and engagement tend to be more productive, profitable, and resilient, contributing positively to economic growth (for example, see the extensive data on the links between investment in people, productivity, innovation and growth is included in [Acas's consultation response to DBT on non-financial reporting \(2023\)](#)).

### **Question 1(b): Key considerations in the design of the framework**

15. In considering the appropriate design of the framework, it is first necessary to understand the key challenges facing contemporary industrial relations in Great Britain which point to those areas most requiring a 'reset'.

16. In each of the past 2 years (2022 and 2023) around 2.5 million working days were lost in Britain to industrial action. This is higher than in any year since 1989. (The average since 2020 has been 450,000 days.) While some comparisons have been made – both by politicians and journalists – to the industrial relations experience of the 1970s and 1980s, the number of days lost to strikes annually in the 1970s was significantly higher than now. However, today's industrial relations landscape is now very different in other important respects.

17. Markedly, trade union membership has fallen to around 22% of workers, down from 53% in 1979. In the public sector, union membership has now fallen below 50% and in the private sector to 12%. Nevertheless, from this reduced base we have seen a high degree of industrial action over the past 18 months.

18. Strike action is concentrated in those parts of the economy experiencing the biggest real terms falls in pay. Although recent months have seen pay growth, real public sector pay at the end of 2023 was 1% lower than its level at the beginning of 2007, while real private sector pay increased by 4% from 2007 to 2023 ([IFS \(March 2024\)](#)). Inflationary pressures have also created significant bottom-up pressure from many front-line workers. This is not new, but it has been exacerbated during the recent cost-of-living crisis.

19. As a consequence of falling trade union membership and a much more fragmented industrial landscape, we may be seeing a new phase of 'employee activism' in individual sectors and workplaces, including contracted-out parts of the public sector.

20. In Acas's practical experience, and as evidenced by our research (outlined below), within this context there are further significant challenges in terms of good industrial relations practices at workplace-level, where a strategic focus on capability building is needed. These include that:

a) Collective industrial relations, both as a concept and a practice, have diminished over successive years, to the extent that the skills, knowledge and confidence required to underpin effective collective relationships in the workplace are in many cases weak or absent. There is a pressing need to address this gap so that industrial tensions and potential collective conflict are managed effectively and at an early point, reducing the risk of escalation to industrial action where possible.

b) There is likewise a clear shortfall in individual conflict management and dispute resolution skills among key actors in the workplace, in particular in the 'conflict competence' of line managers, which hampers the early resolution of conflict at work. Greater investment in this area is needed so that there is earlier informal intervention where appropriate and avoidance of unnecessary escalation to formal procedures.

### **a) Collective industrial relations – contemporary challenges**

21. Acas's recently published [research on continuity and change in collective workplace conflict in Britain](#) examines the changing actors, issues, and channels of expression involved in collective workplace conflict in Britain. This research included participant interviews with trade union officials, representatives of employers' organisations, industrial relations and labour law scholars, as well as Acas conciliators and advisers. Key findings include:

- pay, and sometimes working conditions, remain the key issues in most collective disputes and remain particularly salient in the context of decades-long wage stagnation and cost-of-living pressures. However, what is 'new' is a widening distance between the opening positions of parties, which contributes to a more highly charged negotiating atmosphere and can be deleterious for previously good relationships
- parties to disputes are becoming more entrenched, more quickly

There is a range of associated factors here, including:

- a significant 'knowledge gap' on the conduct of industrial relations. Many employers and HR professionals are now less experienced and skilled in the processes involved, particularly around conducting negotiations and resolving collective conflict through constructive dialogue. HR professionals often take an increasingly 'quasi-legal role' in shaping employers' behaviours, policies and practices, and there is greater involvement of other 'legal actors' such as employment lawyers

- while legal changes have tightened the regulation of industrial action in recent years, established unions appear to have grown more willing to mobilise towards industrial action compared to the 'last resort' approach typically observed in the pre-pandemic period, with even some traditionally 'strike-averse' unions now more willing to seek industrial action mandates
- over many years of declining union density, private sector employers in particular have consolidated a 'unitarist' approach to workplace relations which sees conflict in general as undesirable, rather than as an opportunity for constructive dialogue on important issues of mutual interest. At the same time, in the public sector, collective disputes have become increasingly linked to government spending, often around constrained public budgets, giving little scope for mutually agreeable pay awards
- while trade unions remain by far the most common representatives of workers in collective disputes, a distinction has emerged between the aims and approaches of traditional, long-established unions and so-called 'indie' unions. The latter include, for example, smaller, grassroots organisations that typically represent those in precarious and less standard forms of employment and who focus on broader social justice themes.

22. Within this evolving context, our research finds that the most effective intervention by Acas to resolve formal collective disputes is associated with early involvement in dialogue between workplace actors, as opposed to becoming involved at a later stage when positions are already entrenched. However, our research identifies:

- an increasing unwillingness to involve Acas early in disputes, for example due to a sense that doing so signals a failure on the part of the parties to resolve their issues independently, or that it can compromise parties' positions
- a lack of knowledge about the role of Acas amongst key actors, including HR specialists, small private-sector employers, and in non-unionised workplaces

23. These findings chime with those of our recent evaluation of Acas's collective conciliation service which finds that:

- reflecting wider trends such as the reduced incidence of collective bargaining and industrial action since the 1970s, and the growth in the statutory individual employment rights framework, overall use of the collective conciliation service has fallen for several decades. More recently, though, there has been an increase in use of collective conciliation, which has occurred alongside an uptick in industrial action in 2022 and 2023, as well as growing cost-of-living pressures and high inflation
- more of the disputes that are coming to Acas have already involved industrial action, or the threat of industrial action, or a ballot on it
- an increased proportion of customers have referral to Acas as part of their written procedures, but for some the conciliation process is viewed as more of a procedural and administrative exercise than a genuine attempt at dispute resolution
- more employers using the service were doing so for the first time (40%, up from 32% in 2014 to 2015), with these typically coming because they were experiencing their first ever collective dispute (64% of first-time users). However, without data on the number of organisations in similar circumstances, we cannot assess quantitatively to what extent Acas is successfully reaching potential first-time users
- there has been a change in the nature of the disputes reaching Acas (an increasing number of difficult pay disputes due to inflationary pressures and their effect on wage negotiations). This has not led to lower levels of dispute resolution or satisfaction with the service. (When collective disputes do reach Acas, we continue to facilitate resolution in the vast majority of cases. As detailed in the [Acas annual report 2023 to 2024](#), settlements were reached in 94% of collective conciliation disputes, surpassing our target of 88%. We also see consistently high levels of satisfaction among all parties, who hold our impartial conciliators, and their ability to navigate and resolve conflict, in high regard.) However, interviewees indicated this is likely to lead to more disputes re-occurring, and potentially returning to Acas, as solutions are more likely to be short-term than they used to be.

## **b) Individual workplace relations – contemporary challenges**

24. Good industrial relations are built not only on constructive collective industrial relations, but also on the way that workforces are managed more generally, and on the confidence and ability of all relevant parties in the workplace to effectively handle issues and concerns that arise at an individual level.

25. The costs of poorly handled workplace conflict for all sides can be very significant, especially where it is not resolved early and escalates into formal procedures. [Acas research on the costs of individual-level conflict for UK organisations](#) estimates the total cost to organisations at around £28.5 billion a year, equating to £1,000 for every employee and just under £3,000 for each person involved in individual-level conflict.

26. Our research shows that, while costs in the early stages of conflict are relatively low, these start to mount if employees continue to work while ill or take time off work. Large proportions of employees experiencing conflict report negative productivity impacts, reduced wellbeing (through stress, anxiety and depression) and/or reduced engagement (motivation/commitment). The use of formal processes for conflict resolution can push costs higher, and costs escalate very quickly as soon as employees either resign or are dismissed, with potential follow-on litigation costs.

27. In Acas's view, this provides a strong policy rationale for the industrial relations framework to include a focus on encouraging and enabling the early resolution of individual conflict within organisations. There are significant challenges to address in this regard. A body of Acas research exploring approaches to conflict management in workplaces (see, for example, recent [Acas research on Managing conflict at work](#), which explored managers' roles in handling formal disciplinary and grievance procedures, and more generally [Workplace conflict: Acas research and commentary](#)) highlights:

- organisations viewing neither employee relations nor conflict management as a strategic priority, and therefore not recognising the value in building their 'conflict competence' and investing in relevant managerial training
- low levels of trust between HR, line managers and employee representatives – whereas early, informal and creative solutions to conflict are more likely where there are high-trust relationships between these key actors
- a lack of clarity around the notion and practice of 'informal resolution', both amongst managers and within organisational policies and procedures
- managers operating within a context of operational pressure – that is, having little time to focus on developing positive employee relations, and feeling that they are not given sufficient preparation for their roles as managers of people.

28. When 'conflict competence' skills do become a focus within an organisation, along with supportive and constructive relationships between the key workplace actors, our experience and evidence demonstrate the positive impacts this can have. A recent evaluation of Acas's Skilled Managers, Productive Workplaces online training initiative, developed in partnership with the University of Westminster, found:

- most managers who completed the training showed significantly improved confidence and competence to address conflict, with 7 out of 10 managers adopting a more constructive problem-solving approach to conflict versus an 'avoidant' style
- the majority of organisations reported significant increases in the proportion of staff who agreed their managers helped resolve conflict in a timely way
- 4 out of 5 managers in small and micro-organisations intended to change the way they manage their team following the training
- positive impacts were more likely where there was visible organisational support for managers completing the training, and where there were good, trusting relationships between the HR function and line managers
- in contrast, outcomes appeared less positive in organisations where there were lower levels of trust between HR and line managers; when training had been mandated; and where there was a significant amount of organisational flux and high turnover of staff

## **Question 2 – ensuring the new framework balances interests of all parties**

29. Given the contemporary challenges for industrial relations outlined above, in Acas's view the new framework should have at its core the twin aims of:

- encouraging and enabling all parties to harness the benefits that good industrial relations can bring
- avoiding or minimising the harmful costs of conflict where it does occur at both collective and individual levels in the workplace

30. To achieve these aims, Acas emphasises that the development and implementation of a new industrial relations framework must have a wider focus than reforming trade union legislation, which is the primary focus of the government's current consultation. It will require an integrated approach across a fuller range of policy areas, all of which contribute to the promotion of good workplace relations by effecting change at both workplace level and systemically.

31. To bring about change in the workplace, the role for policy, regulation and guidance should be to:

- promote good industrial relations by both enabling, and placing proportionate constraints around, the legitimate interests and actions all parties to ensure constructive conduct in the workplace at all times, both in the everyday conduct of business and where tensions and disputes arise
- drive a deeper, more embedded understanding of the value and mutual benefits of good collective and individual workplace relations, so that the best use is made of the valuable collaborative interfaces between employers and workforces in both unionised and non-unionised workplaces
- encourage and enable parties to enter into talks with the openness and skills to explore possibilities beyond opening positions, and with an eye on long-term building of trusting relations, so that formal industrial action is seen as a last resort
- drive up investment in workforce management and people management skills, including 'conflict competence' knowledge, skills and confidence, to enable greater prevention and earlier resolution of individual workplace issues, and the avoidance of escalation to formal dispute procedures wherever possible
- promote greater understanding and use of Acas's services and of our statutory role as a uniquely placed impartial third party which can support parties to explore areas of mutual interest and to work towards shared solutions

32. Systemic change to the framework will require ensuring that an appropriate balance of interests informs all areas of the government's wider employment rights programme, the effective enforcement of employment rights and obligations, and an effectively functioning tribunal system.

33. In this regard, there is an opportunity for the government to reconfigure the current system by which workers assert and enforce their rights at work and through which employers are held to account on their responsibilities. As our evidence referenced above makes clear, the culture and processes within this system as it stands can have the unintended consequence of driving workplace behaviours which favour overly formalised, inflexible and/or ill-considered processes in conflict management. This leads towards the unnecessary escalation of disputes, reliance on the stretched services of Acas and an over-pressed employment tribunal system. In contrast, where organisations focus on a restoration of workplace relationships and informal resolution where possible, levels of tribunal claims fall significantly and the negative impacts on both businesses and individuals are reduced.

34. A systemic reset of cultural expectations alongside the institutional framework and narrative around good industrial relations practice would therefore improve outcomes for individuals, business and growth. This reset should include a strategic focus on encouraging and enabling the maintenance and restoration of good working relationships, as much as on getting the balance right in terms of legal rights and responsibilities. Critically, this would create space within the system to provide speedier access to justice and more rapid enforcement of claims where most appropriate.

35. As noted at paragraph 11 above, such systemic change will also require consideration of how the appropriate institutional architecture of relevant bodies in Great Britain needs to evolve to enable the desired outcomes. This includes addressing which framework elements are needed at national, regional, sector and local levels. We note in this regard:

- it will be important for the government to engage HMCTS and the enforcement bodies, and in due course the new Fair Work Agency, in developing a joined-up approach across all areas of the industrial relations framework. Acas will set out its views on these areas in more detail in responses to further anticipated government consultations
- it may be possible to draw lessons from, for example, the Social Partnership Forum in the health sector as an example of 'system-level' capability aimed at complementing individual and collective skills development in the workplace
- in recent years, Acas has experience of high-impact disputes in parts of the public sector covered by Pay Review Bodies. In this context, pay-setting mechanisms are separated from collective bargaining structures and formal processes are not in place

for resolution of conflict arising from the annual pay outcome. We recommend government considers the benefits of having workable disputes resolution procedures in place at sectoral level, as well as individual employer level, to address this gap.

36. Finally, Acas welcomes the government's commitment in its consultation to a new partnership approach of cooperation and collaboration that sees government, employers and trade unions working together to tackle shared challenges. This approach will be important both for the process for creating a modern industrial relations framework and in its design.

37. As noted at paragraph 6 above, Acas has significant expertise in the principles and practice of effective social partnership working. This includes in the delivery of our services, in which we facilitate joint working between employers and employee representatives, as well as the tripartite nature of the Acas Council. We would be pleased to share our insights in this area with the government to support its ambition to develop and deliver a modern industrial relations framework. Given Acas's stature as an independent, impartial and trusted authority on good industrial relations, we would welcome being commissioned to forge a consensus on 'what good looks like' for the future of employment relations in Great Britain.

38. Acas is committed to continuing to play our vital role in supporting employers, workers and representatives to engage in good industrial relations. We look forward to continuing to inform and support the government as it progresses its modern industrial relations framework and its wider Plan to Make Work Pay.