

Summary of responses to Acas consultation on draft Code of Practice on handling requests for a predictable working pattern

10 March 2025

Executive summary

In 2023, the Department for Business and Trade (DBT) asked Acas to prepare a new statutory Code of Practice to provide guidance to businesses and workers on the Workers (Predictable Terms and Conditions) Act 2023.

Acas held a public consultation on the draft Code between 25 October 2023 and 26 January 2024. In October 2024, the introduction of the Employment Rights Bill under the new government confirmed the repeal of the Workers (Predictable Terms and Conditions) Act 2023. Consequently, the legislation and the Acas Code will not take effect. This paper provides a record of consultation responses for the historic record.

Overview of respondent types

Acas received 50 responses to its public consultation. 78% (39) of all respondents were organisations. Of these:

- 20% (10) were large employers with more than 250 employees
- 14% (7) were employer representative organisations or associations
- 10% (5) were recruitment trade bodies or staffing agencies
- 10% (5) were trade union or other employee representative organisations
- 8% (4) were small and medium-sized enterprises (SMEs)

The remaining 22% (11) of all respondents were individuals. Of these:

- 16% (8) responded in a professional capacity
- 6% (3) responded as an individual expressing their personal views and experience

Section 1: Structure of the Code – requests to employers and requests to agencies or hirers

Question 1: Should the Code be split into 2 sections: one dedicated to requests to employers, and another to requests to agencies or hirers?

39 (78% of all respondents) answered 'yes' to question 1. The overwhelming argument in favour was improving clarity and ease of understanding. Having 2 sections was also considered to be "more user-friendly".

Arguments against were minimal and included one proposal for the Code to add a further section to differentiate between requests to agencies and requests to hirers.

Section 2: Language and terminology in the Code

Question 2: Is the term 'worker(s)' and its associated meaning under the 2 separate sections of the Code sufficiently easy to understand?

Question 2a: If you answered 'no', what is your opinion on how the Code should differentiate between (a) employees and workers who are not agency workers and (b) agency workers? Please explain the reasoning for your answer, and, where appropriate, please include any suitable alternative terminology that you would like to see.

31 (62% of all respondents) answered 'yes' to question 2. Reasons in support generally affirmed that the term was sufficiently clear or aligned with the relevant statutory definitions. Of the 8 respondents who answered 'no', reasons included a concern that users would not proactively seek out definitions from the relevant legislation.

There were very few proposals in response to question 2a. A very small number suggested using 'workers' for Section A and 'agency workers' for Section B. Others requested clarification on the differences between employment statuses or queried whether zero-hours contract workers were covered by the Act.

Question 3: Please set out any specific areas of the Code that you feel would benefit from further clarification.

Most frequently, respondents requested clarification on how to calculate the 'qualifying period' set out in paragraph 8 of the draft Code. This stated:

"To make a statutory request, a worker must have worked for the employer at least once in the month in the period before the 26 weeks leading up to the day of the request."

Respondents raised similar calculation queries regarding paragraph 47, which set out criteria for requests to a hirer. Other agency worker-related areas identified included:

- the management of the "triangular relationship" between a worker, agency and hirer (some respondents raised concerns relating to the statutory provision to allow requests to be made to a hirer, and expressed a preference for this route to be removed from the Code)
- whether umbrella companies fall within scope

Respondents sought information on various other areas, such as examples of working patterns which 'lack predictability' and how to handle multiple requests.

Section 3: Foreword

Question 4: Does the Foreword to the Code set the right tone in encouraging responsible and fair use of flexible contracts, while summarising the key principles of good practice included in the Code?

34 (68% of all respondents) answered 'yes' to question 4. Most affirmed that the Foreword was clear and easy to understand. Other positive features mentioned included the focus on providing important information such as employer responsibilities, and signposting to further guidance.

Some considered the Foreword to set out a balanced representation of both workers' and organisations' interests, though there were also some mixed views on the positioning of zero-hours contracts (the Foreword explained that they can be beneficial where they meet the needs of both parties).

Some 'yes' responses included requests for more extensive changes, for example moving the Foreword content to the Code or Acas's non-statutory guidance to avoid misinterpretations of its non-statutory status.

Section 4: Protection from detriment and dismissal

Question 5: Should the Code include a section on protections from detriment and dismissal?

Question 5a: If you answered 'yes', should the example of ceasing or reducing hours, as a direct response to making a request for a predictable working pattern, be included in the Code? Or should this be included in the non-statutory guidance instead?

Please set out any other examples of detriment you would like to see included in either the Code or non-statutory guidance.

38 (76% of all respondents) answered 'yes' to question 5. Respondents considered that including this section would provide workers with reassurance and confidence to make requests. Several highlighted concerns around fear of reprisal.

Of these 38:

- 23 (61%) expressed a preference for including the example of ceasing or reducing hours in the Code
- 13 (34%) preferred including the example in Acas's non-statutory guidance

3 respondents answered 'no' to question 5, citing concerns that legitimate business decisions could be misinterpreted by a worker as a form of detriment or dismissal.

Respondents suggested more than 20 other examples of 'detriment' to be included either in the Code or the non-statutory guidance. These mainly focused on:

- negative impacts on career progression or other terms and conditions
- offering "anti-social" or undesirable patterns of work
- being subjected to bullying, harassment, or discrimination

Section 5: Procedural guidance in the Code

Question 6: What are the advantages and disadvantages of the Code recommending that workers should be allowed to be accompanied at meetings to discuss a request for a predictable working pattern?

While not expressly asked, close to a third of respondents expressed either support or opposition to the proposal, with the group expressing support clearly larger.

Respondents articulated a much broader range of advantages than disadvantages. The most frequently mentioned point was a disadvantage.

Main advantages cited were giving workers support, reassurance and greater confidence. Organisational respondents also noted the benefit of consistency across Acas Codes and their own internal policies.

The main disadvantage identified was the practical challenge of arranging meetings, particularly within the statutory one-month decision period.

Question 7: What is your opinion on the Code recommending the same categories of companion as those that are allowed in discipline and grievance meetings?

Most respondents supported the proposal. The most frequently cited reason was consistency with the same categories of companions allowed in disciplinary and grievance hearings, as well as flexible working meetings.

Disagreement was mostly due to:

- perceived complexity, negative associations (with disciplinary and grievance hearings) and potential business costs
- challenges arising from accompaniment for agency workers – see question 8

Question 8: For agency workers, what are the practical considerations around the Code recommending that a companion may be a fellow worker from the agency, hirer or both?

Most responses raised concerns about the practicalities of agency worker accompaniment, for example the potential difficulty of finding a suitable companion due to less established relationships with colleagues. Respondents preferred a broad definition of 'fellow worker' to address this issue.

As for questions 6 and 7, several respondents remarked on logistical challenges in scheduling meetings. Concerns about cross-organisational accompaniment (where a request is to the hirer while the companion is from the agency or vice versa) included:

- the handling of sensitive and confidential business information
- a companion's potentially limited understanding of the other organisation's practices and culture, especially if they are from the same agency but do not work for the same hirer

Question 9: Should the Code recommend that employers, agencies and hirers provide any additional information which is reasonable to help explain why a request has been rejected?

30 (60% of all respondents) answered 'yes' to question 9. Respondents felt that this would support workers to understand the reasons for a rejection, enhance trust, and reduce the risk of disputes, including tribunal claims.

Opposition by 9 (18%) respondents related primarily to concerns of a perceived administrative burden. However, one organisation suggested the benefits of fewer appeals and better-informed future requests would offset this.

Some raised concerns about sharing confidential or sensitive information, and others sought clarification on the scope and type of information required.

Question 10: What are the advantages and disadvantages of the Code stipulating that, wherever possible, an appeal should be handled by a manager not previously involved with a request?

Most respondents described how this proposal would uphold core values such as fairness, impartiality, independence, and objectivity. A further advantage was consistency with current organisational practices around handling appeals.

The main disadvantage cited was the perceived administrative burden of appointing a different manager, with concerns over potential delays, particularly given the one-month statutory decision period and prospect of a high volume of requests.

Section 6: The statutory right to request flexible working

Question 11: Should the Code include a section about the right to request flexible working?

Question 11a: If you answered 'yes', do you believe that paragraphs 14 to 16 in the draft Code provide sufficiently clear guidance on the interaction between the 2 rights?

36 (72% of all respondents) answered 'yes' to question 11. Reasons in support included the benefits of drawing attention to and clarifying the similarities, differences and interaction between the 2 rights.

Of this group, 20 (56%) answered 'yes' to question 11a, and 14 (39%) disagreed. Most went on to suggest revisions or further guidance, for example on the differences and overlaps and timelines for making requests.

Section 7: Additional detail in the Code, associated non-statutory guidance or both

Question 12: Please set out any other areas that you feel should be included in the Code or non-statutory guidance.

Respondents reiterated some answers to previous questions, particularly question 3. These included requests for more guidance on working patterns which lack predictability and on handling multiple requests.

Other recommended areas for inclusion in the Code or non-statutory guidance included example scenarios of different requests, more detail on the interaction of the right with the Equality Act 2010, and template letters and flowcharts.

Introduction

In 2023, the Department for Business and Trade (DBT) asked Acas to prepare a new statutory Code of Practice to provide guidance to businesses and workers on the Workers (Predictable Terms and Conditions) Act 2023. This work was overseen by the independent and impartial Acas Council which is made up of employer representative, worker representative and independent members.

In accordance with section 200 of the Trade Union and Labour Relations (Consolidation) Act 1992, on 25 October 2023 Acas published the [draft Code for public consultation](#). The consultation closed on 26 January 2024, following an extension to the original deadline of 17 January 2024. Acas also sought feedback on the draft Code through several stakeholder engagement events attended by representatives from a range of sectors.

In July 2024, a new Labour government took office, and October 2024 saw the publication of the Employment Rights Bill. The Bill confirmed the repeal of the Workers (Predictable Terms and Conditions) Act 2023. Consequently, the legislation and the Acas Code will not take effect.

This paper provides a record of consultation responses for the historic record.

Overview of respondent types

Acas received 50 responses to its public consultation.

The categorisation of respondents presented in Table 1 combines their self-categorisation together with further groupings derived from Acas's analysis of the responses.

The largest number of responses came from organisations, comprising 39 respondents (78% of the total). These responded either as an employer or as a representative of certain groups or interests.

Table 1 breaks down this category into organisational size, type and remit.

Table 1: Capacity in which organisational responses were provided

	Number	Percentage
Large employer (more than 250 employees)	10	20%
Employer representative organisation, employer association or industry association	7	14%
Trade union or other employee representative organisation	5	10%
Recruitment trade body or staffing agency	5	10%
Small or medium-sized enterprise (less than 250 employees)	4	8%
HR, legal professional, or workplace standards-setting body	4	8%

	Number	Percentage
Central or local government	3	6%
Organisation representing the interests of disadvantaged or at-risk-of-discrimination groups	1	2%
Total	39	78%

The remaining 11 (22% of respondents) were individuals responding either in a professional or personal capacity.

Table 2 breaks down this category into individual type.

Table 2: Capacity in which individual responses were provided

	Number	Percentage
Individual sharing professional views, for example an HR or legal professional	8	16%
Individual sharing personal views and experience	3	6%
Total	11	22%

Both organisational and individual respondents stemmed from a range of sectors. Table 3 sets out the organisation types provided directly by respondents.

Table 3: Organisation type

	Number of organisational respondents	Percentage of organisational respondents	Number of individual respondents	Percentage of individual respondents
Mainly seeking to make a profit	9	23%	6	55%
A public sector organisation	6	15%	1	9%
A social enterprise	0	0%	1	9%
A charity, advocacy, voluntary or third sector organisation	10	26%	2	18%
Don't know	2	5%	0	0%
No response given	12	31%	1	9%
Total	39	100%	11	100%

Annex A provides a list of organisational respondents to the consultation.

The next sections provide a summary of the submissions received.

Section 1: Structure of the Code – requests to employers and requests to agencies or hirers

Responses to question 1

Question 1: Should the Code be split into 2 sections: one dedicated to requests to employers, and another to requests to agencies or hirers?

Table 4: Responses to question 1

	Number	Percentage
Yes	39	78%
No	4	8%
Don't know	0	0%
No response given	7	14%

43 out of 50 respondents (86%) answered question 1.

Overview of responses

39 (78% of all respondents) supported splitting the Code into 2 sections. This question had the highest level of responses in support of a proposal in the consultation.

The overwhelming argument in favour was improving clarity and ease of understanding. Respondents felt that splitting the Code would "simplify matters for all parties", make clear "appropriate differences in terminology" and "avoid confusion over the definitions":

"There are different procedures involved in the two areas, so splitting the sections increases clarity and avoids confusion about who is covered by which procedures." (Trade union or other employee representative organisation)

Some respondents described the procedure for making a request to an employer, compared with that for making a request to an agency or hirer, as "slightly different" or "broadly similar" yet with "nuanced differences which may not be picked up easily in a single document" (individual sharing professional views). Others saw them as more definitively "different" or "separate".

A couple of respondents also argued that the benefits achieved by splitting the Code justify it becoming lengthier and more repetitive by virtue of having 2 sections. A further respondent also affirming that any "undue inconvenience" of this approach for those consulting the Code was unlikely. Having 2 sections was also considered to be "more user-friendly" by making it easier to navigate and locate relevant information.

4 respondents opposed the proposal and their arguments against were generally minimal. A large employer felt it would be "easier if all together [in one section], [as] it covers all eventuality", while a small or medium-sized enterprise felt that "the same issues apply" across the sections.

Another proposed splitting the Code further into 3 sections – 1 for requests to employers, 1 for agencies, and 1 for hirers. It considered that there were "key differences" between requests for agencies and hirers, and that the combination of these "lead to unnecessary complication".

Section 2: Language and terminology in the Code

Responses to question 2

Question 2: Is the term 'worker(s)' and its associated meaning under the 2 separate sections of the Code sufficiently easy to understand?

Question 2a: If you answered 'no', what is your opinion on how the Code should differentiate between (a) employees and workers who are not agency workers and (b) agency workers? Please explain the reasoning for your answer, and, where appropriate, please include any suitable alternative terminology that you would like to see.

Table 5: Responses to question 2

	Number	Percentage
Yes	31	62%
No	8	16%
Don't know	4	8%
No response given	7	14%

43 out of 50 respondents (86%) answered question 2.

Overview of responses

31 (62% of all respondents) agreed that the term 'worker(s)' and its associated meaning under the 2 separate sections of the Code sufficiently easy to understand.

Reasons given in support tended to be quite brief. These generally affirmed that the term was sufficiently clear or aligned with the relevant statutory definitions.

More specific reasons given included:

- the contextual clarity provided by the separation of the Code into 2 sections – "it is clear from the context which type of worker is referred to and the explanation in the introduction to the Code also assists" (Central and local government)
- familiarity with the term because it is "well-known", "understood" or "has become relatively standard" (Employer representative organisation, employer association or industry associations)

The drafting of the Code was also seen to be particularly "straightforward", particularly for non-legally qualified individuals and small organisations:

"The expressions "employee" and "worker" for the purposes of determining employment status can be difficult to understand given the volume and complexity of case law in this area. Defining the terms in the straightforward way proposed in the Code will, we consider, be capable of being understood by lay or non-legally qualified people reading and applying the Code". (HR, legal professional or workplace standards-setting body)

"It is straightforward for all parties, especially smaller organisations who are more likely to be affected by this legislation and who may not have HR teams or good knowledge of employment legislation." (Large employer)

8 respondents disagreed that the term 'worker(s)' and its associated meaning under the 2 sections of the Code were sufficiently easy to understand. Of these, 7 were organisational respondents.

Most often (though still in small numbers), the reasoning behind negative or uncertain responses cited a combination of:

- concerns around the clarity of the Code for lay leaders or those without employment law or HR knowledge (in contrast to the above)
- concern that users will not proactively seek out or understand definitions from the relevant legislation
- a preference for full definitions, explanations, examples or lists of criteria

There were very few proposals for alternative terminology to differentiate between (a) employees and workers who are not agency workers and (b) agency workers. A very small number suggested using 'workers' for Section A and 'agency workers' for Section B. An organisational respondent felt that using the term 'non-agency worker' "could be unclear and cause confusion" (Large employer).

Some respondents requested the Code provide further detail on the differences between an 'employee' and a 'worker', or a 'worker' and a 'self-employed' individual. Others queried whether those on zero-hours contracts were within scope of the Act.

Responses to question 3

Question 3: Please set out any specific areas of the Code that you feel would benefit from further clarification.

Overview of responses

Approximately three-quarters of all respondents suggested areas for further clarification in the Code.

Most frequently, respondents requested clarification on how to calculate the 'qualifying period' set out in paragraph 8 of the draft Code.

This stated:

"To make a statutory request, a worker must have worked for the employer at least once in the month in the period before the 26 weeks leading up to the day of the request."

Specific queries included:

- whether a single day of work would meet the required criteria for making a request
- whether a worker needs to have worked during the 26 weeks and whether it needs to be continuous service

Similar wording was also used in paragraph 46 of the draft Code in relation to a request to an agency, while paragraph 47 also covered requests to a hirer:

"To make a statutory request to a hirer, a worker must have worked in the same role with the same hirer for 12 continuous weeks within the 26 weeks leading up to the day of the request."

While paragraph 47 was perceived to be clearer than paragraphs 8 and 46, some queried whether the 12-week period must be calculated in line with that set out under Regulation 7 of the Agency Workers Regulations 2010.

Respondents also sought clarification on:

- the concept of 'predictability', with examples to illustrate a working pattern which 'lacks predictability'
- the management of the "triangular relationship" between a worker, agency and hirer (some respondents outlined concerns relating to the statutory provision to allow requests to be made to a hirer, and expressed a preference for this route to be removed from the Code)
- whether umbrella companies fall within scope of the legislation and the Code
- the effect of any pre-existing collective and workforce-wide agreements on requests

- how to fairly handle multiple requests
- the grounds for appeal and how to handle any appeals

Section 3: Foreword

Responses to question 4

Question 4: Does the Foreword to the Code set the right tone in encouraging responsible and fair use of flexible contracts, while summarising the key principles of good practice included in the Code?

Table 6: Responses to question 4

	Number	Percentage
Yes	34	68%
No	6	12%
Don't know	2	4%
No response given	8	16%

42 out of 50 respondents (84%) answered question 4.

Overview of responses

34 (68% of all respondents) agreed that the Foreword set the right tone in encouraging responsible and fair use of flexible contracts, while summarising the key principles of good practice included in the Code.

Most respondents affirmed that the Foreword was clear and easy to understand. Other positive features mentioned by respondents included the focus of the Foreword "from the outset" on important information such as employer responsibilities, and the signposting to further guidance. Respondents also welcomed the Foreword's emphasis on:

- adopting "fair and transparent practices"
- undertaking regular reviews of arrangements
- agreeing to requests unless there is a genuine business reason not to

Some respondents considered the Foreword to set out a balanced representation of the interests of both workers and organisations:

"The content is fair and balanced and does not sway towards either party; it remains factual, whilst providing some good examples of the advantages to both parties... The language within this section is friendly and encourages listening, openness and there appears to be a focus on finding solutions that work for both parties. (Employer representative organisation, employer association or industry association)

On the other hand, there were some mixed views regarding the positioning of zero-hours contracts in the Foreword, which explained that they can be beneficial where they meet the needs of both parties. Some respondents felt that this text highlighted the importance of two-sided flexibility in the use of such contracts. Others requested amendments to reference the potential insecure nature of such contracts, while another felt it important to highlight the preference of some individuals to work under these arrangements.

Some of the 'yes' responses were also accompanied by recommendations for more extensive changes. In particular, there was concern around the potential for misinterpretation of the precise legal status of the (non-statutory) Foreword, despite the explicit

statement that it does not form part of the (statutory) Code. Respondents here proposed moving the contents of the Foreword either to the Code or to the non-statutory guidance.

Other suggested revisions to the Foreword included:

- more detail on the intended scope of the legislation to support organisations' understanding of the new right
- reconsidering the use of the term 'flexible contracts' to avoid confusion with 'flexible working'
- a reduction in the overall length

Section 4: Protection from detriment and dismissal

Responses to question 5

Question 5: Should the Code include a section on protections from detriment and dismissal?

Table 7: Responses to question 5

	Number	Percentage
Yes	38	76%
No	3	6%
Don't know	3	6%
No response given	6	12%

44 out of 50 respondents (88%) answered question 5.

Question 5a: If you answered 'yes', should the example of ceasing or reducing hours, as a direct response to making a request for a predictable working pattern, be included in the Code? Or should this be included in the non-statutory guidance instead?

Please set out any other examples of detriment you would like to see included in either the Code or non-statutory guidance.

Table 8: Responses to question 5a

	Number	Percentage of those who answered 'yes' to question 5
The Code	23	61%
The non-statutory guidance	13	34%
Don't know	2	5%
Neither the Code nor the non-statutory guidance	0	0%
No response given (of those who answered 'yes' to question 5)	0	0%

All 38 respondents (100%) who answered 'yes' to question 5 proceeded to answer question 5a.

Overview of responses

38 (76% of all respondents) supported the inclusion in the Code of a section on protections from detriment and dismissal.

Most frequently, respondents felt including this section would help to provide reassurance and confidence to workers to make a request. Several respondents highlighted workers' fear of reprisal:

"Threat of or actual detriment is a fundamental concern in deterring workers from making a request and so inclusion in the Code is appropriate." (Recruitment trade body or staffing agency)

A smaller number of respondents felt that a section would also provide clarity, increase awareness and understanding, and serve as a reminder of the relevant protections. A core aspect of this clarity concerned the consequences of non-compliance:

"In our view this follows the spirit of the underpinning legislation and will provide clarity to workers and employers on the repercussions of subjecting a worker to detriment as a result of submitting their request." (HR, legal professional or workplace standards-setting body)

Similarly, some respondents believed that having this section in the Code would help deter any poor practices. There were also perceived benefits around encouraging employers to take a serious approach to handling and considering requests. A further reason in favour was the perceived weight of the Acas Code which respondents felt made it the preferable location for such information.

3 respondents opposed the proposal to include a section on protections from detriment and dismissal in the Code. The main reason concerned the view that decisions made for legitimate business reasons could be misinterpreted as a form of detriment or dismissal by a worker:

"Unfortunately, in some circumstances a hirer may not be able to fulfil the worker's requirements and, therefore, either directly as a result of this or due to the natural end of the assignment, the work may come to an end with that hirer." (Recruitment trade body or staffing agency)

Of the 38 who supported the inclusion in the Code of a section on protections from detriment and dismissal:

- 23 (61% of that group of respondents) expressed a preference for including the example of ceasing or reducing hours in the Code
- 13 (34%) expressed a preference for including such an example in the non-statutory guidance
- 2 respondents answered 'don't know'

Reasons in favour of including the example in the Code overlapped with those set out above on including a section on these protections. This included, for instance, that it will help increase awareness and give reassurance and confidence to workers.

Some respondents felt that the example given was particularly pertinent – "an obvious one" and "the most likely form of detriment that would be suffered by someone in insecure work" (Trade union or other employee representative organisation).

Inclusion of this scenario in the Code was also seen to give the example "more weight" – cited by some as an advantage and by others as a disadvantage. For example, some described how inclusion "may give the impression of [it] being definitive" (Trade union or other employee representative organisation), or risked "unintentionally limit[ing] the scope of protection" (individual responding in professional capacity). Their preference was to include the example only in the non-statutory guidance.

Respondents suggested more than 20 other examples of 'detriment' to be included either in the Code or the non-statutory guidance. These fell into the following main categories:

- negative impact on progression and development opportunities and other terms and conditions, such as reduced pay, or transfers to a less favourable role, location, shift pattern or to another hirer
- offers of "anti-social" or undesirable patterns of work which are known to be unsuitable for the worker due to personal commitments, notably caring responsibilities
- being subjected to bullying, harassment, or discrimination

Section 5: Procedural guidance in the Code

Responses to question 6

Question 6: What are the advantages and disadvantages of the Code recommending that workers should be allowed to be accompanied at meetings to discuss a request for a predictable working pattern?

44 out of 50 respondents (88%) answered question 6.

Overview of responses

Respondents articulated a much broader range of advantages than disadvantages of the proposal to recommend that workers should be allowed to be accompanied at meetings to discuss a request for a predictable working pattern. At the same time, the most frequently mentioned point was a disadvantage.

While not expressly asked, close to a third of respondents articulated their support for or in opposition to the proposal, with the group expressing support clearly larger. A couple of respondents explicitly stated that they saw no disadvantages.

A main advantage cited regarding accompaniment was giving workers support, reassurance and greater confidence. Respondents described how workers may find meetings "intimidating", and how a companion could help them to articulate their request, support their understanding of the law and capture relevant information. There were also concerns around the potential power imbalance between a worker and their organisation, and the benefit that the presence of a companion might bring here.

A range of organisational respondents also noted the benefit of simplicity in having a consistent and aligned approach on accompaniment across different Acas Codes, as well as their own organisational policies:

"Employers are already familiar with this requirement for disciplinary and grievance procedures, and we are not aware that it usually creates any exceptional difficulties for employers." (Employer representative organisation, employer association or industry association)

Less frequently discussed advantages included:

- having the benefit of the knowledge and expertise of companions
- a potential reduction in the number of repeat requests, disputes and the associated administrative burden
- the possibility that accompaniment may be a reasonable adjustment relating to a disability

The most frequently identified disadvantage was the practicalities of arranging a meeting at a time that would be suitable if a chosen companion is unavailable, and the potential for associated delays. This was a particular concern within the context of the statutory one-month decision period.

Other disadvantages included:

- the risk that the proposed approach could result in too much formality or bureaucracy
- the negative associations with disciplinary and grievance processes and the potential for confusion arising from there being no statutory right of accompaniment in meetings held to discuss predictable working pattern requests, as there is in a disciplinary or grievance hearing
- the perception that some companions' behaviour may be "disruptive" or "add to the complexity" of a request "especially if the companion is not aware of the parameters of their role" (Employer representative organisation, employer association or industry association)

- confidentiality risks in the case of agency workers accompanied by a worker external to the organisation (see further under question 8)

Responses to question 7

Question 7: What is your opinion on the Code recommending the same categories of companion as those that are allowed in discipline and grievance meetings?

42 out of 50 respondents (84%) answered question 7.

Overview of responses

While responses to this question were generally brief or overlapped with those in question 6, most respondents supported the proposal for recommending the same categories of companion.

By far the most frequently mentioned reason in support was consistency with the same categories of companions allowed in disciplinary and grievance meetings and also flexible working meetings. This appeared to eclipse all other arguments for or against.

As similarly noted under question 6, several respondents explained that the existing categories of companion were well-known and understood, and conversely using different categories for different procedures could potentially result in confusion.

Other arguments in favour concerned the value of ensuring fairness, and the knowledge and experience of specific categories of companion, in particular trade union representatives (noted by trade union respondents and legal professional bodies).

Disagreement with the proposed approach in the draft Code was mostly because of:

- the perceived complexity, negative associations (with disciplinary and grievance hearings) and potential business costs of arranging a companion
- challenges associated with accompaniment for agency workers – see further under question 8

Responses to question 8

Question 8: For agency workers, what are the practical considerations around the Code recommending that a companion may be a fellow worker from the agency, hirer or both?

38 out of 50 respondents (76%) answered question 8.

Overview of responses

Most responses to this question described challenges or expressed concerns around the practicalities of agency workers being accompanied at meetings.

Several respondents explained the potential difficulty that an agency worker might face in finding a suitable companion because they can be "less likely to have established relationships with colleagues" (Organisation representing the interests of disadvantaged or at-risk-of-discrimination groups). However, maintaining a broad definition of 'fellow worker' to encompass someone working for the same agency, the same hirer, or both, was seen as one way of addressing this challenge:

"Agency workers should be free to choose who accompanies them in meetings. In addition to the right to be represented by a trade union official or representative, having the flexibility to choose a representative from either the agency or hirer is important because different representatives may be appropriate in different cases." (Trade union or other employee representative organisation)

Keeping the definition of 'fellow worker' wide was also considered to be of benefit where the agency was handling a request, and the companion was from the hirer because of "the experience they may have of the organisation."

As also raised under question 6, several respondents felt there could be logistical challenges in scheduling meetings, particularly where a companion is external to the organisation handling the request. Respondents questioned whether this could impact their ability to comply with the statutory one-month period for deciding requests.

Concerns about cross-organisational accompaniment (where a request is to the hirer while the companion is from the agency or vice versa) centred on:

- the handling of business-sensitive and other confidential information
- the need to carry out checks to verify the identity and workplace of the proposed companion, as they may be unknown to the organisation handling the request
- a companion's potentially limited insight into the day-to-day running, working practices and culture of the other organisation (in particular if they are from the same agency but do not work for the same hirer) and therefore of the context of any request

To address some of these challenges, respondents proposed that the companion should originate from the same organisation as the one handling the request. Others recommended that the companion should work for the same hirer. At least in some cases, this proposal appeared to specifically concern requests to a hirer (and therefore the same organisation handling the request).

Responses to question 9

Question 9: Should the Code recommend that employers, agencies and hirers provide any additional information which is reasonable to help explain why a request has been rejected?

Table 9: Responses to question 9

	Number	Percentage
Yes	30	60%
No	9	18%
Don't know	2	4%
No response given	9	18%

41 out of 50 respondents (82%) answered question 9.

Overview of responses

30 (60% of all respondents) agreed that the Code should recommend that employers, agencies and hirers provide additional information which is reasonable to help explain why a request has been rejected.

One of the most frequent arguments in favour of the proposal was supporting workers to understand the reasons for a rejection "beyond the standard wording of refusal" (individual sharing professional views). It was said that providing reasons could offer clarity and help individuals to "come to terms with" the decision.

Better explanations and clarity around the reasons for a rejection were also seen as relevant to appeals:

"The worker needs absolute clarity about the reasoning as to why a request has been rejected, partly because this is the right approach to take and partly because the employee may wish to appeal and needs the fullest explanation possible when considering this. Therefore, any written information explaining reasons for a rejected request should contain enough detail to allow a worker to

make an informed appeal and facilitate a more productive discussion." (Employer representative organisation, employer association or industry association)

There was also an expectation that setting out additional information could be helpful in guiding individuals' decisions about future requests, as well as to reduce the risk of disputes, including employment tribunal claims.

Several respondents saw the provision of additional information as enabling or demonstrating the "proper" and "in-depth" consideration of a request, and as helping to build trust and transparency in the process:

"Providing additional information to help explain why a request has been rejected would help to demonstrate a thorough review of the request has taken place and to build trust in the process. Trust in the process would also encourage people to make requests in the first place." (Trade union or other employee representative organisation)

9 (18% of all respondents) opposed the recommendation in the Code. Organisational respondents predominantly expressed opposition.

The most frequent argument against related to concerns of a perceived administrative burden. One organisational respondent felt, however, that this would be offset by a reduction in the number of appeals and by the benefits of individuals in having detail to inform future requests.

Others felt that the specified business reasons provided for in the Act and subsequently in the Code were sufficient on their own. A few respondents also raised concerns regarding the sharing of any confidential or business sensitive information (both in the context of supporting and opposing the proposal).

Some respondents sought clarification on the scope and type of additional information that would be needed. While a few respondents felt that "as much information as possible" or "all information available" should be given, others argued for a "sufficient explanation", explaining that "any additional information requested should be reasonable, appropriate, and not exhaustive" (Employer representative organisation, employer association or industry association).

Responses to question 10

Question 10: What are the advantages and disadvantages of the Code stipulating that, wherever possible, an appeal should be handled by a manager not previously involved with a request?

42 out of 50 respondents (84%) answered question 10.

Overview of responses

Most respondents mentioned, albeit often briefly, one or more core values and principles that would be upheld by having a different manager handle the appeal. Most frequently, these were fairness and impartiality, alongside independence, objectivity and reduction or avoidance of bias:

"This should allow for workplace relationships to be taken out of the equation allowing for more fairness in the appeal process." (Central and local government)

Consistency or alignment with current organisational practices around handling appeals (including in disciplinary and grievance hearings) was also frequently mentioned as an advantage. This consistency was seen as necessary to support the common and good practice of hearing appeals, while in a similar vein, inconsistency was seen as risking the fostering of bad practices:

"Employers will be familiar with the practice of using a different manager to hear workplace appeals as it is stated in Acas Code of Practice on disciplinary and grievance procedures. Therefore, to erode this common practice could create confusion and/or inadvertently bleed into the handling of appeals in other matters and foster bad practices." (HR, legal professional or workplace)

standards-setting body)

Another further described the importance of demonstrating accountability:

"The main advantage is that it creates separation between the original decision and the final outcome. This increases the internal visibility by the employer, agency or hirer and increases the overall accountability as a result. An appeal held by someone other than the original decision-maker has become a staple of good employment practice in other processes so the logic of applying it here is evident". (HR, legal professional or workplace standards-setting body)

Similar themes around the opportunity for a "fresh" or "different" perspective, alongside increased trust and confidence that a request is being taken seriously, were also mentioned by respondents.

Most frequently, disadvantages identified by respondents included the view that appointing a different manager to handle an appeal was administratively burdensome. Dominant concerns here were around the perceived impact on timings and likely delays, with a few respondents raising this in the context of the one-month statutory decision period and where there might be a high volume of requests.

Other concerns included:

- whether a new manager would have the appropriate level of knowledge and understanding of the worker and context to make an informed decision
- the "limited" number of managers available in smaller organisations, though several respondents recognised this challenge in the context of overall (and in some cases, strong) approval for the proposal in the Code

Section 6: The statutory right to request flexible working

Responses to question 11

Question 11: Should the Code include a section about the right to request flexible working?

Table 10: Responses to question 11

	Number	Percentage
Yes	36	72%
No	6	12%
Don't know	1	2%
No response given	7	14%

43 out of 50 respondents (86%) answered question 11.

Question 11a: If you answered 'yes', do you believe that paragraphs 14 to 16 in the draft Code provide sufficiently clear guidance on the interaction between the 2 rights?

Table 11: Responses to question 11a

	Number	Percentage
Yes	20	56%

	Number	Percentage
No	14	39%
Don't know	1	3%
No response given (of those who answered 'yes' to question 11)	1	3%

Note: Due to rounding effects, the sum of the percentages above is over 100%.

35 out of 36 respondents (97%) who answered 'yes' to question 11 proceeded to answer question 11a.

Overview of responses

36 (72% of all respondents) answered 'yes' to question 11.

The main reasons in favour of including a section on the right to request flexible working included the benefits of drawing attention to and clarifying the similarities, differences and interaction between the 2 rights.

Most expressions of support were broad and referenced this being "useful", "helpful", and serving to "provide clarity", including "on which Code would apply" in a particular situation. One organisational respondent explained the potential for misunderstanding as rationale for including this section:

"The Code needs to give absolute clarity between the differences of flexible working and the right to [request to] work predictable hours. The waters can easily be muddied between these two by employees and employers." (Recruitment trade body or staffing agency)

Other organisational respondents, including large employers, felt it particularly helpful to clarify the numbers of statutory requests allowed and the rules about their (non-) concurrence. A couple of respondents also felt that there was value more generally in raising awareness of the right to request flexible working and the potential benefits where an arrangement can be accommodated.

6 (12% of all respondents) were not supportive of the Code including a section on the right to request flexible working. Reasons included the perception that the rights were "separate", "different" and "in some respects opposite", or a concern that simultaneous reference to the 2 rights could cause confusion amongst users.

Of respondents who supported the inclusion of a section on flexible working, 20 (56%) believed that paragraphs 14 to 16 in the draft Code provided sufficiently clear guidance on the interaction between the rights.

Most free-text responses were general and described the paragraphs as "clear", "concise" or "simple". More specific comments affirmed, for instance, the value in having "a brief overview", the usefulness in signposting to the flexible working Code, or the clarity about the numbers of requests permitted under the regimes.

14 (39% of those who supported the inclusion of a section on flexible working) did not find the draft paragraphs sufficiently clear. Most went on to suggest revisions or further guidance (whether in the Code or non-statutory guidance). These included:

Section 7: Additional detail in the Code, associated non-statutory guidance or both

Responses to question 12

Question 12: Please set out any other areas that you feel should be included in the Code or non-statutory guidance.

Less than half of all respondents answered question 12.

Overview of responses

Recommendations for content to be added to the non-statutory guidance not already suggested in answer to other questions included example scenarios of different requests and outcomes, including in different sectors. Some also requested more detail in the Code or non-statutory guidance on the interaction of the right to request with the Equality Act 2010.

One-off suggestions included:

- adding a section on all employment rights of agency workers
- guidance on the potential implications of agreeing a request on an individual's employment status
- guidance on documenting a variation to contract following agreement to a request

In responses to both questions 3 and 12, several respondents also requested additional resources such as template letters and flowcharts to support understanding and application of the new right.

Annex A – List of respondents

Acas received 50 responses to its public consultation.

This Annex sets out a list of the organisational respondents. 1 respondent wished to remain anonymous and is listed by category but not named.

Large employers, grouped by Standard Industrial Classification (SIC) 2007 categories

Section P: Education & Section M: Professional, Scientific and Technical Activities

- Education Partnership North East
- Kingston Maurward College
- Northeastern University London
- Wiltshire College and University Centre

Section G: Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles

- AF Blakemore & Son Ltd
- Tesco
- The Co-operative Group
- Wm Morrison Supermarkets Limited

Section I: Accommodation and Food Service Activities

- Fuller Smith and Turner PLC
- McDonald's

SMEs, grouped by Standard Industrial Classification (SIC) 2007 categories

Section Q: Human Health and Social Work Activities

- The Caring Company Oxon
- Smithfield Health & Social Ltd
- Right at Home Bristol

Section H: Transportation and Storage

- Lime Logistics Ltd

Employer representative organisations, employer associations or industry associations

- Anonymised organisation A
- Confederation of British Industry
- Federation of Small Businesses
- Homecare Association Ltd
- National Care Forum
- The British Retail Consortium (BRC)
- UKHospitality

Trade unions or other employee representative organisations

- Affinity
- Prospect
- Trades Union Congress
- University and College Union
- Usdaw

Recruitment trade body or staffing agency

- Adecco Group UK&I
- Association of Professional Staffing Companies (Global) Ltd
- Recruitment and Employment Confederation
- Reed Specialist Recruitment
- The Association of Labour Providers (ALP)

HR, legal professional or workplace standards-setting bodies

- Employment Lawyers Association
- Greater Manchester Good Employment Charter
- Law Society of Scotland
- Lewis Silkin

Central and local government

- Department for Work and Pensions
- Glasgow City Council
- Local Government Association

Organisation representing the interests of disadvantaged or at-risk-of-discrimination groups

- Equality and Human Rights Commission