



**Department
for Business
Innovation & Skills**

**TRIENNIAL REVIEW OF THE
ADVISORY, CONCILIATION AND
ARBITRATION SERVICE (ACAS)**

OCTOBER 2013

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Executive Summary

In April 2011, Cabinet Office announced that all non-departmental public bodies (NDPBs) still in existence following the reforms brought about by the Public Bodies Act would have to undergo a substantive review at least once every three years. Guidance on how these reviews should be undertaken was published by Cabinet Office in June 2011.¹

The Triennial Review of the Advisory, Conciliation and Arbitration Service (Acas) was announced in Parliament by the then Minister for Employment Relations, Consumer and Postal Affairs, Norman Lamb, on 7 March 2012. Acas is an independent Crown Executive NDPB, created by the Employment Protection Act 1975. It has a statutory duty to promote the improvement of industrial relations (set out in The Trade Union and Labour Relations (Consolidation) Act 1992). The review has been conducted through consultation with Acas, including the Acas Council and stakeholders along with analysis of a range of management information and evaluation data regarding Acas services.

Triennial Reviews have two stages, addressing two principal aims:

- **Stage 1** is designed to examine the key functions of the NDPB, how these contribute to the core business of the NDPB and the sponsor Department, and consider whether the functions are still needed. Where functions are still needed the review considers alternative delivery options to determine how the functions might best be delivered.
- Where the outcome of the first stage of the review is that the NDPB will remain, **Stage 2** looks at the control and governance arrangements in place to ensure that the NDPB is operating in line with recognised principles of good corporate governance.²

The key functions of Acas identified as part of the Stage 1 review were:

- **Collective conciliation.** Acas has a statutory duty to conciliate in employment disputes, of a collective nature and to prevent strikes and other industrial action.
- **Individual conciliation.** Acas has a statutory duty to conciliate in the majority of cases where an individual or group of individuals have made a claim to an Employment Tribunal about their employment rights.
- **Information and advice** (including the Helpline and website). Acas operates a Helpline that provides advice and guidance on all aspects of employment relations to both employers and employees.
- **Good Practice Services.** Acas offers a range of cost recovered products and services, such as individual mediation, training and workplace projects, which aim to intervene early and minimise the risk of industrial disputes by offering organisations guidance and assistance on implementing good workplace practices.

The review considered whether these functions should be retained (with or without modification) and whether the current delivery model continues to be effective and

¹ <https://update.cabinetoffice.gov.uk/resource-library/triennial-review-reports>

² http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf

appropriate, including an assessment against the “three tests” for an NDPB - technical function; political impartiality; and the need for independence from Ministers.

Stage 1 concluded that the key functions identified by the review team should continue to be provided by Acas and recommended retention in its current NDPB form.

Stage 2 of the review considered the governance arrangements in place for Acas, and assessed them against the code for good corporate governance, as well as the recommendation from Stage 1 to undertake further exploration of Acas’ good practice services, and identifying efficiencies. The Review Team concluded that Acas governance complies with many of Cabinet Office’s principles of good governance; however there are some instances where improvements would be beneficial to BIS and Acas. These are focused around two areas – Ministerial accountability and the role of the Sponsoring Department i.e. the Department for Business, Innovation and Skills (BIS).

The Review Team recommends formalising the relationship between Acas and BIS around governance arrangements, focusing on practical ways of working that recognise the important requirements for Ministerial and Departmental scrutiny and influence given the statutory nature of Acas. A new Framework Agreement should be agreed and implemented by the two organisations, which recognises the respective roles and associated responsibilities of both organisations, and puts in place arrangements to be able to effectively deliver them.

The Review Team recognises the limitations on BIS’ ability to scrutinise and challenge Acas’ performance resulting from the independent status of the NDPB and the need to operate with a high degree of autonomy. The Review Team recommends continuing and extending the existing information sharing at working level to ensure Ministerial accountability to Parliament and the public for the overall performance and continued existence of the public body. Increased engagement with the Sponsor Department would maximise opportunities for joint working and better meet demands around accountability and, coupled with increased public engagement, would greatly increase the public body’s commitment to transparency and openness.

There are other opportunities on a smaller scale that have been identified in the review which would help deliver further improvements to the good governance arrangements already in place if implemented.

The review also considered the recommendation from Stage 1 to undertake further work on identifying efficiencies in Acas and in particular in some of the functions it delivers, specifically around charged-for services. The review recommends that Good Practice Services continue in its current form but the training services provided, the scale of the private sector market, and the delivery model continue to be monitored. A review should be carried out within 2 years, and an update report provided to Ministers.

Introduction

1. This document sets out the findings of the 2013 Triennial Review of the Advisory, Conciliation and Arbitration Service (Acas). It describes the purpose of Triennial Reviews, the process adopted for this review and presents findings based on feedback from stakeholders and analysis of a range of evidence on Acas activities and impact. The report draws on this evidence to make recommendations as to the future of Acas.

Triennial Reviews

2. In April 2011, Cabinet Office (CO) announced that all non-departmental public bodies (NDPBs) still in existence following the reforms brought about by the Public Bodies Act would have to undergo a substantive review at least once every three years. The first year of these reviews would be 2011-12.
3. Guidance on how these reviews should be undertaken was published by CO in June 2011.³
4. Triennial Reviews have two stages, addressing two principal aims:
 - **Stage 1** is designed to examine the key functions of the NDPB, how these contribute to the core business of the NDPB and the sponsor Department, and consider whether the functions are still needed. Where functions are still needed the review considers alternative delivery options to determine how the functions might best be delivered.
 - Where the outcome of the first stage of the review is that the NDPB will remain, **Stage 2** looks at the control and governance arrangements in place to ensure that the NDPB is operating in line with recognised principles of good corporate governance⁴.

Triennial Review of Acas

5. The Triennial Review of Acas was announced in Parliament by the then Minister for Employment Relations, Consumer and Postal Affairs, Norman Lamb, on 7 March 2012. The review has been conducted through consultation with Acas, including the Acas Council and stakeholders along with analysis of a range of management information and evaluation data regarding Acas services.

³ <https://update.cabinetoffice.gov.uk/resource-library/triennial-review-reports>

⁴ http://resources.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf

What is Acas?

6. The Advisory, Conciliation and Arbitration Service (Acas) is an independent Crown Executive NDPB, created by the Employment Protection Act 1975. It has a general statutory duty to promote the improvement of industrial relations (set out in The Trade Union and Labour Relations (Consolidation) Act 1992) and the power to give advice to employers, employer's associations, unions, and workers on industrial relations matters. Acas offers conciliation services to parties involved in a trade dispute (i.e. collective conciliation), pre-claim conciliation to individuals, and has a duty to promote settlement between the parties after claims are presented at an Employment Tribunal. The Enterprise and Regulatory Reform Act 2013 provides for a new early conciliation requirement and, when that is introduced next year, prospective claimants will be required to notify Acas of their intention to claim before a case can be presented at an Employment Tribunal. Acas will have a duty to provide early conciliation in such cases. Acas also offers arbitration to parties involved in a trade dispute and may prepare an arbitration scheme for unfair dismissal cases. Acas, like the Health and Safety Executive (the only other Crown NDPB) and unlike other NDPBs, is staffed by Civil Servants and their reports and documents are subject to Crown copyright.
7. Acas' overarching mission is '*to improve organisations and working lives through better employment relations*' and all of the services provided by Acas are intended to promote good employment relations and ensure that workplace disputes are kept to a minimum. To safeguard Acas' independence, and to provide appropriate strategic direction and control, a governance body – the Acas Council – was established by statute. Membership is drawn from business, trade unions, and independents such as academia and the law and appointments to the Council are made by the Department for Business, Innovation and Skills (BIS).
8. A breakdown of Acas' expenditure was considered in detail as part of the stage 1 review. Further information on how Acas' budget is allocated was provided in 2012 during stage 2 of the review.

Table 1: Breakdown of Acas' expenditure in 2010/11 and 2011/12

Acas activity	2010/11	2011/12
Collective Conciliation	£2.1m	£2.7m
Individual Conciliation	£24.9	£20.3m
Pre-claim Conciliation	£3.7m	£4.3m
Acas Helpline	£11.3m	£12.9m
Website and guidance	£1.1m	£1m
Open Access Training	£0.7m	£0.6m
Workplace Projects	£1.1m	£0.7m
Other expenditure	£7.8m	£8.5m
Total	£52.6m	£51m
Income earned	£3.8m	£3.6m
Grant in aid	£47.2m	£48m
Capital expenditure	£0.9m	£1.1m

Stage 1 guidance

9. The first stage of the review should identify and examine the key functions of the NDPB. It should assess how the functions contribute to the core business of the NDPB and the sponsor Department and consider whether the functions are still needed. Where the Department concludes that a particular function is still needed, the review should then examine how this function might best be delivered.
10. When assessing how functions should be delivered, the review should examine a wide range of delivery options. This should include whether the function can be delivered by the local government, voluntary or private sectors. It should also include an examination of different central government delivery models, including whether the function can be delivered by the sponsoring Department, by a new or existing Executive Agency or by another existing central government body. It is Government policy that NDPBs should only be set up, and remain in existence, where the NDPB model can be clearly evidenced as the most appropriate and cost-effective model for delivering the function in question. Reviews must evidence that functions have been assessed against a wide range of delivery options.
11. In many cases, some delivery options can be quickly rejected. However, for each function under consideration, the review should identify all viable delivery options and undertake a fuller assessment of these options. Where appropriate, this should include a cost and benefits analysis. If one of the delivery options is the NDPB option, this must also include an assessment against the Government's "three tests". Based on these fuller assessments, the department can then make an informed decision on how the function should be delivered in the future.

Summary of stage 1 of review

12. The first stage of the review was designed to examine the key functions of Acas, and determine which of these were core to the delivery of Acas' statutory functions and the priorities of Acas and BIS.
13. The key functions were identified as:
 - **Collective conciliation.** Acas has a statutory duty to conciliate in employment disputes, of a collective nature and to prevent strikes and other industrial action. Collective conciliation is a facilitated negotiation process where Acas helps employers and employees (normally via trade unions) to try and reach a mutually acceptable settlement. The service is voluntary and free of charge.
 - **Individual conciliation.** Acas has a statutory duty to conciliate in the majority of cases where an individual or group of individuals have made a claim to an Employment Tribunal about their employment rights. This service is voluntary and free of charge and Acas' role is to help the individual(s) and their employer find a mutually acceptable solution without the need for a tribunal hearing. This avoids the need for cases to be determined by an Employment Tribunal judge (Employment Tribunals Act 1996). The Employment Act 2009 gave Acas a power to conciliate in pre-claim cases. The objectives are the same as for individual conciliation and Acas offers this service to individuals and employers who contact the Acas Helpline for

advice, where the Helpline Adviser considers that there is potential for an issue to escalate to a claim to an Employment Tribunal.

- **Information and advice** (including the Helpline and website). Acas operates a Helpline that provides advice and guidance on all aspects of employment relations to both employers and employees. The Helpline is also the main route to pre-claim conciliation. The Acas website provides advice in the form of guidance and on-line tools and covers a range of topics.
- **Good Practice Services.** Acas offers a range of cost recovered products and services, such as individual mediation, training and workplace projects, which aim to intervene early and minimise the risk of industrial disputes by offering organisations guidance and assistance on implementing good workplace practices. Good practice services may also be offered without charge in some cases during or following collective dispute conciliation with a view to avoiding further conflict by ensuring that the parties to the dispute have information and tools to help them resolve further issues themselves in the workplace.

14. The review considered whether these functions should be retained (with or without modification) and whether the current delivery model continues to be effective and appropriate, including an assessment against the “three tests” for an NDPB. These tests were used to inform the assessment of whether the functions of Acas need to continue to be delivered through an NDPB or whether there are alternative delivery options, including moving out of Central Government or bringing in-house to be delivered by BIS. These three tests are (a) technical function; (b) political impartiality; (c) the need for independence from Ministers. For the work to remain within a NDPB it is only necessary for ONE of these tests to succeed.

15. Internationally, there are a small number of organisations that perform the full range of the functions currently performed by Acas. In considering alternative delivery models for the functions in the UK, this review has therefore considered the provision of dispute resolution functions in the G8 countries together with Australia, New Zealand and the Republic of Ireland. A few conclusions can be derived from that:

- All of the countries considered have dispute resolution mechanisms though they are not all provided through the same mechanism in each of the countries;
- In most instances the delivery model is either a government funded independent body or there is a judicial model; and
- In all of the examples explored, the functions were state funded and delivery of those functions is not contracted out to the private or voluntary sector.

16. As part of the review a number of delivery models were considered against each of the four functions that Acas currently performs. In assessing the suitability of these alternative delivery options, the review took into consideration the underlying rationale and role of Government in delivering the functions e.g. a strong case for the free universal provision of conciliation and to a lesser extent other advisory services to address information asymmetries and the promotion of equitable outcomes that does not disadvantage the least able to pay for private provision.

17. The arguments against the other delivery options are more compelling for collective conciliation than they are for individual conciliation but there is still a strong rationale for a body that is independent and trusted; that is seen to be impartial to both parties in a dispute; and provides a service that is available and accessible to all. Resolving individual disputes also serves as an important early warning system for potential collective disputes and the synergies between the skills and expertise needed to conciliate either in a collective or individual dispute and the role are such that it would be inefficient to separate the delivery of the two functions. Similarly, there is a strong interplay between the intelligence gathered through conciliation and information, advice and guidance that Acas promotes through their other functions. As such there is merit in ensuring that there is a single delivery model that can perform all of the functions that are still required going forward.
18. All of the options considered were assessed as an appropriate delivery mechanism for at least one, and in most cases two, of the four functions. There are, however, only three delivery options (National Charity; Non Ministerial Government Department; and Crown NDPB (as is)/ NDPB) that would be appropriate for the conciliation functions.
- National Charity. There is likely to be a reasonable case for charitable status given Acas' role in dispute resolution, enhancing the efficiency of public services (the Tribunal Service) and in education (awareness and guidance). Government could ensure that core functions continue to be delivered through a combination of grant conditions and any powers that it might want to seek in the primary legislation that would be required for any change to Acas as it currently stands. In addition, the checks and balances through the registration process and the regulation would secure the independence, impartiality and trust that is key to the delivery of the conciliation functions in particular. The creation of a new National Charity would be a viable alternative to an NDPB but it is not clear that it adds any additional value added by the change and there would be costs and delivery risks associated with what would be a lengthy transition period. These risks would be somewhat exacerbated if they were not supported by Acas' leadership and key stakeholders.
 - Non Ministerial Government Department (NMGD). In line with Government policy, it would be exceptional for a new NMGD to be set up in. Cabinet Office and HM Treasury would require an exceptionally strong business case to approve such a proposal and in this instance there is no clear rationale for turning an NDPB into an NMGD.
 - Crown NDPB/ NDPB. The extent to which the 'three tests' are met is explored below.

“Three tests”: Technical Function

19. The first test seeks to assess whether the business function is one that requires expertise that is found outside of Government to be delivered effectively. All Acas' services require significant knowledge and expertise in employment relations and (at times) employment law. The specific mix of skills required to conciliate effectively in both collective and individual disputes is also specialised. Acas' expertise is internationally recognised with the organisation being called upon to train collective dispute conciliators from other countries.

20. Although there is no doubt that there is a strong specialist element to the work carried out by Acas it is doubtful whether this expertise requirement fully meets the “technical function” test, as defined by Government. Many of Acas’ staff could be described as experts; they are well trained and have a deep understanding of both the law and real life and employment relations issues. However they are not technical experts of the type envisaged by the guidance. The case for Acas passing the test on this criterion is therefore not wholly convincing.

“Three tests”: Independence

21. Independence is enshrined in the statutory basis of Acas. Acas was set up to be independent of government as its predecessor’s association with government prices and income policy during the early 1970s had seriously undermined its credibility and effectiveness in resolving wage disputes. For this reason the statute referring to Acas states that it is not subject to direction from a Minister of the Crown.

22. Independence is one of the cornerstones underpinning the brand of Acas and their ability to deliver their operational functions. In the case of Acas’ dispute resolution services their impact would be, in many cases, entirely destroyed and, in all cases, significantly lessened were they not delivered independent of Government. Any body that was tasked with providing collective and/ or individual conciliation would need to be independent of Government in order to operate effectively. For that reason Acas could not be brought into BIS.

23. The statute creating Acas specifically states the vital importance of the services offered being independent. Collective and Individual Conciliation would not be credible if they were not offered in this way. Acas’ independence is crucial to the success of its work and it passes this test.

“Three tests”: Impartiality

24. Impartiality – from both the parties in dispute and from Government - is the key enabler for creating the conditions in which Acas conciliators are able to build and maintain trust and confidence of opposing parties, and maintain effectiveness. This is clearly true for both Collective and Individual Conciliation where Acas’ ability to resolve disputes would at the very least be undermined were it subject to political direction or commercial imperatives.

25. Similar arguments apply to elements of the Helpline service, particularly where, as part of the pre-claim conciliation process, impartiality and trust and engagement from both employers and employees will be vital for the Helpline to function properly. However, there are help lines that offer advice on legal rights that are part of central government including the Pay and Work Rights Helpline.

26. Impartiality is not essential for any of the Good Practice Services in quite the same way. Central Government can and does produce statutory guidance on a host of issues; Central Government websites do provide information and advice on legal rights and requirements; and there is a functioning market on the provision of employment training and guidance. Although it is not essential, the trust that can be engendered on the basis of impartiality is a valuable and unique selling point that Acas trades on the back of.

27. Any body that was tasked with providing collective and/ or individual conciliation would need to be impartial and therefore Acas could not be brought into BIS or moved out to the private sector.
28. Impartiality is at the heart of collective and individual conciliation. It is vital to the direct dispute resolution activity carried out by Acas (both Individual and Collective). If any of Acas' services were not impartial then they would be ineffective. The work thus clearly passes the test in that political impartiality is required.
29. **Stage 1 of the review concluded that the key functions identified by the review team should continue to be provided by Acas and recommended retention in its current NDPB form.** Information on the cost benefit analysis & assessment of alternative delivery options is provided at Annex A & B
30. The individual Stage 1 recommendations relating to the functions assessed is summarised below:
- **Recommendation 1.1. Resolving employment disputes through Collective Conciliation is core to Acas' statutory functions, to BIS and wider government objectives and should continue. Only Acas can be said to provide this service. This is supported by the highest benefit cost ratio of all of the Acas functions.**
 - **Recommendation 1.2. Conciliating in individual disputes is core to the delivery of Acas' statutory functions, to BIS and wider government objectives and should continue to be delivered through Acas. The move towards Early Conciliation will only increase the significance of this function. The clauses in the Enterprise and Regulatory Reform Bill which seek to introduce 'Early Conciliation' - the requirement to contact Acas before bringing a case to Tribunal - from 2014 signals the emphasis and value that the Government attaches to early dispute resolution in individual cases and the role that Acas is uniquely positioned to provide within that.**
 - **Recommendation 1.3. Calls to the Helpline vary considerably in complexity and include calls that are integral to the core conciliation functions and calls which in a digital by default context could be dealt with through a digital mechanism. Acas should continue to take action to reduce avoidable contact without undermining their ability to avert and or resolve disputes. Evaluation evidence indicates high levels of customer satisfaction and the value-for-money analysis reports high benefits per pound of funding. Whilst there is clearly more that can be done to improve the efficiency of the Helpline, the Acas Helpline is still a justifiable delivery mechanism even within a digital by default context and should continue.**
 - **Recommendation 1.4. Within the context of the review that is underway of all government helplines, the Sponsor Team in BIS should work with Acas to comprehensively explore the potential for merging the Acas Helpline and the Pay and Work Rights Helpline and, more specifically, Acas assuming responsibility for delivering the information and advisory functions of the Pay and Work Rights Helpline. In reassessing the viability of a merged helpline, there will be sensitivities about ensuring that Acas' impartiality is not**

compromised by them taking on the enforcement role that the Pay and Work Rights Helpline currently performs in addition to providing information and advice.

- **Recommendation 1.5.** Non-charged for work place projects are integral to Acas' Collective Conciliation service and therefore in line with Recommendation 1.1 they should continue as is.
- **Recommendation 1.6.** Acas' provision of their charged for services (training and some work-place projects) should be explored further in stage 2. This can only be fully assessed by looking more closely at the current flexible delivery model including more detailed information on staffing, cost recovery (including the contribution to overheads) and other financial management information. In doing so, consideration should be given to the following options: retaining charged for services at their current level; expanding Acas' trading arm, going beyond cost recovery with a view to subsidising services that are currently wholly funded by the taxpayer; and Acas retracting or exiting the market
- **Recommendation 1.7.** The need for the delivery of Individual and Collective Conciliation to be independent and impartial means that Acas could not be brought into central government or moved out to the private sector. Although it would be difficult to make the same case for Good Practice Services or the basic provision of basic information and advice (through the Helpline and website), the delivery of both is linked to Collective Conciliation and it would not make sense to separate the delivery of the functions in that way.
- **Recommendation 1.8.** Although a National Charity and a Non Ministerial Department would be appropriate alternatives there is not a strong case that value would be added and there would be costs and delivery risks associated with a transition. Acas should continue as a Crown NDPB. Acas meets two of the 'three tests' - independence and impartiality - both of which are cornerstones of the brand and their licence to operate. Although there is no doubt that there is a strong specialist element to the work carried out by Acas it is doubtful whether this expertise requirement fully meets the "technical function" test, as defined by Government.

Clearance

31. At all stages of the review both the process and recommendations were subject to close scrutiny and challenge. This included a Challenge Panel (comprising BIS and CO senior officials and a BIS Non-Executive Director) and review by a group of DGs. The review team worked with CO and other stakeholders to address issues that were identified through the process.
32. CO agreed the conclusions of Stage 1 of the review, and to move to Stage 2 of the triennial process. Ministers outlined that this should consider the governance arrangements in place for Acas, including an assessment against the code for good corporate governance, as well as the recommendation from Stage 1 to undertake further exploration of Acas' good practice services, and identifying efficiencies.

Stage 2: governance arrangements

33. The second stage of the Review considers how far Acas practice aligns with principles of good governance.
34. It drew on an independent financial review of Acas which was conducted by Deloitte in the summer of 2012. The approach adopted by Deloitte incorporated a review of background material provided and a fieldwork phase which included a series of interviews with Acas finance and management teams and other senior internal stakeholders. The fieldwork phase was followed by a period of analysis of the data collected, upon which a series of observations and findings, and opportunities for improvement are based. The report produced by Deloitte following this review was discussed with Acas and BIS before finalisation.
35. This material provided to Deloitte for the independent financial review was supplemented by information which was specific to Stage 2 of the Triennial Review and this was included in a separate Annex to the Deloitte report. The report provides a summary of the good practices in financial management operating across Acas, together with a view of opportunities for improvement and a draft action plan.
36. The assessment of how Acas performs against the principles set out in the “Guidance on principles of good corporate governance in executive NDPBs” document is summarised in Annex C.

Accountability

Statutory Accountability

- 37. The Review Team found Acas to be compliant in most of the required aspects of statutory accountability.**
38. Acas is a body corporate established by Statute under the Employment Protection Act 1975, which has an overall duty to promote the improvement of employment relations. Its statutory underpinning facilitates Acas’ functions to be performed on behalf of the Crown, but not so as to make it subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise its functions.
39. It has not been clear historically whether Acas is covered under the Freedom of Information (FOI) Act, but the position has recently been clarified during the passage of the Enterprise and Regulatory Reform Act 2013 through Parliament. It has been settled that Acas should be covered by the FOI Act subject to a prohibition being in place to protect Acas’ sensitive data from disclosure. Regulations which will put this prohibition into effect will be in place in the summer 2013 and Acas is currently implementing changes to processes to ensure compliance with the FOI Act thereafter. Acas is also working towards proactively publishing information, including a comprehensive publication scheme on the gov.uk website.
- 40. Recommendation 2.1: Acas and BIS to continue to work together to ensure Acas implements changes to processes to comply with the Freedom of Information Act when the relevant prohibition is in place.**

Accountability for Public Money

- 41. The Review Team found Acas to be compliant with the required governance arrangements around accountability for public money.**
42. Acas has a formally designated Accounting Officer (AO) in the form of the Chief Executive, and receives the majority of its funding from its sponsoring Department, BIS, in the form of Grant in Aid.
43. The Review Team has identified that the training requirements for the Accounting Officer (AO) are not regularly reviewed. This should be addressed, and records updated accordingly.
- 44. Recommendation 2.2: Acas to regularly review training requirements for the Accounting Officer and ensure that records are updated accordingly.**

Ministerial Accountability

- 45. The Review Team found Acas to be compliant in some of the required aspects of Ministerial accountability.**
46. Under current working arrangements, Acas ensures that the Department is sighted on matters relating to its operations and strategy, such as its Corporate and Business plans and its annual report and accounts. BIS' opportunity to influence Acas' strategic direction is limited – largely because the Trade Union and Labour Relations (Consolidation) Act 1992 provides that Acas' functions "shall be performed on behalf of the Crown, but not so as to make it subject to directions of any kind from any Minister of the Crown as to the manner in which it is to exercise its functions". The respective roles of Acas and the Department are set out in Acas' Management Statement and its accompanying Financial Memorandum but the arrangements described in these documents have not been reviewed for some time and there will likely be scope to improve them, given the context of greater transparency and accountability of public bodies.
47. Given that the bulk of Acas' funding is provided by BIS (Acas received £46.5m in Grant in Aid in 2012/13), **The Review Team believes that there would be benefit in extending engagement between the two organisations and ensuring that it is described in an updated Framework Agreement. This will ensure that this element of the relationship between BIS as the sponsoring Department and Acas is on a adequately formal footing and that Ministers are sufficiently sighted on the governance of Acas given that they are accountable for the overall performance of the public body (whilst recognising the statutory position of Acas).** The Review Team has noted that Acas and the sponsor team in BIS are putting systems in place to formalise engagement between the two organisations. These arrangements and the processes for sharing information should be systematically embedded and described in the Framework Agreement. This will ensure that the positive engagement that BIS and Acas have at working level is both continued and extended to Ministers and the BIS Board.
- 48.** Acas' relationship with Government is set out in statute (see paragraph 48) but the review has identified that there is scope for different interpretations of the words 'not so as subject to directions of any kind' which are used in statute. There is an argument

that this should be taken literally to mean ‘no direction from Ministers’ but this interpretation does not fit well with the constraints around accountability for public money that are placed on Acas’ Accounting Officer (who is also the Chief Executive) by BIS. As the overarching governance body established by statute, the Acas Council has the statutory role of governance of the organisation and the Acas Chair is accountable to the Secretary of State, who is ultimately accountable to Parliament for the performance of the public body. **The Review Team considers that greater clarity is needed around what the arrangements set out in statute mean in practice. Clarity on the relationship will help BIS effectively discharge its responsibilities and ensure Ministerial accountability.**

49. Acas was set up to be independent of Ministers to enable difficult workplace issues to be tackled, such as industrial disputes, in a way which Government would not be able to. As a result, Acas operates with a significant degree of autonomy, and governance of the organisation’s strategic direction and its services is viewed as a role for the Acas Council given that the Council was established by statute for this purpose. The review has identified that increased engagement by BIS with the Acas Council is essential given that BIS is the primary funding body which is ultimately accountable to Parliament for how Acas’ budget is spent.
50. The Review Team recognises that Acas’ impartiality is a clear strength in performing its delivery of employment relations disputes, and as such should not be subject to Ministerial directions. Clarifying the relationship between BIS and Acas will ensure that Ministers can provide the necessary accountability to Parliament and the public for Acas’ performance and the continued existence of the public body. **It is the opinion of the Review Team that there is a role for Ministers and the Department to provide high level steers on the current and future operation and strategy of Acas, given the significant level of sponsor funding. As a minimum, the BIS Sponsor Team should continue to be consulted on the corporate and business plans, and they should ensure that information provided by Acas is shared with Ministers and the BIS Board as appropriate. Due consideration should also be given to BIS attendance at Council meetings.**
51. **Recommendation 2.3: The Chief Executive of Acas, Chair of the Acas Council and Lead (G3) Sponsor in BIS should take steps to clarify what Acas’ independent status means in practice, and agree the scope of roles for BIS Ministers and officials given the pre-requisite demand for accountability. The scope of roles and the way in which they are implemented must facilitate sufficient oversight and scrutiny of the public body to meet this pre-requisite demand. An up-to-date Framework Agreement should be put in place to ensure that the arrangements by which BIS scrutinises Acas’ performance are refreshed and documented. These arrangements should be followed through in practice and this document should be updated to include practical ways in which BIS can strengthen its scrutiny of Acas’ performance.**
52. Acas and the BIS Sponsor Team have an effective relationship at working level, and flag to Ministers any developments which have a potential impact on Government. An introductory meeting with the new Minister for Employment Relations, Jo Swinson, took place at the end of 2012 and the Minister is planning to meet the new Chief Executive in the summer. However, the Review Team identified that the frequency of the dialogue between Acas and BIS Ministers is agreed on an ad-hoc basis. The regularity of these

meetings should be formalised, and a programme of engagement at Ministerial level established, including with the Chair and Chief Executive of Acas.

53. Recommendation 2.4: BIS and Acas to set up regular, formal meetings between Ministers and the Chair and CEO of Acas.

Roles and Responsibilities

Role of the Sponsoring Department

- 54. The Review Team found the BIS Sponsor Team and Acas to be compliant in some aspects of governance and oversight.** Compliance in this area is related to those issues also affecting Ministerial accountability, and will increase once the relationship between BIS as the sponsoring Department and Acas is clarified.
55. There is a BIS Sponsor Team within the Labour Market division of the Markets and Local Growth Directorate, and an effective relationship exists at working level.
56. However, the relationship was impacted by an unusually high staff turnover in the BIS Sponsor and Finance Teams in 2012/13, which resulted in a loss of historical knowledge. Staff replacements are now in post and both BIS and Acas are forming constructive relationships. It is not obvious to the Review team that contingency action can be taken to avoid such a loss of knowledge occurring again, but if there are steps that can be taken then these should be put in place.
57. There is some oversight by BIS through its regular attendance at the Acas Audit Committee and through financial controls set out in writing to the Accounting Officer, and through the review of management information sent by Acas to BIS, such as Acas' balanced scorecard, and risk register, shared quarterly with BIS. However it is the view of the Review Team that strengthening these governance arrangements would be beneficial, especially at Ministerial and Board level, and in a sufficiently strategic way. The governance arrangements should be reviewed and formalised in an updated Framework Document.
- 58. The Review Team believes that the Department should strengthen its scrutiny processes in order to enable regular review and challenge of the performance of Acas, especially given its primary funding role. Ministers and senior officials (e.g. at Director General and Board level) from the Department should be sufficiently sighted and engaged with Acas to facilitate this aim.** The Review Team are aware that Acas provides detailed financial and operational information to BIS. BIS is able to influence how Acas' performance is measured by reviewing Acas key performance indicators (which are included in Acas' Balanced Scorecard), and Acas also provides information on a reactive basis in response to requests from the Central Sponsor or Finance Teams in BIS. The Review Team has observed that the relationship would profit both organisations by operating on a more strategic basis and in addition the Review Team believes there would be merit in discussing BIS regularly attending the Acas Council.
59. In addition to Recommendation 2.3, the outputs of such a discussion between senior management from BIS and Acas should be used to clarify how BIS can strengthen its scrutiny and challenge of the performance of Acas. This should include attendance at

relevant meetings, and should be reflected in a Framework Agreement between the two organisations.

- 60. Recommendation 2.5: The G3 in the BIS Sponsor Team, the Chief Executive and the Chair or the Acas Council should consider the outputs of discussions from Recommendation 2.3 and agree how Acas and BIS can best engage on a strategic basis. These arrangements should be clearly set out in an updated Framework Agreement. This should reflect what steps can and will be taken to ensure that the BIS Sponsor Team and wider Department as necessary can strengthen its scrutiny and challenge of Acas' performance. Due consideration should be given to regular BIS attendance at Acas Council meetings.**

Roles of the Board, Chair and Non-Executive Board Members

- 61. The review found Acas to be compliant in most of the required aspects of good governance arrangements related to roles of the Board, Chair and Non-Executive Board Members**
62. The Acas Council sets and monitors the strategic direction, policies and priorities of Acas and consists entirely of non-executive members who reflect a balance of social partners. It consists of the Chair (Ed Sweeney, who was appointed on 1 November 2007) and eleven members – comprised of four employee (Trade Union) representatives, four employer representatives and three independent members.
63. The Acas Council has three sub-committees, all of which are entirely non executive, who provide advice and oversight - the Audit Committee, the Human Resources (HR) Committee and the Remuneration Committee.
64. The day-to-day operations are managed by Acas' Chief Executive Officer (CEO) and a management board (the Executive Board) that includes national and regional directors. Acas has around 800 staff, based in their London head office and 12 main regional centres across England, Scotland and Wales.
- 65. The Council holds the Executive Board to account through the CEO (Anne Sharp, who took up post on 4 February 2013). She has responsibility for the overall management and staffing of Acas and for its procedures in financial and other matters, including conduct and discipline. She is also Acas' Accounting Officer.**
66. The Executive Board is supported by sub-committees for specific areas of the business. These are the Business Management Group; the Estates Scrutiny Panel; the Digital Strategy Project Board; and the Research and Evaluation Funding Panel.
67. There are good governance arrangements in place around the roles and responsibilities of the Acas Chair, CEO and Council Members; although the Review Team did note that the Chair has only had one performance appraisal in each term of office. Council members have undergone annual evaluations, in line with best practice to ensure they are performing to standard, following disciplinary procedures if necessary and ensuring they are committing the appropriate time to the work. The Office of the Commissioner for Public Appointments (OCPA) Code on Public Appointments requires appointing Departments to periodically review the performance of individuals who have been appointed through OCPA process; this includes the Chair

of the Acas Council and Council Members. However, current arrangements limit BIS' ability to effectively discharge these responsibilities and the reviews of individual Council Members are carried out by the Chair of the Acas Council as BIS has little or no engagement with individual Council Members. The Review Team believes that there would be merit in BIS regularly attending the Acas Council, and observing the Council Members in action.

68. Recommendation 2.6: Acas and BIS to put in place arrangements for annual performance reviews of the Acas Chair.

69. The duties, role, terms of office and remuneration of the Chair and Council members are set out in writing, however there is no detail on the responsibilities required within the role. This should be clarified at an appropriate opportunity in either appointment or re-appointment letters as relevant.

70. Recommendation 2.7: BIS and Acas to consider Council Terms of Reference and Terms and Conditions of appointment and provide clarity on the responsibilities of the Chair and individual Council members in re-appointment letters.

Effective Financial Management

71. The Review Team found Acas to be compliant with the required governance arrangements around effective financial management.

72. This was supported by evidence from the Deloitte's review of financial management. However there are a number of suggested improvements that were identified in the Deloitte's report which focused on increased understanding of budgets including month-on-month profiles to accurately track the causes of variances in actual results; numerical analysis in Executive Board reporting; use of KPIs (key performance indicators) to monitor the performance of the business; use of formal longer-term financial planning; and training for operational staff.

73. Acas has put in place a series of improvements to budget management across the organisation to address these issues and should continue to address the suggestions proposed in the Deloitte report.

74. Recommendation 2.8: Acas to continue working with BIS to implement the recommendations made in the Deloitte's review of financial management.

75. Whilst Acas has rules in place which govern claiming of expenses, and systems to ensure compliance, it does not publish information on the actual expenses claimed by Council members and senior staff. In the interests of transparency, this should be addressed.

76. Recommendation 2.9: Acas to put in place arrangements to publish information on expenses claims by Council members and senior staff.

Communications

77. The review has identified that Acas is compliant with many of the specified communications requirements.

78. Acas is proactive in seeking opportunities to engage with stakeholders when formulating guidance and in developing their services. Area teams engage with local stakeholders and there is often an Employment Relations Forum in place to enable effective stakeholder engagement.

79. The main area identified by the Review Team that could be improved is the degree of public openness and transparency that Acas demonstrates in its activities.

80. Acas does not hold open Council meetings and does not publish the agenda or minutes from its meetings publicly. Acas' reasoning for this is that the organisation operates in an environment where confidentiality is a fundamental principle, and there is a concern that publishing Council papers externally might constrain the ability for open discussion, lead to confidentiality breaches, or competitor disadvantage.

81. The Review Team accepts that some of these risks are real, however further discussion between Acas and BIS would be helpful to determine whether there are any potential compromises which could increase the openness and transparency of Acas at a high level e.g. through a tailored annual open meeting or through publication of suitably redacted minutes.

82. Recommendation 2.10: Acas and BIS to consider potential opportunities to increase Acas' communications with the public in the interests of openness and transparency.

83. Details of board members and senior staff are published on the website but individual contact details are not provided. There is a generic email address which acts as a portal for enquiries to the Council; however Acas should consider whether contact details for senior staff can be provided to further improve transparency of the organisation.

84. Recommendation 2.11: Acas to consider an approach to publishing contact details of senior staff on the internet.

Conduct and behaviour

85. The review has identified that Acas is compliant with many of the specified requirements around conduct and propriety.

86. The Acas website contains information about the code of conduct in place for Council members and publishes the Register of Interests for Council members. The letter of appointments for Council Members sets out guidelines on political activity and conflicts of interest.

87. Staff conduct and behaviour is covered in the personnel handbook. In the 2012 People Survey, 78% of people indicated they were aware of the Civil Service Code (up from 73% in 2011), 55% indicated they knew how to raise a concern under the code (up

from 49% in 2011), and 71% indicated they were confident that Acas would investigate a concern if it was raised (up from 66% in 2011).

88. There is guidance in the staff handbook for appointments following resignation or retirement, and there is specific reference in resignation acceptance letters to outside appointments for staff below SCS (Senior Civil Service) level. During the course of the review the Review Team identified that Council Members would benefit from having their roles and responsibilities specifically set out in their letter of appointment. This has now been actioned and reflected in the recent letters extending the appointment of three Council Members. A 'Code of best practice for the Council of Acas', based on the model Code of Conduct for Board Members of Public Bodies, is annexed to the appointment/re-appointment letters.

Stage 2 report: further analysis of Acas charged-for services

89. Recommendation 1.6 from the stage 1 review stated that Acas' provision of their charged-for services (training and some work-place projects) should be explored further in stage 2. This can only be fully assessed by looking more closely at the current flexible delivery model including more detailed information on staffing, cost recovery (including the contribution to overheads) and other financial management information. In doing so, consideration should be given to the following options: retaining charged for services at their current level; expanding Acas' trading arm, going beyond cost recovery with a view to subsidising services that are currently wholly funded by the taxpayer; and Acas retracting or exiting the market.

90. As part of its statutory duty to promote workplace relations, Acas offers a diverse suite of products and services under its 'Good Practice Services' (GPS) function. These products and services aim to intervene early and minimise the risk of subsequent disputes (which are costly to all parties) by offering organisations guidance and assistance on proactively implementing good workplace practices.

91. The main products and services within GPS are:

- **Open Access training** – training events lasting two hours or more that are advertised and open to all
- **Workplace Training** – more bespoke training for a particular organisation
- **Workplace Projects** – in depth assignments in an organisation where low trust may already exist between staff and managers which cannot be solved by training
- **Individual mediation** – provides accredited training in mediation to individuals and organisations to enable them to better deal with potential sources of conflict in the workplace; provide mediation in some individual cases

- **Publications** – guidance and Codes of Practice published in hard copy and on line⁵ and a range of on line tools to support employers to diagnose the effectiveness of their workplace practices and build their management capability

92. The evidence indicates that Good Practice Services do provide value for money through their impact on promoting workplace relations and reducing disputes which could lead to an Employment Tribunal which is costly to all parties including the taxpayer. There is clearly a strong case for the continued need for guidance and training to be available to workplaces, but it is debatable whether all of the products offered by Acas under the GPS banner need to be delivered by Acas. Unlike the conciliation services, there are potential viable alternatives for the delivery of GPS.
93. Acas is responsible for producing statutory guidance in the form of Codes of Practice (for example disciplinary and grievances procedures), although Government also frequently requests Acas to produce additional guidance on topics related to employment relations. This guidance can be seen as a standalone advisory service available to all to download or as a basis for some of the open access and workplace training events offered as part of GPS. Government could bring more of this guidance in-house, although this could present a risk to the independence and impartiality of the advice.
94. In considering the need for a function to continue and the most appropriate delivery model it is important to consider the market failure arguments. One of the key arguments for public funding for Acas functions is the provision of information and guidance on employment law and dispute resolution to avoid costly Employment Tribunals. This rationale is particularly strong for conciliation services (collective and individual) and the range of information provided through the Helpline, publications and Codes of Practice.
95. For Good Practice Services, the question is whether there are sources of market failure that would lead to organisations under-investing in training activities. There does not appear to be a strong case for employers not making this investment, although it is always difficult to determine if the observed amount of investment is sub-optimal. The movement away from Acas providing these services free of charge to full cost recovery is one indication that publicly funded provision is not necessary and that employers could purchase these services from the market.
96. This market for the provision of services related to employment relations including information, advice and guidance, dispute resolution, mediation and training already appears to be well functioning. Acas is one of the players in this market along with a number of private sector for-profit organisations and other not for –profit and public organisations. There are no obvious barriers to entry and competition would be expected to drive quality and price in the market. In 2010/11, Acas generated £3.7m of revenue within this market through cost recovery with consumers attracted to the Acas brand and perceived quality of the products and services. Some competitors generate higher revenue than Acas, but it is difficult to compare the pricing policies, volumes and

⁵ Publications are an advisory service which could be considered alongside the Helpline but for presentational purposes we include them here as their content is used to help deliver GPS. The experience and knowledge gained from delivering GPS also helps Acas develop the publications, guidance and Codes of Practice.

quality of provision. The fees set by employment law consultancies, for example, can often vary according to the size of the firm's annual payroll and some organisations also have differential rates for members and non members.

97. One option, therefore, would be for Acas to exit the market for the provision of these services. Existing consumers would then rely on the products and services offered by the private sector and other organisations. Competition amongst these providers would meet the demand from Acas' current customers and drive quality and price over the longer term. Acas does have a strong brand and is well-trusted, so in the short run Acas exiting the market may reduce the average quality of provision in the market, but over time other high quality brands may begin to emerge through competitive forces.
98. A second option would be to move Acas' existing charged for good practice services into the private sector through a hive-off. Currently, Acas is constrained in its ability to make a profit and to grow the size of the business though Managing Public Money requirements and, for example, through the marketing freeze that applies within the public sector. The latter prevents the type of advertising and promotional offers (for example, two places for the price of one) that private sector firms are able to engage in. Once in the private sector these 'barriers' would be removed, however, it remains unclear whether there is significant growth potential within the market to make it viable. Additionally, and whilst recognising the special knowledge inherent in Acas' GPS provision, it is arguable that such special knowledge or the perception thereof, is inextricably linked to the Acas brand. Therefore the potential for profit in a private sector model and any proceeds from a disposal are likely to be correspondingly diluted as the brand would be retained with the remaining Acas functions. This situation is further compounded by timing where, since the economic downturn in 2008, there has been a reduction in employers' training expenditure in real terms of 5.2% in 2011 compared to 2007.⁶ Although this expenditure is likely to recover over the longer term, the lower demand for training in the current economic climate further reduces the attractiveness of the business in the short term. Although some of the expertise and ethos could be maintained if a hive-off took the form of a mutual, such as a charity, there would be equivalent issues regarding the growth potential and the brand. There would also be increased management, operating and governance overheads under either scenario which could undermine longer-term sustainability.
99. The element of GPS that Acas remain best placed to deliver are the non charged workplace projects. These are provided either as an alternative or alongside conciliation to 'head off' or resolve disputes. Where work place projects are linked to potential or ongoing disputes they could be considered to be an extension of Acas' conciliation services and these should continue to be provided by Acas.
100. There are however arguments to support Acas continuing to provide their charged for services alongside their non charged for services:

⁶ UK Commission's Employer Skills Survey 2011: England Result, Evidence Report 46, July 2012

101. Much of Acas' workplace training is jointly commissioned by managers and employee representatives. The organisation's impartiality from employers, employees and government is likely to be key for those that do choose Acas as their supplier.⁷
102. Acas is uniquely positioned to deliver training due to the extensive practical experience in employment relations derived from delivering conciliation services and producing statutory guidance.
103. With the exception of some workplace projects, the costs (both the direct costs of staff time and a contribution to Acas' fixed overheads) of delivering GPS are recovered through fees so the service could be seen as meeting demand from organisations without imposing a cost on the taxpayer.
104. In addition, there would be additional costs to the taxpayer of stopping GPS. Acas currently runs an integrated staffing model for Grade 8 (SEO) staff between its collective conciliation service and GPS.⁸ There are currently 74.82 staff units at this grade who typically perform several different job roles. The requirement for collective conciliation is 14.87 units, while 28.91 units deliver GPS and advisory work for which the fee is waived (17.73+11.18).

Table 2: Staff requirements for Grade 8 roles (Source: Acas)

	Grade 8 staff unit requirements
Collective conciliation	14.87
GPS	17.73
Waived Fee Advisory Services	11.18
Individual Conciliation Management	19.61
Helpline Area Management	2.78
Resource/Admin Management, Staff Development and Maternity Leave	8.65
Total	74.82

⁷ Commonly reported reasons for choosing Acas for workplace training included "good experience of Acas in the past", "good reputation as a training provider", "expertise in the topic area", "advice was independent of management and trade unions" and "advice was independent of government" (Acas Research Paper 04/08)

⁸ There is also some integration at Grade 9 (HEO) level between GPS and individual conciliation but the majority of the resource at this grade is concentrated on individual conciliation.

105. The staffing requirements for collective conciliation are based on a prediction that conciliation will be required in around 990 disputes each year, with each dispute needing at least two days of input. Across all the members of staff that cover collective conciliation as one of their job roles, there are 43.5 staff units available if all of their time were devoted to conciliation. This is 2.5 times greater than the predicted staffing requirement and provides Acas with the flexibility needed to respond to their statutory function of providing collective conciliation when there are spikes in demand.
106. If GPS and the flexible staffing model discontinued, Acas would need more than the 14.87 full time equivalent staff units to deliver collective conciliation. This is because additional resource would be required to meet any peaks in demand. Currently, the number of FTEs needed to meet monthly demand over the year varies from 8.3 to 18.2 with an average of 13.0. Extra resource (i.e. the 14.87) beyond the national average of 13.0 is needed because conciliators are either required to be based in each region or additional travel time needs to be factored in to enable conciliators to travel to the disputes.
107. It is difficult to accurately forecast the number of disputes that may arise at any one time and therefore the number of staffing units required. Based on current volumes, the maximum staff units that would be required if all of the annual peaks across the regions occurred at the same time would be 22.5. This figure represents a plausible upper bound for the number of staff units that could be needed for collective conciliation.
108. If GPS were discontinued therefore the number of conciliators required would rise from around 15 FTEs to a best estimate of at least 22. It is difficult to estimate the additional resource required, but this resource would have to be funded by the taxpayer since they would no longer be drawn from a pool of staff where cost recovery takes place as a result of GPS.
109. Acas offers a range of products and services as part of GPS. For non charged workplace projects, there is a clear case for Acas to continue to provide these projects since they are closely linked to the conciliation and dispute resolution process. For open access and workplace training (where cost recovery does occur), the case is less clear. There are arguments for Acas exiting this market and the private sector meeting the demand for training alone. However, with cost recovery and the strong brand that Acas has there is also a case for GPS to continue in its current form. With the existing delivery model, where GPS and collective conciliation are staffed by a common pool of individuals, there would be an increase in the cost of collective conciliation if GPS were stopped.
- 110. On balance, the review recommends that GPS continue in its current form but the training services provided, the scale of the private sector market, and the delivery model continue to be monitored on a regular basis by Acas working with the sponsor team. A review should be carried out within 2 years, and an update report provided to Ministers.**
- 111. Recommendation 2.12: Acas and BIS to facilitate continuation of GPS in its current form but monitor the training services provided, the scale of the private sector market, and the delivery model on a regular basis. A review should be carried out within 2 years, and an update report provided to Ministers.**

Stage 2 conclusions and recommendations

112. The stage 2 review has considered the governance arrangements in place for Acas, and assessed them against the code for good corporate governance. The Review Team has concluded that Acas governance complies with many of Cabinet Office's principles of good governance; however there are some instances where improvements would be beneficial to BIS and Acas.
113. The Review Team recommends formalising the relationship between Acas and BIS around governance arrangements. This should focus on practical ways of working that recognise the important requirements for Ministerial and Departmental scrutiny and influence given the statutory nature of Acas. The two organisations should work together to identify and implement a new Framework Agreement which recognises the respective roles and associated responsibilities of both organisations, and puts in place arrangements to be able to effectively deliver them. This must reflect the need for Ministerial accountability and scrutiny by the Sponsor Department as to how its funding is spent. Due consideration should be given to BIS attendance at Acas Council meetings.
114. Given Acas' independent status it necessarily operates with a high degree of autonomy, and this has limitations on BIS' ability to scrutinise and challenge Acas' performance. At working level, there have been improvements in the information sharing between the two organisations so that the BIS Sponsor Team is better aware of how Grant in Aid funding is spent. It would be beneficial to continue and extend this information sharing to ensure Ministerial accountability to Parliament and the public for the overall performance and continued existence of the public body. The BIS Sponsor Team should review the range and extent of information Acas shares with them and this should form part of the activity to update the Framework Agreement. Increased engagement with the Sponsor Department would maximise opportunities for joint working and better meet demands around accountability and, coupled with increased public engagement, would greatly increase the public body's commitment to transparency and openness.
115. There are other opportunities on a smaller scale that have been identified in the review which would help deliver further improvements to the good governance arrangements already in place if implemented.
116. The review has also considered the recommendation from stage 1 to undertake further work on identifying efficiencies in Acas and in particular in some of the functions it delivers, specifically around charged-for services.
117. The recommendations specifically referred to further consideration of Acas' charged for services (training and some work-place projects). The stage 2 review considered this by studying the current flexible delivery model in detail including more detailed information on staffing, cost recovery (including the contribution to overheads) and other financial management information. Consideration has been given to the following options: retaining charged for services at their current level; expanding Acas' trading arm, going beyond cost recovery with a view to subsidising services that are currently wholly funded by the taxpayer; and Acas retracting or exiting the market.

118. The review recommends that GPS continue in its current form but the training services provided, the scale of the private sector market, and the delivery model continue to be monitored on a regular basis by Acas working with the sponsor team. A review should be carried out within 2 years, and an update report provided to Ministers.

Summary of Stage 2 recommendations

Recommendation 2.1: Acas and BIS to continue to work together to ensure Acas implements changes to processes to comply with the Freedom of Information Act when the relevant prohibition is in place.

Recommendation 2.2: Acas to regularly review training requirements for the Accounting Officer and ensure that records are updated accordingly.

Recommendation 2.3: The Chief Executive of Acas, Chair of the Acas Council and Lead (G3) Sponsor in BIS should take steps to clarify what Acas' independent status means in practice, and agree the scope of roles for BIS Ministers and officials given the pre-requisite demand for accountability. The scope of roles and the way in which they are implemented must facilitate sufficient oversight and scrutiny of the public body to meet this pre-requisite demand. An up-to-date Framework Agreement should be put in place to ensure that the arrangements by which BIS scrutinises Acas' performance are refreshed and documented. These arrangements should be followed through in practice and this document should be updated to include practical ways in which BIS can strengthen its scrutiny of Acas' performance.

Recommendation 2.4: BIS and Acas to set up regular, formal meetings between Ministers and the Chair and CEO of Acas.

Recommendation 2.5: The G3 in the BIS Sponsor Team, the Chief Executive and the Chair or the Acas Council should consider the outputs of discussions from Recommendation 2.3 and agree how Acas and BIS can best engage on a strategic basis. These arrangements should be clearly set out in an updated Framework Agreement. This should reflect what steps can and will be taken to ensure that the BIS Sponsor Team and wider Department as necessary can strengthen its scrutiny and challenge of Acas' performance. Due consideration should be given to regular BIS attendance at Acas Council meetings.

Recommendation 2.6: Acas and BIS to put in place arrangements for annual performance reviews of the Acas Chair.

Recommendation 2.7: BIS and Acas to consider Council Terms of Reference and Terms and Conditions of appointment and provide clarity on the responsibilities of the Chair and individual Council members in (re-)appointment letters.

Recommendation 2.8: Acas to continue working with BIS to implement the recommendations made in the Deloitte's review of financial management.

Recommendation 2.9: Acas to put in place arrangements to publish information on expenses claims by Council members and senior staff.

Recommendation 2.10: Acas and BIS to consider potential opportunities to increase Acas' communications with the public in the interests of openness and transparency.

Recommendation 2.11: Acas to consider an approach to publishing contact details of senior staff on the internet.

Recommendation 2.12: Acas and BIS to facilitate continuation of GPS in its current form but monitor the training services provided, the scale of the private sector market, and the delivery model on a regular basis. A review should be carried out within 2 years, and an update report provided to Ministers.

ANNEX A – COST-BENEFIT ANALYSIS

Value-for-money

Costs and Benefits of Collective Conciliation

	Costs	Benefits	Benefit/cost ratio
Collective Conciliation	£2,073,776	£158,600,000	76.5

Costs and Benefits of Individual and Pre-Claim Conciliation

	Cost	Benefits	Benefit/cost ratio
High Scenario			
Individual conciliation	£24,933,726	£142,000,000	5.7
Pre-claim conciliation	£3,657,797	£26,200,000	7.2
Low Scenario			
Individual conciliation	£24,933,726	£117,600,000	4.7
Pre-claim conciliation	£3,657,797	£18,600,000	5.1

Costs and Benefits of Helpline

	Costs	Benefits	Benefit/cost ratio
High Scenario			
Helpline	£11,267,333	£732,349,753	65.0
Low Scenario			
Helpline	£11,267,333	£286,420,084	25.4

Costs and Benefits of Open Access (OA) training

	Costs	Benefits	Benefit/cost ratio
High Scenario			
Open Access	£708,011	£42,073,916	59.4
Low Scenario			
Open Access	£708,011	£20,900,402	29.5

METHODOLOGY

The cost-benefit analysis presented in this report is an updated version of that conducted for the Public Value Programme which was based on a NIESR study commissioned by Acas in 2007 on the economic impact of its activities. The approach combines data from a range of sources including:

- Acas' information on volumes by activity
- A range of Acas surveys and other evaluation evidence
- Chartered Institute of Personnel and Development surveys for information on management time spent on workplace issues and recruitment costs
- ONS data on the hourly earnings of managers and GVA of employees
- The Survey of Employment Tribunal Applications (SETA) for data relating to estimating the costs that can be avoided if a case is settled before a hearing e.g. management time, costs associated with job separations when the employee leaves their job

Static vs dynamic benefits

One important caveat of the analysis to note is that the benefits are only calculated over the year in question i.e. 2010/11. The implication of this is that where conciliation services in 2010/11 generate benefits through reduced ET hearings, for example, these benefits only occur in the same year. It is possible that benefits could occur over a longer period if the intervention has a prolonged impact on promoting workplace relations, but such dynamic benefits are difficult to quantify and not included.

Counterfactual

One of the key difficulties in evaluating the impact of Acas services is the construction of a counterfactual to identify what outcomes would have been observed without the Acas intervention. For example, estimates of the impact of conciliation are based on the number of ET hearings that are avoided for those who submit a claim. While many of these avoided hearings could be attributable to the conciliation service, the number of claims that would have been resolved through other means is unknown.

While there may be uncertainty over the volumes that can be attributed to Acas activity, some of the survey evidence does provide a good approximation of the benefits Acas is able to deliver relative to an alternative outcome. The Survey of Employment Tribunal Applications for example provides a comparison of the time managers spend on a claim settled by Acas relative to the time spent if a claim went to a ET hearing.

High and Low Scenarios

In order to reflect the uncertainties in the estimated benefits, the cost-benefit analysis is presented in the form of a 'high' and 'low' scenario.

Annex B - Assessment of Alternative Delivery Options

Delivery Model (by function)		Appropriate	Comments
Local government	Collective Conciliation	No	<ul style="list-style-type: none"> • Independence from both parties in the dispute and government is essential. • Potential diseconomies of scale- a fragmented approach could undermine national coherence and consistency and quality of service delivery.
	Individual Conciliation	No	<ul style="list-style-type: none"> • Independence and impartiality • Potential diseconomies of scale- a fragmented approach could undermine national coherence and consistency and quality of service delivery.
	Information & Advice	Yes	<ul style="list-style-type: none"> • Potential diseconomies of scale- a fragmented approach could undermine national coherence and consistency and quality of service delivery.
	Good Practice Service	Yes	<ul style="list-style-type: none"> • In addition to Acas, there are a number of not for-profit providers of services including information, advice and guidance, dispute resolution, and training.

National Charity	Collective Conciliation	Yes	<ul style="list-style-type: none"> • Enable continued independence and impartiality whilst engendering necessary trust.
	Individual Conciliation	Yes	
	Information & Advice	Yes	<ul style="list-style-type: none"> • Enable continued independence and impartiality whilst engendering necessary trust. • Likely to be a reasonable case for charitable status given. • Flexibility to make a profit from those services that the charity would choose to charge which could for that could be support expansion of advice and guidance. • Potential for a charity to attract non government funding sources.
	Good Practice Service	Yes	
Private Sector	Collective Conciliation	No	<ul style="list-style-type: none"> • There would be actual and perceived issues about independence and impartiality. Actual and perceived independence from both parties in the dispute is essential. • Unlikely that a private sector provider could engender the trust required to bring both parties to the table.
	Individual Conciliation	No	<ul style="list-style-type: none"> • Potential equity concerns if private provision is not available or affordable to all. • Like collective, individual conciliation needs buy-in from both sides. A commercially driven organisation would find it difficult to establish and maintain the level of trust. Even if the provider was impartial there would be a perception that they

			were unduely influenced by the employer who would likely bear the bulk of the costs.
	Information & Advice	Yes	<ul style="list-style-type: none"> The Acas Helpline could be contracted out but this could potentially lead to inefficiencies given the link between the Helpline and Acas's individual conciliation service.
	Good Practice Service	Yes (in part)	<ul style="list-style-type: none"> In addition to Acas, there are a number of private sector providers of services including information, advice and guidance, dispute resolution, and training. Private sector provision would not be appropriate where the training offer is part of the collective conciliation process. Private sector provision would also not be appropriate for statutory guidance.
Part Mutualisation (of the functions deemed suitable above for a private sector model)	Information & Advice	Yes	<ul style="list-style-type: none"> A part mutualisation approach, whereby Acas. The Acas Helpline could be contracted out to a mutual but this could potentially lead to inefficiencies given the link between the Helpline and other services that Acas provides.
	Good Practice Service	Yes (in part)	<ul style="list-style-type: none"> A mutual, like any private sector provider, would not be appropriate where the training offer is part of the collective conciliation process; and it would also not be appropriate for statutory guidance. Mutualising the charged for services would allow for the skills, expertise and ethos to be

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Sponsoring Department (BIS)	Collective Conciliation	No	<ul style="list-style-type: none"> • Impartiality and independence from Ministers are critical to the way dispute resolution is both delivered and perceived by its users. The Government would not be suitable to deliver this role. Not least because there are times when Government is the employer.
	Individual Conciliation	No	<ul style="list-style-type: none"> • See above
	Information & Advice	Yes	<ul style="list-style-type: none"> • The Government already publishes information and guidance on a number of issues • Acas has been the Government's vehicle of choice on employment relations. • Particularly with regards to the Helpline, there could be an impact on the way customers view the bespoke advice they receive if this is not seen to be impartial and independent.
	Good Practice Service	No	<ul style="list-style-type: none"> • There are potential issues with the Government charging for these services – particularly if it were to seek to make a profit. • There are potential issues around take up where the driver for attending these events is the brand or perceived expertise of the GPS provider and government would need to establish itself in this field. • BIS could issue statutory guidance.

Non Ministerial Government Department (NMGD)	Collective Conciliation	Yes	<ul style="list-style-type: none"> The flexibility that this model allows would enable appropriate safeguards for the actual and perceived independence and impartiality. It is not clear that there would be significant benefit in a NMD model rather than a NDPB model and there would be costs associated with any transfer.
	Individual Conciliation	Yes	<ul style="list-style-type: none"> The flexibility that this model allows would enable appropriate safeguards for the actual and perceived independence and impartiality. It is not clear that there would be significant benefit in a NMD model rather than a NDPB model and there would be costs associated with any transfer.
	Information & Advice	Yes	<ul style="list-style-type: none"> It is not clear that there would be significant benefit in a NMD model rather than a NDPB model and there would be costs associated with any transfer.
	Good Practice Service	Yes	<ul style="list-style-type: none"> As with an NDPB, there would be questions about the extent to which the body should operate within the market for paid for good practice services. It is not clear that there would be significant benefit in a NMD model rather than a NDPB model and there would be costs associated with any transfer.

Merge with another body	Collective Conciliation	No	<ul style="list-style-type: none"> • There is no existing body in the public, private or voluntary sector that provides a similar service. • Risks around compromising Acas' independence and diluting or undermining the expertise in a dedicated body.
	Individual Conciliation	No	
	Information & Advice	Yes	<ul style="list-style-type: none"> • Both the Acas Helpline and the Pay and Work Rights Helpline are confidential help lines that provide advice about employment rights. The Pay and Work Rights Helpline specifically provides advice on government enforced employment rights. There is scope for merging the two help lines.
	Good Practice Service	No	<ul style="list-style-type: none"> • There is no existing body with which Acas could easily merge without compromising Acas' independence. • There may be scope for Acas working with other providers (in addition to Acas, there are a number of private sector providers of services including information, advice and guidance, dispute resolution, and training).

Executive Agency	Collective Conciliation	No	<ul style="list-style-type: none"> Separation from Ministers and regulators is important for an independent and impartial service.
	Individual Conciliation	No	<ul style="list-style-type: none"> Separation from Ministers and regulators is important for an independent and impartial service.
	Information & Advice	Yes	<ul style="list-style-type: none"> Although operational in nature they are delivered by relatively small numbers of people-potential diseconomies of scale.
	Good Practice Service	Yes	<ul style="list-style-type: none"> Although operational in nature they are delivered by relatively small numbers of people-potential diseconomies of scale.

Annex C: Summary of governance arrangements operating in Acas

Principles of corporate governance for Executive NDPBs	Comments	Assessment
ACCOUNTABILITY		
Statutory Accountability: The public body complies with all applicable statutes and regulations, and other relevant statements of best practice.		Green
The public body must comply with all statutory and administrative requirements on the use of public funds. This includes the principles and policies set out in the HMT publication “Managing Public Money” ²⁰ and Cabinet Office/HM Treasury spending controls.	This is the case. Acas has a formally designated Accounting Officer (AO) and lay their annual accounts before Parliament. The role, responsibilities and accountability of the AO and the requirement to comply with HMT guidance is set out in the AO’s appointment letter	Comply
The public body must operate within the limits of its statutory authority and in accordance with any delegated authorities agreed with the sponsoring department.	This is the case. The National Audit Office (NAO) check annually that Acas operate within their authority as part of the audit process and issue their audit certificate as part of the audit of the annual accounts.	Comply
The public body should operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000. It should have a comprehensive Publication Scheme. It should proactively release information that is of legitimate public interest where this is consistent with the provisions of the Act.	It has not been clear historically whether Acas is covered under the Freedom of Information (FOI) Act; however the position has been clarified following recent changes in the Enterprise and Regulatory Reform Act. Acas officials have been working with BIS to put in place the final arrangements for proactively publishing Acas information on the data.gov.uk website and will provide regular updates to the BIS Transparency Board	Explain

	<p>going forward. A prohibition will protect Acas' sensitive data from disclosure.</p> <p>Acas does not currently have a comprehensive publication scheme but will introduce one as part of its move to implement changes to comply with the FOI Act. Acas currently publishes extensive evidence gained from research and evaluation activity and wider policy research, and the website lists all those publications that are freely available.</p>	
The public body must be compliant with Data Protection legislation.	Acas has a data protection policy which complies with legislation in this area. This policy was introduced in October 2011 and will be reviewed by Acas prior to the annual Security Policy Framework review in March this year.	Comply
The public body should be subject to the Public Records Acts 1958 and 1967.	Details of how Acas complies with these Acts are covered in the organisation's overarching Information Management policy. This was introduced in February 2012 and will be reviewed and updated if necessary in time for the Security Policy Framework review.	Comply

<p>Accountability for Public Money: The Accounting Officer of the public body is personally responsible and accountable to Parliament for the use of public money by the body and for the stewardship of assets.</p>		Green
<p>There should be a formally designated Accounting Officer for the public body. This is usually the most senior official (normally the Chief Executive).</p>	<p>This is the case. The CEO is the AO.</p>	Comply
<p>The role, responsibilities and accountability of the Accounting Officer should be clearly defined and understood. The Accounting Officer should have received appropriate training and induction. The public body should be compliant with the requirements set out in “Managing Public Money”, relevant Dear Accounting Officer letters and other directions. In particular, the Accounting Officer of the NDPB has a responsibility to provide evidence-based assurances required by the Principal Accounting Officer (PAO). The PAO requires these to satisfy him or herself that the Accounting Office responsibilities are being appropriately discharged. This includes, without reservation, appropriate access of the PAO’s internal audit service into the NDPB.</p>	<p>This is clearly defined in the Annual Report and Accounts. The CEO has received appropriate AO induction training. The records of AO training should be regularly reviewed and updated.</p>	Comply
<p>The public body should establish appropriate arrangements to ensure that public funds:</p> <ul style="list-style-type: none"> - are properly safeguarded; - used economically, efficiently and effectively; - used in accordance with the statutory or other authorities that 	<p>The Finance Director prepares a budget based on the total level of funding available, which includes Grant in Aid funding from BIS and income generated from Good Practice Services, which is approved by the Executive Board. Regular Financial Monitoring Reviews occur throughout the year to consider variations to the</p>	Comply

<p>govern their use; and</p> <p>- deliver value for money for the Exchequer as a whole.</p>	<p>approved budget which are presented to the Executive Board for approval.</p> <p>There are robust systems in place within Acas and the opportunities for BIS as the main sponsor of the finding to effectively scrutinise how the monies are spent should be extended.</p>	
<p>The public body's annual accounts should be laid before Parliament. The Comptroller and Auditor General should be the external auditor for the body.</p>	<p>Unqualified audited accounts were published and laid in Parliament on 13 July 2012</p>	<p>Comply</p>

<p>Ministerial Accountability:</p> <p>The Minister is ultimately accountable to Parliament and the public for the overall performance of the public body.</p>		Amber/Green
<p>The Minister and sponsoring department should exercise appropriate scrutiny and oversight of the public body.</p>	<p>This is not the case.</p> <p>There is a statutory requirement that Acas is not subject to Ministerial Direction and an overarching governing body – The Acas Council – was established by statute to provide oversight and set the strategic direction of Acas. This means that the public body operates on a largely autonomous basis and Ministers have limited opportunity to scrutinise Acas compared to other public bodies that the Department sponsors. At working level, BIS receives detailed management information and performance review data to help it scrutinise Acas performance. These arrangements should both continue and be extended to a senior level, in particular so that the relationship operates on a more strategic basis. The arrangements should be formalised in an updated Framework document,</p>	Explain
<p>Appointments to the board should be made in line with any statutory requirements and, where appropriate, with the <i>Code of Practice</i> issued by the Commissioner for Public Appointments.</p>	<p>Appointments to the Acas Council are in accordance with the Oversight Commission for Public Appointments (OCPA) Code of Practice. BIS leads on the recruitment process.</p>	Comply

<p>The Minister will normally appoint the Chair and all non-executive board members of the public body and be able to remove individuals whose performance or conduct is unsatisfactory.</p>	<p>The Secretary of State exercises this right under the OCPA Code of Practice and all appointments to the Acas Council have proceeded accordingly.</p> <p>Performance reviews are taken into account at reappointment stage.</p>	<p>Comply</p>
<p>The Minister should be consulted on the appointment of the Chief Executive and will normally approve the terms and conditions of employment</p>	<p>There is a statutory requirement (contained in section 251 of the Trade Union and Labour Relations (Consolidation) Act 1992) for the Secretary of State to approve the terms and conditions of appointment of the secretary (Chief Executive Officer). The legislation also says that the Secretary of State shall not give his consent without the approval of the Treasury. This procedure was followed for the appointment of the new Acas CEO.</p>	<p>Comply</p>
<p>The Minister should meet the Chair and/or Chief Executive on a regular basis.</p>	<p>Meetings in recent years have been ad-hoc. The Acas Chair and CEO met with the Employment Relations Minister at the end of 2012.</p>	<p>Explain</p>
<p>A range of appropriate controls and safeguards should be in place to ensure that the Minister is consulted on key issues and can be properly held to account. These will normally include:</p> <p>a) a requirement for the public body to consult the Minister on the corporate and/or operational business plan;</p> <p>b) a requirement for the exercise of particular functions to be subject to guidance or approval from the</p>	<p>Controls a) to c) - Not all of the points a to c are relevant given the statutory nature of the public body.</p> <p>At working level, Acas officials consult BIS during the formulation of some strategic documents such as the Corporate Plan, but there is insufficient opportunity for Ministers to provide high level strategic steer and challenge. Clarity on the scope of the roles and responsibilities of</p>	<p>Explain</p>

<p>Minister;</p> <p>c) a general or specific power of Ministerial direction over the public body;</p> <p>d) a requirement for the Minister to be consulted by the public body on key financial decisions. This should include proposals by the public body to: (i) acquire or dispose of land, property or other assets; (ii) form subsidiary companies or bodies corporate; and (iii) borrow money; and</p> <p>- a power to require the production of information from the public body which is needed to answer satisfactorily for the body's affairs.</p>	<p>Ministers is essential, as is a review of the controls and safeguards in place to facilitate Ministerial accountability.</p> <p>Control d) – The actions described are outside of Acas delegated authority and Acas, therefore, needs to seek prior approval from BIS for these.</p>	<p>Comply</p>
<p>There should be a requirement to inform Parliament of the activities of the public body through publication of an annual report</p>	<p>The most recent Acas Annual Report and Accounts have been published and were presented to Parliament on 13 July 2012.</p>	<p>Comply</p>

ROLES AND RESPONSIBILITIES		
<p>Role of the Sponsoring Department: The departmental board ensures that there are robust governance arrangements with the board of each arm's length body. These arrangements set out the terms of their relationship and explain how they will be put in place to promote high performance and safeguard propriety and regularity. There is a sponsor team within the department that provides appropriate oversight and scrutiny of, and support and assistance to, the public body.</p>		Amber/Green
<p>The departmental board's regular agenda should include scrutiny of the performance of the public body. The departmental board should establish appropriate systems and processes to ensure that there are effective arrangements in place for governance, risk management and internal control in the public body.</p>	<p>This is not the case.</p> <p>Scrutiny of Acas is not covered by the Departmental Board.</p> <p>Acas has internal systems and processes in place to ensure effective governance and internal control, but clarity surrounding the relationship between BIS and Acas is necessary to agree how BIS can challenge and influence Acas' activities.</p> <p>BIS would benefit from more systematic and formalised scrutiny – particularly given that BIS provides the bulk of Acas' funding (£48m in 2011/12) in the form of Grand in Aid.</p>	Explain

<p>There should be a Framework Document in place which sets out clearly the aims, objectives and functions of the public body and the respective roles and responsibilities of the Minister, the sponsoring department and the public body. This should follow relevant Cabinet Office and HM Treasury guidance. The Framework Document should be published. It should be accessible and understood by the sponsoring department, all board members and by the senior management team in the public body. It should be regularly reviewed and updated.</p>	<p>A Framework Document exists but has not been subject to recent review.</p> <p>BIS and Acas are currently exploring an updated version.</p>	<p>Explain</p>
<p>There should be a dedicated sponsor team within the parent department. The role of the sponsor team should be clearly defined.</p>	<p>There is a dedicated sponsor team within the Labour Market Directorate of BIS. There is a good relationship at working level, however the scope of the roles and responsibilities of the Sponsor Team needs to be clarified and formalised in an updated Framework Document.</p>	<p>Explain</p>
<p>There should be regular and ongoing dialogue between the sponsoring department and the public body. Senior officials from the sponsoring department may as appropriate attend board and/or committee meetings. There might also be regular meetings between relevant professionals in the sponsoring department and the public body.</p>	<p>There are good relationships in place at working level. These should be continued and extended, and steps are being taken to increase the frequency of meetings at all levels. However BIS Ministers and the BIS Board do not currently have sufficient access to information and data to be able to effectively scrutinise funding and challenge performance at a strategic level. This position should be rectified. BIS attendance at Council meetings would likely help to address this.</p>	<p>Explain</p>

<p>Role of the Board: The public body is led by an effective board which has collective responsibility for the overall performance and success of the body. The board provides strategic leadership, direction, support and guidance.</p> <p>The board – and its committees – have an appropriate balance of skills, experience, independence and knowledge.</p> <p>There is a clear division of roles and responsibilities between non-executive and executives. No one individual has unchallenged decision-making powers.</p>		Green
<p>The board of the public body should:</p> <ul style="list-style-type: none"> - meet regularly; - retain effective control over the body; and - effectively monitor the senior management team. 	<p>The Board (known as the Acas Council) met every 2 months in FY 2011-12.</p> <p>The Council sets the strategic direction, policies and priorities, and makes sure that Acas meets agreed strategic objectives and targets.</p> <p>The day-to-day operations are managed by the CEO and a management board (the Executive Board) that includes national and regional directors.</p> <p>The Council holds the Executive Board to account through the CEO.</p>	Comply
<p>The size of the board should be appropriate.</p>	<p>This is the case. There were 11 members plus the chair throughout 2011/12.</p>	Comply

<p>Board members should be drawn from a wide range of diverse backgrounds.</p>	<p>The Acas Council and sub-committees of the Council includes key social partners from business and unions, as well as independent members.</p>	<p>Comply</p>
<p>The board should establish a framework of strategic control (or scheme of delegated or reserved powers). This should specify which matters are specifically reserved for the collective decision of the board. This framework must be understood by all board members and by the senior management team. It should be regularly reviewed and refreshed.</p>	<p>The Council's remit is set out in Acas' Corporate Governance Framework document, as are the parameters of the Acas Council's strategic control and the decisions that are specifically reserved for it.</p> <p>The Acas Council maintains oversight of the organisation's corporate governance and risk management responsibilities. It can remit certain decisions to its Audit and/or HR sub-committees, membership of which is drawn from the Acas Council.</p>	<p>Comply</p>
<p>The Board should establish formal procedural and financial regulations to govern the conduct of its business.</p>	<p>As the Acas Council is made up entirely of non-executive members they do not have direct responsibility for process and financial regulation which is delegated to the CEO, who is also the AO. However, the specific role and responsibilities of the Council include setting Acas' strategic direction, policies and priorities, and making sure that everything Acas does meets agreed strategic objectives and targets.</p>	<p>Comply</p>
<p>The Board should establish appropriate arrangements to ensure that it has access to all such relevant information, advice and resources as is necessary to enable it to carry out</p>	<p>The CEO is responsible for ensuring the Acas Council receives the required assurance that all statutory, regulatory and financial</p>	<p>Comply</p>

its role effectively.	matters are complied with. She attends each Council meeting.	
The Board should make a senior executive responsible for ensuring that appropriate advice is given to it on all financial matters.	Direct responsibility for process and financial regulation is delegated to the CEO, who is also the Accounting Officer.	Comply
The Board should make a senior executive responsible for ensuring that Board procedures are followed and that all applicable statutes and regulations and other relevant statements of best practice are complied with.	This is the responsibility of the Chair.	Comply
The Board should establish a remuneration committee to make recommendations on the remuneration of top executives ²⁵ . Information on senior salaries should be published. The board should ensure that the body's rules for recruitment and management of staff provide for appointment and advancement on merit.	There is a remuneration committee. Information on senior salaries is published and rules for recruitment and management of staff provide for appointment and advancement on merit Acas adheres to the Civil Service Commission recruitment principles.	Comply
The Chief Executive should be accountable to the Board for the ultimate performance of the public body and for the implementation of the Board's policies. He or she should be responsible for the day-to-day management of the public body and should have line responsibility for all aspects of executive management.	This is the case. The CEO has responsibility for the overall management and staffing of Acas and for its procedures in financial and other matters, including conduct and discipline. This involves the promotion by leadership and example of the values embodied in the Committee on Standards in Public Life's Seven Principles of Public life. The CEO is also Acas' AO.	Comply

	<p>This role carries with it personal responsibility for the propriety and regularity of the public finances for which the CEO is answerable and for ensuring that appropriate advice is given to the Acas Council on all matters relating to financial propriety and regularity, for the keeping of proper accounts and for the efficient and effective use of such resources.</p>	
<p>There should be an annual evaluation of the performance of the board and its committees – and of the Chair and individual board members</p>	<p>The Acas Council has used annual standalone reflection days to undertake self assessment exercises regarding their effectiveness as a board, and to take stock on current and future challenges for Council and Acas as a whole</p> <p>All Council members undergo an annual appraisal process conducted by the Acas Chair.</p> <p>Under the terms of their appointment the Chair of the Acas Council must participate in a performance review at least twice in each period of appointment.</p>	<p>Comply</p>

Role of the Chair: The Chair is responsible for leadership of the board and for ensuring its overall effectiveness.		Green
The board should be led by a non-executive Chair.	There is a non-executive Chair.	Comply
There should be a formal, rigorous and transparent process for the appointment of the Chair. This should be compliant with the <i>Code of Practice</i> issued by the Commissioner for Public Appointments. The Chair should have a clearly defined role in the appointment of non-executive board members.	Appointments to the Acas Council including those of both the Chair and other members follow the Code of Practice for Ministerial Appointments to Public Bodies.	Comply
<p>The duties, role and responsibilities, terms of office and remuneration of the Chair should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance²⁸ and with any statutory requirements. The responsibilities of the Chair will normally include:</p> <ul style="list-style-type: none"> - representing the public body in discussions with Ministers; - advising the sponsoring Department and Ministers about board appointments and the performance of individual non-executive board members; - ensuring that non-executive board members have a proper knowledge and understanding of their corporate role and responsibilities. The Chair should ensure that new members undergo a proper induction process and is normally responsible for undertaking an annual assessment of non-executive board members' performance; 	<p>The duties, term of office and remuneration are set out in writing. Terms and conditions are in line with CO guidance.</p> <p>The Chair has particular responsibility for providing effective strategic leadership on such matters as:</p> <ul style="list-style-type: none"> - formulating the Council's strategy for discharging its statutory duties - representing the views of the Council to government, practitioner and other bodies concerned with employment relations and to the general public - encouraging high standards of propriety, and promoting efficient and effective use of staff and other resources throughout the Service - ensuring that the Council, in reaching decisions, takes proper account of relevant guidance provided by the 	Comply

<ul style="list-style-type: none"> - ensuring that the board, in reaching decisions, takes proper account of guidance provided by the sponsoring department or Ministers; - ensuring that the board carries out its business efficiently and effectively; - representing the views of the board to the general public; and - developing an effective working relationship with the Chief Executive and other senior staff. 	<p>Secretary of State for Business Innovation and Skills (BIS) and his Department.</p> <p>The Chair is also responsible for</p> <ul style="list-style-type: none"> - providing the BIS Secretary of State with an assessment of performance of individual Members of the Council when they are being considered for reappointment to the Council or appointment to the Board of some other public body. - ensuring that all Members of the Council, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities. 	
<p>The roles of Chair and Chief Executive should be held by different individuals.</p>	<p>This is the case.</p>	<p>Comply</p>

<p>Role of Non-Executive Board Members: As part of their role, non-executive board members provide independent and constructive challenge.</p>		Green
<p>There should be a majority of non-executive members on the board.</p>	<p>The Acas Council is made up of entirely Non-executive members (and the Executive Board, has no independent members)</p>	Comply
<p>There should be a formal, rigorous and transparent process for the appointment of non-executive members of the board. This should be compliant with the <i>Code of Practice</i> issued by the Commissioner for Public Appointments</p>	<p>Appointments to the Acas Council follow the Code of Practice for Ministerial Appointments to Public Bodies.</p>	Comply
<p>The duties, role and responsibilities, terms of office and remuneration of non-executive board members should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements. The corporate responsibilities of non-executive board members (including the Chair) will normally include:</p> <ul style="list-style-type: none"> - establishing the strategic direction of the public body (within a policy and resources framework agreed with Ministers); - overseeing the development and implementation of strategies, plans and priorities; - overseeing the development and review of key performance targets, including financial targets; - ensuring that the public body complies with all statutory and administrative requirements on the 	<p>Responsibilities of the Council include:</p> <ul style="list-style-type: none"> - establishing Acas' overall strategic direction within the policy framework set out in statute and the resources framework agreed with the Secretary of State for Business Innovation and Skills (BIS) - overseeing the delivery of planned results by monitoring performance against agreed strategic objectives and targets which take into account any guidance issued by the Department for Business Innovation and Skills (BIS) - ensuring that the Council operates within the limits of its statutory authority, within the limits of the Council's financial authority agreed with the Department for Business Innovation and Skills (BIS), 	Comply

<p>use of public funds;</p> <ul style="list-style-type: none"> - ensuring that the board operates within the limits of its statutory authority and any delegated authority agreed with the sponsoring department; - ensuring that high standard of corporate governance are observed at all times. This should include ensuring that the public body operates in an open, accountable and responsive way; and - representing the board at meetings and events as required. 	<p>and in accordance with any other conditions relating to the use of public funds. Members of the Council have a duty to ensure that public funds - which for this purpose should be taken to include all forms of receipts from fees, charges and other sources - are properly safeguarded and that Acas conducts its operations as economically, efficiently and effectively as possible, with full regard to relevant statutory provisions</p> <ul style="list-style-type: none"> - formulating a strategy for implementing the Code of Practice on Access to Government Information, including prompt response to public requests for information - ensuring that the Service operates sound environmental policies and practices in accordance with relevant Government guidance - ensuring that high standards of corporate governance are observed at all times. <p>Council members also have a suite of individual objectives against which they are annually appraised.</p> <p>Members of the Council have corporate responsibility to ensure that the Service complies with any statutory and appropriate administrative requirements for the use of public funds.</p>	
<p>All non-executive Board members must be properly independent of</p>	<p>The Council are independent of management. They</p>	<p>Comply</p>

management.	receive reports and advice from management in order to discharge their duties but they do not undertake any executive duties.	
All non-executive board members must allocate sufficient time to the board to discharge their responsibilities effectively. Details of board attendance should be published (with an accompanying narrative as appropriate).	The Council attendance details for 2011-12 were published in the 2012 Annual Report.	Comply
There should be a proper induction process for new board members. This should be led by the Chair. There should be regular reviews by the Chair of individual members' training and development needs.	All non-execs receive a comprehensive induction pack and induction day upon appointment. They are also able to request any additional information they feel they need in order to discharge their responsibilities. They have an opportunity to undertake area office visits to learn in more detail about the organisation's service delivery functions.	Comply

EFFECTIVE FINANCIAL MANAGEMENT: The public body has taken appropriate steps to ensure that effective systems of financial management and internal control are in place.		Green
<i>Annual Reporting:</i> The body must publish on a timely basis an objective, balanced and understandable annual report. The report must comply with HM Treasury guidance.	The Annual Report was published and laid in Parliament in line with HMT guidance	Comply
<i>Internal Controls:</i> The public body must have taken steps to ensure that effective systems of risk management are established as part of the systems of internal control.	The risk management system is clearly set down in the Annual Report. The framework is comprehensive and agreed with internal audit.	Comply
The public body must have taken steps to ensure that an effective internal audit function is established as part of the systems of internal control. This should operate to Government Internal Audit Standards and in accordance with Cabinet Office guidance	Acas has its Internal Audit service provided by the BIS Internal Audit Shared Service. The service they provide complies with the requirements set down in HMT's Government Internal Audit Standards	Comply
There must be appropriate financial delegations in place. These should be understood by the sponsoring department, by board members, by the senior management team and by relevant staff across the public body. Effective systems should be in place to ensure compliance with these delegations. These should be regularly reviewed.	Financial delegations are in place and communicated to staff via letters of delegation. Internal audit reviews compliance with these as part of their audit plan.	Comply
There must be effective anti-fraud and anti-corruption measures in place.	Anti-fraud and anti-corruption measures are set out in the Code of Conduct for staff and the Procurement Guide.	Comply

<p>There must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure compliance with these rules. The public body should proactively publish information on expenses claimed by board members and senior staff.</p>	<p>A travel and expenses policy is in place.</p> <p>Acas does not currently publish information on expenses claimed by Board members and senior staff. Acas will consider how to address this going forward.</p>	<p>Explain</p>
<p>The annual report should include a statement on the effectiveness of the body's systems of internal control.</p>	<p>This is the case.</p>	<p>Comply</p>
<p><i>Audit Committee:</i> The board should establish an audit (or audit and risk) committee with responsibility for the independent review of the systems of internal control and of the external audit process.</p>	<p>Acas has an audit committee which meets at least 4 times a year. It has explicit responsibility for an independent review of the systems of internal control, external audit and risk management.</p>	<p>Comply</p>
<p><i>External Auditors:</i> The body should have taken steps to ensure that an objective and professional relationship is maintained with the external auditors.</p>	<p>An objective and professional relationship with external auditors is maintained through the Audit Committee and through regular meetings with the NAO</p>	<p>Comply</p>

<p>COMMUNICATIONS: The Public Body is open, transparent, accountable and responsive.</p>		<p>Amber/Green</p>
<p><i>Communications with Stakeholders:</i> The public body should have identified its key stakeholders. It should establish clear and effective channels of communication with these stakeholders.</p>	<p>Acas uses a guidance panel to test out new guidance and undertake research to learn more about the needs of customers. This commitment to communicating and engaging with stakeholders is set out in the corporate governance framework document.</p>	<p>Acas seeks opportunities to engage with stakeholders when formulating guidance and in developing their services. Acas has links with other public bodies and contribute to public policy making through research and analysis. Their area teams engage with local stakeholders and in most areas Acas have an Employment Relations Forum to enable effective stakeholder engagement.</p> <p>Comply</p>

<p><i>Communications with the Public:</i> The public body should make an explicit commitment to openness in all its activities. It should engage and consult with the public on issues of real public interest or concern. This might be via new media. It should publish details of senior staff and boards members together with appropriate contact details.</p>	<p>The Acas website provides updates on employment law and other employment relations information.</p> <p>Details of senior staff and board members are published, but not specific contact information.</p> <p>The website details how correspondence is to be handled.</p> <p>Acas is in the process of updating its Complaints policy.</p>	<p>Explain</p>
<p>The public body should consider holding open board meetings or an annual open meeting.</p>	<p>This is not the case. Acas does not hold open Council meetings due to the need for confidentiality within the environment that they operate.</p>	<p>Explain</p>
<p>The public body should proactively publish agendas and minutes of board meetings.</p>	<p>This is not the case. Acas does not publish the minutes from their meetings publicly due to the need for confidentiality within the environment that they operate.</p>	<p>Explain</p>
<p>The public body should proactively publish performance data.</p>	<p>Acas performance data is published in the Annual Report.</p>	<p>Comply</p>
<p>In accordance with transparency best practice, public bodies should consider publishing their spend data over £500. By regularly publishing such data and by opening their books for public scrutiny, public bodies can demonstrate their commitment to openness and transparency and to making themselves more accountable to the public.</p>	<p>Acas publishes spend data as required.</p>	<p>Comply</p>

<p>The public body should establish effective correspondence handling and complaint procedures. These should make it simple for members of the public to contact the public body and to make complaints. Complaints should be taken seriously. Where appropriate, complaints should be subject to investigation by the Parliamentary Ombudsman. The public body should monitor and report on its performance in handling correspondence.</p>	<p>The website sets out how correspondence is handled: Reference is made to the Ombudsman's involvement in complaint handling. Acas is currently in the process of updating their Complaints policy which will be complete by end May 2013.</p>	<p>Comply</p>
<p><i>Marketing and PR:</i> The public body must comply with the Government's conventions on publicity and advertising. These conventions must be understood by board members, senior managers and all staff in press, communication and marketing teams.</p>	<p>Acas is compliant with the current cross-Government freeze on marketing.</p>	<p>Comply</p>
<p>Appropriate rules and restrictions must be in place limiting the use of marketing and PR consultants.</p>	<p>This is the case.</p>	<p>Comply</p>
<p>The public body should put robust and effective systems in place to ensure that the public body is not, and is not perceived to be, engaging in political lobbying. This includes restrictions on board members and staff attending Party Conferences in a professional capacity</p>	<p>Acas adheres to the Civil Service Code on political activity, and refers staff to the Personnel Handbook on Staff Rules.</p>	<p>Comply</p>

<p>CONDUCT AND BEHAVIOUR: The board and staff of the public body work to the highest personal and professional standards. They promote the values of the public body and of good governance through their conduct and behaviour.</p>		Green
<p><i>Conduct:</i> A Code of Conduct must be in place setting out the standards of personal and professional behaviour expected of all board members. This should follow the Cabinet Office Code36. All members should be aware of the Code. The Code should form part of the terms and conditions of appointment.</p>	<p>There is a code of conduct in place for Council members, which draws on that issued by CO.</p>	Comply
<p>The public body has adopted a Code of Conduct for staff. This is based on the Cabinet Office model Code37. All staff should be aware of the provisions of the Code. The Code should form part of the terms and conditions of employment.</p>	<p>Staff conduct is set out in the Acas personnel handbook.</p> <p>In the 2012 People Survey, 78% of people indicated they were aware of the Civil Service Code (up from 73% in 2011), 55% indicated they knew how to raise a concern under the code (up from 49% in 2011), and 71% indicated they were confident that Acas would investigate a concern if it was raised (up from 66% in 2011).</p>	Comply
<p>There are clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for board members and senior staff. This is regularly updated.</p>	<p>This is the case. The Register of Interests for Council members is published on the Acas website.</p> <p>The personnel handbook also sets out a section on external activities and personal conflict.</p>	Comply

<p>There are clear rules and guidelines in place on political activity for board members and staff. There are effective systems in place to ensure compliance with any restrictions.</p>	<p>The letter of appointment sets out clear guidelines on political activity and conflicts of interest for Council members. For staff this is laid out in staff code of conduct section of the personnel handbook.</p>	<p>Comply</p>
<p>There are rules in place for board members and senior staff on the acceptance of appointments or employment after resignation or retirement. These are effectively enforced.</p>	<p>The personnel handbook contains guidance on appointments following resignation or retirement.</p> <p>There is reference in resignation acceptance letters to outside appointments for staff up to but not including SCS.</p> <p>Council Members attention is now drawn to the Code of best practice for the Council of Acas on their appointment and re-appointment for a further term. The Code draws on the model Code of Conduct for Board Members of Public Bodies.</p>	<p>Explain</p>
<p><i>Leadership:</i> Board members and senior staff should show leadership by conducting themselves in accordance with the highest standards of personal and professional behaviour and in line with the principles set out in respective Codes of Conduct.</p>	<p>There is a Code of Practice for Council members and one of the responsibilities of the Chair is to ensure that Council members are made aware of this and abide by it. There is a staff handbook in place setting out the codes of conduct that all staff are expected to adhere to.</p>	<p>Comply</p>

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This publication available from www.gov.uk/bis

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BIS/13/P191