

**acas** working  
for everyone

**Acas response**

# Good work plan

Consultation on establishing a single enforcement body  
for employment rights

October 2019



## Introduction

Acas welcomes the opportunity to respond to the Government's consultation on the case for establishing a new single labour market enforcement body for employment rights.

Acas is a statutory, non-departmental public body with a duty to improve employment relations in Great Britain. We have considerable practical experience of the dynamics of the workplace and of issues experienced by individuals in seeking to understand or enforce their employment rights. In 2019/19, we handled approximately 730,000 calls to our national helpline from both employers and employees and our website received over 11 million visits from individuals seeking advice and support. During the year we provided conciliation in approximately 600 collective disputes and also received around 2,500 early conciliation notifications per week. Our network of locally-based advisers also trained over 34,000 people on a wide range of workplace-related topics.

As the Government knows, Acas plays an important role as a gateway into the following three enforcement agencies: the HMRC, the Gangmasters and Labour Abuse Authority and the Employment Agency Standards Inspectorate<sup>1</sup>. Since taking on this role in 2015 we have worked closely with the enforcement bodies to both increase the understanding of our respective roles and to streamline the process for making enforcement referrals and signposting customers. In 2018/19 over 2,300 referrals were made by Acas to the three enforcement agencies. We have good relations with all of the current enforcement agencies and would be very happy to work closely with any new single enforcement body if that is a course of action the Government chooses to follow.

We set out below Acas' response to those questions that we feel it most appropriate for us to answer drawing on our knowledge and experience.

## Questions

### **3. What do you think would be the benefits, if any, of a single enforcement body?**

Acas feels that the potential benefits of a single enforcement agency are very much those set out in the Government's consultation document.

This includes the possibility of raising the visibility of enforcement options overall as well as bringing greater clarity for both workers and employers. Having a single agency instead of three could make it more straightforward to signpost both workers and employers and raise their awareness of where to seek help and advice. This is particularly important for reaching high risk sectors and the more vulnerable workers in society, many of whom are likely to have limited understanding of their

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<sup>1</sup> Acas also acts as a gateway to the HSE on enforcement of the Working Time Regulations.

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employment rights and possibly poor English and are thus likely to need special help. As the consultation document makes clear, a single agency would also allow for more coordination across the different employment rights covered by the existing bodies and provide users with a more integrated service. This will be predicated on sufficient capacity and resources to allow adequate data sharing – an issues which should be fully explored prior to embarking on a single agency being created.

Having a single body would also provide scope for economies of scale although Acas notes and welcomes the Government's commitment to provide adequate funding for enforcement through the Spending Review. As Sir David Metcalf has made clear, significant progress has been made in supporting vulnerable workers who wish to enforce their rights thanks in large part to an increase in government funding and it would be unfortunate if these gains were to be lost in any move to a single agency.

### **4. What do you think would be the risks, if any, of a single enforcement body?**

Acas recognises the potential benefits that could flow from the creation of a single agency but is also mindful of the potential risks including the dilution or loss of specialism in relation to handling the very different scenarios dealt with by the current agencies. The advantages of seeking consistency and fairness need to be weighted against the risk of drifting towards a 'one size fits all' approach and the need to take account of the differences inherent in responding to a wide spectrum of issues and scenarios. When considering the risks of setting up a single enforcement agency and also its benefits the government may wish to reflect on the lessons learned from the experience of merging the three former equality bodies (The EOC the CRE and the DRC) into the Equality and Human rights Commission in 2007.

Finally, setting up a new single agency will take time, effort and adequate resources if it is to be done properly and this needs to be factored in to any decision that is taken.

### **7. Should a single enforcement body take on enforcement of statutory sick pay if this process is strengthened? Y/N, please explain your answer.**

Yes. The potential to strengthen enforcement of statutory sick pay is important, and the government should consider the opportunities for bringing this into any new enforcement regime. It will be important to align this with other considerations set out by the DWP and DOH in its consultation "[Health is everyone's business: proposals to reduce ill health-related job loss.](#)"

### **8. Should a single enforcement body have a role in relation to discrimination and harassment in the workplace? Y/N, please explain your answer.**

No. Acas is not aware of any particular problems with, or gaps in, the enforcement role currently performed by the EHRC. We would suggest therefore that, unless problems or gaps are identified by other responders to the consultation, issues of discrimination and harassment in the workplace be left to EHRC who have developed the specialism to handle these complex and sensitive matters.

### **9. What role should a single enforcement body play in enforcement of employment tribunal awards?**

Acas plays no role in the enforcement of tribunal awards or in the enforcement of COT 3 settlements reached following the intervention of one of our individual conciliators. We do however know from research that COT 3 settlements are far more likely to be paid than are tribunal awards.

We note the government's proposal to move the existing BEIS ET penalty scheme (which involves the government fining respondents for late payments) to a new single enforcement agency, if one were to be created and, we would be fully supportive of such a move. The consultation document does not mention whether the current naming and shaming scheme, which is linked with the BEIS penalty scheme, would also be moved to a new single enforcement agency. COT 3 settlements are not currently covered by the naming and shaming scheme and we would wish this situation to continue if the naming and shaming scheme was to be taken on by any new enforcement agency.

### **10. Do you believe a new body should have a role in any of the other areas? If yes, please explain your answer.**

No?

### **12. Should enforcement focus on both compliance and deterrence? Y/N, please explain your answer.**

Yes. Acas supports the idea that enforcement should be mix of both compliance and deterrence and wishes to support any future arrangements to maximise reach in both these areas.

We know from our own experience that many problems with enforceable employment rights stem from a lack of understanding or confusion on the part of employers and in such situations educating and supporting compliance can be an appropriate method to deal with the situation.

However, if enforcement is to be effective it does need to be backed up with a strong deterrence element that can tackle those employers who wilfully avoid their legal responsibilities or engage in criminal activity.

### **18. Should a new single enforcement body have a role in providing advice?**

Acas welcomes the Government proposal for Acas to retain its role in referring individuals who wish to pursue an enforcement route to the agencies and in providing guidance to raise awareness of the laws around enforcement in respect of certain rights. This role fits in well with our wider remit of providing help and support to individuals and organisations on the full range of employment rights.

Acas agrees that any future enforcement body would have an important role to play in helping employers, workers and others understand how the enforcement of employment rights works in this country works and what needs to be done to comply

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with the law. Indeed, under the current system complex enforcement queries Acas receives are already passed through to the relevant enforcement agency for specialist advice. It would, of course, be important for the advice and guidance provided by the new body to complement that already offered by Acas and to this end we would be happy to work with any new body to ensure that our respective offerings dovetailed. We are especially keen to do all we can to support the enforcement of employment rights across the full spectrum from compliance to deterrence in so far as our role and responsibilities allow.

**October 2019**