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Hann, D. [orcid.org/0000-0002-6217-4634](https://orcid.org/0000-0002-6217-4634), Latreille, P. [orcid.org/0000-0001-7685-6532](https://orcid.org/0000-0001-7685-6532), Nash, D. [orcid.org/0000-0002-1244-2231](https://orcid.org/0000-0002-1244-2231) et al. (1 more author) (2023) Custodians of contemporary pluralism? Acas' evolving role in addressing conflict during a time of economic and regulatory flux. *Industrial Relations Journal*, 54 (4-5). pp. 321-340. ISSN 0019-8692

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# Custodians of contemporary pluralism? Acas' evolving role in addressing conflict during a time of economic and regulatory flux

Deborah Hann<sup>1</sup>  | Paul Latreille<sup>2</sup> | David Nash<sup>1</sup>  |  
Richard Saundry<sup>3</sup>

<sup>1</sup>Cardiff University, Cardiff, UK

<sup>2</sup>University of Sheffield, Sheffield, UK

<sup>3</sup>University of Westminster, London, UK

## Correspondence

Deborah Hann, Cardiff University,  
Cardiff, UK.

Email: [HannDJ@Cardiff.ac.uk](mailto:HannDJ@Cardiff.ac.uk)

## Abstract

This paper charts the development of Acas over the last two decades as it responds to the changing context of British employment relations. While dispute resolution services have evolved to focus on individual disputes, Acas has remained true to its pluralist roots through its training and advisory services that continue to promote 'good employment relations'.

## 1 | INSTITUTIONAL CONTEXT OF CONFLICT RESOLUTION

This paper provides an overview of the development of Acas and the main factors that have shaped its role, aims and approach, focusing on the last 20 years or so. Acas was established, in its current form, as a key cog in the voluntarist employment relations system of the mid-1970s. Within its broad mission to 'improve employment relations', it was primarily responsible for two of the main pillars of the system developed in response to the report of the Donovan Commission in 1968. First, it was initially charged with an explicit duty to promote collective bargaining, and second, its core operational role, was to resolve collective and individual disputes as an impartial third party. As such, it could be argued that Acas not only embodied a pluralist perspective of the employment relationship but was also placed as its custodian. This in turn was reflected in its tripartite structure and governance—underlining its independence from government and neutrality within the industrial relations system.

In the intervening 50 years, Acas' role has adjusted in response to an increasingly individualised world of work and the dominance of unitarism within government policy and

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HR practice. Indeed, the duty to promote collective bargaining was removed in 1993. Key pressures for change have also come from societal shifts and a political agenda linked to rising levels of Employment Tribunal (essentially labour courts; henceforth Tribunal) claims. Nonetheless, the central purpose of Acas to mediate between the competing sides of the employment relationship has been sustained, but in a manner that has sought to keep pace with the changing nature of work and employment as understood by contemporary pluralists (Heery, 2016). At the same time, the independent role of the Acas council has remained unchanged, while the organisation continues to guard its claim to impartiality and neutrality.

While customer satisfaction and a strong reputation remain organisational hallmarks, senior leaders within Acas have, in recent years, begun to re-examine its approach. Limited resources and the increasing juridification of the employment relationship, within a broader political context of trying to keep individualised conflict out of Tribunals, means that Acas faces multiple tensions. This has necessitated new revenue streams to cover the cost of ‘good practice services’<sup>1</sup> and offer value for money, but also re-examine whether its service offer continues to meet its aims.

Within this paper, we explore the dual impacts of the increase in employment law and growing pressure to provide value for public money have had on Acas. The paper proceeds by first reviewing Acas’ operations, starting with a short explanation of its origins and core values, its leadership structures and the services offered. We then discuss the pressures for change, both internal and external, before considering the degree to which these have influenced Acas’ organisational culture. Finally, the paper explores how the organisation might move forward.

The picture that emerges is one of an organisation that by the end of the 2010s had begun to face major hurdles to the way it undertook its work. In addressing these challenges, the Acas that is emerging appears to be one intended to be more modern, professional and consistent in its approach. However, we also find that Acas has reasserted its core aim of improving employment relations. This prompts a further question that the paper will address: given that much of the institutional architecture underpinning the voluntarist system of British employment relations has disappeared, to what extent can Acas still be viewed as preserving a pluralist approach to resolving workplace conflict?

## 2 | METHODS

The paper takes an inductive approach to examine the evolution of Acas and how it has responded to the changing nature of work over time. This allowed for contextualisation and interpretation of the data gathered with regard to how and why organisational change has occurred. The current study seeks to address three research questions:

1. How has the context within which Acas operates changed over the past 25 years?
2. What are the pressures for change on Acas, both internal and external?
3. How has Acas changed as a result of these pressures?

The research adopts a primarily qualitative approach drawing on two principal data sources—Acas documents spanning the period 2000–2022 and interviews with key actors.

<sup>1</sup>It is worth noting that beyond the good practice services, Acas’ other services remain free of charge, funded by the government.

The documentary analysis draws on publicly available documents to understand how Acas publicly presents its work and how the focus and delivery of its services have changed. Specifically, we drew upon Acas Annual Reports from 2000 to 2022 and Corporate and Strategic Plans from the same period. These documents provided primarily qualitative data on the aims and objectives of Acas, as well as changes in stated strategy and corresponding approaches. The reports, which include statements by the Chairs and Chief Executives of Acas, also offer an insight into Acas' evolving views of the changing British employment relations landscape. The annual reports also contained useful quantitative data relating to a range of issues including service user satisfaction, budgets and staffing levels, together with usage of its service offering.

The second source of data is a programme of semistructured interviews with key Acas personnel. The interviews commenced in the Spring of 2020 with some initial conversations with current or previous mid-level managers within Acas to understand key issues that the organisation was experiencing. The interview plans were then paused due to the COVID pandemic, with the remainder taking place in early 2023. This unplanned pause allowed us to incorporate questions around the major restructure that was finalised during the period within which the interviews with members of the senior management team. Eight interviews occurred in the post-COVID period, which included the Chief Executive and service leads amongst other members of the Executive Board.

Adopting a semistructured approach allowed us to craft themes and questions to meet and match the project aims, but with the flexibility to follow and explore new areas that opened up during discussions, for example, the impact of COVID or relating to the restructuring programme that began halfway through the project. This approach also allowed for detail and richness to answers. While we acknowledge the potential for social desirability bias, we do not feel it impacts the findings as the research questions are concerned with understanding the changes that have taken place rather than evaluating their success.

In analysing the data an inductive thematic approach was adopted guided by the research questions. The analysis of interviews and documents were undertaken in an exploratory manner and the themes were generated as a result of the conversations and data gathered from the documentary analysis. These themes were then collated to tell a story of change within Acas. Taken as a whole, the evidence provides an account of how Acas' role has changed over the last two decades or so, together with an insight into the processes that have driven that change.

### 3 | THE EVOLUTION OF ACAS

While Acas can trace its legislative origins as far back as the Conciliation Act of 1896 (Hawes, 2000) in a more fundamental sense it is the product of the voluntarist tradition of British industrial relations as manifest in the 1960s and 1970s. The 1968 Donovan Commission established to address broader employment relations developments, recommended a permanent tripartite body to supplement the system of voluntary collective bargaining. This was partly as a response to the explosion in collective disputes in Britain at the time but was also in part designed to address a second outcome from the Donovan Commission: the introduction of a legal right to protection from unfair dismissal.

In Great Britain, rights-based disputes between employers and employees are adjudicated by Employment Tribunals (ETs). Previously known as Industrial Tribunals (ITs), these were originally and for a long period tripartite, to reflect the employer and employee and with a

legally trained expert to facilitate discussions, and were intended to be speedy and informal. The establishment of the new right not to be unfairly dismissed led to concern that ITs would be flooded with cases, and so a separate individual grievance conciliation service was established with the twin aims of addressing the high number of collective disputes, and proactively dealing with this potential deluge of individual IT claims. The Conciliation and Arbitration Service was established in 1974 and formally separated from government control. The Advisory part was added a year later to reflect its full range of services when Acas was formally made a statutory body through the Employment Protection Act (EPA) 1975. Acas' founding role within the EPA 1975 was 'promoting the improvement of industrial relations'. Over time this has morphed into 'making working life better for everyone', but it retains the same notion at its core.

In the years since its establishment, Acas has built a reputation for impartiality between employers and employees and independence from government. Although funded by a government department, there is a statutory requirement<sup>2</sup> for impartiality, with the role of the Acas Council being fundamental to this identity and again having a statutory basis.<sup>3</sup> Historically, Acas built this identity through developing relationships with key individuals in the industrial relations sphere, such as employers and union representatives, and often employed experienced employment relations practitioners, who came with extensive professional networks and a contextualised understanding of the world of work.

The election of the Thatcher government in 1979 represented a dramatic disjuncture in political ideology, with erosion of union power and influence. Combined with membership to the EEC/EU this resulted in a shift in emphasis from collective employment relations to individual employment rights. One notable consequence was the removal of Acas' statutory duty to promote collective bargaining. At the same time, its input in conciliating individual cases grew as the number of Tribunal claims rose. Also important historically was the trend towards increasing numbers of individual employment rights, most notably under the Blair government (e.g., the national minimum wage and many others). In this context, Acas' helpline and individual conciliation services continued to grow in volume and importance.

More recently, Acas has begun to change, reflecting the evolution of employment within Britain. While Acas holds an intentionally apolitical position, government agendas have impacted both the work Acas is tasked with performing and the resources to do that work. The 2010 coalition government implemented a programme of austerity that heralded static nominal budgets for Acas (reduced for other parts of the public sector) and necessitated stringent cost management and a growth of its existing income streams, operated on a cost recovery basis since the mid-2000s to support its 'good practice services' (see Figure 1). During the coalition, it is interesting to note there were competing agendas between socially liberal measures such as shared parental leave and austerity.

The changing sociopolitical landscape has thus posed significant challenges to Acas' core mission of promoting good employment relations. This role is partly a function of both Acas' statutory codes of practice and nonstatutory guidance, and has remained intact in the face of a changing funding model and the shift from collective to individualised dispute resolution. The recent restructuring that is detailed below has reaffirmed the importance of the development of good practice employment relations at the heart of Acas.

<sup>2</sup>S.24(3) TULRCA Trade Union and Labour Relations (Consolidation) Act 1992 ([legislation.gov.uk](http://legislation.gov.uk)).

<sup>3</sup>TULRCA s.248.

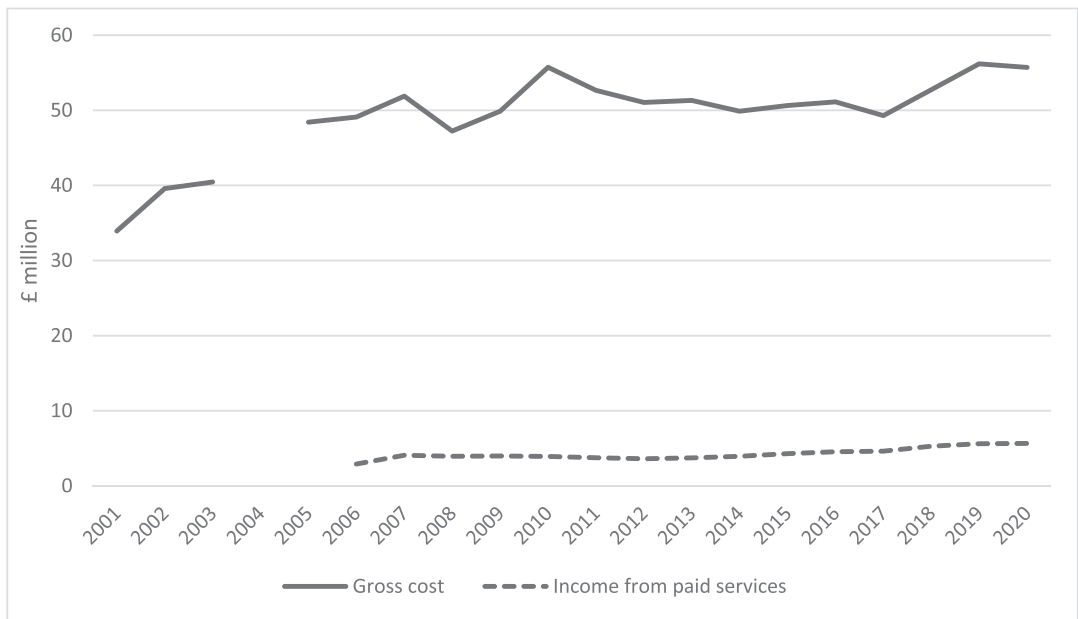


FIGURE 1 Changes in Acas' funding arrangement. *Source:* Acas Annual Reports 2000–2020.

### 3.1 | The operation of Acas

To ensure independence from the government, Acas is governed by a tripartite Council, which shapes its strategic priorities, as well as providing a balanced, impartial voice and assessing strategic risk and opportunities. Council is currently chaired by Clare Chapman, former Director General of Workforce at the Department of Health. The three previous appointees had been senior figures in British trade unions before acting as Acas Chair<sup>4</sup>. Subject to civil service rules, Acas uses the broad experience and insight of Council to collaboratively influence Government, and Acas leadership more generally has developed a strong working relationship with successive governments.

The Executive Board works alongside, and supports, the independent Council in setting the direction of Acas and developing the strategic plan, as well as communicating this direction internally and externally. The Board is responsible for operational running of Acas, delivery of services and the implementation of its strategic ambitions. In 2018, Susan Clews took on the role of CEO. Unlike her predecessors, Clews had a long-established career within Acas having previously been both Strategy Director and Chief Operations Officer, as well as in 'core' roles such as collective conciliator and regional director.

Under Clews' stewardship, Acas has undertaken a significant restructuring programme. The new structure reflects the nature of Acas' contemporary work by creating two separate directorates from the previous single Delivery Directorate which oversaw all of Acas' operational services. Of these new directorates, one is now focused on dispute resolution

<sup>4</sup>Rita Donaghy (2000–2007) who was a senior official in the National and Local Government Officer' Association (later Unison); Ed Sweeney (2007–2014) who was General Secretary of Banking Insurance Finance Union (later Amicus and then UNIFI); and Brendan Barber (2014–2020) who was General Secretary of the Trades Union Congress.

and the other on advice and business solutions (a significant part of this second directorate focuses on 'paid for' services). A parallel development is a move away from regional leadership structures that is designed to create greater consistency of approach, aiming for a 'national service delivered locally' (Interview).

In addition to the new directorates, the transformation package emphasises the importance of data and evidence within Acas going forward. There had always been a historic interest in research evidence, with sponsorship and publication of a significant repository of reports, discussion papers and blogs on a range of employment relations topics. With the creation of the Directorate of Digital, Data and Technology (DDAT), Acas has a renewed systematic focus on drawing more strongly on their own internal operational data to use in internal influencing and service improvement.

The restructuring programme has deliberately been holistic, with an attempt to rethink and modernise. Senior leaders identified organisational imbalance, with decision-making sometimes based on experience over robust data. Finally, changes in Board membership have occurred, involving new members with very different experiences of the public sector, bringing with them new ideas resulting from less in-depth expertise and knowledge about employment relations than directors traditionally held, but also a lack of longer-term attachment to the way Acas had done things previously. The Board has developed a more inquisitive approach, wanting to use data to explore the best options for 21st-century employment relations.

As noted above, Acas has also shifted from an emphasis on regional structures to a more centralised leadership approach. Historically, this regional focus was viewed as important in relationship-building based on knowledge of the local context. Such an approach suffered from problems of inconsistency, with a period of rationalisation in the mid-2010s resulting in some regional offices being closed. The more recent transformation programme has emphasised that centralisation relates solely to leadership, with the aim to ensure service consistency rather than further rationalisation. Indeed, the introduction of key account holders within the individual dispute resolution service has been piloted with the hope of reigniting the contextual understanding of the previous regionalised system.

The centralisation of reporting structures has also helped address core issues with the changing nature of jobs within Acas. Part of the most recent transformation package has been focused on consolidating career pathways at a national level to allow for the creation of specialist teams across regions with a view to building excellence within specialist job roles, as well as the reinvigoration of supporting continuing professional development to ensure all staff are able to react to the changing environment and deliver the best service they are able to.

A key feature of recent years, aligned with the transformation piece and resonating with increasing professionalisation of back-office functions, has been a growth in project-based working. Partly deriving from the appointment of new staff with prior exposure to such concepts but also recognition of a perceived 'strategic capability gap' (Interview), this is central to delivery, and Acas now runs a portfolio of projects with key staff formally qualified as change practitioners. The adoption of language reflecting this shift (e.g., risk, mitigation, etc.) now appears commonplace within Acas, and the former Transformation Board has been renamed as the Project, Portfolio and Change Board.

Alongside structural transformation, senior leaders recognised the need to implement parallel cultural change. Acas is an organisation with low staff turnover, which is likely a reflection of the positive experience of working for the service. Previous attempts by earlier iterations of the Executive Board had left 'suspicion' amongst some Acas staff and union representatives. Acas staff spend much of their professional lives immersed in problematic

employment relations elsewhere, and being experts in what constitutes good employment relations, this inevitably set a high bar for any internal change management process. Given these dynamics, senior leadership felt the need to work through difficulties of culture change in a formalised way and carefully communicate the rationale for the more recent changes.

Having reviewed the structures that Acas operates within, we now consider the services offered by Acas. First, the paper assesses the traditional role of Acas and reviews the collective dispute resolution services before examining the development of its role in individual dispute resolution.

### 3.2 | Collective dispute resolution services

The roots of Acas lie in collective dispute resolution and in particular collective conciliation. Collective conciliation is a free, voluntary service intended to support the employer/union's own negotiations. It primarily addresses pay issues and broader terms and conditions, but also redundancy and other matters. The approach adopted is flexible and looks at all options for finding solutions and creating a positive environment for discussion.

Collective conciliation has seen a slow decline over the years, although the 'success rate'<sup>5</sup> has remained consistently high (see Figure 2).<sup>6</sup> The decline in the use of collective conciliation is the result of a range of issues including the decline in bargaining more broadly, but also a change in the nature of union officers, with collective conciliation being 'an instrument of more "traditional" [union] officers (older, with higher seniority who have served a lay apprenticeship), perhaps employed in more traditional contexts' (Heery & Nash, 2011, p.19). While collective conciliation has waned (albeit with an uptick recently, reflecting a period of turbulence largely arising from the so-called 'cost of living crisis'), it still makes a significant contribution to the overall economic benefit of Acas' work. Urwin (2020) estimated that it contributed a total of £93mn in 2018/19.<sup>7</sup> Collective conciliation also often serves as a signpost to broader support for good employment relations practice. For example, after collective conciliation, Acas worked with the Royal Mail Group and the Communications Workers Union to carry forward the company's modernisation plans (Acas, 2012).

Historically, collective conciliation was undertaken by staff who had built locally focused working relationships with unions and employers; headquarters only involved themselves with collective conciliation in high-profile, national disputes. Over time, however, the Chief Conciliator became less visible, and therefore the service lacked a voice, which meant lower awareness/engagement at strategic level. The role of the Chief Conciliator was further complicated by the fact that collective conciliators are dispersed around the independently operating regions. Within the transformation programme, the continuing value of the collective conciliation is recognised, but with a parallel recognition that this service has gone from primary to one of many Acas offers, albeit with high value (Urwin, 2020).

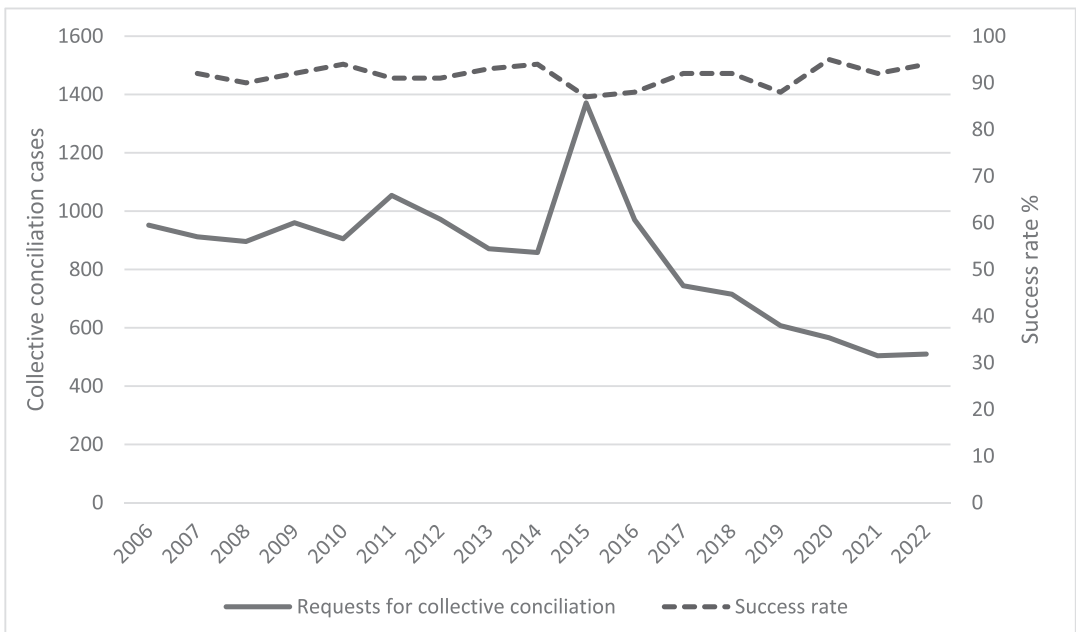
In addition to collective conciliation, Acas also has a relatively little-used collective arbitration service (see Figure 3). This service is likewise free and voluntary, but unlike conciliation, outcomes are binding. The intention behind the collective arbitration service is

<sup>5</sup>Measured by 'Promotion of a settlement or progress towards a settlement in disputes in which Acas is involved'.

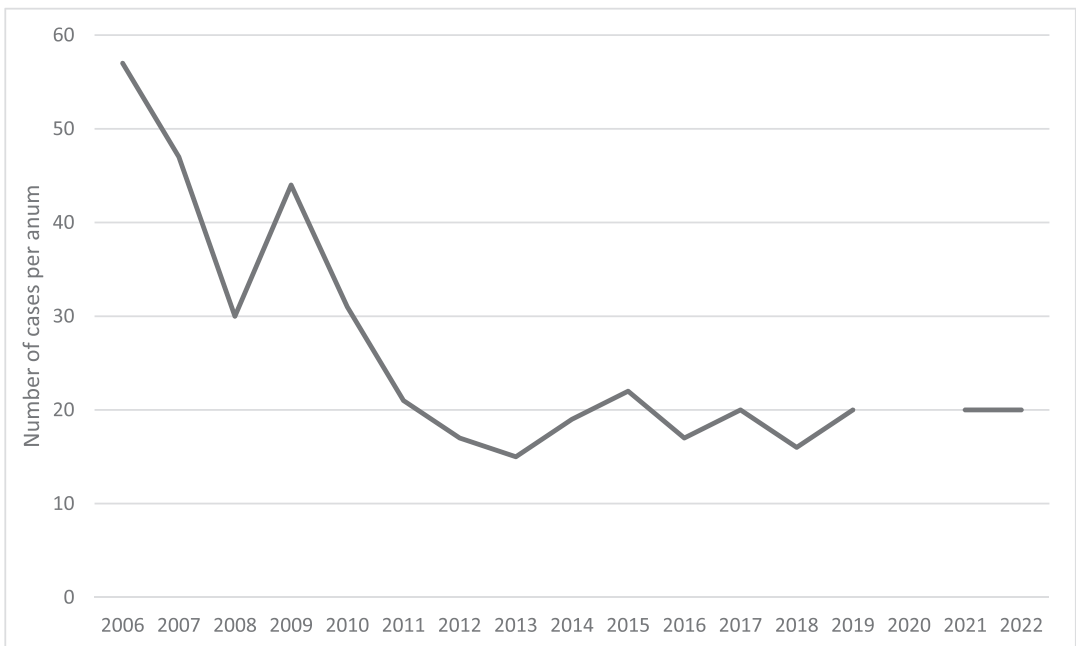
<sup>6</sup>The sharp increase observed in 2015 was primarily due to a spike in cases seeking to clarify holiday pay entitlement, particularly in Scotland (Acas, 2015).

<sup>7</sup>A cost-benefit ratio of 1:74 compared with just 1:7 for individual dispute resolution.





**FIGURE 2** Acas collective conciliation 2006–2022. *Source:* (Acas, Annual Reports 2003–2022).



**FIGURE 3** Number of Acas arbitration cases 2006–2022. *Source:* (Acas Annual Reports, 2003–2022).

that these cases would arise from prior collective conciliation cases that have been unsuccessful. Arbitration has been viewed as a valuable option but is used sparingly, often with actors wary of an approach they lack experience of and whose outcome cannot be challenged.

Acas additionally offers a collective mediation service which concentrates on the relationships behind negotiations and focuses on issues such as communication, change management and consultation. Collective mediation is designed to address personality clashes and relationship breakdowns that often stop collective agreements happening, rather than the details of the agreements themselves. The cases often stem from arbitration cases where the issues have initially presented as a problem relating to terms of negotiation. As with arbitration, mediation is voluntary, but here the mediator makes recommendations.

### 3.3 | Individual dispute resolution services

As noted above, Acas has changed significantly since its inception, with individual dispute resolution now a more prominent focus (although advice on the website has by far the largest volume of users). At the heart of developments over the last decade within the individual service and in particular within the transformation process, has been a drive to continuously push the resolution of individual disputes earlier in the process. This is consistent with the government's longstanding aim for earlier resolution through the growth of Alternative Dispute Resolution (ADR). The primary service within the individual dispute resolution workstream is individual conciliation.<sup>8</sup>

Conciliators within individual claims cannot formally offer advice on outcomes. The reality, however, is that it is extremely difficult to conciliate without a discussion of a case's potential merits as a Tribunal judge may see them, and often conciliators encourage parties to reflect on the strengths and weaknesses of their case (Dickens, 2000; Dix, 2000; Latreille et al., 2007). In most cases, the outcomes of Individual Conciliation tend to be financial settlements arrived at over the telephone. Increasingly there is a drive for conciliators to highlight the importance to employers of improving employment relations beyond this specific dispute with a view to addressing potential drivers of conflict in their organisations.

Acas' role in promoting good employment relations was bolstered by government policies that encouraged the proactive offer of conciliation even where a case has yet to be lodged with a Tribunal. This move towards proactive, Pre-Claim Conciliation (PCC) was cemented further in 2014 with The Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations SI: 2014/254, which made it mandatory for all ET cases to be lodged with Acas before they could be brought to the Tribunal, thereby introducing what was termed 'Early Conciliation' (EC). After 6 weeks without agreement, or where parties refuse or withdraw from EC, they are issued with a certificate and allowed to proceed. The introduction of first PCC and then EC led to massive increases in Acas workload, which continues to date.

The effect of this early intervention can be interpreted in one of two ways. On the one hand, the proportion of cases proceeding to Tribunal has remained broadly stable (25% in 2020

<sup>8</sup>On paper, there is also an individual arbitration scheme set up in 1998 to deal with unfair dismissal cases and extended to cover flexible working in 2003. The rationale was to offer a faster, more flexible and less legalistic route to adjudication, reflecting concerns over the increasing cost and formality of ET proceedings. Cases were heard by nonlegally qualified employment relations experts and could not be appealed through the legal system. In its first year of operation from April 1999 to March 2000, the scheme attracted 13 cases, rising to 23 in 2000/2001. In the 6 years that followed, there were a handful of cases each year totalling 25 for the period from April 2001 to March 2007. After this date, Acas ceased mentioning it in their documentation and it appears that cases have also stopped. According to the 2007 Acas Annual Report, the scheme had 'not fulfilled expectations' (Acas, 2007) with a belief that actors involved did not understand the benefits of arbitration or have sufficient understanding to be able to make appropriate decisions.

compared with 27% in 1998 (Dickens, 2000). On the other hand, even this modest fall represents a more significant reduction in the *number* of cases being lodged at Tribunal given the volume of EC cases that Acas deal with. The impact of EC on Tribunal cases is also difficult to interpret given the volumes, number of jurisdictions, and so forth. are different pre- and post-EC, so it is difficult to establish the counterfactual (especially given the start of EC coincided with the chilling effect of ET application fees). This apparent consistency in cases proceeding to Tribunal has caused Acas to consider how they might further identify blockers and levers for resolution.

### 3.4 | Promoting good practice

In addition to the aforementioned services, a core element of Acas' mission is promoting good employment practice. This agenda focuses on proactive conflict management and developing and promoting good employment relations. This strand of work is broadly identified as 'advice' and has received increasing focus in the recent transformation. At the heart of the advice services are the helpline and website, which, after the individual and early conciliation services, are probably the most widely known of Acas' services and offer extensive guidance on employment relations issues. The helpline received circa 650,000 calls in 2022–23, while the website received approximately 14.4 million hits.

The helpline serves as a useful barometer of issues that may be arising in the workplace. Calls highlight emerging problems, and peaks in helpline calls often foreshadow a peak in conciliation claims. The value of the helpline in this regard has always been known and is now being increasingly harnessed through analysis of the nature of calls and a developing focus on technology. The data drawn has the potential to allow for the development of a more refined understanding of the issues arising. Further work is being undertaken internally to examine how the unstructured data of helpline conversations may be used to help understand the issues further.

In addition to the helpline and website, Acas develops good practice and effective employment relations through providing training, which includes both open-access courses and in-house consultancy. Most of the former are offered as a 'charged' service, although again on a cost recovery basis, and in 2003, Acas ran just over 1400 charged events. By 2020 this number had more than doubled to 3000 before dropping back to 1700 in 2021/22 due to the pandemic. This shift to a 'charged for' approach to training, albeit on a cost recovery only basis, is one that some staff would wish to see reversed.

There is also an expectation that good practice services provide an opportunity to proactively identify employment relations issues that may need addressing in client organisations. This approach reflects a continued embedding of Acas' founding aims, with an expectation that intervention is concerned with more than transactional resolution of conflict. In other words, (future) prevention is seen as central to the work Acas does.

There is, of course, a delicate balance between the delivery of what Acas feels is needed and what client organisations are willing to pay for. Equally, there has been expansion of Acas' training agenda from traditional issues such as discipline and grievance to one that reflects the expanded focus of contemporary employment relations, including issues such as mental health and equality, diversity and inclusion. There is also a drive within the transformation programme to identify topics that organisations will need help with in the future and to develop training interventions to address these issues.

A further important part of Acas' remit is to issue Codes of Practice, again with the aim of promoting good employment relations. Acas currently has five such Codes, which set the minimum standards of standards that workplaces should follow.<sup>9</sup> These Codes are seen as influential in ensuring good practices within the British employment relations system. Although not legally binding, they can be used by ETs to determine reasonableness and fairness when deciding relevant cases. Perhaps the most significant Code of Practice is that relating to disciplinary and grievance procedures. An illustration of its significance is that in 2011, 89% of all workplaces (5+ employees) had written disciplinary and grievance procedures, as suggested by the Code (Hann & Nash, 2019).

Acas also commissions or (co-)sponsors extensive external research, such as the Workplace Employment Relations Survey. They have also developed wider publications to support organisations in delivering good practice HR, which helps employers assess their practices and offer suggestions for improvement. As noted above, this focus on the creation and utilisation of data and evidence to shape good practice has been sharpened through the transformation process with the creation of DDAT.

Finally, Acas holds the role of 'expert'. For senior leadership, there is a clear desire to play an influencing role in the focus and direction of broader debates, drawing on their wealth of knowledge and data. Their aim through the role of expert is to inform and influence government and other stakeholders who regulate and shape and the workplace through policymaking, as well as influencing and advising on organisational policies directly. Equally, they acknowledge there needs to be a focus in their influence beyond simple policy with a growing of narrative around shaping practice. Annual reports show they are often invited to offer this expertise internationally.

## 4 | EXTERNAL PRESSURES FOR CHANGE

The contemporary nature and operation of Acas has clearly been impacted by external pressures for change. It is worth noting that interviewees strongly acknowledged the importance of these external pressures in changing the nature of the world of work and their place within the British employment relations eco-system.

### 4.1 | Government policy and public spending

Although there has been significant variation in government funding over the years, on the whole Acas has been relatively insulated from these trends. In 2010, when the newly elected coalition government launched a 'bonfire' of British quangos,<sup>10</sup> with the intention of removing £500 million from government budgets, Acas survived since, after review, the government felt they were performing a technical role that could not be better discharged by government and had demonstrated their need for independence from government.

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<sup>9</sup>Of the five current Codes, two relate to trade union activity and one relates to handling requests for flexible working. The remaining two Codes link explicitly to dispute resolution practices – the Code of Practice on Disciplinary and Grievance Procedures (published in its most current form in 2015) and the Code of Practice on Settlement Agreements (2013).

<sup>10</sup>Quango – quasiautonomous nongovernmental organisation.

More recently, Acas has concentrated on demonstrating, in a more systematic way, the value for money offered for the government and taxpayer. They have commissioned independent reports on the economic impact of Acas services (Urwin, 2020) and are increasingly focusing on developing their data quality to be able to specify their impact and demonstrate their value for money.

While Acas has mostly remained sheltered from funding cuts, it has been significantly affected by government agendas. Over the last 20 years, there have been three major government reviews with significant impacts on the role of Acas.

In 2001, the Labour government published 'Routes to Resolution: Improving Dispute Resolution in Britain'. The key recommendations were early identification of issues and their resolution in private through a mandatory three-step procedure within organisations, that is, without conflicts reaching public forums such as ETs. While the refocusing of government agendas onto good employment relations was welcomed, in reality, 'Routes to Resolution' had limited impact on the number of cases reaching ETs, see Figure 4.

In 2007, the Labour Government commissioned a second report—the Gibbons Report—after it was felt that 'Routes to Resolution' had failed to deliver the intended early resolution in workplaces. The Gibbons Review found that the mandatory procedures were too formal and legalistic, with the focus becoming on compliance rather than dealing with and resolving the problem (Annual Report 2008). Gibbons shifted focus squarely onto mediation and removed the mandatory time limits for workplace procedures, with a view to allowing parties the time that they needed to resolve conflict. Gibbons' report also highlighted the negative impact funding cuts had had on Acas to deliver their services effectively. There was a resultant increase in funding for Acas linked to the development of PCC, and a revised Code of Practice on Disciplinary and Grievance Procedures.

On coming to power in 2010, the Conservative-led coalition government commissioned a third report: 'Resolving Workplace Disputes'. The review continued a focus on early dispute resolution with the main element being the requirement of all cases to be subject to EC (i.e., a mandatory

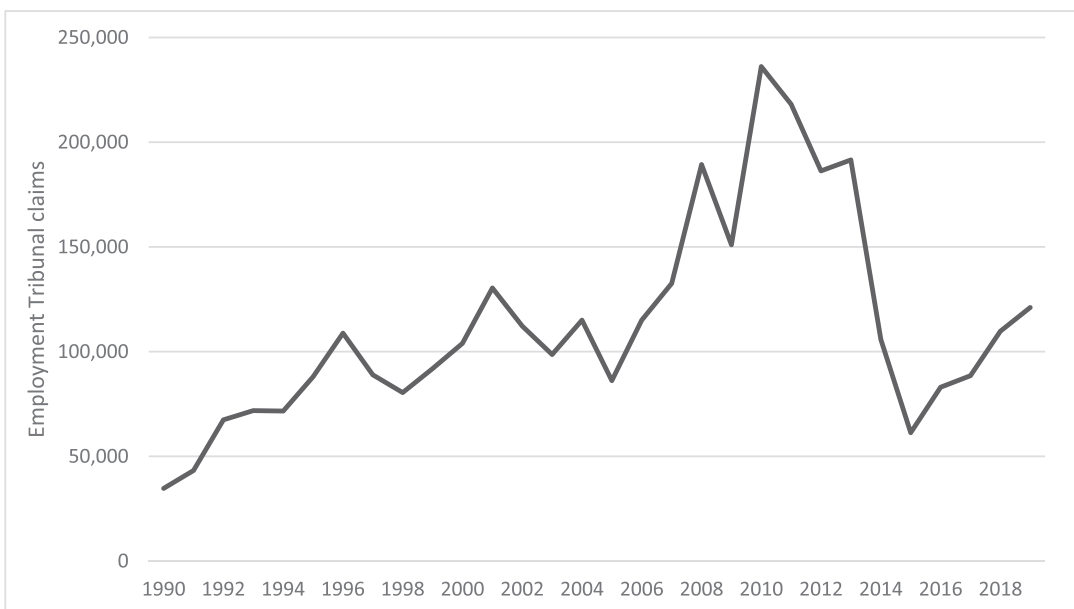


FIGURE 4 Employment Tribunal cases 1990–2019. Source: (Mace, 2022).

pause of 6 weeks<sup>11</sup> and the offer of conciliation before an ET claim can be progressed). The other major outcome of this review was the introduction previously mentioned of fees to bring a case before a Tribunal, requiring claimants to pay up to £1200 to bring a case. The number of cases dropped by over 75% in subsequent years until the abolition of fees in 2017 (see Figure 4).<sup>12</sup> The short-term reduction in ET cases reduced the workload of Acas, although the repeal of fees meant caseload began to increase sharply again. Given the continued high levels of ET cases, Acas is now keen to use data on the nature and details of cases to generate a more nuanced understanding of settlement that might help address more persistent cases.

## 4.2 | Changing employment relations context

Since Acas' inception, British employment relations has shifted from being broadly collective and pluralist, based on 'core' jobs to more an individualistic view of work facilitated by human resource management (HRM) and increasingly involving 'periphery' work roles or even roles that are classified as self-employed through platforms (ILO, 2016). In addition, there has been a decline in the influence and membership of trade unions due to the development of a hostile legal environment since the late 1970s, combined with a shift away from traditional manufacturing towards newer, often service-based, workplaces where unions have struggled to develop a foothold. Collective bargaining coverage has dropped from a high of 70% in 1979 to just 26% in 2019. Correspondingly, demand for collective conciliation has also reduced. Acas was established to fit the collective context, and the shift away has been gradual with the service continually evolving, often in ad hoc ways, responding to the changes as they develop.

Parallel to the decline of collective disputes is the growth in individualised conflict. This growth stems partly from the fragmentation of the employment relationship with a growth of individualised contracts, the growth of employment regulation, as well as the decline in unions. This shift, along with new government policies linked to PCC/EC, has seen an increase in the workload for Acas causing, at times, strain on resources.

In addition to the shift from individual to collective is a growth of atypical jobs. In the 1970s, the workplace focused on predominantly male and full-time employment with employers focusing primarily on pay. Increasingly, the workforce has shifted to become more feminised, with an allied growth of part-time work, flexible work, and contingent work (the so-called 'gig' economy—see Collier et al., 2017). As the nature of work and the workforce has changed, employers have looked for help on a broader range of issues, for example, mental health or more recently menopause and platform work. This shift has consequences for the focus of Acas' work too.

## 4.3 | Expansion of employment rights

The growth in ET cases and consequent Acas workload has been driven in part by an increase in rights created over the last 30 years. The data show that while the number unfair dismissal

<sup>11</sup>Acas have worked with policy leads on regulations and the fixed 6-week period is an increase on the original 4 weeks with the option of an extension of 2 weeks.

<sup>12</sup>In 2017, the trade union UNISON brought a court case asserting that fees stopped individuals from accessing justice and were unlawful and unconstitutional. This claim was upheld in the Supreme Court and fees were repealed and refunded in 2017.

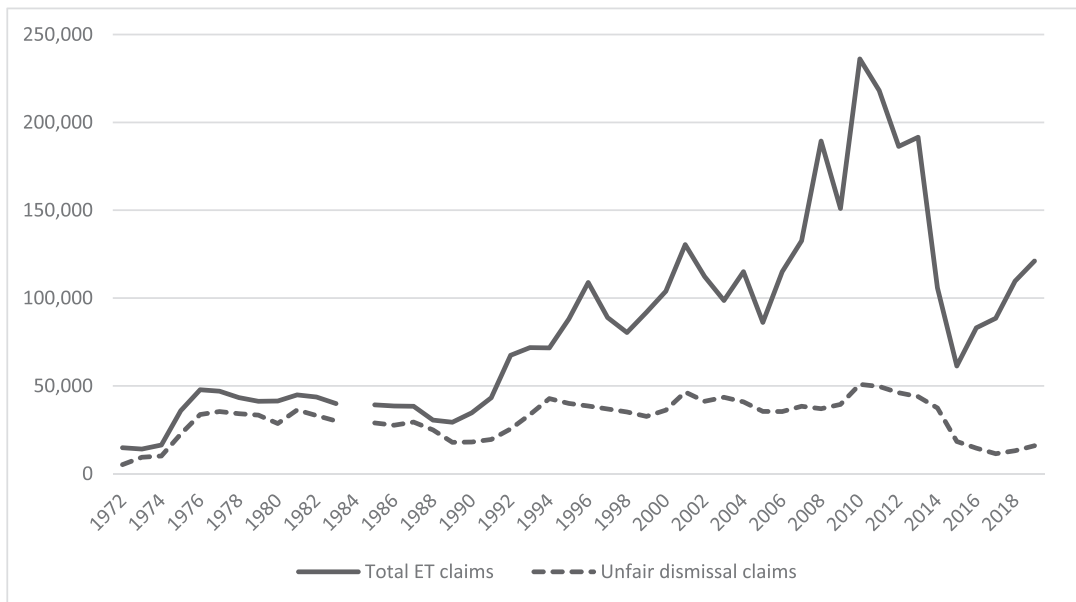


FIGURE 5 Tribunal claims and unfair dismissal disposals 1972–2019. *Source:* (Mace, 2022).

claims has remained fairly stable (see Figure 5), the number of other claims has grown rapidly so that the strong congruence between unfair dismissal and the total volume of claims in earlier years has weakened over time. This broadening of jurisdictions has led to increased complexity of the issues Acas is required to deal with.

#### 4.4 | Response to COVID

COVID had perhaps a lesser impact on Acas than on organisations more generally within the UK context. Even before COVID, Acas supported flexible/home working, including amongst its call centre workers, so the knowledge and technology to deliver services off-site was in place when lockdowns were declared. The result was that services were maintained for the entire period.

COVID did, however, help speed up ongoing proposed digital delivery. Digital transformation had significant internal resistance pre-COVID, but the need to continue to deliver services during the pandemic demonstrated that services such as conciliation and mediation through digital platforms could be achieved. Initial data suggest that outcomes of delivering services through such media are on par with those delivered face to face. In this respect, COVID offered an important pressure to help smooth a key deliverable of the transformation process.

### 5 | INTERNAL PRESSURES FOR CHANGE

Overall, many of the changes in services discussed in the previous section reflect Acas' continuing ability to respond to a rapidly changing employment relations context including the demands placed upon it by shifting government priorities. Although Acas is clearly under

significant external pressures, until recently the relatively ‘closed’ nature of Acas, with many people staying with the organisation for decades, meant there was little internal impetus for significant change. The current transformation process has changed that dynamic, and senior leaders now talk of the importance of internal drivers stemming from intellectual curiosity and a desire for a modernised service.

Over time, while the purpose of Acas has broadly remained the same, the nuances of how this aim has been addressed have evolved. There has been no rapid decrease in collective work, but rather a steady and gradual decline over a sustained period, while at the same time, the individual work has grown. Resources available have not grown in parallel, which has led to increased pressure to change internal skill sets. These resource pressures mean that consultancy/training services have been charged on a cost recovery basis, whereas historically they may have been free of charge.

Over time, Acas has seen a significant change in the backgrounds of people who work there and how they deploy their skills. As noted earlier, the collective conciliator role was central to the organisation’s function, often occupied by those with extensive ‘on the ground’ experience. With the reduction in demand for collective conciliation, conciliators increasingly became seen as generalists as they took on Senior Advisor roles as well as on conciliation. The recent transformation programme has begun to address this issue, with the roles of collective conciliator and senior advisor being separated out again and the development of a renewed emphasis on the importance of CPD, as well as the centralisation of recruitment and training, with the aim of consolidating pathways, all geared towards development of excellence.

The greatest internal pressure on the functioning of Acas has been attempted shifts in Acas’ own, internal, employment relations. Performance management was introduced in 2000, which jarred with staff who were highly skilled and often used to determining their own workload and work patterns. This strain on internal relations was pressured further when Acas reduced its staff numbers by one sixth during 2005 in response to funding cuts (Acas, 2007). While none of the job losses were compulsory, the reduction put serious strain on remaining staff to deliver on the objectives set, and significant organisational memory was lost. There have been reviews and refinements of key performance indicators with a more nuanced metrics-based focus beyond simplistic customer satisfaction and resolution rates.

As mentioned earlier, attempts to develop widescale cultural change have previously been met with suspicion and resistance, especially from the union, PCS, which represents approximately 80% of Acas staff and who view their role as to ensure that change is well-informed, well-managed, and mindful of the needs of Acas staff. The HR policies developed in the early 2010s were often viewed as managerialist/unitarist and this was seen as in tension with Acas’ historically pluralist values. Around this time, the growth in paid-for services led to a sense that Acas might be wavering from their established aim. These tensions came to a head when members of the union took strike action in 2018 in protest at what they argued were unmanageable workloads in the wake of the abolition of ET fees. More recently, within the new transformation process, an explicit cultural change programme was included in an attempt to reduce these tensions.

## **6 | CHANGING ORGANISATIONAL CHARACTER OF PUBLIC DISPUTE RESOLUTION**

In contrast to the deep, local relationships developed in its early collective conciliation function, the vast majority of work undertaken by Acas is currently delivered through the telephone helpline as well as EC, and is necessarily more transactional as a result. While there



is space for proactive suggestions for intervention at early stages, for example, helpline advisors suggesting early engagement with conciliation services, the increased EC caseload may hamper the ability to deliver the desired proactive approach.

Interventions, while sometimes high profile in their own right, are not always high profile for Acas, who undertake considerable work in the background confidentially. In more recent years, Acas officials have sought to raise their profile, recognising that in 2023, organisations need to ensure they remain seen and relevant. There is a desire too to engage and share experience with the new cohort of inexperienced union officers and HR managers who may never have dealt with Acas, and who may need support with key employment relations skills used to address conflict emerging in a period of high inflation and tight labour markets. At the same time, Acas has focused new initiatives specifically targeting smaller businesses where HR professionals are often absent.

Finally, a major role for Acas, intended to be a growing part of their work within the transformation process, has been the agenda-setting role. Acas respond publicly to relevant Government consultations where their expertise enables them to make informed contributions. Increasingly, Acas also proactively raises issues with government departments with a desire to use its practical insights on employment relations to try and bring an evidenced-based perspective.

## 7 | CURRENT STRATEGIC CHALLENGES

For Acas, while the core values remain firmly intact, the reality of the tensions of growing workloads and a business-focused strategy within the organisation, as well as a constantly changing world of work, mean that the more traditional ways of delivering on those values have had to adapt over time.

For Acas, the greatest challenge faced is a simple practical one—how does it address the ever-increasing volume of work, and how can this be done without growing resource? While the precise details and causes of conflict can be contested, the reality is that the caseload for Acas is increasing. Staff within Acas talk about a ‘treadmill’ of work in recent times, with limited headspace to undertake the creative thinking that alternative dispute resolution (ADR) might warrant. This challenge has been considered within the transformation programme, but it remains to be seen as to what extent this releases some of the pressure in the system. Equally, the leadership team acknowledges there is still work to do in understanding the nature of individual cases with a view to understanding how the numbers can be driven down and resolutions effected earlier.

A strategic challenge emerging as Acas thinks about its role in the face of growing workloads and changing workplaces is whether, in the face of a statutory duty to support all, there is a role for a more targeted approach that seeks to increase the awareness of Acas’ services amongst organisations that have traditionally not used them. Acas staff note that there are employers who do not care whether they have breached the law and will fight every case. Equally, in large and bureaucratic organisations, even where employers have the mindset to engage, the length of time to cut through the bureaucracy and get to the right department/manager/team butts up against time limits and means conciliation is often not a workable option. Similarly, the focus on smaller and nonunionised organisations seems entirely rational, reflecting changes in contemporary labour markets. There may be merit in concentrating effort where impact can be made and simply forgetting those organisations where advisers/conciliators know their work will go nowhere.

Acas increasingly recognises the challenge of the shifting nature of conflict. In 2023, Acas commissioned work mapping collective conflict with the aim of examining whether their services fit with the breadth of manifestations of conflict as we know them now. This work has yet to be published, but the senior leadership team had clearly begun to consider further ways that Acas may need to evolve going forward.

The other key challenge to be addressed stems from the pressure on resources. Going to the root of what Acas is for, is the relationship between the growing focus on training and the original intentions to be a problem-solving employment relations institution. In interviews before the transformation process taking shape, it was felt that there was insufficient capacity to deliver both training and complex problem-solving. Staff on the ground have historically viewed training, by and large, as a 'sticking plaster' to the underlying issues bubbling up in the British employment relations context (Interview with former employees). There was concern amongst some staff at Acas, that there may have been a shift in public profile from one of problem-solver to that of trainer and advice line operator (Interview with former employee). This tension has been addressed to a degree through the transformation process by explicitly separating out the roles of Collective Conciliator and Senior Adviser, rather than having some colleagues operate in both those roles, and with providing the good practices approach with renewed vigour, including with an aim to influence government approaches. The challenge remains in creating a balance, and also in tackling knotty employment relations problems. It remains to be seen to what extent separating dispute resolution from the commercial arm addresses these issues.

These decisions are important externally for how Acas is seen by, and relates to, employers, private sector providers of mediation and training services, and government. Historically Acas has been seen as an impartial expert in the field of employment relations. Acas needs to adapt its strategy, however, to work with new workforce demographics who lack as deep an exposure to Acas as other parts of the economy, a factor that is acknowledged in recent business plans, where hospitality, tourism, social care and retail are highlighted as areas of concentration going forward. At the same time, engagement with news sectors in new ways, often puts them in direct conflict with private providers of dispute resolution and conflict management. Acas is often perceived to have unfair advantages in terms of access and support, although the reality is that its share of the market is small and it is careful to avoid using its position to competitive advantage. A decision needs to be made as to whether it can or should make advances to obtain a greater market share.

Finally, there is the challenge that any organisation faces in a modernising world: whether they are up to date and relevant for the times. Acas is no different. It was established with collective bargaining at its heart, and this is a notion that has limited currency in Britain's employment relations landscape in 2023, notwithstanding the resurgence of industrial action in recent months. The world and the world of work have shifted dramatically in the years since Acas was established. The changes Acas made to its *modus operandi* until recently were incremental, fragmented and often contested; in contrast, the recent transformation programme has more comprehensively addressed this drift through focused organisation-wide changes with the aim of reinvigorating and reframing Acas to meet the challenges of the 2020s and beyond. Whether the transformation process fully achieves its aims remains to be seen.

## 8 | CONCLUSION

The story of Acas over the last 20 years has been a story of continuity and change. The changes outlined in this article that have seen a shift from collective dispute resolution have been mirrored by an internal impetus to professionalise Acas services. These changes have not radically altered Acas' core value of promoting good employment relations, however. As with other dispute resolution agencies discussed in this issue, the story of Acas is one where dispute prevention takes centre stage. These founding principles mean Acas' advisory work, which encourages employers to develop good practice, is fundamental to what they do and in fact, the dispute resolution work, while making up a significant proportion of the workload, is almost secondary to their organisational mission.

As noted in the introduction, Acas was founded during the zenith of British corporatism. In the intervening 50 years, many of the institutions that characterised that period of British employment relations have diminished in influence, in part due to a shift in the political economy towards a less interventionist approach. We argue that while Acas has undoubtedly evolved, its core values continue to embody a pluralist conception of the employment relationship. This contemporary pluralist lens continues to view the employment relationship as one characterised by an inherent conflict of interest between employers and employees (Budd et al., 2004). However, as Heery (2016) notes modern pluralists are more concerned with disorderly markets rather than disorderly workers and see conflict arising from market failures such as rising income inequality, low pay, precarious employment, and so forth. which are increasingly found in the British labour market. Through its impartial promotion of good employment relations, Acas plays an important role in attempting to balance the divergent wants and needs inherent in the employment relationship in an increasingly complex and turbulent climate.

Evidence-based decision-making has been central to the most recent transformation programme. In a world of big data, Acas has made significant shifts to grow the use of data to help make better decisions, but also help explore knotty conflicts that other approaches haven't managed to touch. Going forward, public dispute resolution agencies may need to carefully consider how they can push the boundaries of their data collection and analysis to better develop their services.

A final conclusion concerns the importance of educating the end users of Acas services. Our research revealed services that were regarded as 'underused' partly because they were approaches that parties were not confident with. Acas has identified the need to engage with new waves of HR managers and Trade unions who have perhaps never engaged with Acas before. Similarly, they reported some users going through the Early Conciliation process who would rather simply take their chances in a tribunal. These cases flag the importance of educating users on the services, processes and potential outcomes that Acas provides. Without a clear knowledge of what Acas really does, it makes it harder for Acas to achieve its aim of 'making working life better for everyone'.

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## ORCID

Deborah Hann  <http://orcid.org/0000-0002-6217-4634>

David Nash  <http://orcid.org/0000-0002-1244-2231>

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