

Research Paper

Acas Collective Conciliation Evaluation 2016

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Table of Figures

Figure 1- Number of employees in workplaces covered by the dispute	13
Figure 2- Estimated workforce unionisation levels	14
Figure 3- Recent history of collective disputes	15
Figure 4- Previous organisational use of Acas Collective Conciliation.....	16
Figure 5- The main issues at stake in disputes.....	18
Figure 6- Length of negotiations in a dispute prior to Acas' involvement..	19
Figure 7- Strategies employed by negotiators prior to Acas' involvement	21
Figure 8- Industrial action at risk prior to conciliation.....	22
Figure 9- Relationships between sides at the start of conciliation	23
Figure 10- The stage at which Acas became involved in the dispute.....	24
Figure 11- Participant views on the positions of both sides prior to conciliation.....	25
Figure 12- Reasons for involving a third party in the dispute.....	26
Figure 13- Importance of various factors to deciding to involve Acas	28
Figure 14- Before or during the conciliation did the Conciliator do any of the following?.....	30
Figure 15- During the conciliation did the Conciliator do any of the following?	31
Figure 16- During the conciliation did the Conciliator do any of the following?	32
Figure 17- User satisfaction with Acas conciliation service	33
Figure 18- Service used views on conciliator characteristics	36
Figure 19- Likelihood of re-using Acas collective conciliation	37
Figure 20- Collective conciliation outcomes	40
Figure 21- Reasons for not reaching a settlement	41
Figure 22- Movement from initial positions in final settlements.....	42
Figure 23- Satisfaction with the conciliation outcome.....	43
Figure 24- Views on the benefits of involving Acas earlier.....	45
Figure 25- The importance of Acas to dispute resolution	49
Figure 26- The broader impacts of Acas conciliation	50
Figure 27- Longer term outcomes of conciliation.....	51
Figure 28- Follow-up work formats.....	54

Table of Tables

Table 1 – Survey response rates by service user type	9
Table 2 – The scope of the dispute.....	20
Table 3 – How would you rate the conciliator at.....	34
Table 4 – Satisfaction with conciliation outcome: mean scores over time	44
Table 5 – Key Driver Analysis: significant variables	46
Table 6 – Post-conciliation contact with the conciliator.....	52

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EXECUTIVE SUMMARY

Collective conciliation is one of the primary services offered by Acas to help resolve employment disputes between employers, trade unions and other representative bodies. This paper reports the findings of an evaluation of the service, undertaken in 2016, on behalf of Acas by Ipsos MORI. The research centred on a census telephone survey of all service users – employers and trade unions – party to cases that closed between October 2014 and December 2015. In all, 342 customers were interviewed, with the achieved sample covering 283 disputes, including 58 ‘matched cases’ where both sides of the same dispute were covered. This study forms part of a tracking series of surveys investigating the views of collective conciliation users, building on a prior survey in 2011-2012. This latest iteration makes additional use of qualitative data from in-depth interviews with service users, to complement survey results and provide a more rounded account of customer experience.

Context and background to collective disputes

A comparison of Acas records for the period covered by this evaluation report with the period covered by the previous evaluation indicates that there has been a slight increase in the number of cases handled. Acas received requests for collective conciliation in 1,371 disputes across 2014/15; up from 1,054 in 2010/11. From the survey it emerges that disputes in 2014/2015 were primarily in the private sector (65 per cent), centred on organisations with 250 employees or more (62 per cent) and were most commonly on the subject of pay.

Overall, six in ten (61 per cent) organisations have formal dispute resolution procedures in which Acas figures. This is based on 89 per cent of participants having formal procedures for dealing with collective disputes, and Acas forming part of said formal procedures for 69 per cent of these.

Four in ten (41 per cent) users of Acas collective conciliation reported that they had only been involved in one dispute in the past three years, although for trade union participants this figure was higher than for employers; almost nine in ten (86 per cent) trade union participants had used Acas collective conciliation before. The majority of those who had not used the service previously (77 per cent) said that they had simply not had any reason to use collective conciliation in the past.

Acas was said to have become involved in the first six months of negotiations in the majority of cases (69 per cent); this represents a fall compared to the findings reported in the 2010-11 survey (78 per cent), indicating that Acas involvement is happening slightly later in the lifespan of the disputes covered by this study.

Users of the service typically reported having employed a mixture of strategies to resolve the dispute prior to Acas’ involvement; most commonly, the use of bargaining processes (81 per cent of cases) and escalation of issues to higher ranked personnel (68 per cent of cases). The threat of industrial action as a strategy employed prior to Acas’ involvement was reported by 42 percent of participants; a 16 percentage point increase since 2012 and a potential indicator that caseloads are becoming populated by more well-established disputes.

Over half (54 per cent) of participants said they were prepared to move *a little* from their original position to reach a deal and a further 10 per cent that they were willing to move *significantly*. Just two per cent said that they were not interested in a conciliated

agreement. Interestingly, service users tended to view the other side in their dispute as having a less flexible opening position than they did, with one in five (22 per cent) saying they felt that the other side was not interested in agreement under any circumstances.

User views of the collective conciliation process

Ratings of the conciliator and the conciliation process were high; large proportions of participants reported that their conciliator had explained key areas of the conciliation process, and used a variety of techniques to try and resolve the dispute.

The personal skills of Acas conciliators were also praised, with strong agreement that the conciliators were trustworthy (96 per cent agree) and pro-active in seeking an agreement (84 per cent), and high proportions rating conciliators as good at remaining impartial (92 per cent) and establishing a rapport (91 per cent).

Overall satisfaction with the collective conciliation service has remained high, with 89 per cent of users satisfied overall with the service and just five per cent dissatisfied. Whilst majorities of both user groups rated the service highly, trade union participants were found to be more likely than employers to be satisfied overall (93 per cent compared to 85 per cent).

Large majorities (84 per cent of employers and 89 per cent of trade union respondents) said they would be likely to use Acas collective conciliation in the future if required, with just five per cent saying they would be unlikely to do so. Among the small proportion who said they would be unlikely, this was mostly attributed to their stated desire to make use of internal processes, rather than the result of any negative experience with Acas collective conciliation.

Outcomes of collective conciliation

Three quarters (76 per cent) of those surveyed reported that their case had ended with a successful outcome (compared to 81 per cent reporting this in the 2012 evaluation). A large majority of agreements (91 per cent) made during conciliation were implemented in full in the workplace and in three quarters of successful cases (76 per cent) the agreement implemented was felt to have resolved the issues at stake in the long term.

In the 22 per cent of cases where those surveyed reported that no progress towards a resolution had been made, the most common view was that one side or the other had not been sufficiently willing to move far enough to reach a deal. Despite this, around one third (33 per cent) of those who did *not* reach an agreement acknowledged that the differences between the sides had nevertheless reduced, but that the distance to bridge was too great. Further, in 91 per cent of these cases, service users did not feel that their conciliator could have done any more to bring about a resolution.

Further analysis of the survey data shows that the Acas conciliator's individual skillset was by far the strongest driver of a successful conciliation outcome, with trustworthiness, impartiality and proactivity being the most important skills. Some external factors relating to the case also had an impact; with first time users of the service and those where Acas are written into the organisation's formal procedures both having a positive effect on the chance of a successful outcome, albeit a weaker one than the conciliator's skillset set outlined above.

In resolved cases, most service users (81 per cent) felt that the deal they agreed involved some movement from their original position. Employer and trade union respondents reported having made similar amounts of movement from their initial positions in order to achieve an agreement.

Seven in ten respondents (71 per cent) were satisfied with the *outcome* of their conciliation case, with no significant differences in satisfaction with outcome between employer and trade union participants.

Impacts of collective conciliation

Reflecting Acas' pivotal role in the large majority of cases they conciliate in, where the dispute was ultimately resolved, Acas was seen as having been actively important to the resolution of disputes (rather than simply facilitative). Acas input was judged as having been important in bringing about a resolution in 84 per cent of settled cases, with six in ten (58 per cent) going further still and rating Acas as *very* important in this respect.

In addition to the immediate benefits of collective conciliation in terms of resolving the dispute at hand, service users also reported broader, further reaching outcomes. Half (49 per cent) said that Acas' intervention had improved their organisation's ability to deal with disputes more effectively generally, a similar proportion (48 per cent) that Acas' intervention had improved employment relations within the organisation and four in ten (37 per cent) reported that trust between management and workers had improved.

Some employers also credited the conciliation process with improvements in even 'harder' measures of organisational performance. For instance, one in five (19 per cent) employer participants said that productivity had increased since the conciliation, 7 per cent cited an improvement in staff retention and 4 per cent identified improvements in terms of staff absence.

There were also a number of wider impacts that can be attributed to Acas collective conciliation, although these become weaker as the scope of the benefit widens from the dispute itself to the organisation at large. Half of all service users (54 per cent) said that conciliation brought the two sides closer together on the key issues that caused the dispute and almost four in ten (37 per cent) agreed that Acas' involvement had improved relationships between the people directly involved in the dispute.

Where changes to working practices were one of the key issues at stake in disputes, two thirds (66 per cent) said that Acas conciliation helped to implement the changes.

Ten per cent of services users reported having follow-up work (for instance, an Acas 'workplace project') carried out at their organisation as a result of participating in Acas collective conciliation. The most common pathway to follow-up work is the Acas conciliator getting in touch to see how things are going, rather than formal specification in the conciliation agreement.

Whilst the majority of service users disagreed that it would have been beneficial to seek Acas involvement at an earlier stage (62 per cent) – most commonly because they felt the need to exhaust internal procedures first – more than one third (37 per cent) of users felt that earlier intervention from Acas might have been of benefit in resolving the dispute.

1. BACKGROUND AND OBJECTIVES

1.1. Study background

Acas (the Advisory, Conciliation and Arbitration Service) seeks to support good workplace relations between employers and employees in order to drive sustained organisational effectiveness and productivity in Great Britain. To achieve this, Acas provides a range of services offering practical advice and expert support, preventing and resolving workplace disputes.

Collective conciliation is one of the primary services offered by Acas to help resolve employment disputes between employers, trade unions and other representative bodies. Acas collective conciliation is an impartial service that does not judge whether one side is right or wrong or impose its own solution on the parties, and it is not compulsory for either side to attend the talks. It is typically used after both sides have used other strategies to try and resolve their problems.

Ipsos MORI was commissioned by Acas in December 2015 to undertake an evaluation of its collective conciliation service over the period spanning late 2014 until late 2015. This study forms part of a tracking series of surveys investigating the views of collective conciliation users; the first was conducted by Ipsos MORI in 2006-2007, and the second was carried out by Ecorys in 2011-2012.

1.2. Evaluation aims and objectives

The aim of this evaluation is to provide a reliable picture of the views of both managers and trade union participants towards the service provided by Acas collective conciliation between late 2014 and late 2015.

Under this aim, the evaluation seeks to measure the following objectives:

- Identify the determinants of successful case outcomes and customer satisfaction (particularly around conciliator skills and techniques).
- Establish customer views of the benefits and impacts of Acas collective conciliation.
- Inform future professional development by Acas of its conciliation and obtain views on possible new areas for service development.
- Explore the interaction between collective conciliation and 'fee-waived' workplace projects, including the value and outcomes associated with Acas' post-dispute follow-up work.
- Contribute to the qualitative evidence base through case-studies of individual cases.
- Examine how Acas might increase its user-base through looking at the perceptions of first-time users, tracing their journey to becoming users of Acas' services, and identifying any former barriers to their using the service.

1.3. Methodology

The evaluation is based from two main data sources – a census survey of recent collective conciliation users, and in-depth interviews with 14 users (seven employers and seven trade unions). Prior to both stages the questionnaire from the previous evaluation was updated to reflect changes to the service and new research priorities with some questions removed and others added.

To ensure that the new questions were well-understood, they were analysed through use of **cognitive testing**. In cognitive testing participants are asked newly-designed questions from quantitative surveys, and then invited to explain the thought process they have gone through in answering the question in depth. This allows the researcher to understand how questions are perceived by participants, to ensure that the question is being interpreted in the correct way, and that no potential answers are missing.

The new questions were tested in six cognitive interviews with recent users of Acas collective conciliation, three with employers and three with trade unions. The findings from this stage were summarised in a separate report, and used to inform the final development of the collective conciliation questionnaire for this stage of the research.

The **census survey** was carried out with 342 customers of the Acas collective conciliation service whose cases were marked as cleared between October 2014 and December 2015, with 181 of the responses coming from employers and 161 from trade unions. The survey was carried out using a Computer Aided Telephone Interviewing (CATI) approach, with fieldwork completed between 8th February and 18th March 2016.

The sample frame of the survey comprised of all conciliation cases logged as closed between October 2014 and December 2015. After sample cleaning, where cases outside the scope of this evaluation (such as collective disputes emanating as part of a multiple Employment Tribunal claim) were removed, and de-duplication of leads, this resulted in a sample consisting of 792 unique contacts, 436 of whom were employer representatives, with the remaining 356 being trade union representatives (often full-time Trade Union officers).

The adjusted response rate for the survey (once all unusable leads were removed) stands at 52 per cent across trade union and employer sectors. The unadjusted response rate, including deadwood and other unusable leads from the final sample, was 43 per cent (42 per cent for employers and 45 per cent for employees).

A number of the contacts provided were involved in multiple disputes over the period of interest. In these cases, the survey first concentrated on the most recently-closed case. However, in cases where an interview had been conducted with the other party in a listed dispute, this particular case was prioritised to create what is known as a “matched case” – a dispute where both employer and employee parties were interviewed.

The survey covered 283 disputes (53 percent), and in 58 disputes, both sides of the dispute were covered.

Table 1 – Survey response rates by service user type

Customer group	Interviews	Contacts	Response Rate (%)
Employer	181	436	42 (52 adjusted)
Trade Union	161	356	45 (52 adjusted)
Total	342	792	43 (52 adjusted)
<i>Disputes covered</i>	<i>283</i>	<i>539</i>	<i>53</i>
<i>Matched cases</i>	<i>116</i>	-	-

Overall findings of the survey have been weighted to represent the viewpoint of employers and employees equally. This is a minor weight which has no effect on the

effective base size. In some specific cases, where a question refers to the facts of a particular dispute, responses from those who form part of a “matched case” (i.e., where both employer and trade union participants in a case have been interviewed) are half-weighted to avoid double-counting. Where this half weight has been used in the report, it has been clearly labelled.

A full outline of the methodology is provided in the Technical Annex (Annex One).

The **in-depth interviews** were conducted with 14 participants selected from the main survey, who had given their consent to be re-contacted about their conciliation case at the end of the survey. Each interview took half an hour, and explored the circumstances and outcomes of their case in greater detail.

Sampling for this stage was purposive; participants were recruited from those who had consented to being re-contacted and who also formed part of a matched case. Within this sub-section, users with a wide range of characteristics – for example, first time users of the service, those who received some form of follow-up work from Acas after the conciliation, and those from small and medium sized enterprises (SMEs) – were selected.

Each set of interviews were combined into short case studies, which are included in this report. Participants took part on the basis of anonymity, so identifying information has been removed in all cases. The case studies are presented in chapter seven of this report.

1.4. Outline of the Report

This report is structured into the following thematic chapters:

- Chapter two provides an outline of employment relations in Great Britain and the characteristics of users of Acas’ collective conciliation service.
- Chapter three provides details on the background information of the disputes.
- Chapter four examines the different stages of the conciliation process, with a focus on the techniques employed by conciliators to help resolve disputes, and user satisfaction.
- Chapter five focuses on the outcomes of conciliation and the extent of the impact of agreements reached during conciliation. It also uses key driver analysis to investigate the most important factors behind successful outcomes in the cases covered by this evaluation.
- Chapter six looks into the outcomes of Acas collective conciliation in the longer term.
- Chapter seven provides the case studies written to summarise findings from the in-depth interviews conducted with some survey participants.

2. CONTEXT

This section provides a brief context for the evaluation, providing an outline of Acas' collective conciliation service and a characterisation of collective conciliation service users in 2014/2015 (i.e. the operational year with most overlap with the sample frame case dates).

2.1. Introduction to Acas collective conciliation

Collective bargaining is the process by which employees organise themselves as a collective unit (typically through a trade union) to negotiate with their employer on changes to working conditions (such as wage settlements, working hours, or redundancy). Where the parties cannot reach an agreement through normal bargaining procedures, alternative strategies may be employed to try to bring about a resolution. If negotiations remain at an impasse, the trade union side may resort to balloting their members on industrial action (such as a stoppage or overtime ban) in an attempt to force the employer to shift their position.

There has been a steady decline in the number of industrial disputes in the UK since the 1970s, stabilising at historically low levels in the 2000s. Despite an uptick between 2010 and 2014 (when the number of stoppages rose from 92 to 155), 2015 witnessed a fall to 106 stoppages of work due to labour disputes. Although the scale of collective disputes has been declining, stoppages still result in large numbers of working days lost due to industrial action, totalling 170,000 during 2015.¹

2.2. The Acas collective conciliation service

Acas has been offering free collective conciliation in employment disputes since its creation as an independent body in 1974, and its statutory powers are defined in the 1992 Trade Union and Labour Relations Consolidation Act as follows: in situations where 'a trade dispute exists or is apprehended Acas may, at the request of one or more parties offer its assistance with a view to bringing about a settlement.' Use and provision of Acas services is voluntary to ensure disputing parties take ownership of any settlement. Additionally, Acas has no compulsion to act but usually offer its services in all cases. Formally, Acas tends to focus its substantive effort on cases in which all internal negotiation procedures have been exhausted. Of course there are often informal discussions at the early stages of disputes and Acas encourages this to resolve disputes at the earliest possible stage.

Conciliation is a dispute resolution mechanism involving an Acas conciliator entering a dispute to offer a new perspective and encourage parties to re-engage in negotiations, either directly or via Acas. The conciliator's role is to listen to the viewpoints of each side and to communicate with the opposing side in a neutral fashion, taking an impartial perspective without judging the strengths and weaknesses of the positions taken by disputing parties or recommending a solution. Conciliators may offer their professional judgement of the pros and cons of positions taken by parties and their experience of other disputes, the application of good employment practice and the law in similar situations. They may also offer options for potential solutions although different conciliators may have different 'styles' in terms of the pro-activity of their approach.

¹This has decreased substantially since 2014 when 788,000 days were lost; a fall mainly attributable to a number of large scale public sector strikes in 2014. See: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/workplacedisputesandworkingconditions/articles/labourdisputes/2015#review-of-1996-to-2015>

Through building trust with both parties, conciliators may develop knowledge of where each party is willing to make concessions and guide discussions towards a realistic and mutually acceptable settlement.

2.3. Characteristics of collective conciliation users

As set out in the 2014/2015 Acas Annual Report, 1,371 disputes were received by Acas for collective conciliation between April 2014 and March 2015 (inclusive); the sampling period at issue for this research. This is an increase from 933 disputes in 2012/13, and 1,054 disputes in 2010/2011 when previous evaluation of Acas' collective conciliation was conducted.² The caseload increase in 2014/15 was partially due to a temporary spike of cases arising from a clarification of the law on holiday pay entitlement.

2.3.1 Sector

The survey results show that the majority of organisations taking up collective conciliation come from the private sector, which made up 65 per cent of disputes in 2014/15. Public sector organisations accounted for 26 per cent of the disputes and the voluntary/not for profit sector accounted for 9 per cent. These findings (which are half-weighted for 'matched cases') are broadly in line with those from the 2010/2011 evaluation of Acas' collective conciliation service.

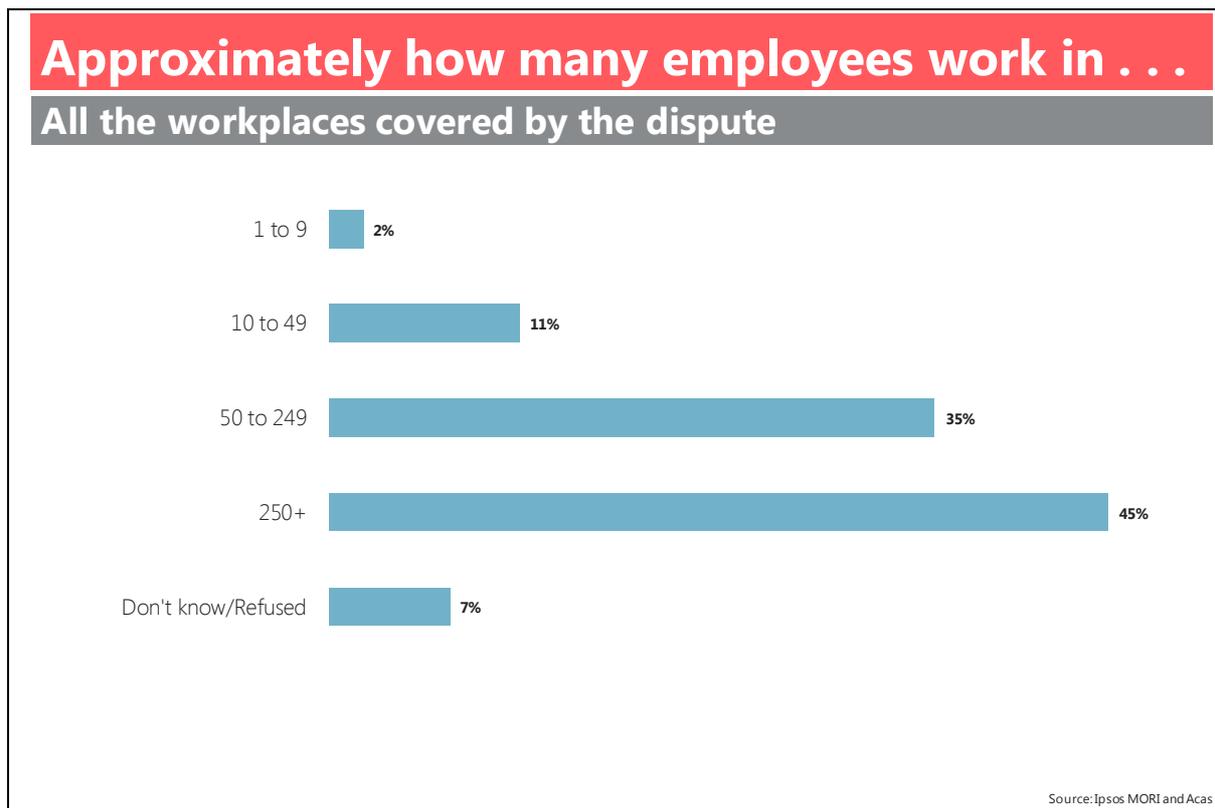
2.3.2 Organisation size

Almost half (45 per cent) of all service users surveyed work in organisations that employ more than 250 people in the workplaces covered by the dispute, and 35 per cent employ 50-249 people. Organisations that employ 10-49 and 1-9 people in workplaces covered by the dispute make up just 11 per cent and two per cent, respectively (seven per cent did not know how many people were covered by the dispute).

Furthermore, the majority of organisations involved in Acas collective conciliations employ more than 250 people in the UK as a whole; this was the case for 62 per cent of organisations interviewed (the same proportion as in the previous wave of research). First time users of Acas collective conciliation were even more likely to come from larger firms; 70 per cent of new users said that their organisation as a whole employed at least 250 people, compared to 62 per cent of service users overall.

² Acas Annual Report and Accounts 2014/2015: <http://www.acas.org.uk/media/pdf/0/8/Acas-Annual-Report-2014-2015.pdf> and Acas Report and Accounts 2012/13 <http://www.acas.org.uk/media/pdf/5/k/Acas-Annual-Report-2012-2013.pdf>

Figure 1- Number of employees in workplaces covered by the dispute



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

2.3.3 Unionisation

Participants were asked about levels of unionisation at their organisation. Half of service users (53 per cent) estimated that more than half of the workforce in their organisation are members of a trade union. This comprised:

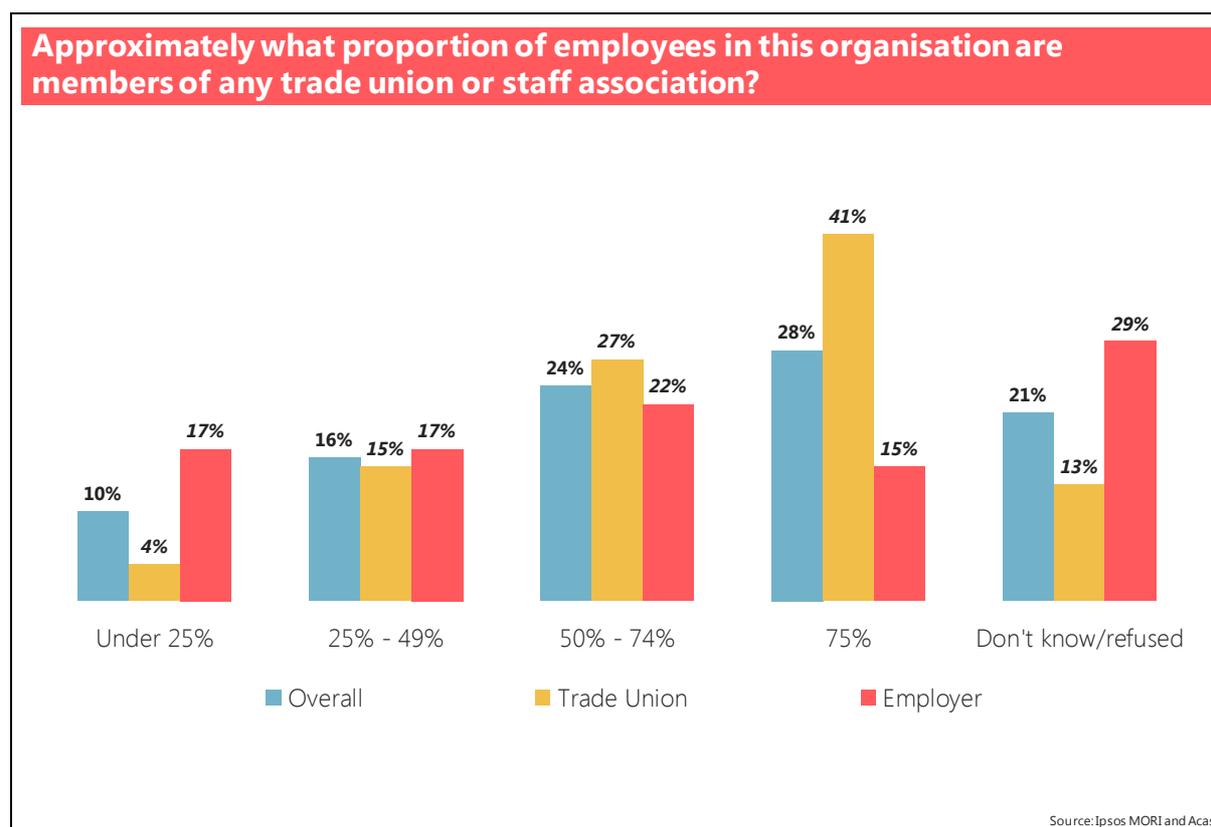
- Just over one quarter (28 per cent) who said that over three quarters of the workforce are union members
- A further 24 per cent who put the figure between one half and three quarters
- One in six (16 per cent) said between one quarter and one half of their workforce are members of a trade union
- Ten per cent estimated that union membership among their workforce stood at less than one quarter of staff
- A further 21 per cent said they did not know about the extent of unionisation in their workplace.

There were some noticeable differences in the responses provided by employer and trade union participants on trade union density. Employers were more likely to estimate that union membership lay at the lower end of the scale (17 per cent said it stood at less than 25 per cent, compared to just 4 per cent of trade union participants who said this). Meanwhile, trade union participants were more inclined to estimate a higher level of unionisation; 41 per cent of trade unions said that 75 per cent or more of their workforce were union members, compared to 15 per cent of employer participants who said this.

Employer participants were also more likely to say that they did not know (29 per cent, compared to 13 per cent among trade union respondents).

The average level of unionisation given by employer and trade union participants was 58 per cent of the workforce, a score which was higher among trade union participants (66 per cent) and lower among employers (47 per cent). Unsurprisingly, given that the presence of a union is effectively integral to collective conciliation, this contrasts strongly with the national picture, with trade union density of UK employees standing at 25 per cent, as of 2015.³

Figure 2- Estimated workforce unionisation levels



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

2.3.4 Collective bargaining procedures

A large majority of service users (89 per cent) reported that there was a formal procedure for dealing with collective disputes that might be raised by any group of employees. There are very high levels of collective bargaining procedures across all subsets of service users. One notable exception however is among first-time service users, a smaller proportion of whom report having collective bargaining procedures in place (82 per cent compared to 89 per cent overall).

Furthermore, of those who have a formal collective dispute resolution procedure in their workplace, 69 per cent said that it includes a provision for issues to be referred to Acas

³https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525938/Trade_Union_Membership_2015_-_Statistical_Bulletin.pdf

where there is a failure to agree. A greater proportion of service users from the private sector report that there is such a provision in place, with 73 per cent noting that this is the case, compared to 60 per cent among public sector service conciliation users.

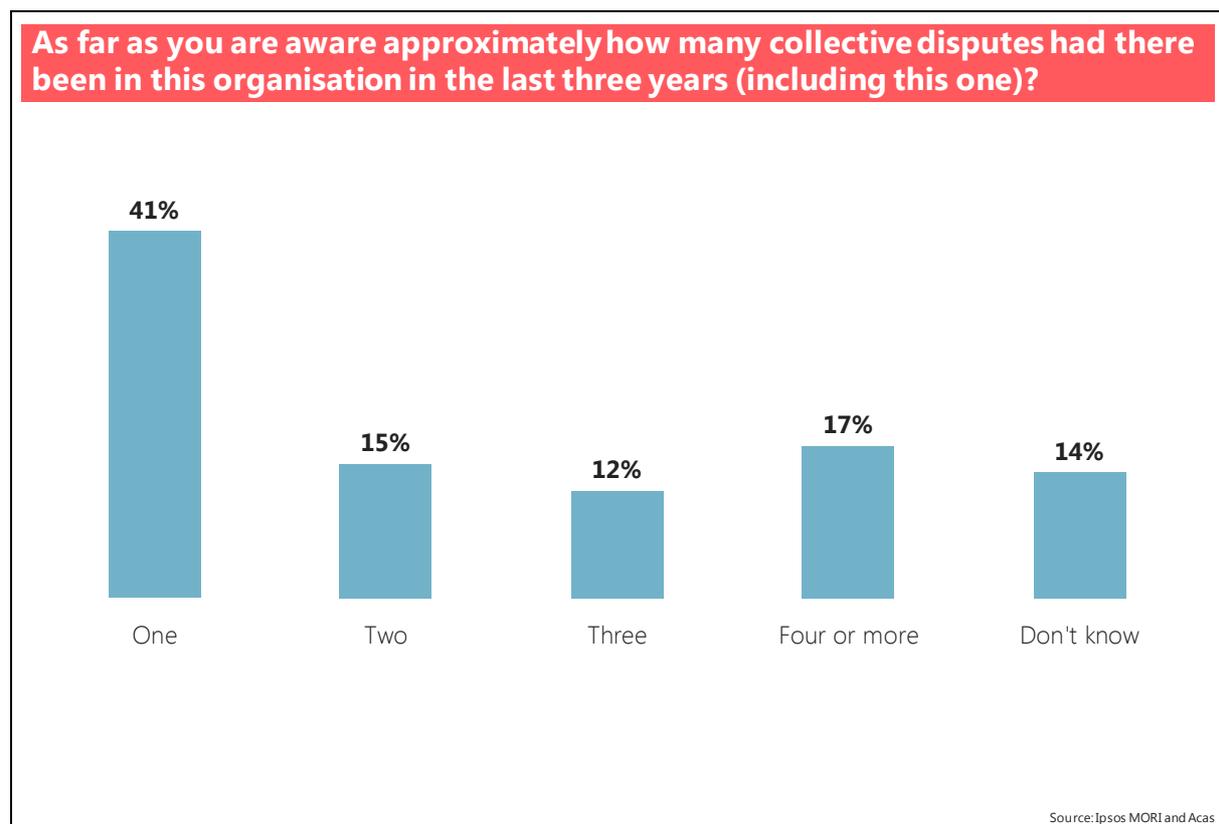
It follows that, overall, 61 per cent of all service users have formal procedures for dealing with collective disputes that include provision for referral to Acas.

2.3.5 Past experience of industrial disputes

Service users were asked how many collective disputes there had been in their organisation in the last three years including the dispute they were answering in respect of. Four in ten (41 per cent) service users reported that in the past three years their organisation had been involved in just this one industrial dispute. Another 15 per cent reported there to have been at least two collective disputes in the reference period and 14 per cent did not know.

Organisations from the public sector are more likely than those from the private sector to have reported being involved in more than one dispute in the past three years. For instance, 24 per cent of service users from the public sector reported being involved in four or more disputes in the last three years, compared to 14 per cent of private sector participants.

Figure 3- Recent history of collective disputes



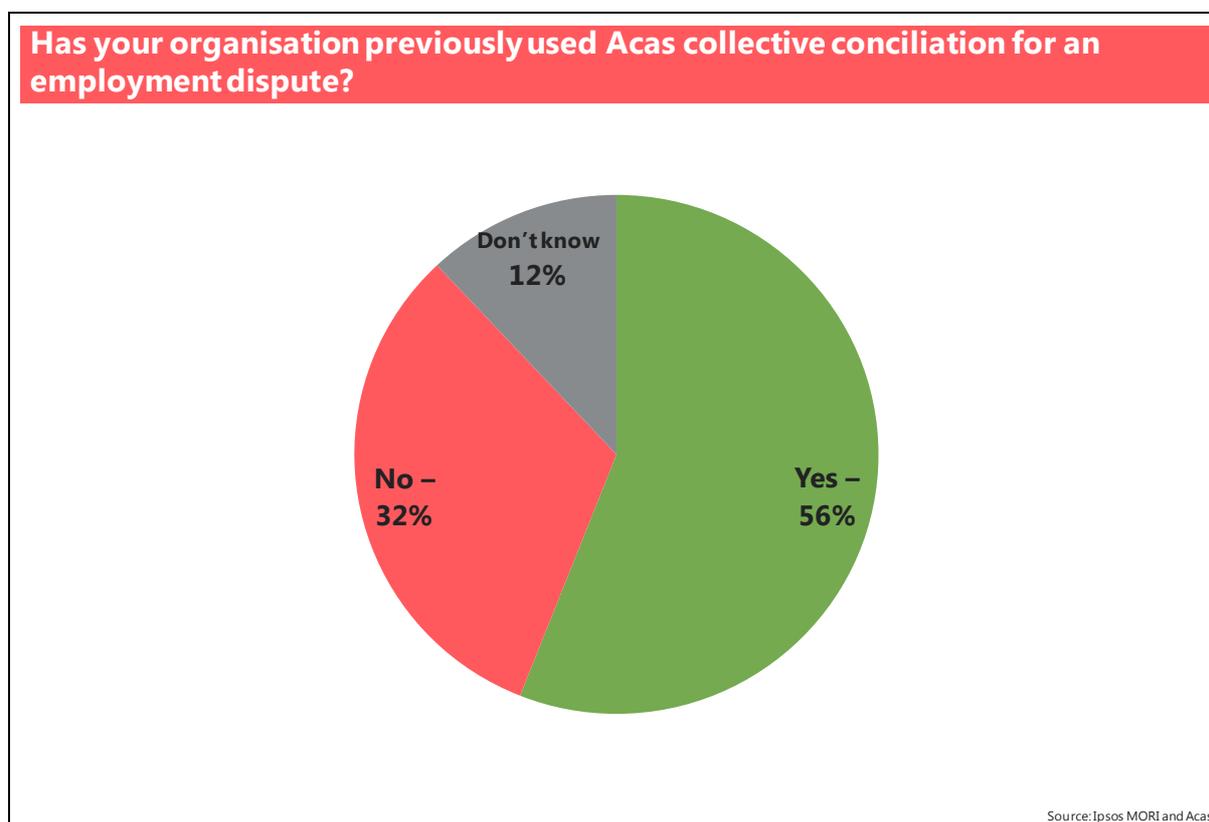
Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

2.3.6 New users of collective conciliation

A new series of questions in this year's evaluation investigated the experiences of first-time users of Acas' collective conciliation service. For 30 per cent of service users the dispute in question was the first time they had personally used Acas collective conciliation. Previous usage is higher among trade union participants with 86 per cent reporting that they have used the service before, compared to 53 per cent of employers.

Among employers, previous usage levels are higher when they were asked to consider their organisation rather than their personal experience. Close to six in ten (56 per cent) employer participants said that their organisation had previously used Acas collective conciliation, a figure that rises to 64 per cent of private sector employers. However, this remains a lower level of usage than among trade union participants. This finding is not surprising given that trade union participants will have far greater exposure to a broader range of possible disputes across different organisations, whereas employers' experiences will tend to be restricted to disputes within their own particular organisations.

Figure 4- Previous organisational use of Acas Collective Conciliation



Base: 171 employer participants, interviewed 8th February – 24th March 2016

Among those who have not used Acas' collective conciliation before, the largest proportion (77 per cent) said that this was because they had no need or no prior involvement in a collective employment dispute – a finding borne out in the qualitative research. This finding was consistent across employer and trade union participants, and across different employment sectors. Very few service users pointed to any other factors behind their decision not to use Acas' collective conciliation before.

When asked what it was about this particular dispute that led them to use Acas collective conciliation for the first time, the most commonly-given reason was because they had reached a deadlock or the other side wouldn't move (20 per cent). The next most common reason was because a neutral, independent, third party involvement was needed (13 per cent). This reason was only given by employer participants. Other popular answers included the fact that Acas' collective conciliation was part of the procedure (10 per cent), or that the union recommended or requested it (also 10 per cent). Additionally, nine per cent of participants answered that they used the collective conciliation for the first time because they felt their dispute was a large or complicated issue. A further nine per cent said that there was another reason for their first time use of the service.

2.4. Summary

- The majority of Acas users come from the private sector (65 per cent of disputes) and from large organisations that employ over 250 people in the UK (62 per cent).
- The average level of unionisation reported by service users was 58 per cent of the workforce. Trade union participants were more likely to estimate a higher level of unionisation in the organisation than employer respondents (66 per cent compared to 47 per cent).
- Around nine in ten (89 per cent) service users reported that there was a formal procedure in place in their organisation for dealing with collective disputes. Among this group, 69 per cent said that when there was a failure to agree this formal procedure includes a provision for a referral to Acas.
- Four in ten (41 per cent) participants reported that their organisation had only been involved in one collective dispute (41 per cent) in the past three years. Service users from the private sector were more likely to be involved in just one dispute than those in the public sector (44 per cent compared to 29 per cent) who in turn were more likely than those from the private sector to have been involved in four or more disputes.
- As stands to reason given that they often represent members in multiple organisations, trade union participants are more likely than employers to have personally used Acas collective conciliation before (86 per cent compared to 53 per cent). Among employers, past usage is higher when looking more widely, with 56 per cent stating that their organisations (rather than they personally) had previously been involved in an Acas collective conciliation.
- First-time users of Acas collective conciliation were more likely than previous service users to work for large organisations and have no formal procedures in place for dealing with collective disputes.
- Among first time users, the main reason for not using the service before was related to having no perceived prior need; 77 per cent gave this response.

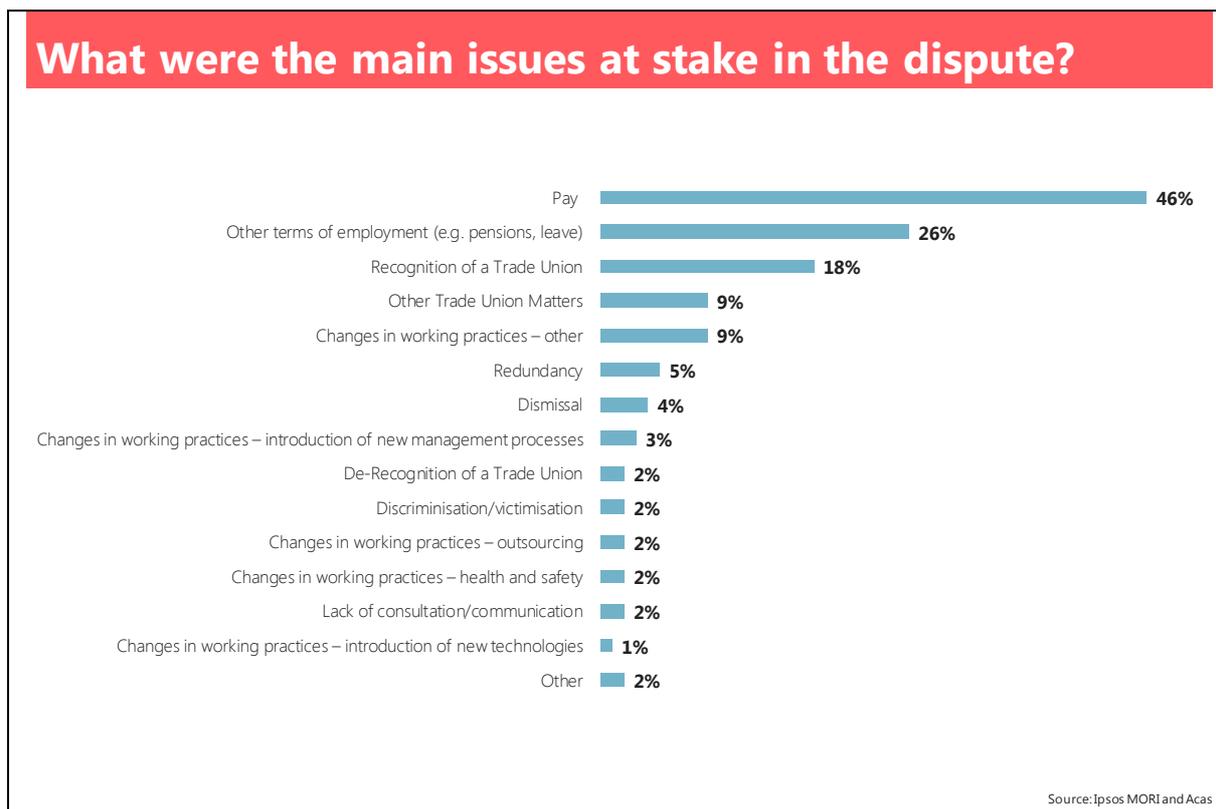
3. BACKGROUND TO DISPUTES

This section provides an analysis of the background to the disputes in which Acas provided conciliation services, based on answers provided by employer and trade union participants in the survey. The focus is on the causes of disputes, the duration and scope of disputes at the point at which Acas became involved, strategies employed by either party to resolve the dispute, relationships between management and workers, state of negotiations as conciliation began, and reasons for using Acas.

3.1. Causes of disputes

The survey highlights that 46 per cent of service users said that pay was the main issue at stake in their dispute, while 26 per cent said the main issue was terms of employment and 18 per cent said that it related to recognition of a trade union. These findings are in line the 2012 survey results, where 46 per cent of disputes were around pay, 22 per cent related to other terms of employment and 18 per cent were centred on the recognition of a trade union (although it should be noted that in 2012 participants from matched cases were half-weighted for this question).

Figure 5- The main issues at stake in disputes



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

However, unlike the 2012 survey, when trade union participants had been significantly *less* likely than employers to report pay issues as being a dispute cause, in the current survey 47 per cent of employers and 45 per cent of trade union participants said that pay was at issue in the dispute (this compares to 48 per cent and 42 per cent in the previous wave). Participants from private sector organisations were more likely than

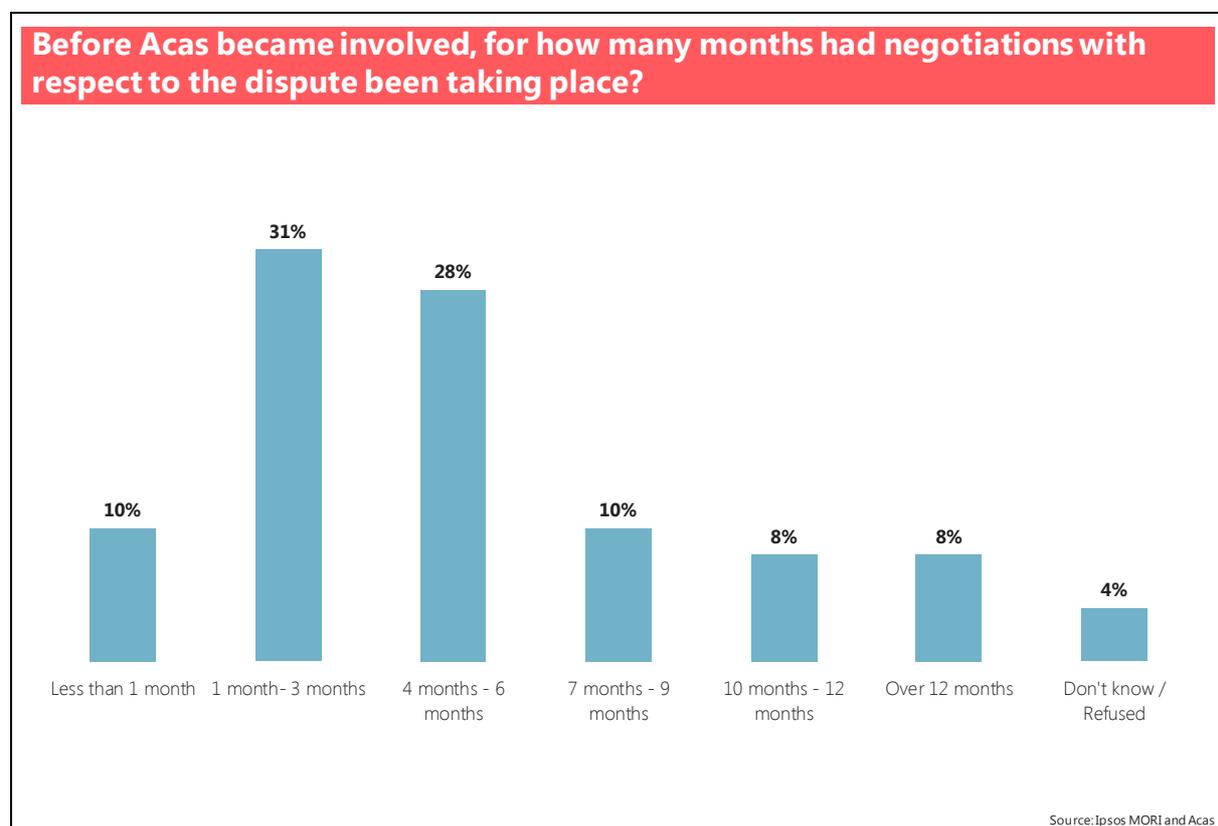
those in public sector organisations to report recognition of a trade union being one of the main issues at stake (22 per cent compared to five per cent).

3.2. Duration and scope of disputes

In 69 per cent of cases Acas became involved within the first six months of negotiations in a dispute. While this is a clear majority of cases, it does represent a fall since 2012, when this had been the case in 78 per cent of disputes. Similarly, although only a small minority of cases had been ongoing for one year or more before Acas became involved (eight per cent), this marks a modest change from 2012, when just 5 per cent of cases had lasted for one year or more prior to Acas' involvement.

Employer participants typically felt that the dispute had been running for a shorter period of time than participants from trade unions; 13 per cent of employer participants said that their dispute had been running for less than one month prior to Acas' involvement, compared to seven per cent of trade union participants.

Figure 6- Length of negotiations in a dispute prior to Acas' involvement



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

Looking only at matched cases, where both sides in disputes were interviewed, the same differences in perception of how long the dispute had been going on for were noted; 18 per cent of employers in matched cases said that their dispute had been running for less than one month, compared to 12 per cent of trade union participants. This finding was also reflected in the qualitative case studies; for instance in dispute four, where the trade union official linked the current de-recognition dispute to ongoing disagreements beginning with a previous de-recognition a few years previously, whilst the employer representative saw the current case as standalone.

Participants were also asked about the number of workplaces involved in the dispute; data here for matched cases is half-weighted to avoid double-counting. In one quarter (26 per cent) of cases the dispute extended beyond one site, involving employees at more than one workplace within the wider organisation. Of the collective disputes that were confined to a single workplace site, 42 per cent of workplaces involved in the dispute were part of a larger organisation, while 32 per cent were an independent workplace, not belonging to any other organisation. This trend has remained consistent since 2012.

Table 2 – The scope of the dispute

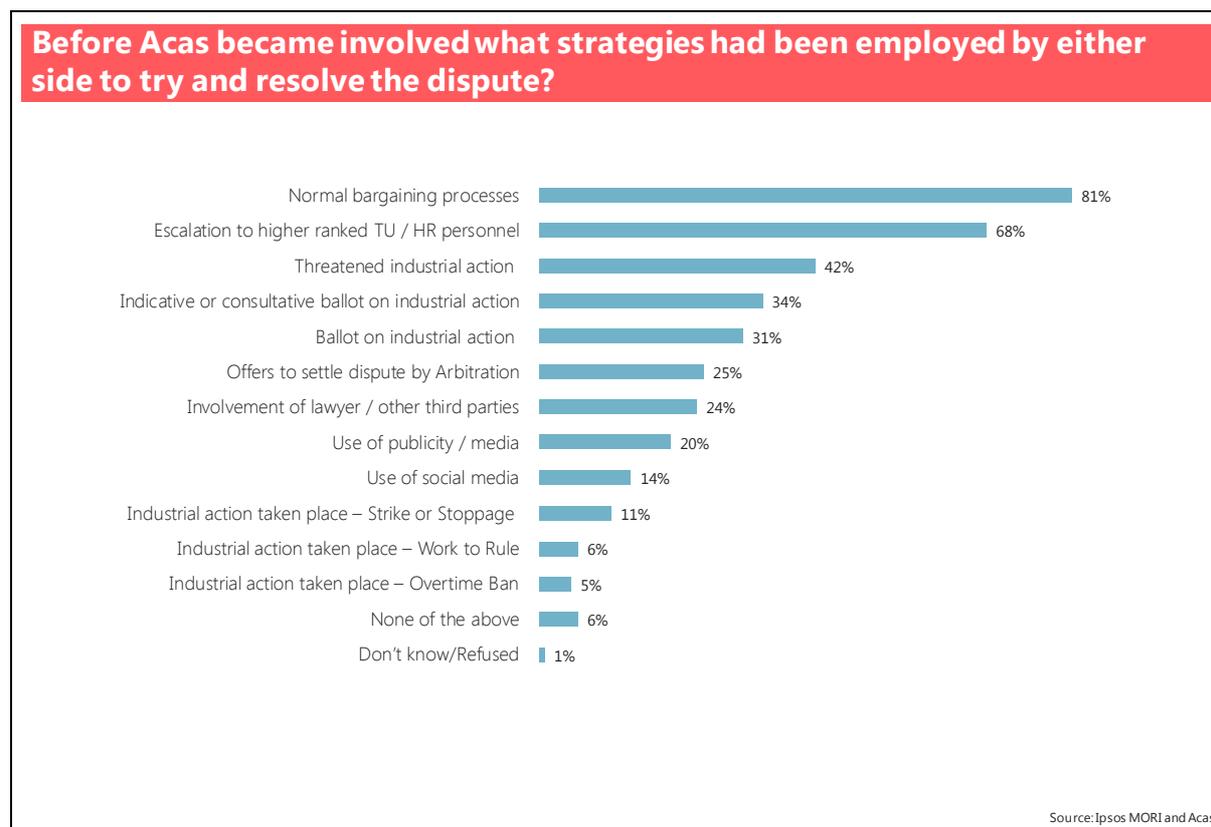
	Total (%)	Employer (%)	Trade Union (%)
One of a number of workplaces belonging to the same organisation	42	39	44
A single independent workplace not belonging to any other organisation	32	36	28
Multiple workplaces belonging to the same organisation	26	24	28

3.3. Strategies employed to resolve disputes

Collective conciliation service users were asked what strategies had been employed by either side to try to resolve the dispute prior to the involvement of Acas (and could select more than one option). Reflecting findings from the 2012 evaluation, the single most commonly cited strategy (mentioned by 81 per cent of users) was that they or the other side had used their 'normal bargaining processes' to try and resolve the dispute before involving Acas. Thereafter, in keeping with what might be thought of as the normal escalation of employment relations issues, the next most common strategy cited was 'escalation to higher ranked personnel' (68 per cent), followed by 'threatened industrial action' (42 per cent).

It should be noted here that in the 2012 evaluation, the threat of industrial action as a strategy employed prior to Acas' involvement was reported by only 26 per cent of participants, meaning that use of this strategy has risen significantly over the intervening years (a 16 percentage point increase). Whilst there may be a number of reasons behind this increase, this rise may reflect a different workload over the survey period compared to 2011-2012, involving longer-running and more established cases where a conciliated solution is more difficult to reach.

Figure 7- Strategies employed by negotiators prior to Acas' involvement



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

There were differences in the main strategies that trade unions and employers reported being used. For instance, trade unions were more likely than employers to report that an indicative or consultative ballot on industrial action had been held: 41 per cent of trade unions reported this having happened, compared to just 27 per cent of employers, averaging out at 34 per cent. As indicative or consultative ballots are initiated by trade unions, it is not unexpected that trade union participants would be more likely to recall this event. (An example of using consultative ballots as a strategy appears at case study six).

Additionally, 19 per cent of trade union participants said that social media was used as a strategy to resolve the dispute, compared to 9 per cent of employers. Again, this disparity is not unexpected; it is possible that employers might not have been aware of the other side's use of social media. From survey responses it is unclear whether social media is used for the resolution of disputes, or in a broader communicative sense to rally support; preliminary research during the cognitive testing phase suggests that it may be more frequently used by trade union participants for the latter purpose.

3.3.1 Existing strikes and stoppages

Service users who reported that a strike or stoppage had already occurred were asked about the number of days of action that had taken place before Acas' involvement, and how many employees were involved.

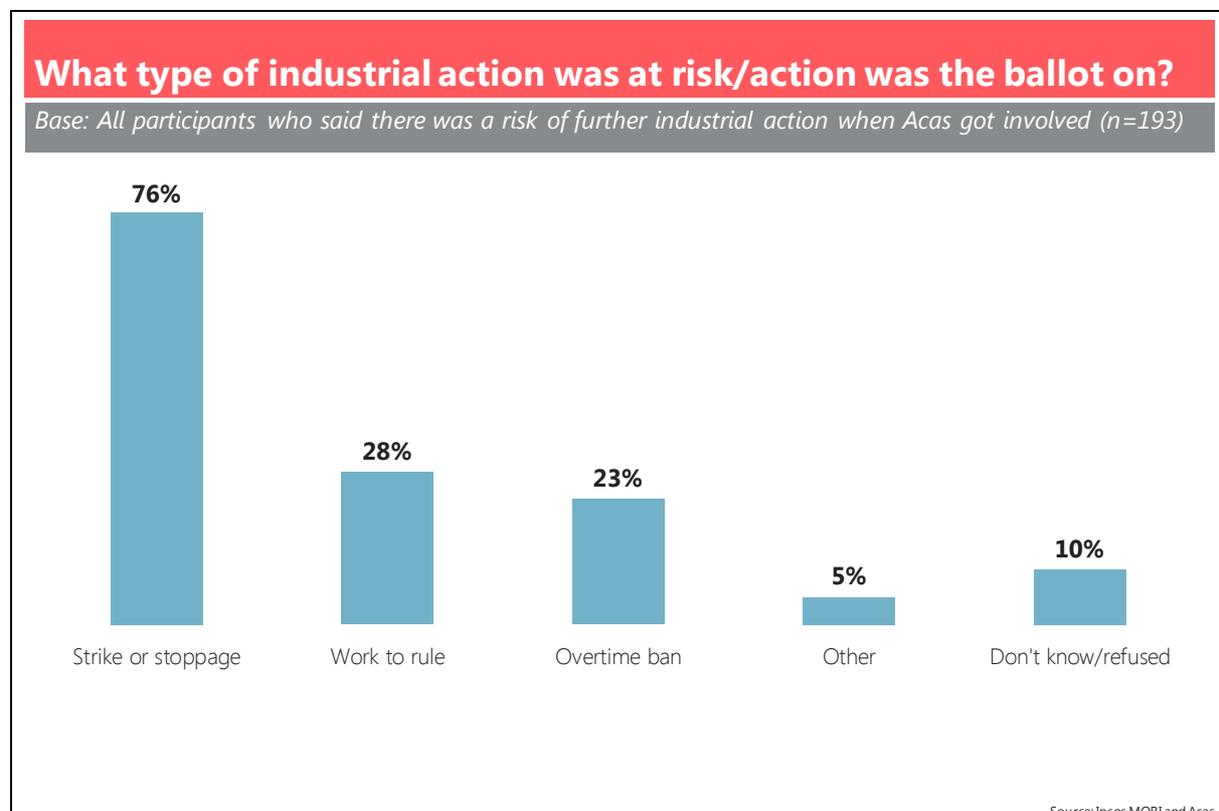
It should be noted that this represents a small proportion of the overall sample – 37 of 342 participants reported that a strike had already occurred – and so the results cannot be taken to represent the broader picture. Figures here have also been half weighted to avoid double-counting matched cases, reducing the effective base size further. In the majority of cases strike action lasted four days or more (35 per cent of participants reported this). Twenty-three per cent of participants said that strikes had lasted one day, 27 per cent two days and 10 per cent three days. The remaining seven per cent were unable to give a figure.

3.3.2 Threats of further industrial action

As reported earlier, 42 per cent of service users reported that threatened industrial action had been employed as a strategy and 31 per cent stated that a *ballot* on industrial action had already taken place. Just under half (45 per cent) said at least one of these had happened. Looking at the remaining 55 per cent of service users, for whom neither of these strategies had been used, three quarters (77 per cent) confirmed that, at the time that Acas became involved, there was no risk of industrial action. However, for one in five (19 per cent) of this group, there was said to have been a risk of industrial action taking place, despite no ballot having been called. In the remaining two per cent of cases a ballot for industrial action had taken place at the time Acas got involved.

In cases where industrial action was at risk at the time Acas became involved, the most common type of action at issue was a stoppage, which was said to have been at risk in three quarters (76 per cent) of these cases. Less common reported actions were “work to rule” actions (28 per cent) and overtime bans (23 per cent). Other actions were “work to rule” actions (28 per cent) and overtime bans (23 per cent).

Figure 8- Industrial action at risk prior to conciliation



Base: 193 employer and trade union participants, interviewed 8th February – 24th March 2016

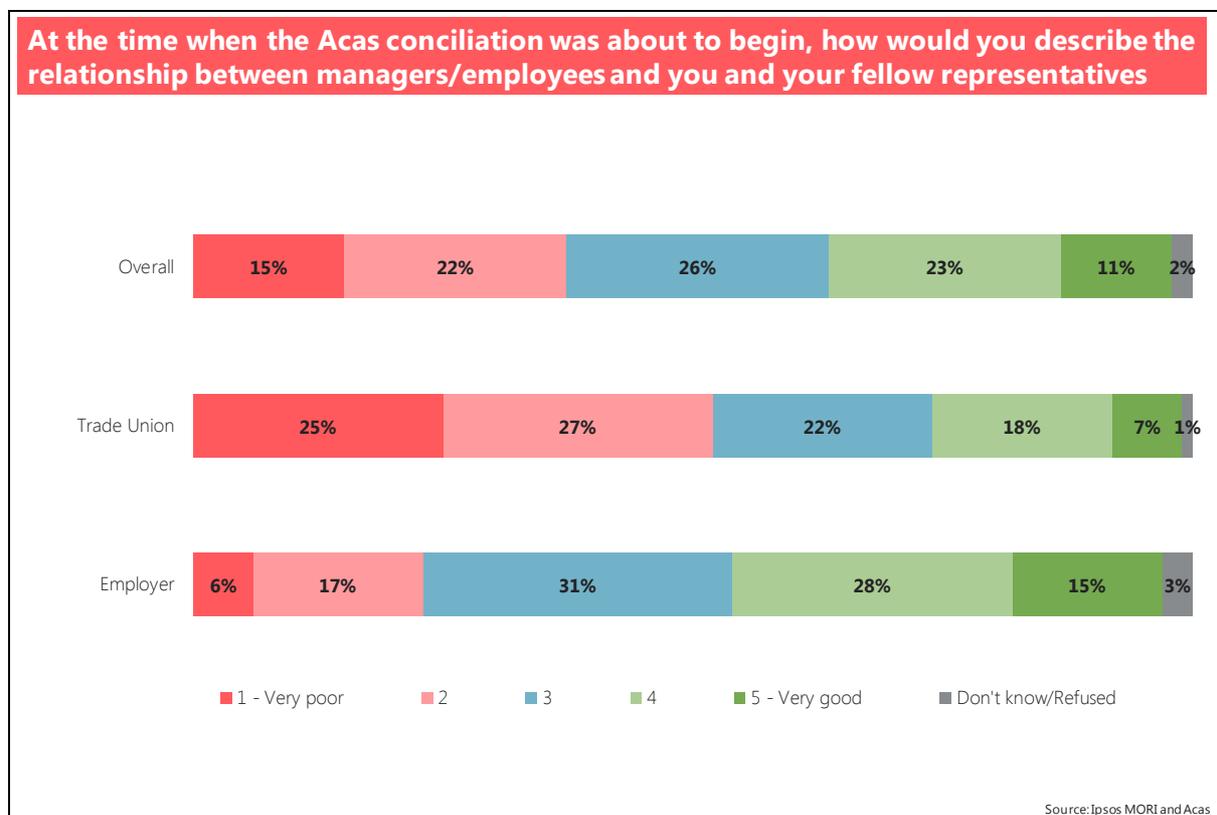
3.4. Relationships between management and workers

In general, there were mixed responses on the perceived quality of the relationships between management and workers as conciliation began. Overall, 37 per cent of service users described the relationship as 'poor' or 'very poor', while 34 per cent report that it was 'good' or 'very good'.

Trade union participants were more likely than employer participants to report that the relationship between management and workers was poor at the time that Acas conciliation commenced. Just over half (52 per cent) of trade union participants described the relationship between management and workers at this point as 'poor' or 'very poor', compared to 23 per cent of employers. These findings, which are in line with 2012 evaluation data, illustrate differing perceptions of management and worker relations between the two groups. Similarly, in 2012 48 per cent of trade union respondents reported that relations were poor or very poor, while 35 per cent of employer side participants said this.

Echoing the broader findings, evidence from matched cases shows that trade union participants are more likely than employers to have a negative view of the relationship between managers and employees at the outset of the case. In around half (50 per cent) of matched cases the two parties gave exactly the same score on the 5-point scale to the question asking about the initial state of employment relations in their organisation. However, where there was disagreement between the two sides, the employer participant reported a more positive view of employment relations than the trade union participant in two thirds (66 per cent) of these cases.

Figure 9- Relationships between sides at the start of conciliation

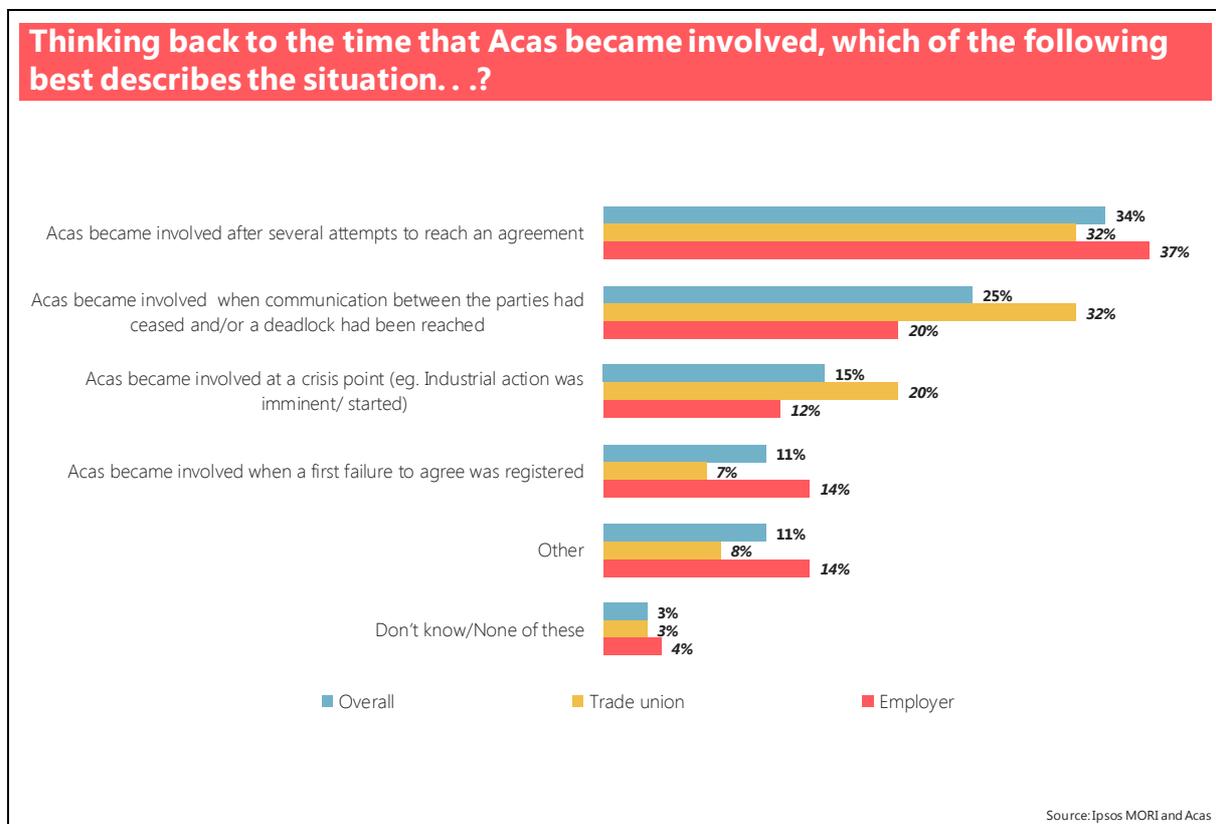


Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

3.5. State of negotiations as conciliation began

Employers and trade union participants were asked to say at what stage in the dispute Acas became involved. Participants were most likely to say that Acas became involved in their dispute after several attempts to reach an agreement had been made (34 per cent). The second most frequent circumstance was when communication between the parties had ceased and/or a deadlock had been reached (26 per cent). A further 16 per cent said that Acas became involved at a crisis point (for instance, when industrial action was imminent or had started), while 11 per cent were more proactive, saying that Acas became involved when a first failure to agree was registered.

Figure 10- The stage at which Acas became involved in the dispute



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

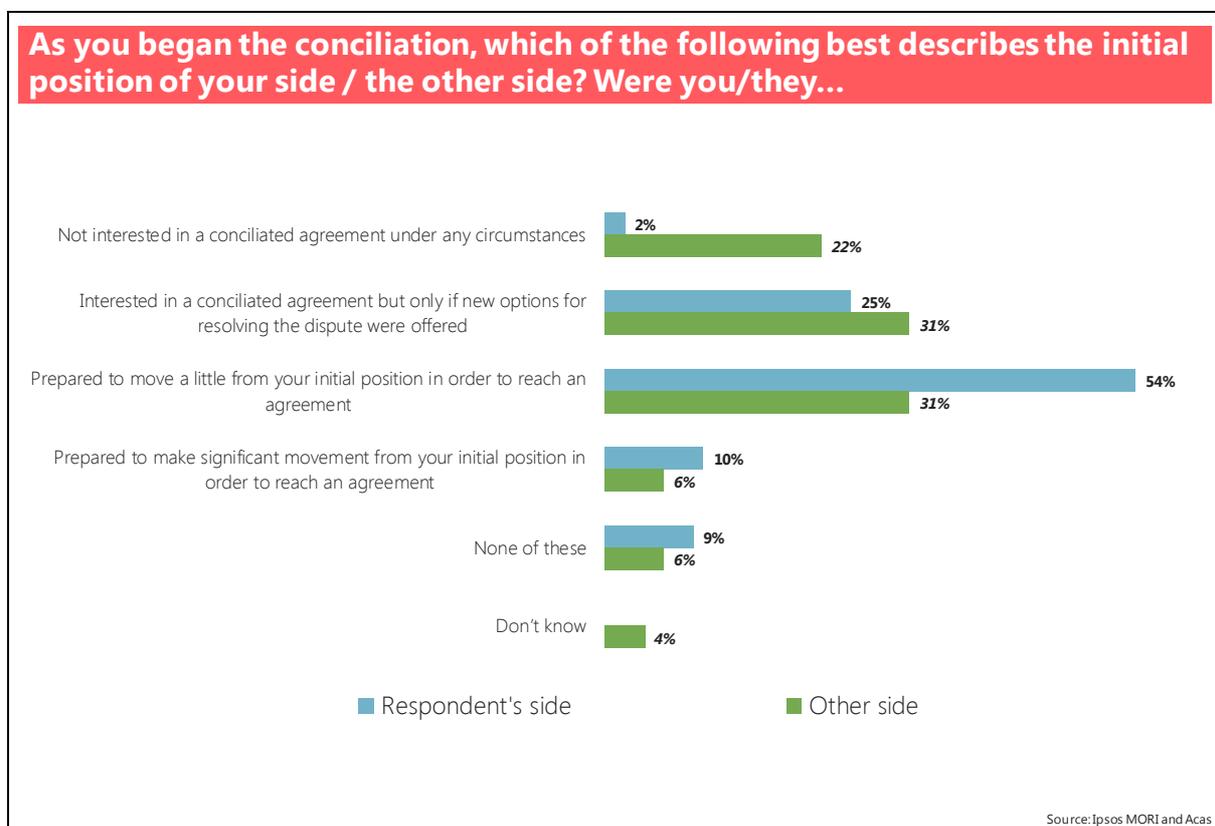
There are clear differences between the perception of employer and trade union participants in respect of the situation in the workplace at the point when Acas became involved. Trade unions were more likely than employers to report Acas becoming involved when communication between the parties had ceased (32 per cent compared to 20 per cent), or when the situation was at a crisis point (20 per cent, versus 12 per cent).

Participants were also asked to evaluate the positions of both sides of the dispute prior to the start of conciliation. Over half (54 per cent) said that they were prepared to move a little from their original position, while a further 10 per cent said that they were

prepared to make significant movement from their original position. One quarter (25 per cent) were interested in a conciliated agreement but only if new options for resolving the dispute were offered and just two per cent said that they were not interested in a conciliated agreement under any circumstances.

Service users tended to perceive the other side as less willing to negotiate, with 22 per cent of participants describing the initial position of the other side as being not interested in a conciliated agreement under any circumstances. This may reflect continuing “strategic response bias” from participants, who want to appear more conciliatory to the interviewer, as noted in the previous evaluation. Nevertheless, trade union participants were more likely than employer participants to suggest that the other side were not interested in a conciliated agreement (29 per cent, compared to 15 per cent). This pattern was repeated among matched cases – one third (33 per cent) of trade union participants in matched cases said that the other side was not interested in an agreement under any circumstances, compared to 14 per cent of employers.

Figure 11- Participant views on the positions of both sides prior to conciliation



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

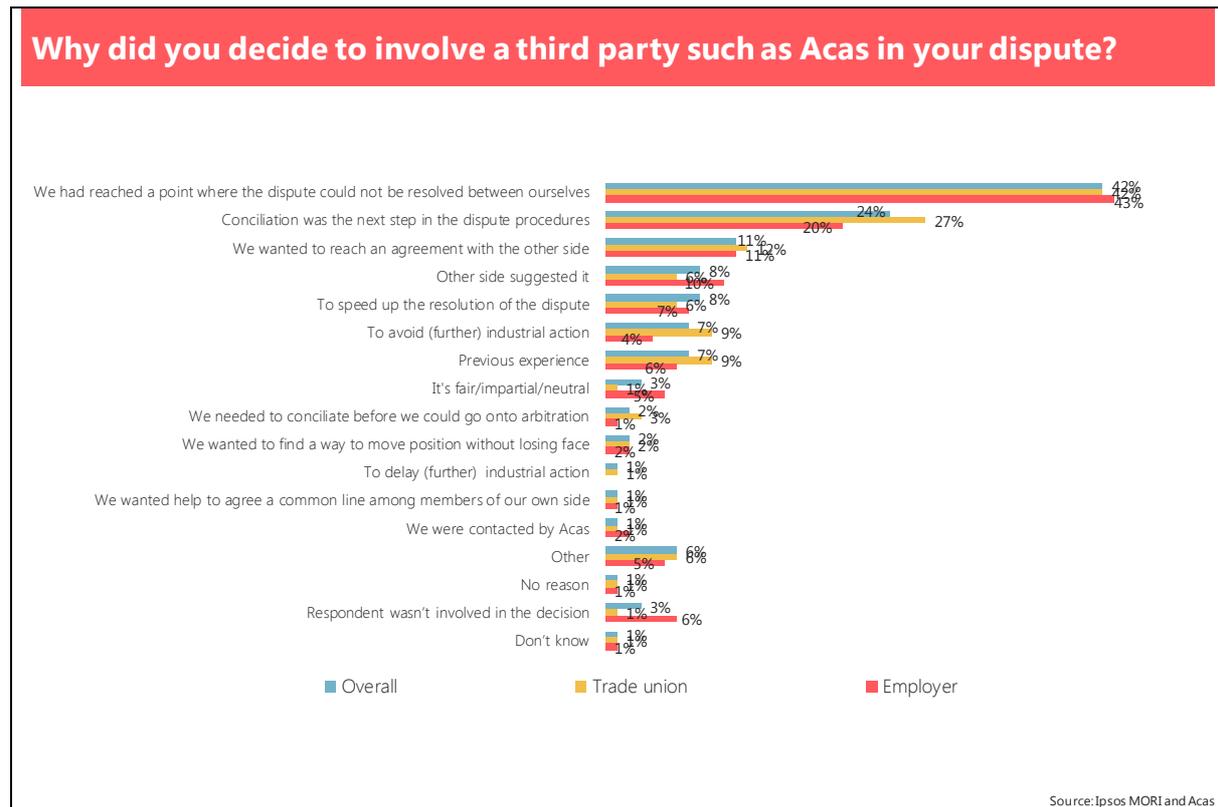
3.6. Reasons for involving a third party

Collective conciliation service users were asked why they decided to involve a third party such as Acas in their dispute. Here, the single most commonly cited reason (given by 42 per cent) was that they had reached a point whereby the dispute could not be resolved between the parties. The next most-commonly given reason was that conciliation is the next step in their dispute procedures (24 per cent), followed by 11 per cent who said

that they sought external involvement because they wanted to reach an agreement with the other side.

Among those who gave more than one reason for involving a third party, 29 per cent said that the single most important reason was that the dispute had reached a point where it could not be resolved between the parties, followed by 16 per cent of this group who said the main reason was that conciliation was the next step in their procedures, and 13 per cent who said that it was because they had wanted to reach an agreement.

Figure 12- Reasons for involving a third party in the dispute



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

Having given reasons for involving a third party in their dispute, participants were then asked why they decided to use Acas conciliation in particular. The largest proportion (35 per cent) said that it was because Acas collective conciliation had been useful in the past. A further 25 per cent reported that Acas conciliation was part of the organisation's formal dispute procedures and another 19 per cent stated that they chose Acas because they are independent of management and unions.

Of those who gave multiple reasons for using Acas in particular, 23 per cent said that the most important reason was that Acas collective conciliation was useful in the past. One fifth (22 per cent) said that Acas' independence was their most important reason, and 15 per cent stated that the most important reason was because Acas' collective conciliation was part of organisation's dispute procedure. For first time users, the most important reason was that Acas is independent of management and unions (23 per cent), followed closely by Acas' track record (22 per cent). Twenty-two per cent of first time users also said that Acas conciliation had been useful in the past – as first time users will not have the experience of Acas conciliation to make this judgement, it is likely that they are

referring to Acas' reputation and track record in other services, or the experience of a friend or colleague with the services.

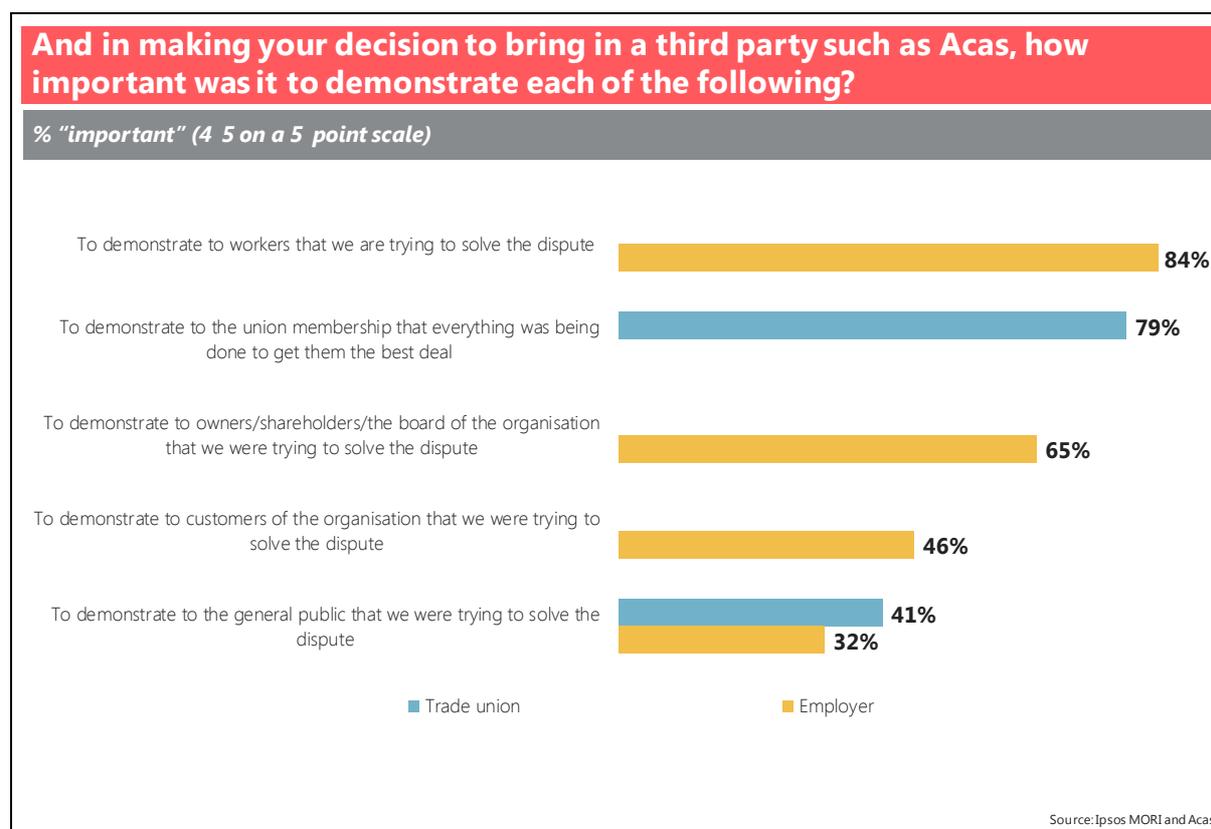
Overall, trade union participants were more likely to say that Acas collective conciliation had been useful in the past (41 per cent compared to 29 per cent among employer participants). This may be due to greater familiarity with Acas as a whole, which is reflected in the fact that 13 per cent of trade union participants reported that this was the first time that they personally had used Acas, compared with 47 per cent of employer side participants.

Service users were also asked to rate the importance of a series of different factors, relative to their decision to bring a third party such as Acas into the dispute, on a scale of one to five. For employers, the most important of these factors was said to be 'demonstrating to the workers that they were trying to solve the dispute', deemed by 84 per cent of employers as having been an important factor (awarding it four or five out of five). This factor received a higher rating than 'demonstrating to customers that they were trying to solve the dispute' (46 per cent), or 'demonstrating this to owners or shareholders' (65 per cent).

For trade union participants, bringing in a third party like Acas was most important in order to 'demonstrate to the union membership that everything was being done to secure the best deal', deemed by 79 per cent of trade union participants as important. Both sides were less concerned with demonstrating to the general public that they were trying to resolve the dispute (41 per cent for employee and 32 per cent for employer participants).

First time users gave similar answers; for trade union participants who were first time users, demonstrating to the union membership that everything was being done to secure the best deal remained the key consideration. However, the proportion of first time users who considered this important stood at 65 per cent, compared to 79 per cent overall. First time employer participants also had similar views to employer users overall, with the top response for both groups being "demonstrating to workers that they were trying to solve the dispute", chosen by 65 per cent of first time employer users.

Figure 13- Importance of various factors to deciding to involve Acas



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

3.7. Summary

- The primary issues at stake in disputes for collective conciliation users related to pay (an issue in 46 per cent of disputes) and other terms of employment (26 per cent).
- Acas became involved in the first six months of negotiations in the majority of cases (69 per cent) and only a small minority (8 per cent) reported that their dispute had continued for over a year prior to Acas' involvement; these results constitute a nine percentage point fall and a five percentage point rise respectively since 2012, indicating that Acas involvement is happening slightly later in the lifespan of disputes.
- The scope of the dispute was most commonly confined to a single workplace (the case for 74 per cent of service users); a mix of single workplaces that belong to a wider organisation (42 per cent) or single-workplace organisation (32 per cent).
- Users of the service typically reported having employed a mixture of strategies to resolve the dispute prior to Acas' involvement. Most commonly, participants reported using normal bargaining processes (81 per cent of cases) and escalation of issues to higher ranked personnel (68 per cent of cases). The threat of industrial action as a strategy employed prior to Acas' involvement was reported by 42 per cent of participants; a 16 percentage point increase since 2012 and a

potential indicator that caseloads are becoming populated by more well-established disputes (perhaps related to the earlier finding that Acas involvement is happening later).

- When looking at the state of negotiations as conciliation began, participants typically reported that Acas became involved after several attempts to reach an agreement (in 34 per cent of cases), or when communication between the parties had ceased and/or a deadlock had been reached (in 26 per cent of cases).
- Over half (54 per cent) of participants said they were prepared to move a little from their original position to reach a deal, and just two per cent said that they were not interested in a conciliated agreement. Service users tended to view the other side in their dispute as having a less flexible opening position than they did, with 22 per cent saying they felt that the other side was not interested in agreement under any circumstances.
- The three most frequently reported reasons for involving a third party in the dispute were that: the two parties had reached a point where the dispute could not be resolved (42 per cent); that conciliation was the next step in a pre-arranged process (24 per cent), and; that they wanted to reach an agreement with the other side (11 per cent).
- The main reasons for involving *Acas in particular* were that its collective conciliation service had proved useful in the past (35 per cent), that Acas conciliation was written into their dispute procedures (25 per cent) and that Acas is independent of management and unions (19 per cent).
- In rating the importance of different factors relative to their decision to bring a third party such as Acas into the dispute, the most important factor for employer participants was said to be demonstrating to workers that they were trying to solve the dispute (86 per cent considering this to be important), whereas for trade union participants, most – 79 per cent – felt that demonstrating to the union membership that everything was being done to secure the best deal was important in deciding to bring in a third party like Acas.

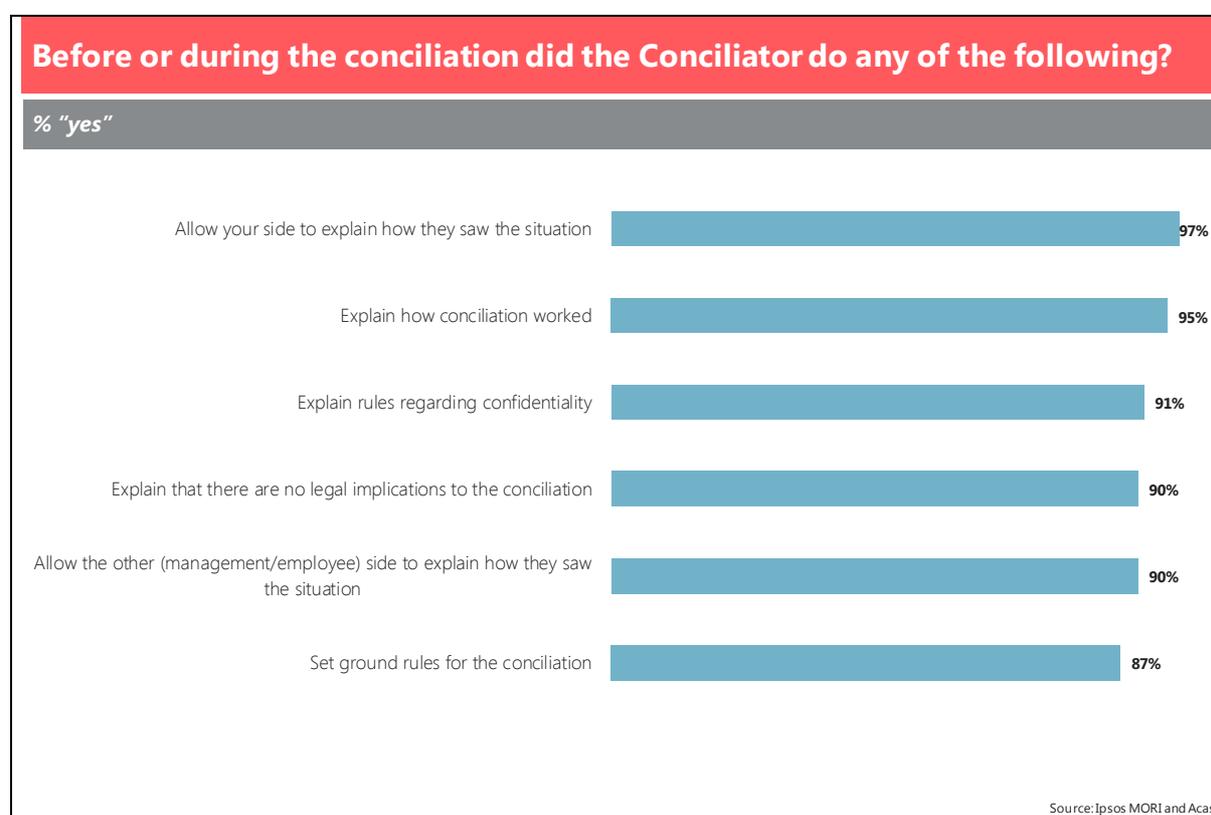
4. THE CONCILIATION PROCESS

This section explores service users' views on the skills of the collective conciliator and the techniques the conciliator employed throughout the process. It also reports on overall satisfaction with Acas' collective conciliation service.

4.1. Techniques employed by conciliators

At the outset of collective conciliation, there are a number of techniques that conciliators can employ to ensure that both sides in the dispute have a shared understanding of the basic rules of the process. These include explaining how the conciliation process works, setting the 'ground rules' for conciliation, as well as allowing both sides to explain how they see the situation. As shown in the figure below, the large majority of service users confirmed that the Acas conciliator had made use of each of these techniques at the beginning of the conciliation.

Figure 14- Before or during the conciliation did the Conciliator do any of the following?



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

These findings are similar to those reported in the previous collective conciliation evaluation,⁴ for instance the proportion saying that the conciliator had set the ground rules for the conciliation was 89 per cent in the previous wave, compared with 87 per cent this year.

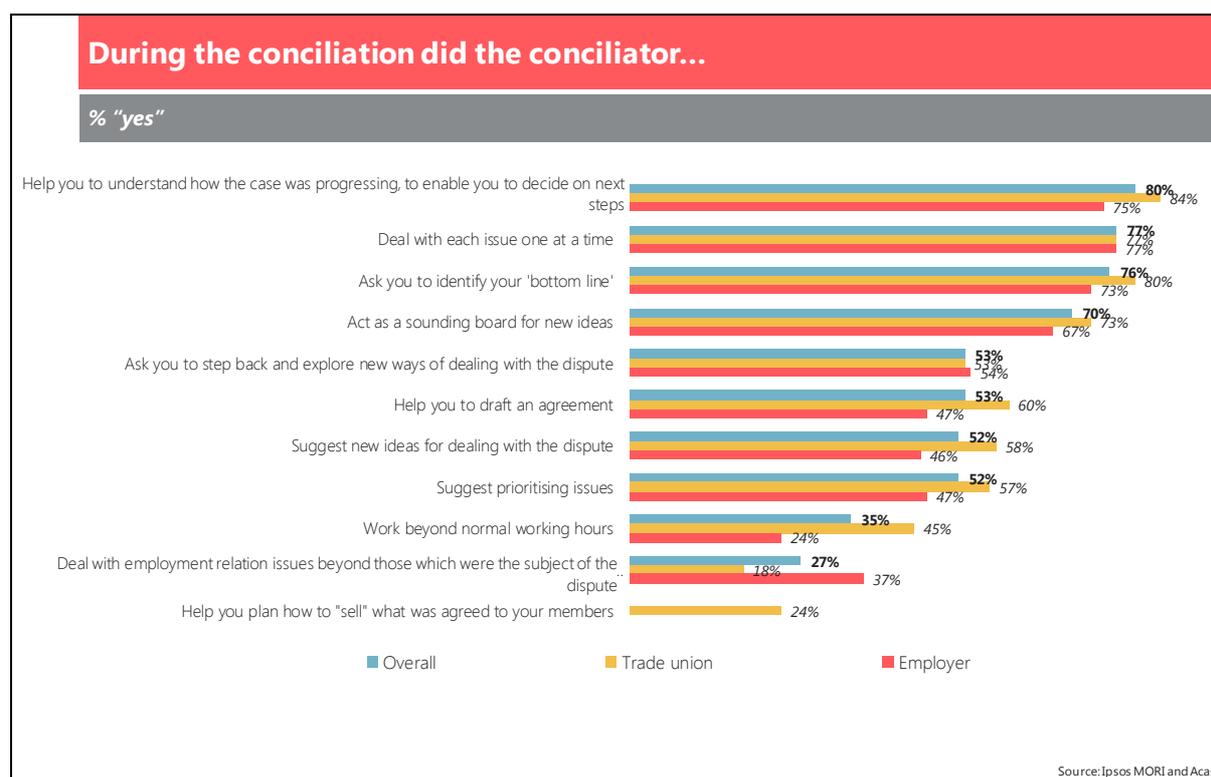
⁴ Please note that in the 2012 report percentages were rebased to exclude those saying "don't know / can't remember". In this version of the report the 2012 figures are given based on all responses, with "don't know / can't remember" included.

A separate battery of questions in the survey focused on techniques available to conciliators *during* the conciliation process that can be used to bring the parties in a dispute closer to an agreement (see Figure 15, below). As in the last survey, the most commonly-used techniques identified by participants were 'systematic' in approach, centring on dealing with each issue one at a time (reported by 77 per cent of service users), and getting each side to consider their own position and identify their 'bottom line' in negotiation.

This year, a new code added to the survey – helping participants to understand how their case was progressing so they could decide on next steps – emerged as being the most commonly-used technique. This technique was notably more commonly cited by trade union respondents than employers (84 per cent compared to 75 per cent).

As in the last wave of research, slightly smaller proportions reported the use of more far-reaching techniques by the conciliator, including asking people to step back and consider *new* ways of dealing with the dispute, working beyond normal working hours, and dealing with employment relations issues beyond the scope of the dispute.

Figure 15- During the conciliation did the Conciliator do any of the following?



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

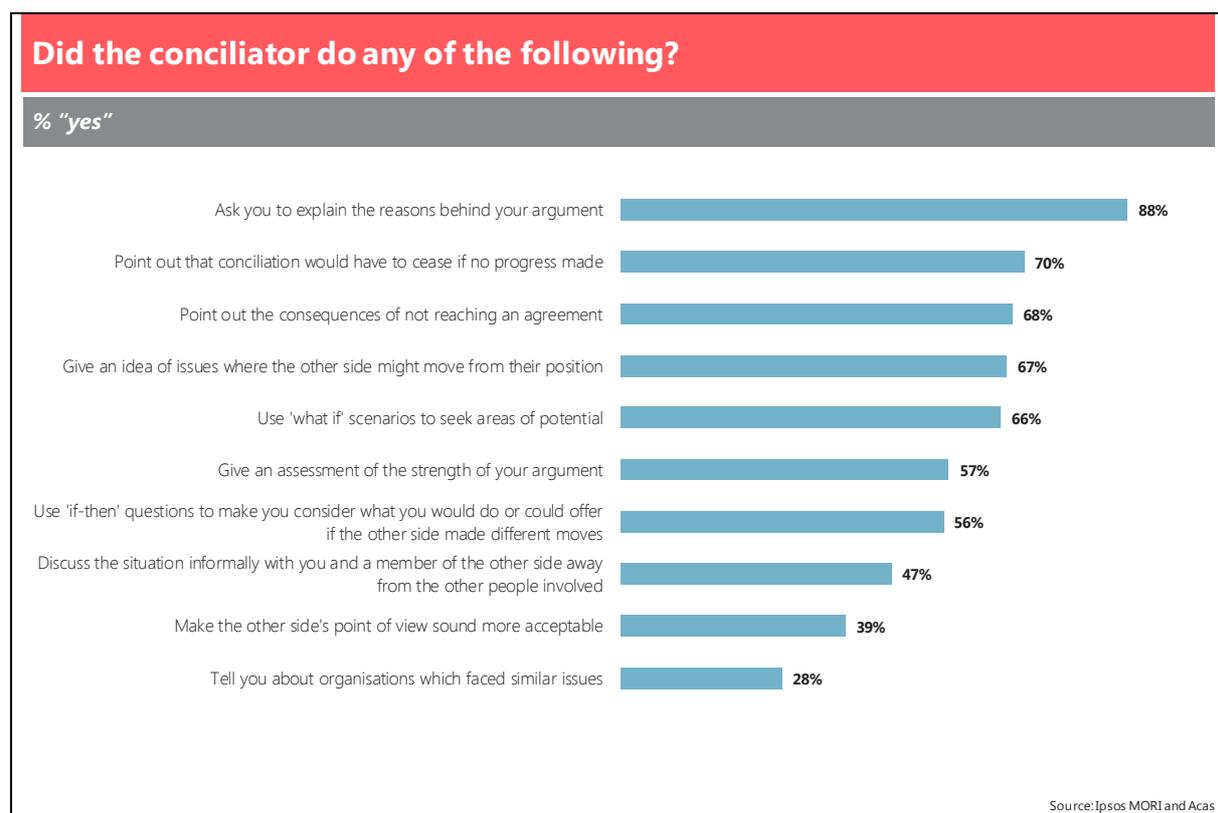
There were limited differences between the responses provided by employer and trade union participants on a further set of measures covering additional techniques that conciliators can use during conciliation – shown in Figure 16 below – with the largest proportion (88 per cent) reporting that the conciliator had asked them to explain the reasons behind their argument. This compares to 92 per cent who reported this in the 2012 survey.

The two next-most commonly cited techniques both revolved around highlighting the consequences of not agreeing: first, pointing out that conciliation would cease if no progress was made (70 per cent overall, up from 67 per cent in the previous survey) and second, highlighting the broader consequences of not reaching an agreement (68 per cent overall, down from 70 per cent in 2012).

The proportion of respondents reporting the conciliator's use of a number of other techniques has also declined since the previous survey – two thirds (66 per cent) overall reported the use of 'what-if' scenarios to seek potential areas of agreement, compared to 74 per cent in the last survey, and 56 per cent reported the use of "if-then" questions, versus 68 per cent before. There was also a decline in the proportion reporting conciliators giving an assessment of the strength of their argument (63 to 57 per cent). However, the proportion who said that the conciliator made the other side's point of view sound more acceptable remained stable, at 39 per cent this year, compared to 38 per cent in the previous evaluation.

The proportion who said that the conciliator suggested discussing the situation informally with someone from the other side of the dispute away from others involved has remained stable too (47 per cent this year, versus 46 per cent last time), as has the proportion who reported that the conciliator gave them an idea of the issues where the other side might move position (67 per cent in both evaluations).

Figure 16- During the conciliation did the Conciliator do any of the following?



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

4.2. User satisfaction with the collective conciliation service

User satisfaction with the service provided by Acas collective conciliation remains high. When all participants were asked to rate satisfaction with the conciliation service provided by Acas on a 7-point scale, 89 per cent were satisfied, giving a score of between five and seven out of seven. Half (51 per cent) of trade union contacts and almost four in ten (37 per cent) employer participants reported the highest possible level of satisfaction with Acas (i.e. seven out of seven).

There was broad agreement on satisfaction with the service between different sides in matched cases; in 88 per cent of cases where both sides were interviewed, both participants were satisfied with the conciliation service, awarding it between five and seven out of seven. There were no cases of active disagreement among matched cases, where one service user in a matched pair was satisfied while the other was dissatisfied – in the three cases where one side was dissatisfied, the other side rated their satisfaction in the middle of the scale (four out of seven).

Figure 17- User satisfaction with Acas conciliation service



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

When asked to consider the qualities of the conciliator on a number of attributes using a scale of one to five (with one being very poor and five being very good), service users gave conciliators very high ratings in each case (see Table 3 below for a breakdown of the proportions awarding top scores for each attribute).

Across a suite of abilities, the overall proportions giving the Acas conciliator a positive score (between four and five out of five) ranged between 93 per cent for “listening to you” and 71 per cent for “helping you to understand the management’s / the employee

representative's point of view" (two separate questions asked of trade union and employer participants respectively).

As in previous surveys, trade union participants were more likely than employers to give the highest rating on the scale (five out of five) across all qualities – often by as much as ten or twenty percentage points – but this is matched by a higher proportion of employers giving Acas four out of five, rather than reflecting greater dissatisfaction with the conciliators' skills among employer participants.

Both employer and trade union respondents rated the Acas conciliator most positively at listening to them, but employer participants viewed the conciliator's ability at remaining impartial equally highly, with 69 per cent of this service user group rating the conciliator as very good (five out of five). At least seven in ten trade union participants gave the conciliator top marks for establishing a rapport with them, remaining impartial and presenting issues in neutral language.

Table 3 – How would you rate the conciliator at...

	Employer		Trade Union	
	% awarding 5 out of 5	% overall good (4-5)	% awarding 5 out of 5	% overall good (4-5)
Listening to you	69	88	85	98
Remaining impartial	69	91	79	95
Establishing a rapport with you	66	87	83	94
Presenting issues in neutral language	54	89	71	94
Understanding your point of view	50	78	62	88
Time management	49	78	63	81
Helping you to identify areas of agreement/disagreement	41	70	54	81
Helping you to understand the management/employee representative's point of view (<i>N.B. two different questions</i>)	37	71	42	71
Calming the situation	35	58	52	70
Explaining relevant employment law	30	46	45	57

Service users were next asked about the extent to which they agreed that the conciliator had exhibited five key characteristics: availability; pro-activity; trustworthiness; following through on promises and 'being on your side'. Between eight and nine in ten service users strongly agreed that their conciliator was trustworthy (84 per cent of employers and 90 per cent of trade union participants), with no participants from either service user group disagreeing with this statement.

On other measures there was greater divergence in the strength of agreement between employer and trade union participants:

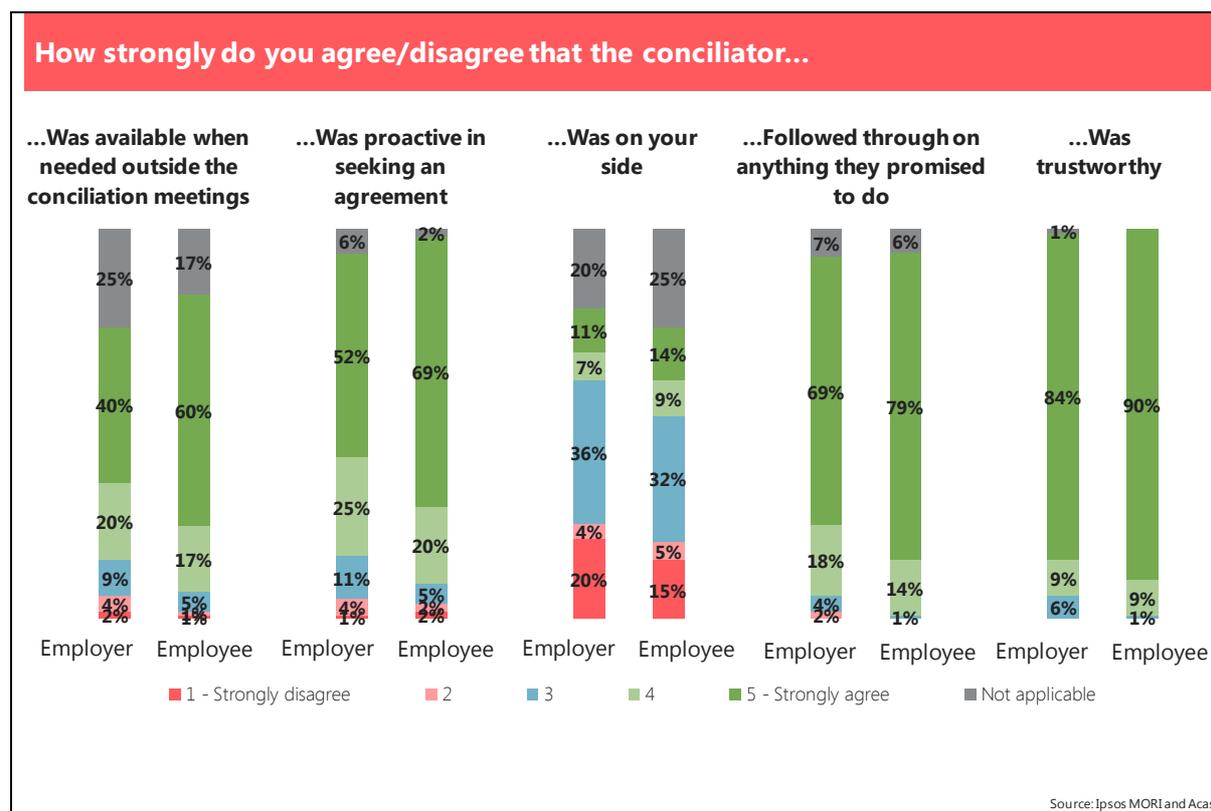
- Seven in ten (69 per cent) employer participants, compared to eight in ten (79 per cent) trade union participants strongly agreed that their conciliator followed through on anything they promised to do.

- Half (52 per cent) of employer participants, compared to seven in ten (69 per cent) trade union participants strongly agreed that their conciliator was proactive in seeking an agreement.
- Respectively, four in ten (40 per cent) and six in ten (60 per cent) employer and trade union participants strongly agreed that their conciliator was available when needed outside conciliation meetings.

On one measure – whether or not the conciliator was on their side – the results show a more complicated picture. The largest proportion for both groups said they neither agree nor disagree with this statement (36 per cent employers, 32 per cent trade union respondents) and a further 20 per cent of employers and 25 per cent of trade union participants answered 'not applicable'. This can arguably be read as a proxy for Acas' impartiality – the fact that neither side is more likely to feel that Acas is on their side is a positive sign that Acas is seen as even-handed in disputes.

One quarter of employers (25 per cent) and one in five trade union participants (19 per cent) actively disagreed that the conciliator was 'on their side'. It can be argued that this too is a measure of impartiality; if the conciliator was seen as not on the side of the participant it could be that they were seen as not being on anyone's side, rather than being on the other side of the dispute. This interpretation is supported by other findings in the survey, for instance the fact that more than nine in ten employer and trade union participants agreed that their conciliator had remained impartial during the conciliation process (91 and 95 per cent respectively). Findings from the qualitative research also support this conclusion; in all case studies the impartiality of the conciliator is without question, and in dispute five, employer participants who had previously suspected Acas of pro-employee bias were impressed by the impartiality of the service and the conciliator.

Figure 18- Service user views on conciliator characteristics

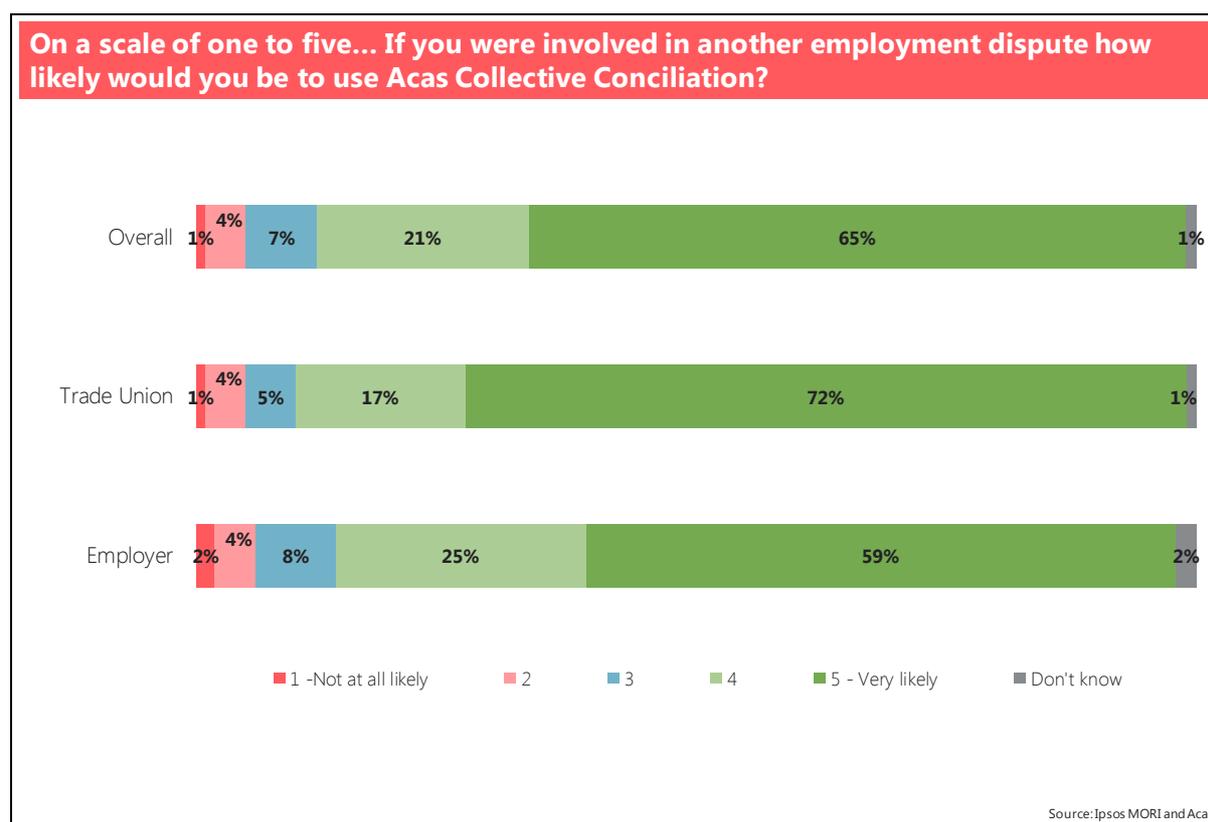


Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

Both user groups were asked how likely it was that they would use Acas collective conciliation if they were involved in another employment dispute in the future. Overall, 86 per cent said that they would be likely to re-use the service – 84 per cent of employer and 89 per cent of trade union participants – with the majority of both user groups (59 per cent employer and 72 per cent trade union) selecting the highest point on the scale, indicating they would be “very likely”. This finding on likelihood of using Acas again compares to 92 per cent from the 2012 evaluation (90 per cent of employer and 94 per cent of trade union participants).

Looking at first time users only, 80 per cent reported that they would be likely to use Acas collective conciliation if they were involved in another dispute – slightly lower than the overall proportion of 86 per cent. However, the proportion of first time users who said they would be *unlikely* to use Acas collective conciliation again stood at a similar level to the overall – nine per cent said they would be unlikely to use the service again, compared to six per cent overall.

Figure 19- Likelihood of re-using Acas collective conciliation



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

Of 342 participants, just 19 (six per cent) selected 'one' or 'two' on the scale for this question, suggesting that they would be 'not very likely' or 'not at all likely' to re-use Acas collective conciliation if they were involved in another employment dispute. Slightly more employer participants said this than did trade union participants (10 employers; eight employees).

Those who indicated that they would *not* be likely to use Acas in the future were asked to give the reason for this; the most common being that they would try to resolve issues internally first (15 of 42 participants), followed by participants saying that their decision would depend on the situation (11 of 42) – both of which suggest that these participants might seek Acas involvement *later*, rather than not at all, should they be faced with another employment dispute. Just seven participants (17 per cent of those who suggested they were not likely to use Acas again, and two per cent of all users surveyed) reported having had a negative experience of Acas, or said that they did not see what benefit Acas' involvement could bring.

4.3. Summary

Overall, views of Acas conciliators were generally positive among both employer and trade union respondents – as was reported in the previous survey wave.

- Large majorities of both user groups confirmed that the conciliator had utilised a variety of techniques at the outset of conciliation, for putting across the rules of the process, for instance: covering 'ground rules'; explaining how conciliation works; setting out confidentiality undertakings and the fact that there are no

legal implications to conciliation. Similarly large majorities confirmed that the conciliator had allowed them to explain how *they* saw the situation – and also that the conciliator had allowed the other side to explain how they saw the dispute, as well.

- Conciliators' use of the more basic techniques has remained broadly static; similar proportions across waves reported that the conciliator set out the ground rules, dealt with each issue one at a time, and got each side to consider their position and identify their "bottom line". Use of more far-reaching techniques, such as asking people to consider new ways of dealing with the dispute and dealing with issues beyond the scope of the dispute, were more limited but also in line with previously reported levels. However there have been some declines – for instance in the proportion reporting that the conciliator used "what-if" scenarios (down from 74 to 66 per cent), asked "if-then" questions (68 to 56 per cent), and gave an assessment of the strength of the arguments (63 to 57 per cent).
- Overall satisfaction with the collective conciliation service remained high, with a satisfaction rate for all users of 89 per cent (trade union participants being more likely than employers to assign the maximum satisfaction score). Acas conciliator ratings were similarly high across a number of key measures, for both trade unions and employers, including their ability for: remaining impartial; listening to users; establishing a rapport and understanding users' points of view.
- Conciliators were also near-universally judged to be trustworthy, pro-active in seeking a solution, and available outside of conciliation meetings, as well as following through on anything they promised to do – with trade union participants being especially likely to assign maximum rating across all these qualities.
- Overall, two thirds said they would be very likely to seek Acas collective conciliation involvement in future employment disputes, with just six per cent saying that they would be unlikely to do so. Of the small proportion who said they would be unlikely to do so, this is mostly due to a desire to use internal processes, rather than the result of a negative experience with Acas collective conciliation.

5. OUTCOMES

This section explores the *outcomes* of Acas collective conciliation, measuring employer and trade union participants' perceptions of whether the matter was resolved or any progress made, the determinants of positive outcomes, what Acas might be able to do to bring about a greater success rate and the impacts of conciliation on organisational performance.

5.1. Outcomes of the dispute resolution process

The key success metric for Acas collective conciliation is whether or not the Acas intervention leads to an agreement between the two sides – and a second metric is whether or not that agreement can be successfully implemented in the workplace.

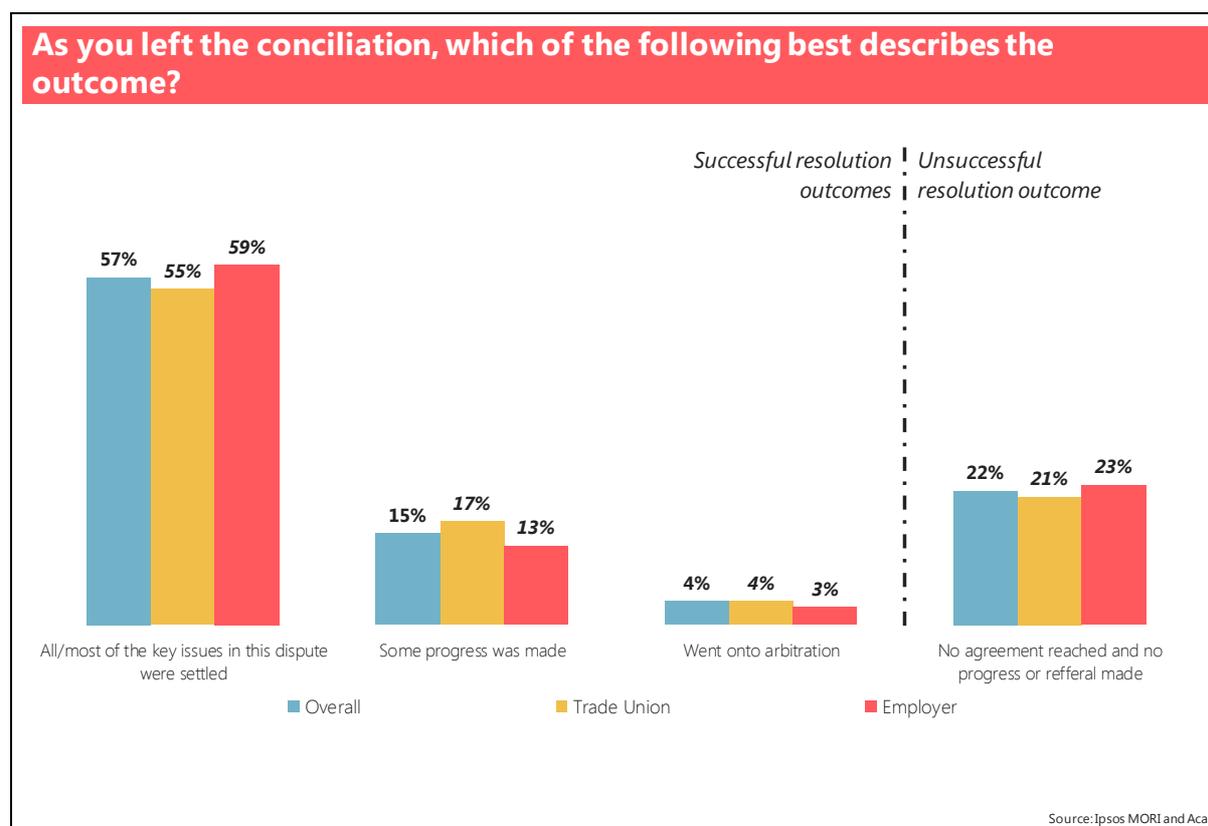
On the first measure, success is defined by Acas as progress being made – through a resolution of all, most or some of the key issues in the dispute, by progress being made towards the two sides reaching an agreement (even if no concrete agreement is made during conciliation), or through a referral of the dispute on to arbitration. On this key metric, three quarters of conciliations during the period under investigation can be judged as a success, with 76 per cent reaching one of these three outcomes. In just under one quarter (22 per cent) of cases, users felt that no agreement, progress, or referral decision was reached.

This represents a five percentage point decrease from the previous evaluation, when 81 per cent of service users reported a successful outcome and 17 per cent said that no agreement had been reached (and no progress or referral made). This difference may be due to a number of reasons, including the different workload covered during this evaluation window when compared to the previous wave, as well as potential effects related to the sampling methodology of the survey. It has also been observed elsewhere in the report that there was a marked increase in the proportion of cases where industrial action had been threatened *prior* to Acas involvement, which suggests that a greater proportion of service users surveyed in this evaluation were part of more well established disputes, where it is potentially more difficult to resolve all the issues during conciliation.

Acas collective conciliators also record the outcome of collective disputes as they are closed; using this data, 87 per cent of conciliation cases cleared in 2014/15 were classified as a success, either via a resolution, progress being made or referral to arbitration. This is a slightly higher proportion than that recorded in this survey, which may be related to a number of factors, including survey non-response (the unadjusted response rate was 43 per cent), participant recall, differing interpretations of the outcome (particularly in respect of what constitutes 'progress made') and the different time lags for conciliators and the parties providing their assessments on outcome (as conciliators record outcome soon after the conciliation has ended, whereas a greater time lag is built into the survey responses).

It is possible to go further in our analysis of the survey data and focus on just those 'matched cases' where the same response was provided by both parties (i.e. where two sides agreed on the outcome for the same case). Using this stricter definition, successful outcomes were achieved in 84 per cent of matched cases. This compares to a success rate of 91 per cent in the previous evaluation for this subset of the sample.

Figure 20- Collective conciliation outcomes



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

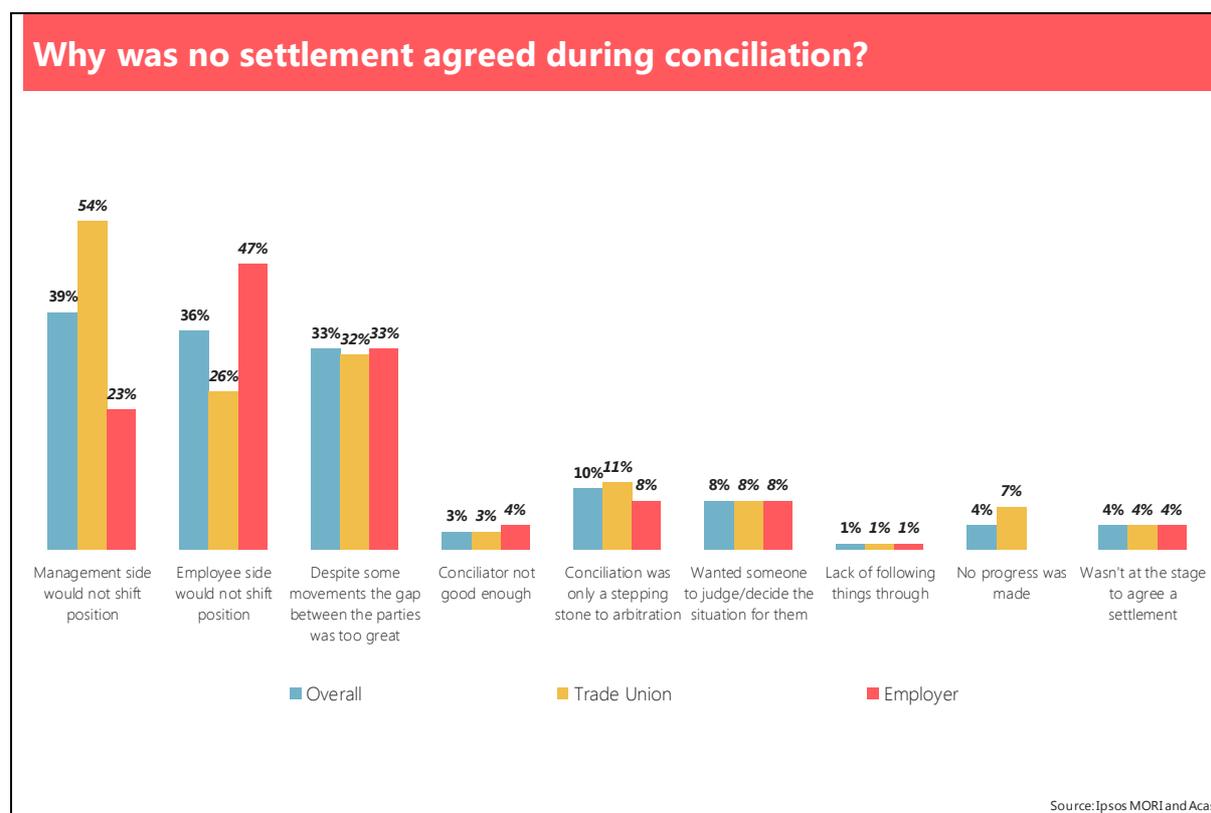
5.2. Unresolved disputes

Those who said that no agreement had been reached were asked to say why they felt this was the case. Here, the most commonly-given response was that the other side would not shift their position; almost half of employer participants (47 per cent) and slightly over half of trade union participants (54 per cent) attributed the failure to reach agreement during conciliation to this. For trade union participants, this matches the proportion in the previous evaluation (51 per cent), but for employers this represents an increase from the previous evaluation, when 36 per cent gave this response.

In a large minority of cases (33%) across both trade unions and employers there was an acknowledgement that both sides had moved and that some progress had been made during conciliation, but that the remaining gap was still too wide to reach an agreement. A further one in ten – 11 per cent of trade union participants and eight per cent of employers – said they saw conciliation as a stepping stone to arbitration, rather than an end in itself.

Very few respondents pointed to failures on Acas' part as being the reason for a lack of a settlement from conciliation. Just five individual service users felt that their conciliator was not good enough, and another two attributed the failure to reach agreement to 'a lack of following things through' on the part of the conciliator – although from the answer code it is not clear if this was an issue relating to Acas, or to the sides involved in the dispute.

Figure 21- Reasons for not reaching a settlement



Base: 151 employer and trade union participants who did not reach a settlement, interviewed 8th February – 24th March 2016

In cases where no agreement had been reached, the survey also asked service users what else the conciliator could have done to bring about a settlement and this further reinforces the message – 91 per cent of those who did not reach a settlement during conciliation did not think that their conciliator could have done any more to bring one about. An example of this can be found in the qualitative case studies for dispute four and six, where both sides valued the impact of the conciliation service and the conciliator, even though a resolution was ultimately not reached during the process.

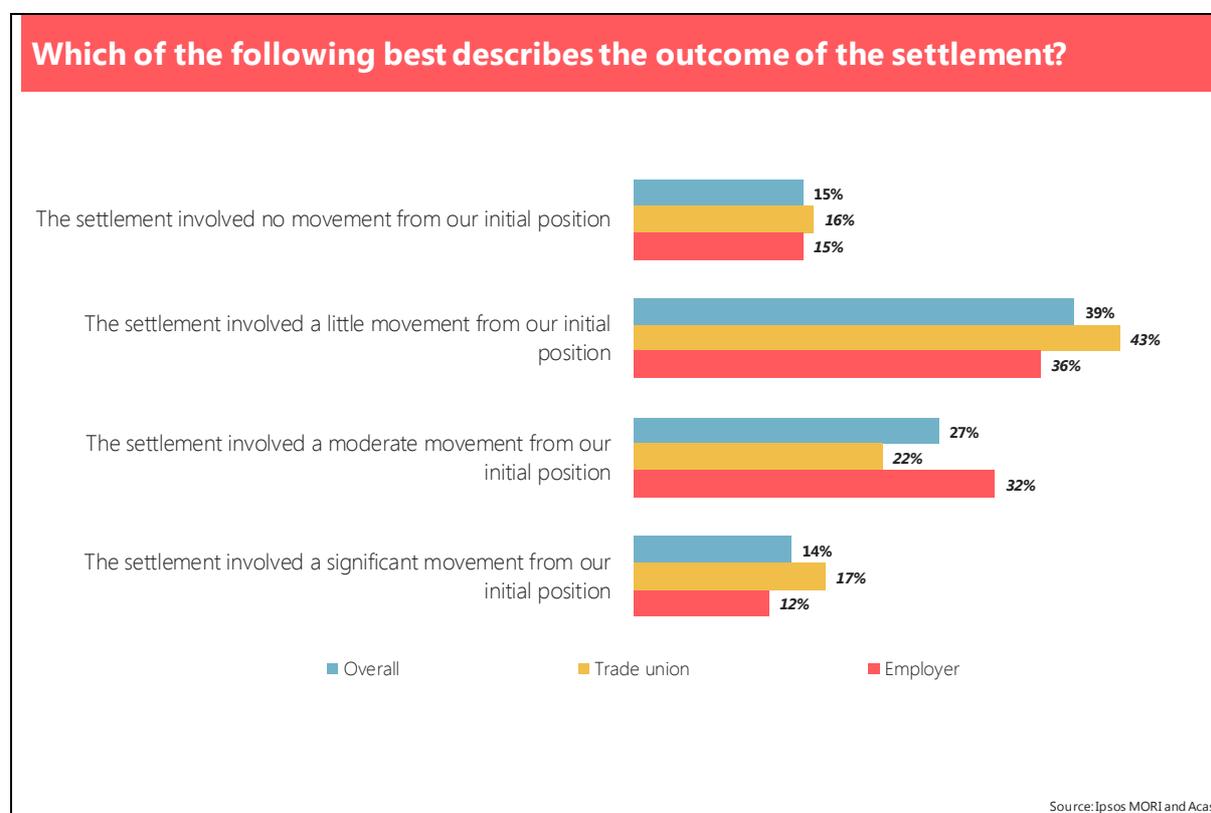
5.3. Outcome of settlements

In those cases where a settlement was reached during conciliation, most service users (81 per cent) agreed that the settlement involved them moving at least a little from their initial position. Four in ten (39 per cent) service users felt that the settlement involved a little movement, and one quarter (27 per cent) felt that it involved moderate movement, from their starting position. In 14 per cent of cases service users said they felt that they were required to make significant movement from their initial position.

These findings were similar to the findings from the previous evaluation, and there was also little difference in the perception of how far service users were required to move from their starting position between employer and trade union participants, perhaps reflecting Acas' impartiality in prompting both sides to consider how to make a deal.

Among those involved in a case where the underlying issue of trade union recognition was at stake, the majority of settlements did indeed involve the recognition of a trade union; this was the case in three quarters (77 per cent) of these cases.

Figure 22- Movement from initial positions in final settlements



Base: 191 employer and trade union participants, interviewed 8th February – 24th March 2016

All service users, regardless of the outcome of their case, were asked to register their satisfaction with the outcome of the case – *separate from the conciliation process overall* – by giving a rating on a 7-point scale. Overall satisfaction with outcome, measured as those giving a score of between five and seven out of seven, was high, with around seven in ten employer and trade union participants awarding this score (72 and 71 per cent respectively). Looking at the top end of the scale, three in ten (29 per cent) service users reported the highest level of satisfaction (i.e. seven out of seven) with the outcome of conciliation.

There was some variation between satisfaction with outcome reported by employer and trade union participants with the latter more inclined to award ratings at either extreme of the scale. One third (33 per cent) of trade union participants, compared to 24 per cent of employer participants, gave a score of seven out of seven when asked about their satisfaction with the outcome; and at the other end of the scale 12 per cent of trade union participants and five per cent of employers awarded Acas one out of seven (the lowest possible satisfaction rating).

First time users were slightly less satisfied with case outcomes than service users overall, with 70 per cent reporting being satisfied (those giving a score of between five and seven) and 25 per cent giving a score of seven out of seven.

Looking at users in matched cases, in half (50 per cent) of these cases the two sides agreed on their respective levels of satisfaction with the case outcome, giving the same score out of seven, whilst the other half gave different scores to each another. Where the satisfaction with outcome responses between the two sides did not match one another, the trade union side was the more satisfied in 56 per cent of cases and the employer the more satisfied in the other 44 per cent of cases.

Figure 23- Satisfaction with the conciliation outcome



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

In previous waves of the research, satisfaction with the conciliation outcome was asked only of those who made at least some progress in resolving their dispute. As would be expected, recalculating this survey's results based on this more restricted group yields a higher figure; 86 per cent of this subset of participants were satisfied with the outcome (those giving a score of between five and seven).

Mean satisfaction scores with case outcomes calculated from this subset are comparable to those reported in 2012; although the disparity between employer and trade union satisfaction in this respect, which had been evident in 2012, has lessened somewhat in 2016, with employer satisfaction with outcome - which had lagged trade union satisfaction with outcome - increasing slightly and trade union satisfaction falling slightly.

Table 4 – Satisfaction with conciliation outcome: mean scores over time

	On a scale of one to seven, how satisfied were you with this outcome? Mean scores		
<i>User group:</i>	<i>2014/2015</i>	<i>2010/2011</i>	<i>2006/2007</i>
Employers	5.65	5.59	4.88
Trade union	5.83	5.93	4.99

N.B. scores are based on responses from participants who felt that some progress was made during conciliation

5.4. Implementation of agreements

In the large majority of cases, agreements made during conciliation were implemented in full. This was the result reported by 91 per cent of service users – a very similar outcome to the previous wave of the evaluation when 90 per cent of agreements were implemented in full. In just three per cent of cases, the agreement was not implemented (in four per cent the agreement was implemented in part and in two per cent participants did not state the outcome).

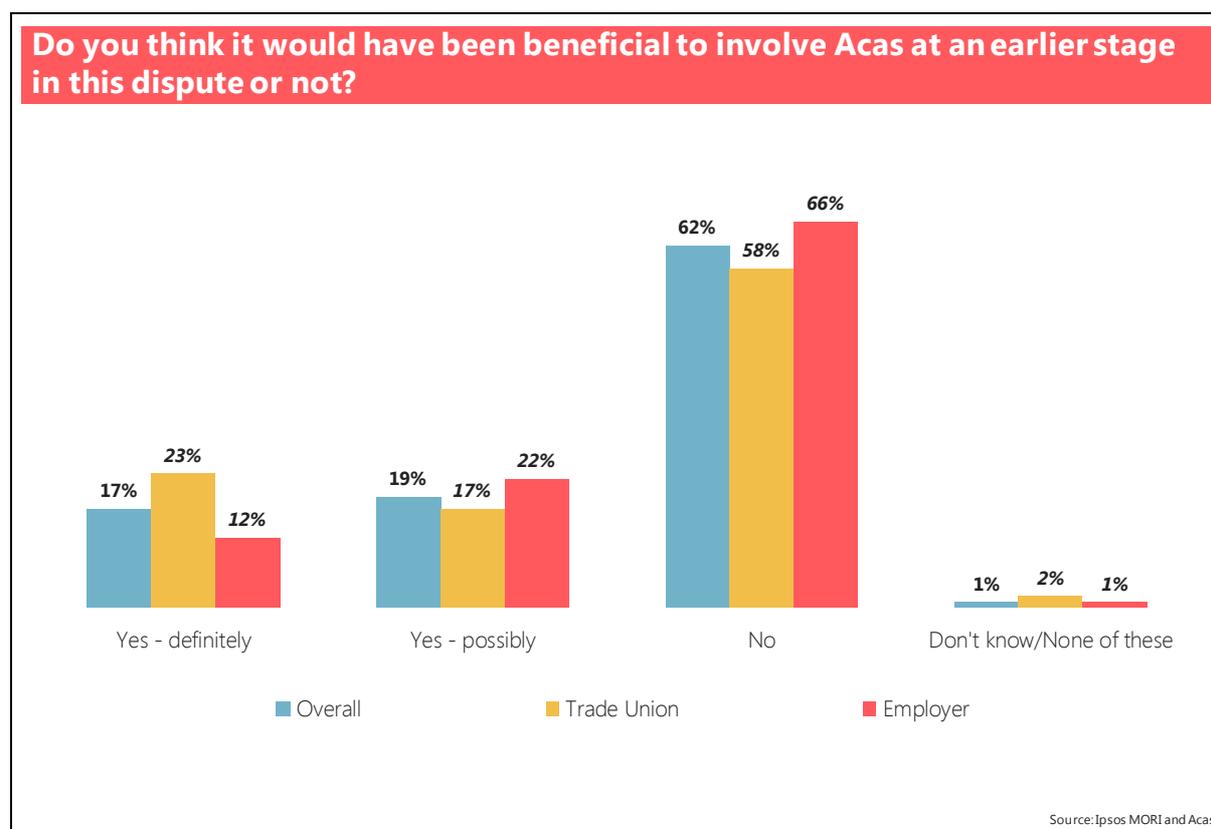
In cases where the agreement was implemented in full or in part, three quarters (76 per cent) feel that the agreement resolved the dispute in the long term, and one in five (20 per cent) said that it resolved the dispute in the short term. Figures differed across key subgroups; 87 per cent of those in the public sector said the agreement resolved their dispute in the long term, compared to 73 per cent of private sector service users. There were no differences in longer term outcomes for first-time users – 75 per cent reported that their dispute was resolved in the long term and 23 per cent felt it resolved their dispute in the short term.

5.5. Benefits of including Acas earlier

A majority of service users felt that it would *not* have been beneficial to get Acas involved at an earlier stage (66 per cent of employer and 58 per cent of trade union participants). Nevertheless, more than one third of users felt that some form of early intervention might have been of benefit in resolving the dispute.

Among employers, one in five said that it would *possibly* have been beneficial to seek Acas' involvement earlier (22 per cent), and slightly fewer that it would *definitely* have been beneficial (12 per cent). Meanwhile, 17 per cent of trade union participants would *possibly* have seen benefit in earlier interview and one quarter (23 per cent) felt that it would *definitely* have been beneficial.

Figure 24- Views on the benefits of involving Acas earlier



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

Among those who do not feel that earlier Acas involvement would have been beneficial, the largest proportion (39 per cent) said that this was either because they had not exhausted internal procedures, or that they did not think the dispute had progressed far enough. This was the most common reason given by both user groups, and can be seen in the qualitative case studies – for instance in case study five, where although Acas’ involvement was pivotal to resolving the dispute, both sides agreed that it was important to exhaust internal procedure first.

The second-most common reason given by employer participants was that they felt the situation was not serious enough – in other words, there was no threat of industrial action – this reason was given by a quarter (23 per cent) of employer participants and just eight per cent of trade union participants. Conversely, for trade union participants the second-most common answer was that the employer side had not wanted to involve Acas in the dispute at that earlier point (22 per cent gave this answer).

5.6. Drivers of successful outcomes

In order to understand which particular elements of the Acas collective conciliation service are especially important to a successful resolution, a key driver analysis was conducted on the data. Key Driver Analysis is a statistical tool that estimates the importance of various factors on a single variable of interest.

The variable under scrutiny in this analysis was that covering the participant’s description of the extent to which key issues were settled by conciliation – in other

words the outcome of the conciliation. As a large majority of participants reported at least some progress during conciliation, for the purposes of this analysis a “successful outcome” was defined as only those where all or most of the key issues were settled – 57 per cent of the overall sample. Using this variable creates a binary measure of success, which is ideal for use in a binary logistic regression, or logit model⁵.

The analysis took two sets of variables into account – those that can be considered “external” (for instance the nature of the dispute and existing management-employee relationships in the workplace) and those related to the conciliator skills.

The conciliator skills variables are covered by the range of statements in questions 26 through to 30. As these questions cover 43 separate indicators all relating to conciliator skills a factor analysis was carried out to understand how these indicators are related and the essential elements that lie behind them, thereby reducing a large number of indicators to a more manageable number of smaller traits. This resulted in the identification of three key characteristics:

1. **Personal skills:** the extent to which the conciliator was trustworthy, a good listener and supportive throughout the conciliation process
2. **Solutions proposed:** the type of solutions proposed, acting as an evaluation of the conciliator’s ability to successfully deal with the issues in the workplace
3. **Clarity-competency:** This relates to the conciliators behaviour at the beginning of the conciliation, for instance, whether or not they set the scene adequately

The conclusion from this key driver analysis is that relatively few of the chosen variables had a sizeable positive impact on the likelihood of a dispute being resolved. The table below displays the three factors with a significant effect, measured at the 95 per cent confidence level unless otherwise stated.

Table 5 – Key Driver Analysis: significant variables

Parameter:	Odds ratio	Robust standard error	Z ratio
Acas part of formal dispute procedures	0.58	0.154	-2.03
First time Acas user ⁶	0.63	0.169	-1.72
Conciliator skills	1.89	0.251	4.81

As might be expected, the conciliator’s skill set – their personal skills – had the greatest impact on a positive resolution of the issues – especially the skills that were measured at question 29 and 30 (trustworthiness, impartiality and pro-activity). A more highly skilled conciliator increases the likelihood of a successful resolution by 1.89 times.

Two other measures had a smaller, but nonetheless positive, impact on the likelihood of a successful resolution:

- If Acas forms part of an organisation’s formal dispute resolution procedures, this increases the likelihood of a successful outcome by 0.58.
- If the participant is a first time user of Acas collective conciliation (measured by QD1), this also increases the likelihood of a successful resolution of the dispute,

⁵ This is a regression model designed to assess the impact of a range of independent variables on the probability that a particular event or outcome occurs.

⁶ NB This indicator is significant only at the 90 per cent confidence level

- Satisfaction with the conciliation outcome was high, with 72 per cent of employer and 71 per cent of trade union participants reporting that they were satisfied (measured as giving a score of between five and seven out of seven). Trade union respondents were more likely to award satisfaction ratings at either extreme of the scale; 12 per cent gave the lowest score compared to five per cent of employers, and 33 per cent gave the highest score compared to 24 per cent of employers.
- Whilst the majority of service users disagreed that it would have been beneficial to seek Acas involvement at an earlier stage (62 per cent) – most commonly because they felt the need to exhaust internal procedures first – more than one third of users felt that earlier intervention from Acas might have been of benefit in resolving the dispute.
- The Acas conciliator's skillset was by far the strongest driver of a successful conciliation outcome, with trustworthiness, impartiality and proactivity being the most important skills. Some external factors relating to the case also had an impact – whether or not the person is a first-time user of conciliation, or if Acas are written into the formal organisation procedures. These had a positive effect on the chance of a successful outcome, albeit a weaker one than the conciliator's skillset outlined above.

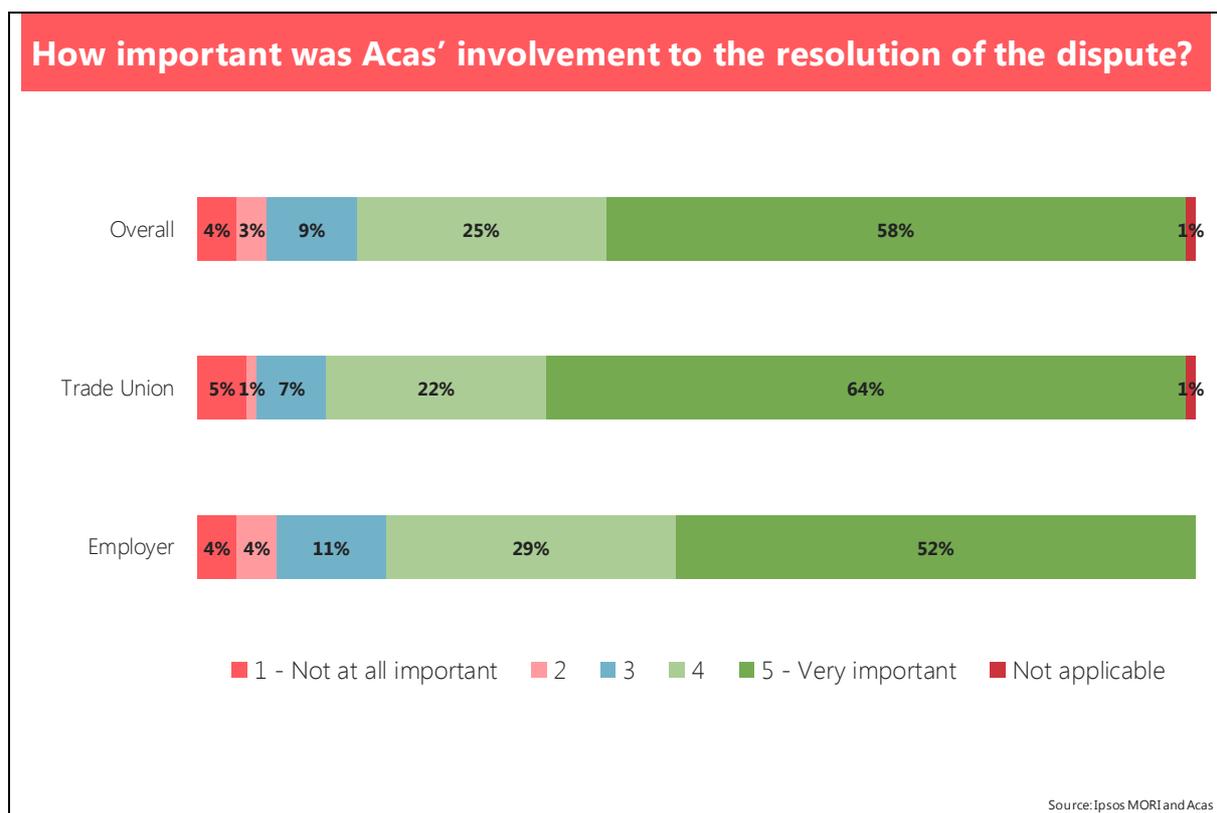
6. IMPACTS

This section focuses on the wider impacts of the Acas collective conciliation service, primarily on relationships within the organisation, but also including the wider impacts of conciliation on bringing disputes to a resolution more rapidly, helping avert industrial action, and in terms of facilitating the implementation of changes to working practices.

6.1. Impacts of Acas on the dispute resolution process

Among those whose dispute was resolved – either during conciliation or afterwards – Acas was seen as important to the resolution of 84 per cent of disputes. Six in ten (58 per cent) felt that Acas was very important to the resolution of their dispute (awarding its importance as five on a five-point scale) – this compares to 63 per cent in the 2012 evaluation - and a further quarter (25 per cent) said that it was fairly important (rating it four out of five). Overall, seven per cent thought that Acas was not very important to the resolution of their dispute, scoring it either one or two out of five; perhaps suggesting that the conciliation played a facilitative role in bringing about positive outcomes in these cases – case study one in chapter seven provides an example of this.

Figure 25- The importance of Acas to dispute resolution



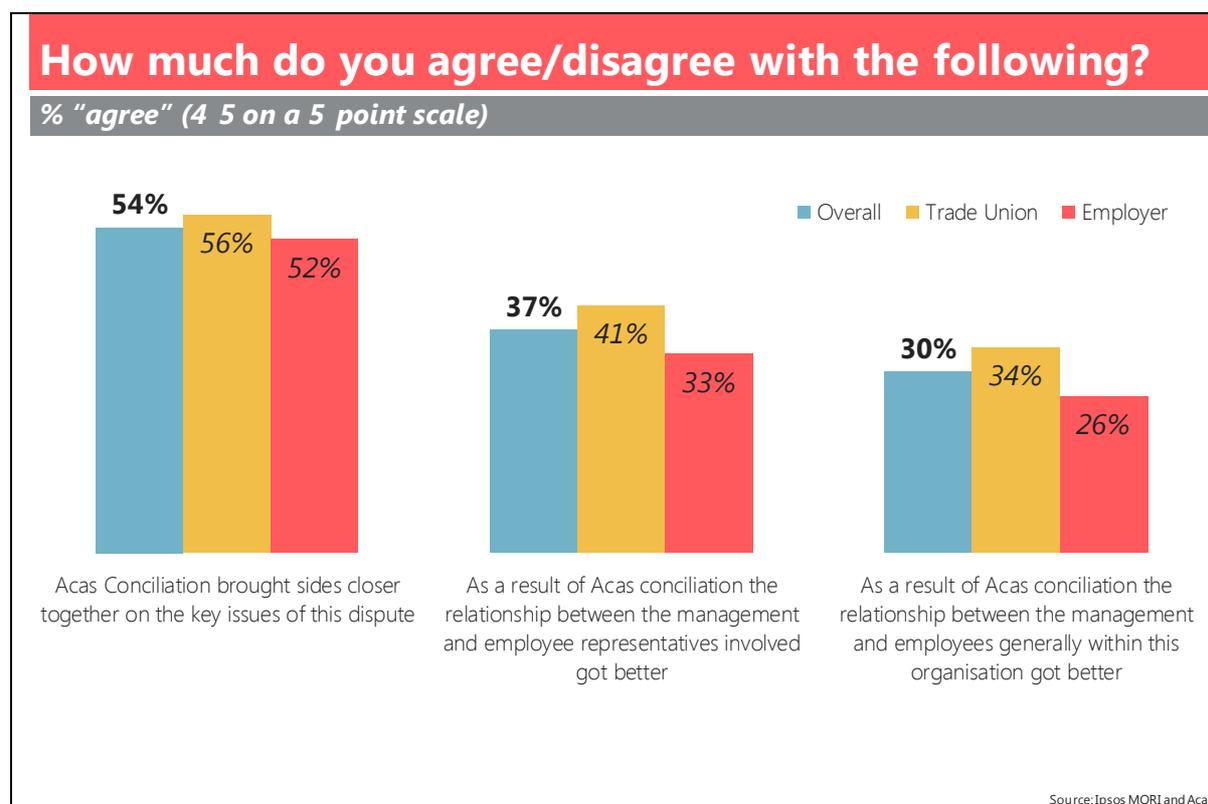
Base: 189 employer and trade union participants, interviewed 8th February – 24th March 2016

Respondents were also asked how important Acas was to a number of other positive outcomes. More than half of all service users (54 per cent) agreed that Acas conciliation brought the two sides closer together on the key issues of the dispute – regardless of the outcome of their case – and 21 per cent disagreed. Agreement on this measure rises to 69 per cent when considering only those whose dispute was resolved through collective conciliation; a level similar to that recorded in 2012 (70 per cent).

On two other specific measures, opinion is more split:

- Four in ten (37 per cent) agreed that the relationship between management and trade union participants *involved in the dispute* got better as a result of Acas conciliation, and one quarter (24 per cent) disagreed. There was some difference by audience, with trade union respondents more likely to agree with this statement than employers (41 per cent, compared to 33 per cent).
- Three in ten (30 per cent) agreed that Acas conciliation improved the relationship between management and employees at the organisation *more generally*, and 22 per cent disagreed. Almost four in ten (37 per cent) neither agreed nor disagreed.

Figure 26- The broader impacts of Acas conciliation



Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

6.2. Longer-term outcomes of conciliation

Another broader measure of a successful conciliation agreement is whether it led to a number of possible improvements in workplace performance. As in the previous evaluation, the most frequently cited longer-term improvement was in the organisation's ability to deal with disputes more effectively which was cited by 49 per cent of participants (compared to 63 per cent reported in 2012).

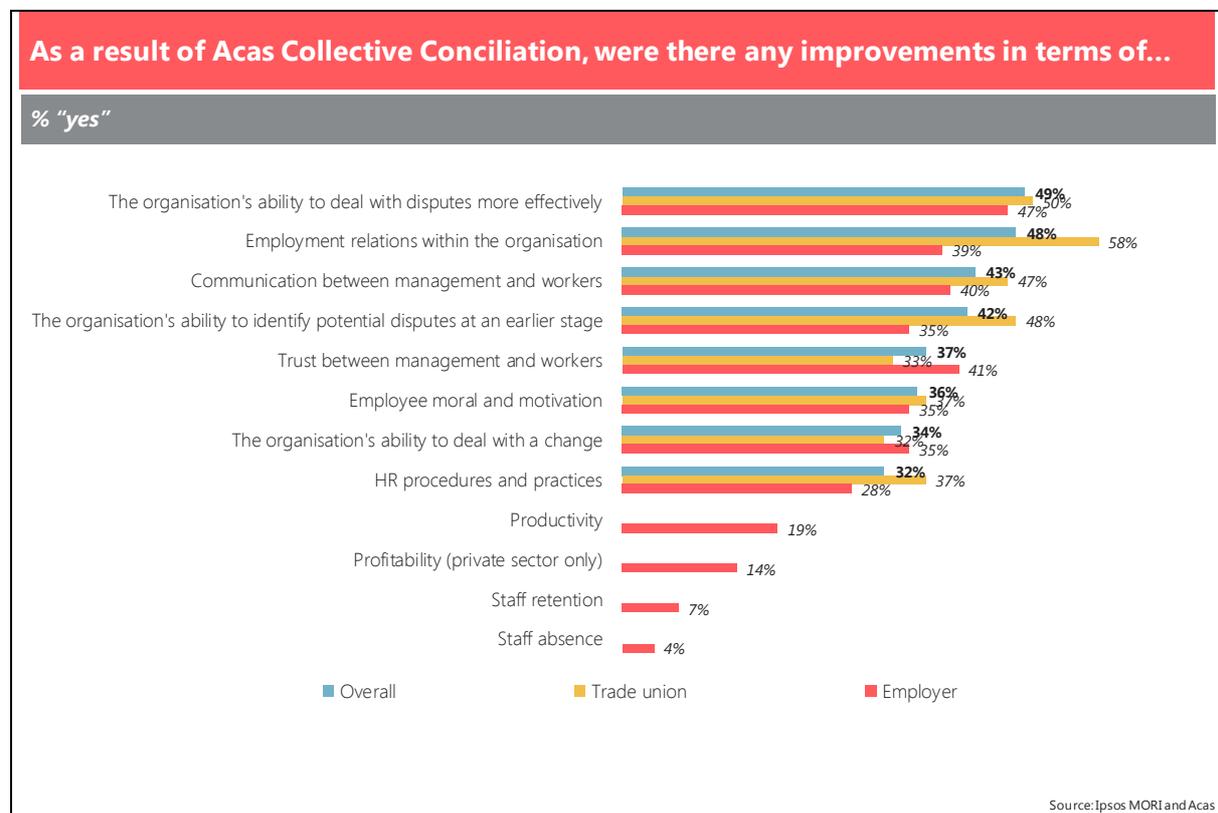
For trade union participants, the most frequently selected improvement was in terms of employment relations within the organisation (58 per cent). The proportion of employer participants choosing this option was substantially lower however, at 39 per cent. It should be borne in mind however that, as reported in Section 3.4, trade union respondents were more likely to feel that employment relations were poor at the outset

of the conciliation, suggesting greater scope among this group of respondents to note improvements in working relationships post-conciliation. Just under half (49 per cent) of all participants from matched cases judged that employment relations in their organisation had improved as a result of conciliation; and this was matched when looking at agreement between cases. In just over half of matched cases (30 out of 58 cases) both sides *agreed* that employment relations have improved.

Whilst the primary aim of collective conciliation is to resolve the dispute at hand, some employers nonetheless credited the process with wider improvements in ‘harder’ measures of organisational performance. For instance, one in five (19 per cent) employer participants said that productivity had increased since the conciliation, seven per cent cited an improvement in staff retention and four per cent identified improvements in terms of staff absence.

Private sector employers were asked about the organisation’s profitability and among these respondents 14 per cent agreed that the conciliation had a positive impact on this.

Figure 27- Longer term outcomes of conciliation



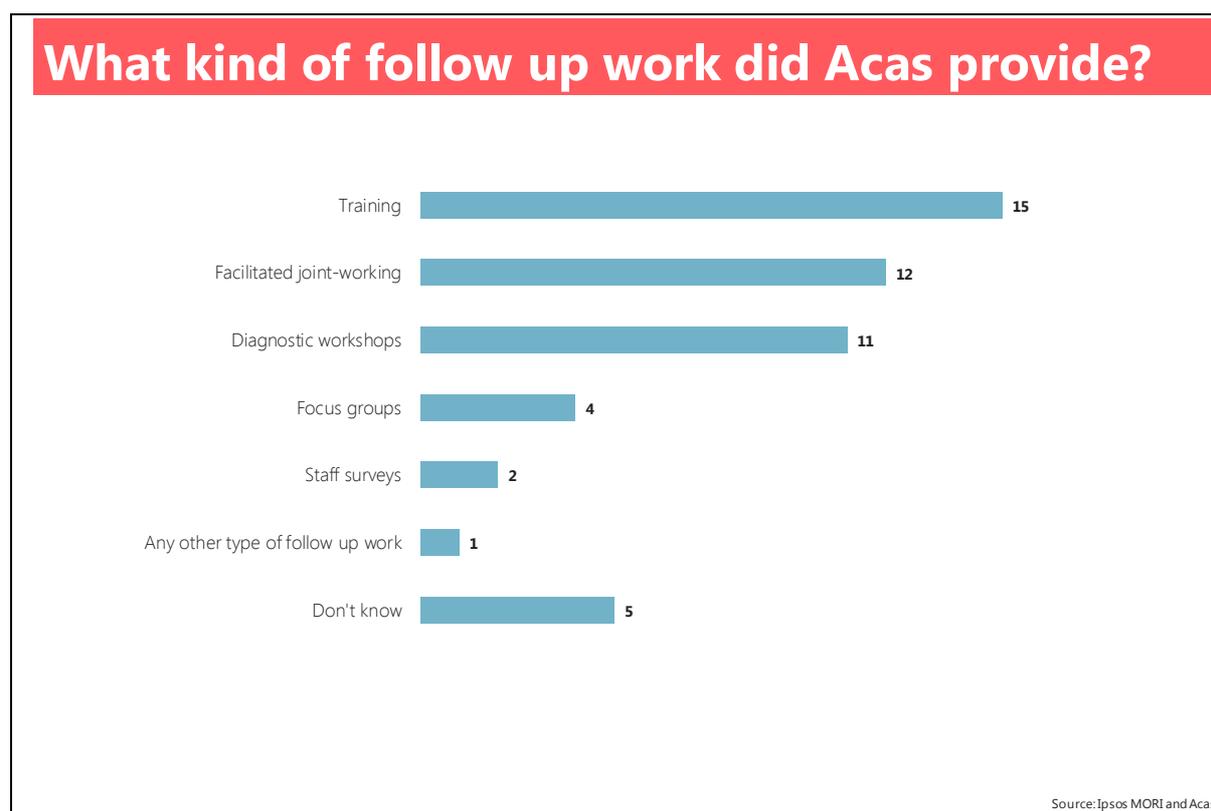
Base: 342 employer and trade union participants, interviewed 8th February – 24th March 2016

6.3. Post-conciliation contact and follow-up work

A new section was added to the evaluation questionnaire asking participants if Acas carried out any additional work or projects after the conciliation had closed. This work can take a number of formats, but is typically delivered as an Acas “workplace project” or “joint problem solving activities”.

first time users who had follow-up work carried out, so the figures should not be taken as indicative of wider trends. As with wider users, in-workplace training was the most common form of work reported, with four of 12 first time users saying they received this form of training. Facilitated joint working and diagnostic workshops were the next most commonly used, with three participants each saying they had this form of follow-up work.

Figure 28- Follow-up work formats



Base: 34 employer and trade union participants, interviewed 8th February – 24th March 2016

The most common route to carrying out follow-up work was through the Acas conciliator being proactive and making contact following the conciliation. Among the 34 service users who had follow-up work conducted, ten said that the work occurred a result of the conciliator calling and getting in touch to see how things were going, eight said that it was carried out because follow-up work was informally agreed during conciliation, and in four cases follow-up work occurred because it was formally specified in their settlement agreement. Of the remaining twelve participants, seven said that the work had come about by some other means, and five did not know how it had come about.

6.4. Impacts on the risk of industrial action

Among the few organisations where Acas collective conciliation produced an agreement that did not lead to a lasting settlement, only one service user reported further industrial action taking place. This may reflect the infrequent instances of industrial action recorded more generally; 11 per cent reported that industrial action in the form of strikes or stoppages had been used as a strategy prior to Acas becoming involved in the dispute. A further six per cent said that “work to rule” action had taken place, and five per cent mentioned that an overtime ban had been used.

6.5. Effects on the outcome of disputes

In this wave of the survey, changes to working practices (excluding those relating to health and safety) were cited as one of the key issues at stake during disputes in 10 per cent of cases – a level similar to the previous wave, when 14 per cent said the same thing. Of these participants, 58 per cent said that the changes in working practices that

