

GOVERNANCE AGREEMENT ON THE WORKING RELATIONSHIP BETWEEN DEFRA AND THE ADVISORY COMMITTEE ON RELEASES TO THE ENVIRONMENT (ACRE)

1. This Governance Agreement fulfils the requirement in the Treasury and Cabinet Office guidance *Corporate Governance in Central Departments: Code of Good Practice*¹ and the Treasury guidance *Managing Public Money*² that there should be a written agreement between sponsoring departments and each of their arm's length bodies which clearly define how the relationship should work between them. This should cover the purpose and responsibilities of the body, the legal framework and the environment in which it operates and should be reviewed regularly.
2. The core of this document shall be ACRE's Terms of Reference which set out its purpose, responsibilities, and legal framework. This is supplemented by further sections which demonstrate ACRE's compliance with the accountability, propriety, and transparency requirements in central Government guidance on managing non-departmental public bodies.
3. This document does not convey any legal powers or responsibilities but both parties agree to operate within its terms.
4. References to ACRE refer to its chairperson and members. ACRE has no subsidiaries or joint ventures that are classified to the public sector and central government for national accounts purposes. If ACRE establishes a subsidiary or joint venture, there shall be a document setting out the arrangements between it, ACRE and agreed with Defra.
5. Copies of the document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and made available to members of the public at Advisory Committee on Releases to the Environment - GOV.UK (www.gov.uk).

SECTION A: STATUTORY DUTIES AND TERMS OF REFERENCE

6. ACRE is a statutory advisory committee appointed under section 124 of the Environmental Protection Act 1990 (the EPA) to provide advice to Government regarding the release and marketing of genetically modified organisms. ACRE has also been classified as a central government organisation by the ONS/HM Treasury Classifications team and administratively classified by the Cabinet Office as a Non-Departmental Public Body (NDPB).
7. The committee works within the legislative framework set out by Part VI of the EPA and the GMO Deliberate Release Regulations 2002 which together implement retained EU law governing GMO releases. The committee's terms of reference are as follows:
 - i. To advise the Secretary of State for Environment, Food and Rural Affairs, Scottish and Welsh Ministers and other bodies as appropriate on the exercise of powers under Part VI of the Environmental Protection Act 1990.
 - ii. To advise the Ministers and other bodies as appropriate on releases into the environment of Great Britain of animals and plants covered by sections 14 and 16 of the Wildlife and Countryside Act 1981.
 - iii. To advise Northern Ireland Ministers as appropriate on the exercise of powers under the Genetically Modified Organisms (Northern Ireland) Order 1991.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609903/PU2077_code_of_practice_2017.pdf

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/108962/2/MPM_Spring_21_with_annexes_040322__1_.pdf

- iv. To provide to the Ministers on request scientific advice on GMOs, including advice to the Health and Safety Executive in respect of the human health aspects of releases to the environment.
 - iv. To advise the Ministers and other bodies as appropriate on research needs.
8. In practice this means that ACRE's remit, as set out by the legislation, is to provide advice on:
- The risks posed to human health and the environment by the release or marketing of GMOs and any conditions which should be attached to consents
 - the limitations and conditions of consents issued to release or market GMOs, this covers post-release monitoring and provision to make amendments to consents
 - fees and charges relating to the cost of issuing consents and in respect of maintaining inspection and enforcement regimes
 - the making of regulations under Part VI of the EPA 1990
9. In addition, ACRE provides advice on:
- the evaluation of new GM research findings
 - any science-based GM matter
 - research needs in risk assessment of GMOs
 - releases into the environment of non-indigenous animals and plants
10. Where permitted by statute, the Government may ask ACRE to take on additional functions or new work, on a permanent or temporary basis. The decision to take on the additional work will be made jointly by the Secretary of State and ACRE.

SECTION B: RESPONSIBILITIES, ACCOUNTABILITY AND RELATIONSHIP WITH DEFRA

11. Although ACRE is a UK-wide advisory body, Defra takes the lead in monitoring and oversight of its activities and provides the Secretariat which resides in the GM policy team, Innovation, Productivity and Science Division in Defra. The Secretariat is the primary point of contact for ACRE. The responsible Senior Civil Servant for this relationship is the Deputy Director (SCS) of the Innovation, Productivity and Science (IPS) Division within the Agri-Food Chain Directorate. The Secretariat are the main source of advice to the responsible minister on the discharge of his or her responsibilities in respect of ACRE.
12. As an advisory non-departmental public body ACRE must at all times:
- observe the highest standards of impartiality, integrity and objectivity in relation to the advice they provide and the management of this public body;
 - be accountable to Parliament, the Devolved Administrations and the public more generally for its activities and for the standard of advice it provides; and
 - in accordance with Government policy on openness, comply fully with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
13. Members of ACRE have collective responsibility for the operation of this body. They must:
- engage fully in collective consideration of the issues, taking account of the full range of relevant factors, including any guidance issued by the sponsor department or the responsible minister;
 - conduct ACRE business in an open and transparent manner as far as possible, complying with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (see 17 below)
 - respond appropriately to complaints, with reference to Defra as appropriate; and
 - ensure that ACRE does not exceed its powers or functions.

14. Communications between ACRE and Defra ministers will generally be through the chair except where ACRE has agreed that an individual member should act on its behalf.
15. The chair has responsibility for providing effective leadership on the issues above. In addition, the chair is responsible for:
 - ensuring that ACRE meets at appropriate intervals, and that the minutes of meetings and any reports to the Secretary of State accurately record the decisions taken and, where appropriate, the views of individual board members;
 - representing the views of ACRE to the general public; and
 - ensuring that new members are briefed on appointment and their training needs are considered
 - providing an annual assessment of the committee's performance, and of members' performance
16. The Defra minister with specific responsibility for ACRE is answerable to Parliament for the policies and performance of this body, including the policy framework within which it operates. ACRE will be expected to provide high-quality, independent scientific advice in which UK ministers can have confidence and which will support evidence-based policymaking. The Defra minister with specific responsibility for ACRE shall
 - answer to Parliament for the policies and performance of ACRE, including the policy framework within which it operates
 - set terms of reference for the committee
 - agree strategic work plans, receive reports and advice
 - make appointments to the committee in accordance with the guidance of the Office for the Commissioner of Public Appointments, in conjunction with ministers in the Devolved Administrations
 - consult the Devolved Administrations and other departments about issues concerning the committee and its work, as appropriate
 - receive periodic reviews of the Committee's functions and value for money
17. The chair and relevant Defra minister should meet at least once a year to reinforce this relationship and review any issues of concern. The chair should similarly also meet Defra's Chief Scientific Advisor.
18. ACRE should continue to abide by the Principles of Scientific Advice to Government³ which set out the rules of engagement between Government and those who provide independent scientific and engineering advice. They provide a foundation on which independent scientific advisers and government departments should base their operations and interactions. Defra should ensure it also meets its obligations under these Principles, respecting the committee's independence, while both sides should act to ensure mutual trust is not undermined. ACRE will also abide by the Code of Practice for Scientific Advisory Committees and Councils: CoPSAC⁴ which provides detailed guidance on the operation of scientific advisory committees and their relationship with Government.
19. Any disputes between the Department and ACRE will be resolved in as timely a manner as possible. The Department and ACRE will seek to resolve any disputes through an informal process in the first instance. If this is not possible, then a formal process, overseen by the responsible SCS, will be used to resolve the issue. Failing this, the responsible SCS

³ [Scientific advice to government: principles - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/scientific-advice-to-government-principles)

⁴ <https://www.gov.uk/government/publications/scientific-advisory-committees-code-of-practice/code-of-practice-for-scientific-advisory-committees-and-councils-copsac-2021>

will ask the relevant policy Director General to oversee the dispute. They may then choose to ask the Permanent Secretary to nominate a non-executive member of the Department's Board to review the dispute, mediate with both sides and reach an outcome, in consultation with the Secretary of State.

SECTION C: FINANCIAL ARRANGEMENTS

20. Defra shall continue to fund the entire costs of ACRE in line with Departmental policy and ACRE shall continue to act purely in an advisory capacity. ACRE has no resources or budget. Defra shall pay all fees and expenses to members, and the costs of facilitating any meetings. Defra shall continue to provide the secretariat by employing its own staff (Civil Servants) for the task and ensure that this will be adequately resourced and able to provide professional and effective support, so that ACRE is able to provide a consistently high standard of scientific advice to ministers.

SECTION D: RELATIONSHIP WITH DEVOLVED ADMINISTRATIONS AND OTHER GOVERNMENT BODIES

21. ACRE is a UK-wide advisory body so has similar responsibilities in relation to the Devolved Administrations to those it has towards Defra. The only exception is that on the occasions where it gives advice on the release of non-native species under the Wildlife and Countryside Act 1981, this does not apply to Northern Ireland. Funding for ACRE is entirely provided by Defra and its secretariat consists of Defra staff only.

22. The Devolved Administrations are consulted by the secretariat on issues relevant to them that ACRE will be asked to consider. They are invited to send representatives and provide input to ACRE meetings. They may submit papers for consideration by the committee, via the Defra secretariat. Decisions on appointments to ACRE are made by Defra ministers in conjunction with ministers in the Devolved Administrations, although the administration of the selection process is carried out by Defra.

23. ACRE shall provide dual or separate advice to Defra ministers and relevant Devolved Administration ministers in cases where there are parallel applications in separate territories within the UK.

24. ACRE advises, as required, the Health and Safety Executive (HSE) on human health aspects in relation to environmental risk assessment. ACRE also provides advice to the Food Standards Agency (FSA) and Food Standards Scotland (FSS) on environmental risk assessments provided with GM food and feed applications submitted under Regulation (EC) No. 1829/2003. Both HSE and FSA will be consulted by the secretariat on issues within their remit and representatives are invited to attend and provide input to ACRE meetings. Similarly, the nature conservation agencies Natural England and NatureScot are also invited to comment on issues relevant to them and send representatives to ACRE meetings.

SECTION E: OPENNESS AND TRANSPARENCY

25. ACRE is committed as far as possible to openness and transparency in its proceedings, having regard to the need to protect personal data or commercially confidential information when appropriate. Any material ACRE publishes will be placed on the Committee's website at <http://www.defra.gov.uk/acre/>

26. Every member will enter and keep up to date any relevant interests in the ACRE register of interests maintained by the secretariat. This is published each year in ACRE's annual

report and separately on the ACRE website⁵, where it can be updated as necessary. Should a particular matter give rise to an actual or potential conflict of interest, a member is required to inform the chair in advance and may withdraw from discussions or consideration of the matter. They should normally withdraw from the meeting if their interest is direct and pecuniary. A member is expected to inform Defra and the chair in advance of any new appointments which may impinge on their duties as a member of ACRE.

27. The aim of this provision is to avoid any danger of members being influenced, or appearing to be influenced, by their private interests in the exercise of their public duties. All members should therefore declare any personal or business interest which may or may be perceived (by a reasonable member of the public) to, influence their judgement. This should include, as a minimum, personal direct and indirect pecuniary interests, and should normally also include such interests of close family members and of people living in the same household.
28. The provisions of the Official Secrets Acts 1911 to 1989 apply to members of ACRE. Unauthorised disclosure of any information gained in the course of this appointment, or its use by the member or others for personal gain or advancement, could result in the appointment being terminated early, or even criminal prosecution.

ACRE shall also

- publish an annual report which describes the Committee's major activities over the previous year, sets out a work plan for the coming year, and includes biographies of members and a register of members' interests.
- publish meeting agendas on the web in advance of meetings and publish the minutes of meetings within 15 working days of the meeting.
- ensure any actual or potential conflicts of interest arising in meetings, and the action taken to handle them, are recorded in the meeting minutes
- publish detailed advice for ministers on deliberate release applications, food and feed notifications, research, technical and other issues within ACRE's remit. In the case of deliberate release applications, ACRE shall note in its advice what account it has taken of scientific evidence made available to the committee through statutory public consultations.
- publish reports, agendas and meeting minutes from any sub-groups set up to investigate a particular topic
- promote engagement with stakeholders by holding an ordinary committee meeting in public at least once a year, organising evidence gathering workshops on specific topics where ACRE recognises this will assist it in formulating advice for ministers, and participating in workshops or other events where useful and relevant to its remit.
- meet any obligations imposed by the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 for the provision of information, including prompt responses to requests for information, maintaining a publication scheme and publishing information in accordance with it.

SECTION F: APPOINTMENTS

29. Appointments to ACRE shall be made by Defra ministers with agreement from ministers in the Devolved Administrations. The appointments procedure shall follow the *Governance*

⁵ <http://www.defra.gov.uk/acre/about/members-interests/>

Code on Public Appointments issued by the Office for the Commissioner for Public Appointments (OCPA)⁶

30. Appointments shall be made on merit following an open competition organised by Defra. Members will be appointed for their expertise and not as representatives of any stakeholder group. People who are directly employed by the biotechnology industry or environmental pressure groups are not eligible for membership of the committee, in order that it can maintain impartiality. Before seeking to recruit a new member, the chair and secretariat shall review the composition of the Committee to assess the balance of expertise required to meet future challenges and agree specifications for any new members.
31. Members are normally appointed for three-year terms and may serve a four-year term as they are in principle eligible to serve on ACRE for up to ten years, subject to satisfactory conduct and performance and provided that ministers agree to reappointments. If a new chair is appointed who has previously been a member, he or she is eligible to begin a new ten-year term. Appointments would be terminated early in the event of misconduct or ACRE being wound up.
32. Members are paid a daily fee for time spent on ACRE business i.e., preparing for and attending ACRE meetings and on occasions attending other events on Defra's behalf. Travel and other expenses incurred in relation to ACRE business are refundable. Fees are taxable but any tax liability on expenses will be met by Defra.
33. Members are obliged to agree to terms and conditions of appointment when they join or are reappointed to the committee, which set out the obligations which Defra and members should meet.

SECTION G: CONDUCT

34. Members are expected to maintain a high standard of personal conduct while serving on the committee. Individual ACRE members can normally be removed from office by the Defra minister, in agreement with the Devolved Administrations, if they fail to perform the duties required of them in line with the standards expected in public office.

All ACRE members must

- follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life;
- ensure they understand their duties, rights and responsibilities, and that they are familiar with the function and role of this body and any relevant statements of Government policy. New members should consider attending relevant training or induction courses
- not misuse information gained in the course of their public service for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations; and
- not hold any paid or high-profile unpaid posts in a political party, and not engage in specific political activities on matters directly affecting the work of this body. When engaging in other political activities, members should be conscious of their public role and exercise proper discretion.

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The Seven Principles of Public Life are set out below:

- Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

- Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

- Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

- Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office

- Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

- Leadership

Holders of public office should promote and support these principles by leadership and example.

Personal liability of members

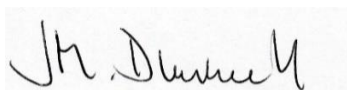
35. Legal proceedings by a third party against individual members of advisory bodies are very exceptional. A member may be personally liable if he or she makes a fraudulent or negligent statement which results in a loss to a third party; or may commit a breach of confidence under common law or a criminal offence under insider dealing legislation, if he or she misuses information gained through their position. However, the Government has indicated that an individual member who has acted honestly and in good faith will not have to meet out of his or her own personal resources any personal civil liability which is incurred in the execution or purported execution of his or her function on the committee, save where

the person has acted recklessly. Members who need further advice should consult the secretariat.

SECTION H: REVIEW OF ACRE AND THIS TERMS OF REFERENCE

36. Defra is required to report annually on the arrangements it has in place for promoting sound working relationships with its arm's length bodies and periodically there should be an external review of the governance arrangements between the department and its arm's length bodies. The department shall review the effectiveness of its portfolio of these bodies and whether or not they are
- delivering in line with departmental policy
 - effective and provide value for money
 - the most appropriate mechanism for implementing policy objectives
37. This Terms of Reference should be reviewed and updated at least every 3 years unless there are exceptional reasons that render this inappropriate that have been agreed with HM Treasury and the Principal Accounting Officer of the sponsor department. The latest date for review and updating of this document is December 2025.
38. In addition, the appointment of a new chair or a significant change in government policy relating to ACRE's business would also trigger a review.
39. All non-departmental public bodies, including ACRE, are subject to review on at least a triennial basis in accordance with Government requirements⁷. The purpose of these reviews is to provide a robust challenge of the continuing need for individual NDPBs – both their functions and their form; and to review the control and governance arrangements in place to ensure that the public body is complying with recognised principles of good corporate governance. Defra is responsible for organising the reviews for all of its public bodies in liaison with the Cabinet Office. Defra will ensure that ACRE is consulted on reviews and has the opportunity to input and comment from the planning process onwards - including on emerging conclusions and recommendations.

Signed on behalf of ACRE – Professor Jim Dunwell



Signed on behalf of Defra – Tim Mordan



⁷ http://www.civilservice.gov.uk/wp-content/uploads/2011/09/triennial-reviews-guidance-2011_tcm6-38900.pdf