

January 2011

The Acas Policy Discussion Papers series is designed to stimulate discussion and debate about key employment relations issues.

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## The future of workplace relations – An Acas view

Predictions and forecasting on the future of work and employment relations are fraught with difficulty. The future is not a fixed state; it is affected by the decisions we make along the way and by unforeseen events such as the current financial crisis. This paper, therefore, is a tentative attempt to map some of the implications of the evolving modern workplace and to encourage debate on the direction of travel for employment relations over the coming decade.

There is no doubt that the environment in which employees, employers and trade unions find themselves has changed dramatically in the past ten years and will continue to change over the following decade. Perhaps the most significant changes are the ongoing fragmentation of workplaces and the shift in the balance from collective to individual models of employment relations. Traditional frameworks and

assumptions surrounding employment relations are now becoming increasingly outdated and in need of renewal.

The paper begins by exploring the changing profile of the workforce and fragmentation of the employment relationship. It then goes on to consider employees' experience at work, the role of trade unions and the collective agenda, and the rise of rules and regulations and increasing individualisation of employment relations. It then turns to the management of the workforce, employee voice, and dealing with conflict.

As well as possible directions it also considers possible interventions that might support workplaces where good employment relations are contributing not only to the health and wellbeing of the workforce, but to the efficiency and productivity of the workplace.

The paper is written from the perspective of Acas, an organisation that deals with workplace conflict and its prevention and makes no apology for focusing on the practical difficulties that the changes to modern workplace relations may give rise to. As one of the country's leading authorities on employment relations it seems appropriate for Acas to share some thoughts with a wider audience about what the future might hold. This paper is intended as the first in a series of contributions to the ongoing debate.

### **The importance of the workplace relations**

Traditionally employment (or industrial) relations, has been associated with the management of either collective or individual conflict in the workplace. In recent years, the focus has opened out to consider the benefits of high performance working on productivity, but also the wider social implications for individuals and their dependents. The workplace provides not only the money that we need to support ourselves and our families but it can also provide purpose, status, and friendship, allowing people to develop new skills, both technical and social. The ability of line managers to manage employment relations on a day-to-day basis and to get the best from their staff has implications for innovation, productivity, quality and reliability, and ultimately levels of growth at a national level and our ability to compete on the global stage. With so much invested in work by managers and employees individually, employment relations has never been so important.

### **The role of Acas**

Acas has been involved in the world of employment relations for over 30 years. Once largely concerned with collective industrial relations, the work of Acas has evolved with the changes in workplaces to support a much wider range of employment relationships, some collective, some individual, some where trade unions are involved and others where they are not. Its role has expanded to embrace not only dispute resolution, which remains its core function, but also a greater emphasis on conflict prevention and good practice with the provision of information, advice and training for employers, employees and their representatives to support them with the day-to-day challenges that they face.

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### **The future of workplace relations**

The forces that affect the way in which we interact at work and the balance of power between worker, employer and organisation are many and varied and include: demographic and technological change, globalisation, and the impact of the global recession; the choices that governments make in relation to economic and social policy including legislative decisions that may increase or limit the role of different players in the employment relationship; at an individual level, there are the forces of socio-cultural change and the expectations and behaviours of members of society and the way in which they respond to challenges and opportunities around them. Notwithstanding the uncertainty thrown up by the interaction

of these often competing dynamic forces the paper considers how they may impact on the future of employment relations.

### **Changing profile of the workforce**

There is a degree of certainty over the future composition of the UK workforce. We can safely assume that it will be older than it is now, and if current trends continue it will also be more feminised and more ethnically diverse. There are also likely to be a larger proportion of migrant workers given that most of these workers come from inside the EU and are unaffected by any proposed caps on immigration.

### **Ageing workforce**

There is a growing view that the baby boomers have left the younger generation with nothing and are now set to block aspirations of this group because they refuse to retire. The shrinking value of pensions and the removal of the Default Retirement Age may well mean that many older workers will opt to stay in work longer. Some, on the other hand, may be unfairly pressured into going before they are ready, whilst others with generous enough pensions and a long held expectation of retirement at 60 or 65 will leave in the traditional way. This means that we may not see the full impact of these changes for at least a decade. But employers will need to start planning now because over the next twenty years there will undoubtedly be a significant shift in the age work profile. One area that employers will have to tackle sooner rather than later will be performance management of older workers.

As the workforce becomes older, and we no longer automatically retire at 60 or 65, managing disability will also become

a greater challenge for employers. At the moment we pick up more disabilities in our pensionable years and employers remain unaffected, but if we work into our late 60s and 70s employers will have to be much more proactive in terms of providing reasonable adjustments in order to meet their duties under the Equality Act 2010.

### **Ageing population and eldercare**

It is not just the ageing workforce that will impact on employment relations however. The ageing population more generally will inevitably lead to a demand for an expanded care sector and the Government has begun to address the funding challenges this presents in its vision for a new care and support system. There are implications for both the use of migrant and ethnic minority workers who have largely replaced low paid indigenous women in this role, but also for those who directly employ carers without prior experience of managing or employing people, and those in the workforce who rely on care services to remain in employment.

The care sector in this country has low qualification entry levels, is low paid, and those employed often have relatively vulnerable employment status. Some are highly qualified, others are not, and though the work involves emotional labour, it is generally undervalued and relatively insecure.

If the quality of care is unreliable and of poor quality, or supply does not meet demand, then those who rely on these services may find they have no choice but to take on more responsibility for the care of elderly or disabled relatives. If they are juggling work and caring responsibilities – often for children as well as elderly parents – they are

likely to suffer from higher levels of stress at work, and will need more access to flexible or part-time working hours.

Some commentators have predicted that eldercare will replace childcare as the major work-life issue by 2020<sup>1</sup> and that the next generation will be expected to spend more years caring for ageing parents than their own children. Although care of elderly relatives affects both men and women, with 50 to 59 being the peak age for caring<sup>2</sup>, women are more likely to provide more hours of care per week and they are also more likely to be caring for children as well.

In the 1990s, some enlightened employers began to look into the provision of eldercare in addition to the support provided for childcare. Unions were also proactive in raising awareness of the issue. It seems likely that employers will have to seriously consider additional support for employees with eldercare responsibilities in the future.

### **Women and equality**

The public sector was at the vanguard of the equality initiatives from the 1970s onwards, providing generous maternity leave and other family-friendly policies, and more recently spearheading advances towards non-discriminatory pay structures in the NHS and local government. Some parts of the private sector, including retail banking, followed suit arguing that equality made good business sense and in particular highlighting the higher rates of women returning to work after maternity leave. WERS 2004<sup>3</sup> showed the public sector was still ahead, but that the private sector was catching up. However changes in the economic context may endanger progress towards equality and as the public sector

shrinks what will this mean for availability of flexible working and leave arrangements? These are policies which have benefited men as well as women and have arguably started to help break down the stereotyped division of men as full-time bread winner and women as part timer and carer.

The way in which the private sector responds to the challenge will have implications for women in the workforce in the decade ahead.

### **The fragmented employment relationship**

The traditional relationship involving a single employer and its employees is one that can no longer be taken for granted. Globalisation, facilitated to a large extent by technological advances, allowed the processes in manufacturing and service sectors to be broken down into their constituent parts, outsourced and often relocated outside the UK. A similar phenomenon is playing out within Britain and its workplaces with an increased emphasis on outsourcing, but also more use of agency staff, secondments and joint partnership working creating what are sometimes referred to as networked organisations<sup>4</sup>. These strategies are primarily used to increase efficiencies and reduce costs, but also as a means of bringing in specialist knowledge and expertise at competitive prices. In addition, the ongoing trend for mergers and acquisitions means that many employees belong to organisations where they have been through not one but two, three or four transfers in as many years.

The result is a far more diverse and complex matrix of contractual relationships within organisations, with a resulting diversity

of terms, conditions and wage rates for employees in these modern workplaces. There may be a group of employees working on the same project, using the same skills but on differing terms and conditions depending on: who their direct employer is; which historical bargaining unit they belong to; and which previous incarnation of the current employer they were originally employed by.

Any wholesale reversal of the current trend seems unlikely. Indeed the current approach to shrinking the public sector and growing the private and voluntary sectors very much supports this model. Suffolk County Council recently announced that it intends to review all its services and to consider which really need to be provided in house and which are already being provided effectively in the community, and which would be better delivered through the creation of social enterprises by existing employees or outsourced to other organisations.

Some of the companies taking on the provision of outsourced services are multinationals and are larger than the client companies themselves and outsourcing has become a major growth industry in the UK. The Government hopes that social enterprises will take on some of the services to be outsourced by the public sector. Some specialised local services may lend themselves more readily to the social enterprise model. However, in the provision of many services newly created social enterprises will have to compete with multinationals and the economies of scale that large organisations can command. This may make it difficult for what are relatively small outfits to win contracts in a sustainable way and therefore offer job security to their employees.

It is possible that some companies will choose to bring services back in house where quality of services and/or brand image has suffered. Indeed across the EU there is evidence of just such a counter trend in the private sector where insourcing, and geographical and organisational consolidation are seen to strengthen the competitive advantage of the firm within the subcontracting chain. In London, Camden Council is preparing to bring services back in house. Outsourcing remains the dominant trend however. Moreover bringing outsourced services back in house may still mean that the contractual patchwork of differing terms and conditions remains even where the line of employer responsibility is clearer.

In the past some sectors, particularly those dominated by women and ethnic minorities, such as the clothing industry, have relied on subcontracting chains that have ultimately depended on 'self employed' workers with low pay and vulnerable conditions. It is very possible that this trend will spread to other sectors in future.

### **Employees' experience of work**

Employees' experience of work, and the satisfaction that they derive from it, can have an important impact on their physical and mental health and wellbeing, their commitment to their job and therefore their performance, and ultimately this can affect the productivity and profitability of their employer.

Long-term trends suggest that overall working hours are down and the workforce are more skilled and jobs more complex and engaging, although this varies between sectors. However, over the past twenty years, there has also been an overall

intensification of work, increased work strain and a reduction in the autonomy that workers have previously enjoyed.

Technology has played an important role in work intensity, allowing processes to move much more swiftly, and allowing time previously seen to be wasted either travelling or waiting for information to arrive to be used to increase the number of tasks employees are able to do. There is less natural breathing space.

At the same time, the increase in outsourcing means that pressures to meet targets and increase efficiency can come from outside the boundaries of the direct employment relationship, thereby reducing the ability of workers and managers to influence the way in which work is done.

Alongside the decline in autonomy is the growing mismatch between upskilling of the UK workforce (supply) and the utilisation of skills in the workplace by employers (demand). According to the UK Skills Survey<sup>5</sup>, around a third of workers reported that their skills were not being used, and skills utilisation is now a central target of UKCES policy on addressing the lower levels of productivity in the UK compared with some of its EU counterparts such as France and Germany.

Although great strides have been made in addressing inequality and discrimination over the past thirty years, people's experience of work in many sectors is still strongly affected by whether they are male, female, disabled or from an ethnic minority. WERS found that workers with disabilities or health problems had a much more negative experience of work<sup>6</sup>. The stubborn pay gap between men

and women remains, and although many women have made real advances in breaking out of low paid, low status jobs, this has had an impact on some more vulnerable ethnic minority groups and migrant workers.

Finding smarter ways of working that do not increase job intensity but allow autonomy, and addressing the experience of fairness at work by women, disabled workers, and other disadvantaged groups will be key in the years ahead. This is especially important given that satisfaction with job security and wage levels (and this includes pensions) may well fall, as public sector employers join the private sector in considering pay freezes and wage reduction to protect jobs threatened by the policies aimed at deficit reduction.

### **Trade unions and the collective agenda**

Economic and legal change both played a role in the steep decline of union density and collective bargaining coverage in the 1990s. The decline has slowed and although their power is more dispersed, trade unions are by no means a spent force. However the role of unions remains under pressure.

While unions have been successful in recruiting more women, they are still struggling to make themselves relevant to younger members. Between 1999 and 2009 union members became more feminised, older, more educated and increasingly dominated by workers in non-manual jobs and those working in the public sector<sup>7</sup>.

Proposed cuts to the public sector present a real challenge to the trade union movement. But trade union representation can reappear in the private sector as we have seen in the privatised industries of transport, energy and

communications, and more recently in the IT sector. Moreover the impact of collective bargaining agreements with one employer can influence the terms and conditions of workers in non-unionised organisations in the same sector.

The ability of unions to organise and expand membership is, however, likely to be made more difficult by issues of fragmentation discussed above. If an employee's direct employer does not have any real control over the pace or content of work, and if the competitive nature of winning contracts also means that there is very little margin for negotiating over wages, then unions may increasingly have to focus their organising and bargaining strategies on subcontracting chains and on procurement processes rather than on single employers or individual workplaces.

Unions are also likely to address the presence of multinationals employing migrant workers, where they exist in a vacuum outside the industrial relations framework in Britain despite having a significant impact on the state of employment relations in the sectors where they operate. Trade unions may well look more to international instruments such as the Ethical Trading Initiative, International Framework Agreements, and European Works Councils to support their capacity to organise outside the limitations of the domestic industrial relations framework.

Unions will also be seeking new issues around which to organise. Given the profile of existing members, trade unions are likely to shift their priorities to a greater focus on the gender pay gap, pension entitlement and public sector employment. Although pay

and terms and conditions will always remain central to trade union members, other issues are also finding their way onto the collective agenda such as equality, dignity at work, bullying and harassment, stress and skills utilisation. However, if they are to expand or even stand still trade unions will have to engage with younger workers.

The recent student demonstrations over the increase in tuition fees have demonstrated that collectivism is still alive and kicking, and the union movement is looking to galvanise popular opposition to cuts in public spending. It is also well aware of the collective power of the green movement and it is pushing for environmental reps to have the same status as health and safety reps. It is also likely to organise strong resistance to plant closures in energy intensive industries unless finance is provided to make the transition to new green industries.

The use of social media by unions to reach both a younger generation and a more dispersed workforce is already well underway. Commentators believe that the unions are moving from the services model of the 90s through the organising model of the noughties to the more sophisticated social movement model with its greater appeal to a younger audience.

Web 3.0 technology with its seamless integration between data bases will enable much greater interactivity between users and the web. This will enable trade unions to refine their recruitment practices where individuals can be attracted to a social movement website first and then directed to trade union sites.

## Rules, regulation and litigation

For most of the twentieth century the regulation of employment relations were largely conducted via the voluntarist system of collective bargaining. Over the past 30 years this has gradually been replaced by a plethora of individual legal rights covering everything from unfair dismissal and paternity leave to the protection from discrimination on the grounds of sexual orientation. Although the legislative shift towards individualisation of employment rights and more restrictive laws for trade union action was in some part intended to create a greater scope for the exercise of management prerogative within the workplace, the result has been an increase in the role for rules, regulations and litigation.

The introduction of the prescriptive three step procedure in 2004 for discipline and grievances provides an example. This aimed to stem the tide of cases flowing to tribunals by encouraging employers and employees to deal with issues informally in the workplace. In fact evidence suggested that the unintended consequence was to encourage those involved to take up entrenched positions early on which, perversely, may have prevented many disputes being resolved in the workplace.

The mandatory three-step procedure has been repealed and yet the law and litigation remains the default position for many employees and employers, both when they think about their rights and responsibilities on a daily basis and when they encounter a problem in the workplace. But taking a case to tribunal will not generally solve issues of poor employment relations. Rather it will simply remove the individual problems from the workplace and reward one litigant and

punish the other. The employee will rarely return to the workplace and the effect on the working environment for existing employees is more likely to lower morale than to enhance the quality of employment relations. The legal framework, furthermore, does not address with a huge number of issues which cause conflict in the workplace whether that be bullying, interpersonal conflict due to relationship breakdown or personality clashes.

The challenge in the years ahead will be to shift the default position away from the law and time consuming and expensive litigation, in favour of searching for a solution where employees and employers are well informed of their rights and responsibilities; where managers are able to facilitate those rights and responsibilities; and where the culture and behaviours at work are conducive to conflict being handled effectively.

## Managing the workforce

The ongoing trend in mergers and acquisitions is arguably creating organisations where decisions over how to increase shareholder value take precedent over the longer term interests of the business and its employees. This leaves management caught between the competing interests of running the business of the organisation and the need to increase share price in the short term, whilst ensuring that there is an engaged, innovative and high performing workforce<sup>8</sup>. Whereas takeovers have, in recent years, been dominated by US and Western European companies, we are likely to see them being dominated by the BRIC\* economies in future. This may well introduce new and unfamiliar management cultures into organisations.

\* Brazil, Russia, India and China

As the traditional relationship of employee and single employer is eroded, the way in which the workforce is managed will need to undergo fundamental changes. Employees are now more likely to have more than one master and to be governed by more than one set of rules. A worker may find him or herself working alongside colleagues doing the same job, on the same site, but with a different salary, different holiday entitlement and training opportunities and other differing terms and conditions.

For the manager with day-to-day responsibility for managing employees on different terms and conditions there are obvious issues around perceptions of fairness and equal treatment. There may also be issues of divided loyalties. For outsourced workers who is their commitment to? Their direct employer or the employer on whose site they spend most of their working time? What can the manager do to cement a more committed relationship across all employees? For HR there are significant challenges in managing the practicalities of a complex mix of contractual relationships, multiple pay negotiations (where collective bargaining exists) and the legacy of different cultures and systems under one roof. At the other extreme, however, managers may find themselves in an organisation where most of the services it once provided have been outsourced to other companies. Here the challenge will be ensuring good contract management regimes.

What are the employment relations implications for managers in the companies holding the outsourced contracts? The pressures to deliver to targets and cost, and maintain the brand image of the client organisation are likely to be considerable.

This will leave managers in the outsourced organisations with less discretion over the pace of work, levels of autonomy and job design. However, if the workforce is suffering from stress, workplace relations are breaking down, there is a failure to meet a large order, or the quality of the work they provide falls below standard, the two organisations may decide that they need to look further than the cost of the contract. The issue of employment relations may become a joint concern.

Outsourcing does not equate to a total abdication of the responsibility for the employees who provide the goods or services. We may begin to see client organisations inserting clauses into procurement contracts on the management of employment relations, or even an acknowledgement of joint responsibility for some aspects of the employment relationship.

### **Performance management**

Performance management is likely to be a matter of growing significance for employers, employees and trade unions for a number of reasons. The removal of a Default Retirement Age (DRA), ongoing pressure on organisations to be more efficient and more competitive, increase of virtual teams and mobile and flexible workers, and increasing sophistication and automation of performance management systems themselves, will all bring new challenges and demands.

The removal of the DRA is likely to have a significant impact on employers. They will no longer be able to use its provisions to dismiss older workers who are perhaps no longer performing as effectively as



they once were, in a relatively simple and straightforward way. In the future, older workers will need to be managed much more carefully and effectively if their remaining years in the workforce are to be made as rewarding and productive as possible. The change is likely to highlight the weaknesses in performance management systems more generally, but there will be no one size fits all.

Some commentators have predicted a further shift away from time-based payment systems to those based on performance or competencies. Whilst this may well be an emerging trend for skilled professionals, it seems unlikely to be a model with relevance for many unskilled or semi-skilled workers or those who value the structure that fixed hours provide to organise their life outside work. Whereas highly skilled workers may be managed by output and creativity, those in less skilled roles are more likely to be managed via tighter controls whether that be the 'spy in the cab', tighter rostering or less autonomy over the way in which they carry out their work. Managers will be faced with a delicate balance of being expected to manage more target driven performance to improve quality standards, whilst running the risk of demotivating the workforce. This will have implications for levels of trust between managers and employees and the scope for either party to use own their professional judgement.

There may also, therefore, be tensions between line management and HR. In a world of increasing legal and commercial pressures, HR may want to take an increasingly formal approach to issues of underperformance and discipline in spite of the current policy impetus towards informal conflict handling. In contrast, line managers

may feel more pressure to be flexible because they wish to maintain a positive relationship with their employees, and they may see the rigidity of formal processes as undermining of their authority, but also inadequate to deal with the diverse personal circumstances of individual employees<sup>9</sup>.

### **A virtual world**

As the virtual workplace becomes more prevalent, employers will need to give careful thought to the management of a dispersed workforce where employees may have infrequent face-to-face contact with their colleagues.

Although technology can offer employees greater flexibility, it can also limit choices and opportunities, particularly the social interaction that office or factory based work offers, and the tacit learning that flows from daily face-to-face interactions. For new employees this form of contact can be invaluable in inducting them into their new workplace, in learning from more experienced colleagues, developing rapport, absorbing corporate culture and professional ethics, and building networks and communities of practice.

Different forms of communication suit different situations, some people are more at ease with one approach over another, and this includes managers. There are some managers who find it very difficult to manage teams who are not physically in the office and there will be more need to support and train managers to deal with this situation and to strike what can be a delicate balance between retaining control and encouraging levels of trust and collaboration. On the other hand, younger managers who have grown up with social networking are likely to be more

comfortable and more adept at using this form of communication.

More people are working more flexible hours, and have far greater access to mobile technology. BlackBerries and mobile phones mean they are expected to be on call and more contactable out of standard working hours. But the same technology also gives them greater access to their home and social life via social networks such as Facebook. There is, to some extent, a growing unspoken assumption by many employees that if they are prepared to be on call in their own time, they should also be allowed to deal with aspects of social and home life in work hours. The lines between work and home life are blurring. But unlike the way in which people socialised previously, social networking sites leave evidence of interactions in the public domain. In future, employers will have to develop policies that address online behaviour such as maligning the company or bullying a colleague, just as they do with behaviour in the workplace, although the advice itself may differ little from existing policies on workplace behaviour.

### **Line managers and the skills agenda**

Whilst HR may be evolving into the more sophisticated and strategic arm for business, line managers are increasingly responsible for the day-to-day management of staff. Dame Carol Black, in her report on the health of Britain's working age population<sup>10</sup>, makes the link between good line management and good health, wellbeing and improved performance. The MacLeod Review<sup>11</sup> highlighted the line manager's role in increasing levels of engagement in the workforce to the same end, pointing to the

key role that they play in utilising the skills of their staff.

However, line managers frequently lack training in management skills themselves, and are simply expected to carry out their role as people manager on top of their operational role. All the features of the changing workplace are laid at the door of the line manager on a daily basis. Managers are now tasked with: motivating, encouraging, and developing their team; monitoring employees' performance; counselling them when they are struggling with issues both in and out of work; and mediating where they fall out with each other, or with the manager themselves. And all this takes place in a context where they may increasingly have far less discretion in the difference they can make to the working conditions of their team.

Line managers are employees too, and they need the support, training and tools to make the possibility of good employment relations feasible. Too often they are left out of the debate on skills and skills utilisation. The challenge for policy makers is to first make training for line managers an attractive investment for employers; and second to promote a form of training that fits in with the pressures of their other business demands. The required skills for managers may be less about developing new qualifications and more about short workshops and training sessions that take into account the pressures of time and their need for very practical support in managing people.

### **Employee voice**

We have discussed some of the challenges facing management but what do those same

issues mean for employees? And how will they express their concerns, their needs, and their ideas in the modern workplace? The MacLeod Review highlighted employee voice as one of the four broad enablers critical to gaining employee engagement and a more productive workforce.

In future, employees' views and concerns are likely to be more diverse and more disparate on one level because of their differing contractual arrangements and their own particular circumstances. But even where there are shared concerns it may be difficult to bring those together in a collective forum because of the lack of available mechanisms for collective voice, coupled with the practical difficulty of bringing together employees who work flexibly or in virtual teams.

Increasingly, employee voice is one that is expressed, consulted with and listened to via direct communications with the employers, as fewer employees find their voice represented at a collective level via trade unions. Although research on employee voice found a combination of direct and indirect methods of communication and consultation that involves employee representatives was most closely associated with positive employee attitudes- namely, "higher levels of affective organisational commitment, job satisfaction and job discretion."<sup>12</sup>

The way in which employee voice is represented is now more diverse. Alongside trade unions, there are statutory systems of representation governing worker participation that entitle workers to elect representatives to works councils, or share information or engage in consultation, for example. Then there is employer sponsored participation (direct communication, employee surveys,

employee forums), and thirdly there are civil society organisations which combine both the provision of services to employees but also campaign for changes to legislation and seek to promote best practice on single issues or for a given section of the workforce<sup>13</sup>.

All of the above have their strengths and weaknesses. Although recent commentators such as Heery argue that trade unions are still the most effective institution representing the interests of working people, he also argues that "worker representation can and should assume a hybrid form, in which different institutions come together and reinforce and complement each others efforts".<sup>14</sup>

Non-union representation, particularly in the private sector where union density is low, can be an important channel for capturing individual employee views and acting as an intermediary between worker and employer. The role of non-union representatives differs from their trade union counterparts and they tend to spend less time on their duties and are less likely to be involved in negotiating terms and conditions. However, they can have a significant influencing role particularly in relation to large scale redundancies, and takeovers and mergers, for which there is a legal requirement for employee representation<sup>15</sup>.

The information and consultation regulations provide employees with the right to request consultative arrangements and there are examples of non-union reps playing an influential role on employee forums and joint consultative committees although, according to WERS 2004, the majority of information and consultation arrangements, were in unionised workplaces<sup>16</sup>. And it is now

quite common to find hybrid consultative committees composed of union and non-union representatives, while collective bargaining remains the function of the union alone.

We are likely to see the need for channels of employee voice to be sensitive to a greater diversity of experiences, perceptions and demands but also a need for employers to find new ways to consult and to listen to the workforce in a genuinely meaningful way. The use of organisation specific social networking sites that mirror the way in which employees interact outside work may be one way in which employers encourage interaction and feedback from employees.

These different systems for representing employee voice are here to stay. The challenge in future years will be how this can be made to work effectively to the advantage of both employer and employee.

Without effective channels for employee voice and communication, employers will struggle to manage the potential for conflict to which we now turn our attention.

### **Managing conflict**

Conflict is an inevitable part of working life. The interests of employers – and increasingly their shareholders – do not always coincide with those of employees. And yet for a time, dispute resolution as a term seemed to disappear from the lexicons of policy and management literature. The focus from an HR perspective was on the importance of good management and leadership as a way of producing harmonious workplaces. This approach, whilst commendable failed to accept that an ability to manage conflict when it happened was equally important.

The recession has brought to the fore the importance of sound conflict management. However, the weight of media attention has tended to focus on strike action accompanied by the cries of another ‘winter of discontent’.

Strike action has been in steady decline for a number of years, and even recent levels of strike action are nowhere near what they were in the 70s and 80s<sup>17</sup>. This is largely due to the reduction in trade union density and collective bargaining arrangements, but also a greater propensity for unions to work more in partnership with employers. Employment tribunal claims on the other hand, have been rising, although they still affect a relatively small proportion of workplaces. Strike action and tribunals are not a substitute for one another, however, nor are they necessarily the most useful measure of the levels or nature of conflict in Britain’s workplaces.

To understand more broadly what is happening in the workplace other expressions of conflict need to be taken into account such as absenteeism, presenteeism and employee turnover, all of which remain at relatively high levels with little sign of abating. These expressions of discontent are arguably more damaging in the long term for businesses and employees because the causes are not openly expressed, they are more pervasive than employment tribunal claims, and they are more awkward to deal with. The underlying cause of unhappiness may well be shared but if the trend for individualisation of employment relations continues then the resources needed to deal with each case will create a heavy burden for HR and line managers.

Collective problems such as stress levels caused by redundancies, and work

intensification for those remaining, or frustration over disparities in pay are likely to be pressing issues. The resolution of collective disputes is likely to become ever more complex, however, due to the plethora of commercial contractual relationships that exist. The problems that this can present were illustrated in high profile disputes at Gate Gourmet, and Grangemouth and Lindsey oil refineries<sup>18</sup>.

Where there is no collective bargaining agreement or trade union representation, the danger is that discontent could spill out into unofficial action. Social media such as social networking, twitter and text has made the possibility of collective organising outside the formal trade union structures much more feasible. If there is no formal representation who does HR talk to? And how can they resolve the dispute?

Individual disputes may arise out of conflict involving a small number of individuals – a manager and a member of staff, two colleagues, or a group of staff with their manager – as a result of bullying or interpersonal conflict. In these cases line managers generally take the lead but may not necessarily have the skills to deal with conflict. Now there is also the danger of this lack of experience being exacerbated by dispersed workforce and use of e-communications.

There are extreme cases of people being sacked by text message, but although these are rare, there is a danger that managers who feel uncomfortable discussing issues of performance or behaviour, or where they or HR are seeking to save the time involved in arranging a face-to-face meeting will choose to deal with the problem via email or phone, or video link. But the importance of body

language, facial expressions and even tone of voice can be lost in a virtual world, and the sense of detachment which makes it easier for a manager to pass on bad news may actually exacerbate the problem.

These problems may also begin to spill into approaches to collective disputes. In national disputes the relevant parties are often based in geographically dispersed workplaces and it may seem logical to use telephone or video conferencing to save time and money when negotiating a resolution to a problem. If the motivation behind using telephone conferencing is to fit the discussion of a dispute into a busy day, the temptation may be to allot the meeting a rigid time frame which fails to account for unexpected developments and human emotions. It is far easier to end a conversation over the phone than to leave a room when things are going badly and need more time. Ultimately a bid for efficiency in these circumstances may be a false economy, but it may well become a more common approach among employers in future particularly where those who ultimately hold the purse strings are based outside the UK.

One of the most effective ways of dealing with conflict early on is to ensure that everyone involved – be that HR, line management, union or employee reps and employees – are aware of the policies and of ways to resolve disputes. The role of employee representatives can be key because they offer employees a safe place to go when things are going wrong. They can feed back to the employer when there is discontent that might otherwise go unnoticed until it is too late. They can often help to resolve issues early on before there is a need for formal procedures, or litigation.

Where it is not possible to resolve disputes internally there is still the option to look to forms of alternative dispute resolution such as conciliation or mediation. These can offer help on a case by case basis, but they can also play a more fundamental role in addressing poor employment relations.

The benefits of setting up in-house mediation schemes are the knowledge they can bring to the workforce about the causes of conflict and how to recognise and respond before positions become entrenched. Mediation is also a skill set that has been proven to enhance the skills base of HR, line managers and trade unions beyond the mediation setting. A recent study, commissioned by Acas, found that the introduction of a mediation scheme alongside a new partnership agreement with unions had a transformative effect on employment relations in the organisation more generally<sup>19</sup>.

## Conclusion

Fragmentation, demographic change, complex contractual relationships, remote management, individualisation, and a vacuum in representation for both employers and employees will create a more challenging environment for good employment relations in the years ahead.

It can no longer be assumed that there will be a traditional employment relationship involving one employer. New structures and new approaches will need to be put in place in order to ensure that in the dialogue that takes place between employers, employees and their respective representatives all the relevant players are brought to the table.

Those involved in negotiating and managing the employment relationship will need to find new ways to engage with their employees. Employees and those who represent them will need to find effective mechanisms to make their voice heard. There will also be a need to find new institutions at European and International level that can address the employment relations issues that multinationals and complex subcontracting chains present.

Information, advice and guidance via the internet are likely to become increasingly important because of the reach that this provides to smaller and more dispersed workplaces, giving them access to the knowledge they need to address the levels of complexity that exist in the modern employment relationship.

Despite the potential that virtual communication can offer there will remain the need for this to be balanced at people management level with face-to-face contact, particularly where relations break down.

The ability of organisations to build in transformative approaches to dispute resolution through greater use and awareness of mediation and other forms of conflict management may well begin to tip the balance in the way in which organisations address conflict. It may be that in ten years time, alternative dispute resolution rather than litigation become the default position for many workplaces.

All this will have implications for Acas. Once again it will have to develop and adapt the services it provides. This paper begins to address the issues that it will be considering in the months and years ahead. In future papers we hope to explore a number of these topics in more detail.

## Further reading

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