

The Employee Relations Framework

Key concepts and terms

- Collective bargaining
- Conjunctive bargaining
- Cooperative bargaining
- Custom and practice
- Distributive bargaining
- Employee relations
- Industrial relations
- Integrative bargaining
- Internal regulation
- Job regulation
- Mutuality
- Pluralist view
- Procedural rules
- Social partnership
- Stakeholder theory
- Substantive rules
- Unitary view
- Voluntarism

Learning outcomes

On completing this chapter you should be able to define these key concepts. You should also know about:

- The elements of employee relations
- Regulations and rules in industrial relations
- Unitary and pluralist views of employee relations
- Individualism and collectivism
- The HRM approach to employee relations
- Developments in industrial relations
- Industrial relations as a system of rules
- Collective bargaining
- Social partnership
- Voluntarism
- The context of industrial relations
- The parties to employee relations

Introduction

Employee or employment relations are concerned with managing and maintaining the employment relationship, which involves handling the pay–work bargain, dealing with employment practices, terms and conditions of employment, issues arising from employment, providing employees with a voice and communicating with employees. They consist of the approaches and methods adopted by employers to deal with employees either collectively through their trade unions or individually.

The term ‘employee relations’ encompasses that of industrial relations, which are about relationships between managements and trade unions involving collective agreements, collective bargaining, disputes resolution and dealing with issues concerning the employment relationship and the working environment. The processes involved in industrial relations are dealt with in Chapter 55.

The purpose of this chapter is to provide a general introduction to the complex subject of employee relations, the elements of which are discussed below.

The basis of employee relations

Employee relations are basically about the pay–work bargain – the agreement made between employers and employees whereby the former undertakes to pay for the work done by the latter. Fundamentally, many employers simply want employees who will do what they are told without costing too much. They want engagement and commitment. In contrast, employees want a say in how much they are rewarded, their terms and conditions of employment and the way in which their work is organized. They want good working conditions, security of employment, a healthy and safe working environment and the scope to raise and resolve grievances. Conflicts of interest can arise between employers and employees on these issues, and these conflicts are resolved by the various employee relations processes described in this chapter and Chapter 55.

Parties to the employment relationship

As Farnham (2000) puts it, employee relations deal with the interactions amongst the parties to the employment relationship. These consist of three groups: employers and employees, the parties who act on their behalf (trade unions and employer associations) and the third-party role played by the state agencies and the EU institutions. He points out that within organizations employee relations practices are the product of a number of factors, namely:

- the interests of the buyers and sellers of labour services (or human resources skills);
- the agreements and rules made by them and their agents;

- the conflict-resolving processes that are used;
- the external influences affecting the parties making employment decisions.

Purpose of employee relations

The purpose of employee relations is to provide for effective and consistent procedures for rule-making, consistency in dealing with employee relations issues, fairness, processes that can affect and improve employee behaviour or mechanisms to resolve differences/disputes. The value-added outcomes that can result from good employee relations include improved morale and commitment, fewer grievances, productivity increases and better control of labour costs.

Elements of employee relations

The elements of employee relations are summarized below.

Elements of employee relations

- The formal and informal employment policies and practices of the organization.
- The development, negotiation and application of formal systems, rules and procedures for collective bargaining, handling disputes and regulating employment. These serve to determine the reward for effort and other conditions of employment, to protect the interests of both employees and their employers, and to regulate the ways in which employers treat their employees and how the latter are expected to behave at work.
- The bargaining structures, recognition and collective agreements and practices that have evolved to enable the formal system to operate.
- Policies and practices for employee voice and communications.
- The informal as well as the formal processes that take place in the shape of continuous interactions between managers and team leaders or supervisors on the one hand and employee representatives and individuals on the other. These may happen within the framework of formal agreements but are often governed by custom and practice and the climate of relationships that has been built up over the years.
- The philosophies and policies of the major players in the industrial relations scene: the government of the day, management and the trade unions.

- A number of parties, each with different roles. These consist of the state, management, employer's organizations, the trade unions, individual managers and supervisors, HR managers, employee representatives or shop stewards and employees.
- The legal framework.
- A number of institutions such as in the UK, the Advisory, Conciliation and Arbitration Service (ACAS) and the employment tribunals.
- The Directives produced by the EC.

The chapter concentrates on the industrial relations aspects of employee relations. Other aspects of employee relations are dealt with in Chapters 55 to 57. Industrial relations theory is strongly influenced by the concept that it is based on a system of rules, as described below.

Industrial relations as a system of rules

The systems theory of industrial relations, as propounded by Dunlop (1958), states that industrial relations can be regarded as a system or web of rules regulating employment and the ways in which people behave at work. According to this theory, the role of the system is to produce the regulations and procedural rules that govern how much is distributed in the bargaining process and how the parties involved, or the 'actors' in the industrial relations scene, relate to one another. Dunlop explained that the output of the system takes the following form.

SOURCE REVIEW

Output of the industrial relations system, Dunlop (1958)

The regulations and policies of the management hierarchy; the laws of any worker hierarchy; the regulations, degrees, decisions, awards or orders of governmental agencies; the rules and decisions of specialized agencies created by the management and worker hierarchies; collective bargaining arrangements and the customs and traditions of the workplace and work community.

The system is expressed in many formal or informal guises: in legislation and statutory orders, in trade union regulations, in collective agreements and arbitration awards, in social conventions, in managerial decisions, and in accepted 'custom and practice'. The 'rules' may be defined and coherent, or ill-defined and incoherent. Within a plant the rules may mainly be concerned with doing no more than defining the status quo that both parties recognize as the norm from which deviations may be made only by agreement. In this sense, therefore, an industrial relations system is a normative system where a norm can be seen as a rule, a standard, or a pattern for action that is generally accepted or agreed as the basis upon which the parties concerned should operate. Trade unions will always be anxious to preserve any aspects of custom and practice beneficial to their members and resist attempts by management to make changes.

Criticisms of the system of rules theory

However, the systems theory of industrial relations has been criticized. Kochan *et al* (1986) see a more active as opposed to merely adaptive role for management because they are in a strong position to exercise strategic choice. They also believe that there are more interrelated levels of industrial relations. In addition to the functional level of collective bargaining there is the strategic (corporate) level and the workplace level (supervisory style, participation, job design and work organization). Because these work levels interact and, because different ideologies dominate each level, instability and conflict are inevitable. It is only at the functional level, ie the level of collective bargaining, that there is a need for a collective ideology to bind the system together.

Schilstra (1998) criticized the Dunlop systems theory because behavioural factors are virtually absent, it concentrates on rules and procedures as outputs and does not explain how the rules are determined, and the focus on rules and job regulation as the outputs of the system concentrates on accommodation and equilibrium, not on conflict and change.

The theory is right to emphasize the importance of rules in the context of traditional industrial relations and, as described below, they still play a significant role. But it does not sufficiently take into account the distribution of power between management and trade unions nor the impact of the state. Neither does it adequately explain the role of the individual in industrial relations.

Regulations and rules in industrial relations

Job regulation aims to provide a framework of minimum rights and rules. These may provide for internal or external regulation, contain substantive or procedural rules or be expressed in the form of collective agreements or custom and practice, as described below.

Internal and external regulation

Internal regulation is concerned with procedures for dealing with grievances, redundancies, or disciplinary problems, and rules concerning the operation of the employment relationship and the rights of shop stewards. External regulation is carried out by means of employment legislation, the rules of trade unions and employers' associations, and the regulative content of procedural or substantive rules and agreements.

Substantive and procedural rules

Substantive rules settle the rights and obligations attached to jobs. It is interesting to note that in the UK, the parties to collective agreements have tended to concentrate more on procedural than on substantive rules. In the United States, where there is greater emphasis on fixed-term agreements, the tendency has been to rely more on substantive rules.

Procedural rules are intended to regulate relationships, especially those involving conflict, between the parties to collective bargaining, and when their importance is emphasized, a premium is being placed on industrial peace.

Collective agreements

A collective agreement is a formal agreement between management and trade unions dealing with terms and conditions of employment or other aspects of the relationships between the two parties. The forms of collective agreement are described in Chapter 55.

Custom and practice

The term 'custom and practice' refers to the unwritten rules on how industrial relations and employment issues should be dealt with that have been built up and accepted by management and the trade unions over time. Custom and practice is an implied contractual term when it meets the following criteria: 1) the practice is definite and can be defined, 2) it is reasonable to all the parties concerned, and 3) it is applied so that the parties to employee relations know the practice exists. Once established, trade unions generally want to hang onto custom and practice. If management wants to change it, they expect something in return.

Collective bargaining

The industrial relations system is regulated by collective bargaining, defined by Flanders (1970) as a social process that 'continually turns disagreements into agreements in an orderly fashion'.

Collective bargaining is the establishment by negotiation and discussion of agreement on matters of mutual concern to employers and unions covering the employment relationship and terms and conditions of employment. It therefore provides a framework within which the views of management and unions about disputed matters that could lead to industrial disorder can be considered, with the aim of eliminating the causes of the disorder. Collective bargaining is a joint regulating process, dealing with the regulation of management in its relationships with work people as well as the regulation of conditions of employment. It has a political as well as an economic basis – both sides are interested in the distribution of power between them as well as the distribution of income.

Collective bargaining can be regarded as an exchange relationship in which wage–work bargains take place between employers and employees through the agency of a trade union. Traditionally, the role of trade unions as bargaining agents has been perceived as being to offset the inequalities of individual bargaining power between employers and employees in the labour market.

Collective bargaining can also be seen as a political relationship in which trade unions, as Chamberlain and Kuhn (1965) noted, share industrial sovereignty or power over those who are governed, the employees. The sovereignty is held jointly by management and union in the collective bargaining process.

Above all, collective bargaining is a power relationship that takes the form of a measure of power-sharing between management and trade unions (although recently the balance of power has shifted markedly in the direction of management).

Bargaining power

The extent to which industrial sovereignty is shared by management with its trade unions (if at all) depends upon the relative bargaining powers of the two parties. Bargaining power can be defined as the ability to induce the other side to make a decision or take a course of action that it would otherwise be unwilling to make. Each side is involved in guessing the bargaining preferences and bargaining power of the other side.

As Fox and Flanders (1969) commented: ‘Power is the crucial variable which determines the outcome of collective bargaining’. It has been suggested by Hawkins (1979) that a crucial test of bargaining power is ‘whether the cost to one side in accepting a proposal from the other is higher than the cost of not accepting it’. Singh (1989) has pointed out that bargaining power is not static but varies over time. He also noted that:

Bargaining power is inherent in any situation where differences have to be reconciled. It is, however, not an end in itself and negotiations must not rely solely on bargaining power. One side may have enormous bargaining power, but to use it to the point where the other side feels that it is impossible to deal with such a party is to defeat the purpose of negotiations.

Atkinson (1989) asserts that:

- What creates bargaining power can be appraised in terms of subjective assessments by individuals involved in the bargaining process.
- Each side can guess the bargaining preferences and bargaining power of the other side.
- There are normally a number of elements creating bargaining power.

Forms of collective bargaining

Collective bargaining takes two basic forms, as identified by Chamberlain and Kuhn (1965).

1. Conjunctive bargaining, which 'arises from the absolute requirement that some agreement – any agreement – may be reached so that the operations on which both are dependent may continue', results in a 'working relationship in which each party agrees, explicitly or implicitly, to provide certain requisite services, to recognize certain seats of authority, and to accept certain responsibilities in respect of each other'. In other words, both parties are seeking to reach agreement.
2. Cooperative bargaining, in which it is recognized that each party is dependent on the other and can achieve its objectives more effectively if it wins the support of the other.

Walton and McKersie (1965) made the distinction between distributive bargaining, defined as the 'complex system of activities instrumental to the attainment of one party's goals when they are in basic conflict with those of the other party', and integrative bargaining, defined as the 'system of activities which are not in fundamental conflict with those of the other party and which therefore can be integrated to some degree'. These activities aim to define 'an area of common concern, a purpose'.

The unitary and pluralist views

There are two basic views expressed about the basis of the relationship between management and trade unions in particular or employees in general: the unitary and the pluralist perspectives (a concept originally developed by Fox, 1966).

The unitary view

The unitary view is one typically held by management who see their function as that of directing and controlling the workforce to achieve economic and growth objectives. To this end, management believes that it is the rule-making authority. Management tends to view the

enterprise as a unitary system with one source of authority – itself – and one focus of loyalty – the organization. It extols the virtue of teamwork, where everyone strives jointly to a common objective, everyone pulls their weight to the best of their ability, and everyone accepts their place and function gladly, following the leadership of the appointed manager or supervisor. These are admirable sentiments, but they sometimes lead to what McClelland (1963) referred to as an orgy of ‘avuncular pontification’ on the part of the leaders of industry.

The unitary view, which is essentially autocratic and authoritarian, has sometimes been expressed in agreements as ‘management’s right to manage’. The philosophy of HRM with its emphasis on commitment and mutuality owes much to the unitary perspective.

It was claimed by Edwards (1990) in line with labour process theory, that relationships between capital and labour are ones of ‘structured antagonism’. Although as the revisionist labour process theorists Thompson and Harley (2007) comment: ‘In the employment relationship there will always be (actual and potential) conflict, but simultaneously there will be shared interests.’

The pluralist view

The pluralist view, as described by Fox (1966), is that an industrial organization is a plural society, containing many related but separate interests and objectives that must be maintained in some kind of equilibrium. In place of a corporate unity reflected in a single focus of authority and loyalty, management has to accept the existence of rival sources of leadership and attachment. It has to face the fact that in Drucker’s (1951) view, a business enterprise has a triple personality: it is at once an economic, a political and a social institution. In the first, it produces and distributes incomes. In the second, it embodies a system of government in which managers collectively exercise authority over the managed, but are also themselves involved in an intricate pattern of political relationships. Its third personality is revealed in the organization’s community, which evolves from below out of face-to-face relations based on shared interests, sentiments, beliefs and values among various groups of employees.

Pluralism conventionally regards the workforce as being represented by ‘an opposition that does not seek to govern’ (Clegg, 1976). Pluralism, as described by Cave (1994), involved:

a balance of power between two organized interests and a sufficient degree of trust within the relationship (usually) for each side to respect the other’s legitimate and, on occasions, separate interests, and for both sides to refrain from pushing their interest separately to the point where it became impossible to keep the show on the road.

It has been noted by Guest (1995) that: ‘The tradition of bargaining at plant or even organization level has reinforced a pluralistic concept.’ The concept of pluralism underpins that of social partnership, as discussed below.

The concept of social partnership

Social partnership is the concept that, as stakeholders, the parties involved in employee relations should aim to work together to the greater good of all. It has been defined by Ackers and Payne (1998) as ‘a stable, collaborative relationship between capital and labour, as represented by an independent trade union, providing for low social conflict and significant worker influence on business decision making through strong collective bargaining’. The then General Secretary of the TUC, John Monks, wrote in 1996, ‘The trade union movement is uniquely placed to create a new social and political settlement based on solidarity and justice. To achieve this great prize we have to work through dialogue, cooperation and compromise – a social partnership.’

The concept of social partnership is rooted in stakeholder theory as originally formulated by Freeman (1984). Donaldson and Preston (1995) define the theory as representing the corporation as a ‘constellation of cooperative and competitive interests’. They explain that:

stakeholders are identified by their interest in the corporation, whether or not the corporation has any interests in them. Each group of stakeholder merits consideration because of its own sake and not merely because of its ability to further the interests of some other group, such as the shareholders.

As Hampden-Turner (1996) commented: ‘Stakeholders include at least five parties: employees, shareholders, customers, community and government. Wealth is created when all work together.’ The Industrial Partnership Association (1996) stated that the concept of social partnership could be applied to create a favourable industrial relations terrain in which there was:

- a new approach to relationships at work;
- security of employment and job flexibility;
- sharing in the success of the organization;
- information, consultation and employee involvement;
- representation of the workforce.

The concept of social partnership can be put into practice through partnership agreements, as described in Chapter 55.

Individualism and collectivism

Purcell (1987) argues that the distinction between pluralist and unitary frames of management has ‘provided a powerful impetus to the debate about management style, but the

mutually exclusive nature of these categories has limited further development'. Moreover, wide variations can be found within both the unitary and the pluralist approach. He therefore suggests an alternative distinction between 'individualism' – policies focusing on individual employees and 'collectivism' – the extent to which groups of workers have an independent voice and participate in decision making with managers. He believes that companies can and do operate on both these dimensions of management style.

Voluntarism and its decline

The essence of the systems theory of industrial relations is that the rules are jointly agreed by the representatives of the parties to employment relations; an arrangement which, it is believed, makes for readier acceptance than if they were imposed by a third party such as the state. This concept of voluntarism was defined by Kahn-Freund (1972) as 'the policy of the law to allow the two sides by agreement and practice to develop their own norms and their own sanctions and to abstain from legal compulsion in their collective relationship'. It was, in essence, voluntarism that came under attack by government legislation from 1974 onwards, including the principle of 'immunities' for industrial action and the closed shop.

The HRM approach to employee relations

The philosophy of human resource management has been translated into the following prescriptions that constitute the HRM model for employee relations.

The HRM model of employee relations

- A drive for commitment – winning the 'hearts and minds' of employees to get them to identify with the organization, to exert themselves more on its behalf and to remain with the organization, thus ensuring a return on their training and development.
- An emphasis on mutuality – getting the message across that 'we are all in this together' and that the interests of management and employees coincide (ie a unitarist approach).
- The organization of complementary forms of communication such as team briefings, alongside traditional collective bargaining – ie approaching employees directly as individuals or in groups rather than through their representatives.

- A shift from collective bargaining to individual contracts.
- The use of employee involvement techniques such as improvement groups.
- Continuous pressure on quality – total quality management.
- Increased flexibility in working arrangements, including multi-skilling, to provide for the more effective use of human resources, sometimes accompanied by an agreement to provide secure employment for the ‘core’ workers.
- Emphasis on teamwork.
- Harmonization of terms and conditions for all employees.

The key contrasting dimensions of traditional industrial relations and HRM have been presented by Guest (1995), as set out below.

SOURCE REVIEW

Dimensions of industrial relations and HRM, Guest (1995)

Dimension	Industrial Relations	HRM
Psychological contract	Compliance	Commitment
Behaviour references	Norms, custom and practice	Values/mission
Relations	Low trust, pluralist, collective	High trust, unitarist, individual
Organization design	Formal roles, hierarchy, division	Flexible roles, flat structure of labour, managerial control, teamwork/ autonomy, self control

Guest notes that this model aims to support the achievement of the three main sources of competitive advantage identified by Porter (1985) namely: innovation, quality and cost leadership. Innovation and quality strategies require employee commitment, while cost leadership strategies are believed by many organizations to be only achievable without a union. ‘The logic of a market-driven HRM strategy is that where high organizational commitment is sought, unions are irrelevant. Where cost advantage is the goal, unions and industrial relations systems appear to carry higher costs.’

An HRM approach is still possible if trade unions are recognized by the organization. In this case, the employee relations strategy might be to marginalize or at least side-step them by dealing directly with employees through involvement and communications processes.

The context of industrial relations

Industrial relations are conducted within the external context of the national political and economic environment, the international context and the internal context of the organization.

The political context

The political context is formed by the government of the day. The Conservative administrations from 1979 onwards set out to curb the power of the trade unions through legislation, and succeeded to a degree. The Labour Government since 1997 has not made any other major changes to the existing trade union legislation.

The economic context

Perhaps the most significant feature of the changing economic environment from the industrial relations viewpoint has been the drastic cutbacks in manufacturing industry, where unions have traditionally been strongly organized.

The European context

Employee relations in the UK are affected by European Union regulations and initiatives. A number of Articles in the original treaty of Rome referred to the promotion of improvements in working conditions and the need to develop dialogue between the two sides of industry. The conduct of employee relations in Britain is increasingly being affected by EC Directives such as those concerning works councils and working hours.

The organizational context

The need to 'take cost out of the business' has meant that employers have focused on the cost of labour – usually the highest and most easily reduced cost, hence 'the lean organization' movement and large-scale redundancies, especially in manufacturing. There has been pressure for greater flexibility and increased management control of operations, which has had a direct impact on employee relations policies and union agreements.

The widespread introduction of new technology and IT has aimed to increase productivity by achieving higher levels of efficiency and reducing labour costs. Organizations are relying more

on a core of key full-time employees, leaving the peripheral work to be undertaken by sub-contractors and the increasing numbers of part-timers – women and men. This has reduced the number of employees who wish to join unions or remain trade union members.

Developments in industrial relations

Developments in the practice of industrial relations since the 1960s can be divided into the following phases:

1. The traditional system existing prior to the 1970s.
2. The Donovan analysis of 1968.
3. The interventionist and employment protection measures of the 1970s.
4. The 1980s programme for curbing what were perceived by the Conservative government to be the excesses of rampant trade unionism.
5. Developments since the 1980s.
6. The findings of the Workplace Employee Relations Survey (WERS) 2004.

1. The traditional system – to 1971

Relations prior to 1971 and indeed for most of the 1970s could be described as a system of collective representation designed to contain conflict. Voluntary collective bargaining between employers and employees' associations was the central feature of the system, and this process of joint regulation (the regulation of terms and conditions of employment by agreement between management and trade unions) was largely concerned with pay and basic conditions of employment, especially hours of work in industry, and legal abstention on the part of the state and the judiciary. During this period and, in fact, for most of the century, the British system of industrial relations was characterized by a tradition of voluntarism.

2. The Donovan analysis

The high incidence of disputes and strikes, the perceived power of the trade unions and some well-publicized examples of shop steward militancy (although the majority were quite amenable) contributed to the pressure for the reform of industrial relations which led to the setting up of the Donovan Commission (the Royal Commission on Industrial Relations, 1968). This concluded that the formal system of industry-wide bargaining was breaking down. Its key findings were that, at plant level, bargaining was highly fragmented and ill-organized, based on informality and custom and practice. The Commission's prescription was for a continuation of voluntarism, reinforced by organized collective bargaining arrangements locally, thus

relieving trade unions and employers' associations of the 'policing role', which they so often failed to carry out. This solution involved the creation of new, orderly and systematic frameworks for collective bargaining at plant level by means of formal negotiation and procedural agreements.

Since Donovan, comprehensive policies, structures and procedures to deal with pay and conditions, shop steward facilities, discipline, health and safety, etc have been developed at plant level to a substantial extent. The support provided by Donovan to the voluntary system of industrial relations was, however, underpinned by a powerful minority note of reservation penned by Andrew Shonfield in the report of the Royal Commission. He advocated a more interventionist approach, which began to feature in Government policies in the 1970s.

3. Interventionism in the 1970s

The received wisdom in the 1960s, as reflected in the majority Donovan report, was that industrial relations could not be controlled by legislation. But the Industrial Relations Act introduced by the Conservative Government in 1971 ignored this belief and drew heavily on Shonfield's minority report. It introduced a strongly interventionist legal framework to replace the voluntary regulation of industrial relations systems. Trade unions lost their general immunity from legal action and had to register under the Act if they wanted any rights at all. Collective agreements were to become legally binding contracts and a number of 'unfair industrial practices' were proscribed. Individual workers were given the right to belong or not belong to a trade union, although no attempt was made to outlaw the closed shop. But the Act failed to make any impact; being ignored or side-stepped by both trade unions and employers, although it did introduce the important general right of employees 'not to be unfairly dismissed'.

The Labour Government of 1974 promptly repealed the 1971 Industrial Relations Act and entered into a 'social contract' with the trade unions that incorporated an agreement that the TUC would support the introduction of a number of positive union rights. These included a statutory recognition procedure and in effect meant that the unions expressed their commitment to legal enforcement as a means of restricting management's prerogatives.

Statutory rights were also provided for minimum notice periods, statements of terms and conditions, redundancy payments and unfair dismissal.

4. The 1980s – curbing the trade unions

The strike-ridden 'winter of discontent' in 1978 and the return of a Conservative Government in 1979 paved the way for the ensuing step-by-step legislation that continued throughout the 1980s and into the early 1990s. The ethos of the Conservative Governments in the 1980s was summed up by Phelps Brown (1990) as follows:

People are no longer seen as dependent on society and bound by reciprocal relationship to it; indeed the very notion of society is rejected. Individuals are expected to shift for themselves and those who get into difficulties are thought to have only themselves to blame. Self-reliance, acquisitive individualism, the curtailment of public expenditure, the play of market forces instead of the restraints and directives of public policy, the prerogatives of management instead of the power of the unions, centralization of power instead of pluralism.

The legislation on trade unions followed this ethos, and was guided by an ideological analysis expressed in the 1981 Green Paper on Trade Union Immunities as follows: ‘Industrial relations cannot operate fairly and efficiently or to the benefit of the nation as a whole if either employers or employees collectively are given predominant power – that is, the capacity effectively to dictate the behaviour of others.’

The Government described industrial relations as ‘the fundamental cause of weakness in the British economy’, with strikes and restrictive practices inhibiting the country’s ability to compete in international markets. The balance of bargaining power was perceived to have moved decisively in favour of trade unions, which were described as ‘irresponsible, undemocratic and intimidatory’, while the closed shop was described as being destructive of the rights of the individual worker.

5. Developments since the 1980s

In their analysis of the industrial relations scene, Kessler and Bayliss (1992) commented that ‘the needs of employers have increasingly been towards enterprise orientated rather than occupationally orientated trade unions’. They also noted that: ‘It is clear that the significance of industrial relations in many firms has diminished. It is part of a management controlled operation – a branch of human resource management. It is no longer a high profile problem-ridden part of personnel management as it so often was in the 1970s.’

Guest (1995) noted that the industrial relations system may continue as a largely symbolic ‘empty shell’, insufficiently important for management to confront and eliminate, but retaining the outward appearance of health to the casual observer: ‘Management sets the agenda, which is market-driven, while industrial relations issues are relatively low on the list of concerns.’

Rousseau (2001) noted that in the United States there had been a shift from general (negotiated at the centre) to idiosyncratic contracts (negotiated at the local level between line managers and employees). However, in the UK, research by Blanden *et al* (2006) established that in the private sector there had been a slight fall in de-recognition but a relatively large increase in recognition.

6. Workplace Employee Relations Survey (WERS) 2004

The findings of this survey showed some significant changes from the 1998 survey. Most striking of all, perhaps, was the continuing decline of collective labour organization. Employees were less likely to be union members than they were in 1998; workplaces were less likely to recognize unions for bargaining over pay and conditions; collective bargaining was less prevalent. Even so, the rate of decline seemed to have slowed down from that seen in earlier periods and the joint regulation of terms and conditions remains a reality for many employees in Britain: one-half of employees were employed in workplaces with a recognized trade union; one-third were union members; and 40 per cent had their pay set through collective bargaining.

The parties to employee relations

The parties to employee relations are:

- the government;
- the trade unions;
- employee representatives or shop stewards;
- the Trade Union Congress (the TUC);
- staff associations;
- management;
- employers' organizations;
- the Confederation of British Industry;
- various institutions, agencies and officers;
- the European Union;
- the HR function.

The role of each of these parties is summarized below.

The government

The government plays multiple roles in shaping employee relations. These include being a major employer in its own right that sets standards of good employee relations practice, and acting as a paymaster in both the public sector and through private contractor services of employment, as an economic manager by influencing prices and wages, as a rule maker and legislator of employment rights and standards, and as a peace maker by providing services such as conciliation and arbitration.

The trade unions

Traditionally the fundamental purpose of trade unions is to promote and protect the interests of their members. They are there to redress the balance of power between employers and employees. As Emmott (2008) comments: 'Trade unionism has always been about power. The aim of trade unions is to redress the imbalance of power between employer and employee and this remains the fundamental basis for their existence.' Unions have been described by Ackers and Payne (1998) as 'essentially collective self-help bodies'. The basis of the employment relationship is the contract of employment. But this is not a contract between equals. Employers are almost always in a stronger position to dictate the terms of the contract than individual employees.

Trade unions, as indicated by Freeman and Medoff (1984), provide workers with a 'collective voice' to make their wishes known to management and thus bring actual and desired conditions closer together. This applies not only to terms of employment such as pay, working hours and holidays, but also to the way in which individuals are treated in such aspects of employment as the redress of grievances, discipline and redundancy. Trade unions also exist to let management know that there will be, from time to time, an alternative view on key issues affecting employees. More broadly, unions may see their role as that of participating with management on decision making on matters affecting their members' interests.

Within this overall role, trade unions have had two specific roles, namely: 1) to secure, through collective bargaining, improved terms and conditions for their members, and 2) to provide protection, support and advice to their members as individual employees. An additional role, that of providing legal, financial and other services to their members, has come to the fore more recently.

The key reasons why people may join a trade union include obtaining external support and protection from employment problems or seeking improvements in pay and terms and conditions. They may also join because union membership is common at a workplace or because of a belief in unionism.

Trade union structure

Trade unions are run by full-time central and, usually, district officials. There may be local committees of members. There is usually a general secretary who exercises control over the union and in the words of one union leader, Clive Jenkins, 'sits on the tip of a pyramid of organized indignation'. National officials may conduct industry-wide or major employer pay negotiations, while local officials may not be involved in plant negotiations unless there is a 'failure to agree' and the second stage of a negotiating procedure is invoked. Major employers who want to introduce significant changes in agreements or working arrangements may deal direct with national officials.

The state of the trade unions in the UK

The density of trade union membership in the UK declined from 32.4 in 1995 to 28.0 per cent in 2007 (union density is defined in *Labour Market Trends* as the proportion of the population in question who are union members – union membership is defined as the actual number of people who are members of a trade union). UK union density in the private sector was 16.1 per cent in 2007, a decline of 5.3 per cent from 1995. Density is much higher in the public sector (59.0 per cent) and actually rose by 0.3 per cent from 2006 although since 1995 it has fallen by 2.3 per cent. In both the public and private sectors, union density was higher for males than for females. In the private sector union density for males was 18.5 per cent compared to 12.8 per cent for females. In the public sector, male density was 61.3 per cent compared to 57.8 per cent for females.

The trade union movement is now dominated by the large general unions and the recently merged craft unions. The reasons for the decline in the private sector are not primarily disenchantment with the trade unions, or the impact of trade union legislation, or large-scale de-recognitions. The more important causes are structural and economic, namely:

- a shift in the economy away from large-scale manufacturing industries (traditionally heavily unionized) to the service industries (traditionally non-unionized);
- the trend to decentralize organizations;
- a decline in the number of workplaces employing large numbers of people;
- growing numbers of office and part-time workers;
- the impact of unemployment.

The differences between the private and public sectors are reflected in the figures for industrial disputes. Strikes are uncommon across most of the private sector, whereas in the public sector, industrial action – or the threat of it – remains relatively high on the agenda.

The actions taken by the unions to counteract this trend have included mergers to increase their perceived power and enable them to operate more cost-effectively, recruitment drives in non-unionized sectors (not very successful), and what used to be known as ‘enterprise trade unionism’ or ‘the new reality’. The latter approach emphasizes the valuable role that unions can play as partners in the workplace, helping to manage change and improving productivity. It has been the basis for single union-deals, single-table bargaining, new-style agreements and partnership agreements, as described in Chapter 55. These approaches have worked in some instances, but many employers have remained unconvinced that the unions can play a positive role.

Employee representatives

Employee representatives or shop stewards are involved in discussing issues of mutual concern with management, and attending works councils and joint consultative committees. They may also be involved in settling disputes, resolving collective grievances, and representing individual employees with grievances or other disciplinary matters. If their union has negotiating rights, they will take part in collective bargaining often with the advice of union officials.

At one time, shop stewards were the ogres of the industrial relations scene. Undoubtedly there have been cases of excessively militant shop stewards and some may still exist. But employee representatives are there to be forthright when they have to be in taking up issues with management that concern their members. Where there are recognized trade unions, management have generally appreciated the value of employee representatives as points of contact and channels of communication. Their role may extend beyond the traditional areas of terms and conditions of employment and employment security to other matters that concern the workforce such as learning and development and health and safety.

Trade union learning representatives

Trade union learning representatives generate demand for learning among members, advise about learning, identify the learning needs of members, negotiate agreements incorporating learning, sit on joint learning or training committees, and work with employers to introduce and monitor learning and development initiatives that benefit members. Some of the difficulties encountered by learning representatives include reaching a wide range of members/employers, employer resistance where unions are recognized, a limited role where there is no union recognition, and problems in small and medium-sized enterprises.

Health and safety representatives

Health and safety representatives:

- make representations to management on any matter affecting the health and safety of employees;
- cooperate with management in developing and promoting health and safety measures;
- take part in health and safety audits and inspections;
- sit on health and safety committees.

They can make a substantial contribution to creating and maintaining healthy and safe systems of work.

The Trade Union Congress (TUC)

The TUC acts as the collective voice of the unions. Its roles are to:

- represent the British trade union movement in the UK and internationally;
- conduct research and develop policies on trade union, industrial, economic and social matters and to campaign actively for them;
- regulate relationships between unions;
- help unions in dispute;
- provide various services (eg research) to affiliated unions.

International union organizations

The two main international union organizations are the European Trade Union Confederation and the International Trade Union Confederation. At present neither of these makes much impact on the UK, but this could change.

Staff associations

Staff associations are sometimes formed to represent employees in the absence of unions. They may sometimes have representational or even negotiating rights, but they seldom have anything like the real power possessed by a well-organized and supported trade union. They are often suspected by employees as being no more than management's poodle. Management have sometimes encouraged the development of staff associations as an alternative to trade unions, but this strategy has not always worked. In fact, in some organizations the existence of an unsatisfactory staff association has provided an opportunity for a trade union to gain membership and recognition. Staff associations have their uses as channels of communication and representatives can play a role in consultative processes and representing colleagues who want to take up grievances or who are being subject to disciplinary proceedings.

The role of management

The balance of power, especially in the private sector, has shifted to management, who now have more choice over how they conduct relationships with their employees. But the evidence is that there has been no concerted drive by management to de-recognize unions. As Kessler and Bayliss (1992) pointed out:

If managers in large establishments and companies wanted to make changes they looked at ways of doing so within the existing arrangements and if they could produce the goods they used them. Because managers found that the unions did not stand in their way they saw no reason for getting rid of them.

They argued that management's industrial relations objectives are now generally to control the work process, secure cost-effectiveness, reassert managerial authority and move towards a more unitary and individualistic approach.

Storey (1992a) found in most of the cases he studied that there was a tendency for management to adopt HRM approaches to employee relations while still co-existing with the unions. But they gave increasing weight to systems of employee involvement, in particular communication, which by-pass trade unions.

Employers' organizations

Traditionally, employers' organizations have bargained collectively for their members with trade unions and have in general aimed to protect the interests of those members in their dealings with unions. Multi-employer or industry-wide bargaining, it was believed, allowed companies to compete in product markets without undercutting their competitors' employment costs and prevented the trade unions 'picking off' individual employers in a dispute.

The trend towards decentralizing bargaining to plant level has reduced the extent to which employers' organizations fulfil this traditional role, although some industries such as building and electrical contracting, with large numbers of small companies in competitive markets, have retained their central bargaining function, setting a floor of terms and conditions for the industry.

The Confederation of British Industry (CBI)

The CBI is a management organization that is only indirectly concerned with industrial relations. It provides a means for its members to influence economic policy and provides advice and services to them, supported by research.

Institutions, agencies and officers

There are a number of bodies and people with a role in employee relations in the UK, as described below.

The Advisory Conciliation and Arbitration Service (ACAS)

ACAS was created by the government but functions independently. It has three main statutory duties:

- to resolve disputes;
- to provide conciliatory services for individuals in, for example, unfair dismissal cases;
- to give advice, help and information on industrial relations and employment issues.

ACAS helps to resolve disputes in three ways: collective conciliation, arbitration (using arbitrators appointed by ACAS) and mediation.

The Central Arbitration Committee (CAC)

The CAC is an independent arbitration body. It mainly deals with trade union recognition and disclosure of information for collective bargaining purposes. In a trade dispute the parties can ask ACAS to refer the dispute to the CAC.

Employment tribunals

Employment tribunals are independent judicial bodies that deal with disputes on employment matters such as unfair dismissal, equal pay, sex and race discrimination and employment protection provisions. They have a legally qualified chair and two other members, one an employer, the other a trade unionist.

The Employment Appeal Tribunal (EAT)

The EAT hears appeals from the decisions of industrial tribunals on questions of law only.

The Certification Officer

The Certification Officer:

- ensures that the statutory provisions for union political funds and union amalgamations are complied with;
- maintains lists of trade unions and employers' associations and ensures that their accounts are audited;
- reimburses the expenses incurred by independent unions in conducting secret ballots;
- deals with complaints by members that a union has failed to comply with the provisions for certain union elections.

The Commissioner for the Rights of Trade Union Members

The Commissioner has two duties: to assist union members wanting to take legal action against a union arising from an alleged or threatened breach of a member's statutory union membership rights, and to assist members who complain that a union has failed to observe the requirements of its own rule book.

The European Union

The main EU legislative instruments are:

- Directives: instruments to transfer EC employment policy into domestic legislation. Crucially, member states can adapt the core principles of a Directive to suit national customs and laws (examples include age discrimination, employee works councils, employee information and consultation, parental leave, and working time).
- Regulations: these tend to take immediate effect and are often of a technical nature for legal compliance.
- Decisions/Directions: these apply to member states that may be called to account for breach of certain EC Directives or regulations.
- Framework Agreements: the EU partners (for example, UNICE, ETUC) can initiate negotiations and agree a framework agreement. Once adopted, a framework agreement can substitute as legislation.

Role of members of the HR function in employee relations

Members of the HR function provide advice and help but do not do the jobs of line managers for them. However, they may well be the main channel through which the management deals with unions and their representatives. They are usually responsible for maintaining participation and involvement processes and for managing employee communication. They should play a major part in developing employee relations policies.

Employee relations framework – key learning points

The elements of employee relations

The main elements are the formal and informal employment policies and practices of the organization, the development, negotiation and application of formal systems, and the bargaining structures, recognition and procedural agreements and practices that have evolved to enable the formal system to operate.

Industrial relations as a system of rules

Industrial relations can be regarded as a system or web of rules regulating

employment and the ways in which people behave at work.

Regulations and rules in industrial relations

Job regulation aims to provide a framework of minimum rights and rules. Internal regulation is concerned with procedures for dealing with grievances, redundancies or disciplinary problems, and rules concerning the operation of the pay system and the rights of shop stewards. External regulation is carried out by means of employment legislation, the rules of trade unions and

Employee relations framework – key learning points (continued)

employers' associations, and the regulative content of procedural or substantive rules and agreements. The regulations and rules may be expressed in collective agreements or exist as custom and practice.

Collective bargaining

Collective bargaining is the establishment by negotiation and discussion of agreement on matters of mutual concern to employers and unions, covering the employment relationship and terms and conditions of employment.

Unitary and pluralist views of employee relations

In the unitary view, management tends to view the enterprise as a unitary system with one source of authority – itself – and one focus of loyalty – the organization. The pluralist view is that an industrial organization is a plural society, containing many related but separate interests and objectives that must be maintained in some kind of equilibrium.

Social partnership

Social partnership is the concept that, as stakeholders, the parties involved in employee relations should aim to work together to the greater good of all. It has been defined by Ackers and Payne (1998) as 'a stable, collaborative relationship between capital and labour, as represented by an independent trade union, providing for low social conflict and significant worker

influence on business decision making through strong collective bargaining'.

Individualism and collectivism

A distinction can be made between 'individualism' – policies focusing on individual employees, and 'collectivism' – the extent to which groups of workers have an independent voice and participate in decision making with managers (Purcell, 1987).

Voluntarism

This concept of voluntarism was defined by Kahn-Freund (1972) as 'the policy of the law to allow the two sides by agreement and practice to develop their own norms and their own sanctions and to abstain from legal compulsion in their collective relationship'.

The HRM approach to employee relations

Emphasis on commitment, mutuality, communication, individual contracts, involvement, quality, flexibility, teamwork and harmonization.

The context of industrial relations

Industrial relations are conducted within the external context of the national political and economic environment, the international context and the internal context of the organization.

Developments in industrial relations

Developments in the practice of industrial relations since the 1950s can be divided into the following phases:

Employee relations framework – key learning points (continued)

- The traditional system existing prior to the 1970s.
- The Donovan analysis of 1968.
- The interventionist and employment protection measures of the 1970s.
- The 1980s programme for curbing what were perceived by the Conservative Government to be the excesses of rampant trade unionism.
- Developments since the 1980s. 'Management sets the agenda, which is market-driven, while industrial

relations issues are relatively low on the list of concerns' (Guest, 1995).

- The findings of the Workplace Employee Relations Survey (WERS) 2004.

The parties to employee relations

The government, trade unions, shop stewards or employee representatives, the Trade Union Congress (the TUC), staff associations, management, employers' organizations, the Confederation of British Industry (CBI), various agencies and institutions (eg ACAS, Employment Tribunals), and officers, the EU and the HR function.

Questions

1. From a tutor at the local further education college: 'I'd be most grateful if you would talk to my business management study on the subject of "Obtaining added value from good employee relations"?' Prepare an outline of your talk.
2. From the managing director of a subsidiary company: 'I have just finished a negotiating session with our trade union. I was surprised when they opposed vehemently what I thought was a minor change in working arrangements. They said that the existing arrangements were long established "custom and practice". What does this phrase mean and why does the union think it so important?'
3. From the chair of your local CIPD branch: 'We are proposing to hold a debate on the motion that: "Collective bargaining is no longer relevant today and is a waste of time for all concerned." I am not sure what your views on this are but I would like you to either propose or oppose the motion.' Before deciding whether to propose or oppose, you have decided to set down the arguments both for and against the motion. Do so.

Questions (continued)

4. You have been invited to address a meeting of the local Chamber of Commerce on the theme of the future of trade unions. Making use of recent research, outline what you will say.

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