

Employment Relations Matters

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An enduring partnership

The following article was written by William Couper, Director of the Involvement and Participation Association (IPA) and a member of the Acas Council.

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Employment Relations Matters will appear every quarter and will be distributed free of charge by email. Copies can also be downloaded from www.acas.org.uk.

Employment Relations Matters is intended to be accessible. Further reading will be suggested where appropriate, but there will be no notes or references.

Features will mostly be written by members of Acas' Strategy Unit or other Acas colleagues. From time to time, however, they may be specially commissioned externally.

We welcome your comments and opinions. These should be sent to strategy@acas.org.uk

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Partnership has been the 'big idea' in the world of employee relations for the past decade. Its popularity grew from the mid-1990s onwards because it gave answers to the pressing employee relations questions of the time, namely:

- How do we craft a new employee relations settlement after the conflict of the 1980s?
- How do we create better models of collective bargaining that can cope with the change and turbulence affecting the manufacturing sector?
- How can we ensure that when difficult and painful restructuring takes place the needs of workers, especially their security of employment, are safeguarded?

In 1992, the Involvement Participation Association (IPA) set up a joint management and union taskforce to identify what partnership might look like. The group's publication – *Towards Industrial Partnership* – was the first attempt to capture what partnership working meant. It said that:

- Partnership is a pluralist model of work – it respects different interests but is built on a shared commitment

to the success of the organisation

- In managing change, joint problem solving and policy, even strategic dialogue, is as important as collective bargaining if unions are to be effective
- The best way to safeguard employment security was as an explicit trade-off for flexibility and skills.

The contribution of Acas

Many of these early ideas built on the work that Acas was already carrying out in organisations at the time. For example, in 1993, Acas Wales published important case studies of innovative labour practices being introduced in new industries being set up in South Wales, for example, at Borg Warner and 3M.

Other Acas exemplars such as Blue Circle Cement and British Aerospace were featured in early IPA publications. Acas used these case studies to highlight the potential benefits that its approach could bring to businesses, although Acas did not label this support as 'partnership'. With its extensive experience of employee relations, Acas is wary of getting too close to vogue terminology. The term 'partnership' only grew

into common use because it provided everyone with a useful piece of shorthand to describe the approach to managing employee relations in these organisations.

And yet it was an Acas study that gives us the best definition of partnership ways of working. The American adviser Larry Adams, who was with Acas at the time, stated in *Time for a change – forging labour-management partnerships* that:

'Partnership is an interest based relationship – that is, a relationship not simply based on power and rights but on the satisfaction of mutual as well as separate interests.'

This view has stood the test of time and still stands as a definition of partnership that is based on good workplace relations.

Promoting partnership

When the present government came to power it took on board partnership ideas. Employment Minister Ian McCartney and, more latterly, Alan Johnson were enthusiastic about promoting the concept of partnership in employee relations. The DTI's Partnership Fund was established in 1999 to assist employers, employees and trade unions in adopting a partnership approach. Over three hundred organisations in the public, private and not for profit sectors received help from the DTI fund during its lifetime.

Partnership was attractive as a possible contribution to solving the eternal conundrum of the UK economy: what was needed to achieve high performance organisations and sustain high quality workplaces for people at work in the UK.

This approach also underpinned much of the high performance philosophy behind

the information and consultation legislation in 2002.

Partnership reaches its peak

By the time the new information and consultation regulations were implemented in April 2005, the brand 'partnership' was past its high water mark. Robert Taylor recently wrote that criticism of the concept has become both more widespread and more influential. Writing recently for the ERSC's high-profile *Future of work* programme, he noted that:

'We are in serious danger of misunderstanding the nature of partnership at work if we fail to recognise that it has to be assessed within the context of how modern companies organise themselves in a rapidly changing political economy.'

Trade union scepticism towards partnership has grown. Several of the new union general secretaries have been elected on anti-partnership tickets, reflecting a sense of disenchantment with the level of influence that unions have been achieving. Employers, too, have been distancing themselves from the idea. The fostering of close relations with unions – the centrepiece of partnership practice – is in decline.

Unions have been revisiting the question of how best they can serve their members. A major critic of partnership working, Professor Gregor Gall, wrote recently of one union that:

'The starting point for industrial strategy has been to reject any form of partnership, social or otherwise, with employers as the best way to represent members' interests. Rather, its strategy has been to rely on the mobilization of its members as

an independent and collective force with which to leverage concessions out of employers.'

This statement suggests an approach where unions step away from policy or problem solving activity with management.

Employers show signs of doing likewise. A number of employers who, in the past, involved their unions at an early stage in their decision making processes are now switching towards a more direct communication strategy. The concept of employee engagement, a unitarist model emphasising individual rather collective dialogue, is gaining ground fast.

Where does partnership stand today?

Despite the waning interest in partnership at a national and senior level, there is still partnership activity on the ground across the UK. Interest in effective and flexible workplace relations remains high in some sectors.

This is the central paradox that faces practitioners today. People may no longer call the approach partnership but its practices remain in widespread use. Evidence can be found in recent Acas work in Wales and in the findings of the IPA/ Unions 21 study on partnership. There are also strong signs that partnership ways of working are being actively pursued in the public sector: for example, the new Agenda for Change framework in the NHS is underpinned by a partnership ethos that is being put into practice in NHS trusts across the country.

Acas Wales has, for the last three years, been leading a large-scale partnership study on behalf of the Welsh Assembly. Acas has brought

together all the main players in the employer and trade union community to demonstrate how this approach helps the Welsh economy to prosper. Their joint approach is best summed up in these two statements:

'Organisations with higher levels of employee commitment and involvement tend to be more competitive and employees' jobs more secure and satisfying.'

'Encouraging employee involvement through partnership approaches builds commitment, assists introduction of new working practices, increases job satisfaction and improves the performance of the organisation.'

It is worth noting that three of the good practice examples of partnership working quoted in the recent project were also cited over 10 years ago, in the earlier Acas work. The fact that these case studies are highlighted as exemplars over a decade later is a strong indication that partnership has not only survived but has grown and prospered in the intervening years.

Unions 21 and IPA carried out a programme of research in 2004/05 that examined current industrial relations practice in a number of leading, unionised companies in the UK. This study also found that, at a grassroots level, workplace relations remained strongly focused on the effective management of change. Unions and management were working together around an agenda that was typically built on a number of recognisable building blocks, all illustrative of partnership style workplace practices, for example:

- a shared commitment to the success of the organisation

- a mutual understanding of the context in which they were working, and shared buy-in to the key challenges that this creates for management and unions
- relationships that combined elements of bargaining, policy consultation and collective bargaining.

Public sector interest

For years partnership was largely a private sector phenomenon. Most early case studies – such as Borg Warner in South Wales – originated from the manufacturing sector, reflecting the pressures that obliged the sector to move its employee relations culture forward in the face of stiff international competition.

In recent years, interest in partnership has grown much more strongly in public service organisations such as higher education and central government – for example, the Inland Revenue – and in agencies like Defence Aviation Repair Agency (DARA) and the Atomic Weapons Establishments (AWE). The upsurge in the practice of partnership has been accompanied by the increasing usage of the term to describe new agreements throughout the public sector. In higher education and the prison service, for example, considerable efforts have gone into crafting a partnership philosophy to form the bedrock of new national employee relations models.

As mentioned earlier, the biggest example is the growth of more flexible employee relations throughout the NHS – the second largest employer in the world with over 1.2 million people working for it. Some of the most interesting cases are evident in NHS trusts that are developing ideas such

as trade union involvement in strategy formation or in autonomous work teams within the workplace.

At first sight, these developments may appear paradoxical. Why should public sector unions be pursuing a partnership approach just as their private sector counterparts are growing more sceptical?

The explanation may lie in the scale at which public sector unions operate. A gatekeeper role for the union, which strives for joint regulation of all working practices, may simply no longer be deliverable in a large organisation like the NHS that is moving at a faster pace.

Instead, a model that emphasises an overarching philosophy that enables flexible interactions at all levels may be more suitable.

Final thoughts

If it was ever viewed as a panacea to massage away conflict or differences of interest, the partnership concept has been seriously overblown. It is better understood as a shorthand term for the kind of good workplace relations practices that are found in those organisations where people work together on a shared approach to resolving issues. Such an approach is based on a mutual set of principles about 'how we do things round here'. Irrespective of what it is called, a more flexible, performance focused model of workplace relations remains a requirement for policy makers and practitioners alike. It remains a centrepiece of Acas' offering, as set out in its corporate plan. The government is also looking for a continued drive towards this way of working, as shown by its commitment to the high performance workplace. What it is called in future is the least important feature of the debate.

Trade union recognition since 1999 – the role of Acas

Since coming into being in 1975, Acas has played a central role in settling claims for trade union recognition – the process by which an employer formally ‘recognises’ a trade union to collectively bargain for its members in areas such as terms and conditions, pay and holidays.

The introduction of the Employment Relations Act (ERA) in 1999 introduced new procedures for recognition, leading to a greater demand for Acas conciliation services in resolving recognition-related disputes. Much has been documented about the proportion of workplaces now recognised and the types of issues over which unionised organisations collectively bargain. Less well known is how these ‘post-recognition’ relationships are working and how they are impacting on the wider employment relationship in the workplace. With a daily foot in the workplace door, Acas is in a good position to observe and comment.

Based on research carried out for Acas by the Working Lives Research Institute (WLRI), this article examines the role and impact of Acas in trade union recognition processes following the introduction of the ERA. It also describes the perceptions and strategies used by employers and trade unions at key stages of the voluntary and statutory recognition process. It examines the post-recognition outcomes relating to collective bargaining, union relationships, and the role of workplace representatives.

Trade union recognition since 1999

The most recent Workplace Employment Relations Survey

(WERS), conducted in 2004, reveals that among the one-in-three UK workplaces with union members, 76 per cent of employers recognise one or more unions for the purposes of negotiating pay and conditions. The number of workplaces recognising unions has declined slightly since WERS carried out its previous survey in 1998, but almost half (48 per cent) of all employees in the UK now work in a workplace with formal union recognition.

Lead up to a claim

WLRI’s research finds that an employer’s response to a recognition claim is influenced by three key factors: the type of advice received from external bodies such as employers’ organisations; whether there have been any changes in the organisation’s management – which can often lead to a change in management attitudes towards unionisation and, finally, the values and attitudes of managers at different levels in the organisation towards unions.

In all the cases studied by the researchers, the union attempted to secure a voluntary recognition agreement and to avoid going down the statutory route. The unions say they did this in order to avoid a protracted legal procedure, to protect their employment relations environment from what might be a conflictual process, and to retain some control over the recognition process and the content of the eventual agreement.

On the employer side, managers felt strongly that for them to be able to consider a recognition claim positively, the majority of workers would need to show that they were in favour

by taking part in a formal ballot. In the small remainder of cases where voluntary agreement could not be reached, the union referred the cases to the Central Arbitration Committee (CAC).

The role of Acas

Acas plays three roles in the resolution of recognition claims. Firstly, Acas conciliators provide information and advice to employers on voluntary and statutory recognition processes and options. Secondly, they facilitate membership checks or ballots to verify support for recognition. Finally, they conciliate in disputes over bargaining units and union access to workers.

The point at which Acas is approached greatly influences the nature of the conciliator’s involvement. Where the approach originates from the employer, Acas’ initial role is often one of providing information on the statutory procedure, describing the consequences of a failure to agree and the implications of unionisation. When approached by a union, Acas is more frequently asked to provide independent verification for employers of the legal process.

Securing an agreement

Acas is not normally invited to become involved at the early stage – when the union and management are negotiating on union representation and collective bargaining.

More typically, Acas conciliators step in at a later stage to help draw up the agreement and facilitate talks that lead to its successful conclusion. WLRI’s research finds that an Acas conciliator’s involvement greatly speeds

up the process and employers without previous experience of working with unions particularly welcome such assistance.

Post-recognition

The research also highlights that, in half of all cases, managers and union representatives receive no training following recognition. This lack of support is thought to hinder the development of management-union relations and reduce the representatives' effectiveness in carrying out their roles – as well as lowering their credibility with managers.

Where joint training is delivered by Acas, however, both parties usually agree that it has had a positive impact on workplace relations. Where Acas has helped the organisation to develop both formal *and* informal lines of communication following a recognition, union representatives have reported that they genuinely feel they have a say in influencing workplace policies and that their views are taken into account.

On the whole, employers are very positive about the gains made from an Acas-assisted recognition and post-recognition support. They emphasise the benefits from more 'structured' workplace relations and policies, improved workplace morale resulting from greater employee voice, and more formal channels of communication and representation. In a small minority of cases, 'dual' channels of representation have been set up where the employer has expressed concern about a lack of representation for non-union employees.

Acas' added value

Positive perceptions of the benefit deriving from an Acas intervention in the recognition procedure are also evident in cases where the parties have proceeded to the CAC, and even where recognition has not ultimately been agreed.

Relationships are reported to have improved through the Acas-assisted process of resolving a recognition claim, particularly where management had initially been apprehensive about recognition. Both sides tend to agree that this is due to the conciliator's skill in establishing a rapport and building a relationship of trust with all the parties, thus allowing them to promote honest dialogue.

Another key finding is that Acas' neutrality and impartiality is highly valued by both parties. Without Acas' assistance, managers and unions believe the recognition process would have been more drawn out and potentially more conflictual. Overall, the WLRI's research concludes that Acas' involvement in trade union recognition creates an environment where conditions for the positive development of union-management relationships can flourish. It also limits the potential for conflict both during and after the recognition process.

With its statutory duty to 'improve employment relations and working life', Acas is pleased that unions and employers believe that its recognition services are helping them to do exactly that.

Further reading:

'The Role of Acas in trade union recognition claims under the Employment Relations Act 1999' prepared by Sonia McKay and Sian Moore (Working Lives Research Unit) and Acas' Research & Evaluation Unit. Available from www.acas.org.uk

'Representation at work' – Acas advisory booklet available from www.acas.org.uk

The Acas helpline: building better employment relations

As those of you who saw the first edition of *Employment Relations Matters* will know, the Acas telephone helpline offers a useful insight into the issues that concern employees and employers on daily basis.

Once a year, Acas carries out a survey to monitor customer usage of its helpline service and the results from the 2004/05 survey have just been published. This article highlights some of the main results from the survey and offers some thoughts on what the findings might mean.

Call volume

The number of calls to the Acas helpline has been rising steadily for a number of years, and this trend has continued in 2004/05.

By the end of the year, our helpline advisers had dealt with over 880,000 calls, a 10 per cent increase on last year. As the previous article speculated a year ago, there could be a number of reasons for this upward trend, ranging from the decline in collective bargaining and in trade union membership to the increase in the number of small businesses, many of which have no specialist employment relations support.

But one factor that has almost certainly played a major role is the growing volume and complexity of employment legislation. During the past year, a number of major new statutes have been enacted covering areas such as information and consultation and discipline and grievance. Getting to grips with implementing the new laws in workplaces has undoubtedly contributed to the increase in calls to the Acas helpline.

A varied profile

From our survey, we know that employers and employees call the helpline in fairly similar proportions (each account for around 35 per cent of the call volume). When current and former employees are taken together, however, they form the largest group of callers with a combined total of 41 per cent. Of the remaining helpline callers, the majority are third parties such as solicitors or trade union representatives telephoning on behalf of another person.

An analysis of caller profile by age reveals some interesting data. Most of the callers to the Acas helpline were aged 35 or over. Last year, only a fifth were under 35 and those in the 18 to 24 category make up just 4 per cent of callers. This is a smaller percentage than might be expected given the distribution of young people in the working population as a whole. While it is only possible to speculate at this stage, it may be that younger workers are simply less likely to seek advice from an official agency, or it could be that younger people are less aware of Acas than their older colleagues.

Calls to the helpline came from across all industries, with the highest proportion (16 per cent) coming from the 'health and social work' sector. A significant number of calls originate from the construction industry and the retail trade (both 8 per cent) and hotels and restaurants (6 per cent).

The majority of callers were located in small or medium sized workplaces, that is, workplaces employing less than 250 people. Just over 60

per cent of those calling Acas worked in the private sector, while around a third were from the public sector and the remaining 10 per cent from the voluntary sector.

Interestingly, just 3 per cent of those contacting the helpline worked for an organisation that had been operating for a year or less. We might have expected this percentage to be higher, given the range of employment issues that a new business needs to take on board. It could simply be that new firms take a while to realise the importance of good employment relations and are therefore not looking for any specialist help in the early days.

Why call?

The Acas helpline gives advice on a wide range of subjects, ranging from specific concerns regarding treatment and rights at work to more general employment issues concerning best practice and workplace procedures.

Pay and pay related issues have always figured highly on any list of issues raised through the helpline and the latest survey shows that such concerns are still a major priority for employers and employees alike. For employees, the top three issues raised were:

- redundancy/redundancy pay
- holiday entitlement/pay
- notice period/pay.

For employers the top three issues recorded in the survey were:

- sick pay/absence

- notice period/pay
- holiday entitlement/pay.

Our advisers also dealt with a considerable number of enquiries about discipline and grievance last year, many of which related to the new statutory procedures introduced in October 2004. For some employers, the new procedures were clearly something of a mystery and they were therefore looking to Acas to provide them with a basic explanation of the new provision and what it meant for their business.

Other employers, particularly larger organisations, were clarifying whether their existing procedures matched up to the new statutory requirements and what they should do in particular situations. For example, our advisers have dealt with a number of calls querying whether employees with less than 12 months' service are covered by the new regulations¹.

Awareness raising

Given the topicality of the new statutory disciplinary and grievance framework, we took the opportunity during the helpline survey to gauge callers' awareness of the new procedures. Overall, three-quarters of callers claimed that their workplace had formal discipline and grievance procedures in place and this rose to 85 per cent in the case of employers. This still leaves 15 per cent of employers who

appear to have no procedures in place.

Further analysis indicated that the larger the company, the more likely it was to have introduced discipline and grievance procedures. Two-fifths of those who worked, or used to work, for companies with fewer than 10 staff claimed that these procedures were in place, compared with three-fifths of those working for companies with between 10 and 99 staff and 90 per cent for those with 100 or more employees. These results indicate that there is still much work to be done to promote the new statutory procedures, particularly among small firms.

Dial direct

The helpline clearly offers a popular method of providing people with employment relations information on tap. But the helpline does more than just provide information – it can help organisations to build better employment relations in the long-term.

Over half of the employers contacted for the survey were motivated to improve or update existing policies at their workplaces following a call to the helpline, while 41 per cent went on to implement entirely new policies. Even more significantly, a third of those calling as employees, who were considering making a claim to an employment tribunal (ET), decided against such a course of action following their call to the helpline.

Given the government's current imperative, to reduce

the number of ET cases and encourage the settlement of disputes in the workplace, this finding is tangible proof that Acas' advisory work is contributing to wider public policy aims.

The Acas helpline provides information and advice on employment legislation and good practice on a confidential basis to employers, employees and their representatives.

The helpline number is 08457 47 47 47.

Lines are open from 8am to 6pm Monday to Friday.

Further reading
'Acas Telephone Helpline: Findings from the 2005 Customer Survey.'

¹ An employee cannot normally make an unfair dismissal claim until they have at least one year's continuous service. However, there are exceptions where the dismissal is for certain reasons, such as pregnancy or for asserting a statutory employment right. Where an employee is eligible to make a claim to an employment tribunal on grounds to which the statutory dismissal and disciplinary procedures apply, and does so, the tribunal will check whether the employer has followed the statutory procedure. If they have not, any dismissal will be treated as being automatically unfair.

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We inform

We answer your questions, give you the facts you need and talk through your options. You can then make informed decisions. Contact us to keep on top of what employment rights legislation means in practice – before it gets on top of you. Call our helpline **08457 47 47 47** or visit our website **www.acas.org.uk**

We advise and guide

We give you practical know-how on setting up and keeping good relations in your organisation. Look at our publications on the website or ask our helpline to put you in touch with your local Acas adviser. Our Equality Direct helpline **08456 00 34 44** advises on equality issues, such as discrimination.

We train

From a two-hour session on the key points of new legislation or employing people to courses specially designed for people in your organisation, we offer training to suit you. Look on the website for what is coming up in your area and to book a place or talk to your local Acas office about our tailored services.

We work with you

We offer hands-on practical help and support to tackle issues in your business with you. This might be through one of our well-known problem-solving services. Or a programme we have worked out together to put your business firmly on track for effective employment relations. You will meet your Acas adviser and discuss exactly what is needed before giving any go-ahead.