ACAS RESPONSE TO CALL FOR EVIDENCE ON RAISING AWARENESS OF EMPLOYEE OWNERSHIP

Acas is delighted to respond to the government’s call for evidence on employee ownership and the proposals in the recent Nuttall review for a right to request employee ownership. Although we have no direct expertise in the field of business ownership and control we do have considerable knowledge and understanding of employee engagement which, as the Nuttall review makes clear, lies at the heart of employee ownership. Acas also has considerable experience of dealing with the right to request in other fields such as the right to request flexible working as well as the right to be informed and consulted following the 2004 ICE Regulations.

We note with interest the proposals set out in the Nuttall review for a voluntary code of practice on requesting and agreeing employee ownership in a company. Acas has no particular view on whether there should or should not be a statutory right to request employee ownership. However, if such a right were to be introduced it would be important to ensure that it operated fairly and without undue administrative requirements on employers. It would also be important to ensure that accessible and independent guidance was available to both employers and employees at an early stage to help them understand the pros and cons of employee ownership and how to go about requesting it.

It is certainly our experience that clarity of process surrounding such ‘rights’ and good guidance can go a long way to ensuring the success of any new government initiative which is intended to be implemented at the workplace or organisation level. Acas would therefore be pleased to work with the Department for Business, Innovation and Skills and other bodies to develop the employment relations aspects of such guidance, including a possible code of practice.

The first step in any process would obviously be for an employee or employees to make the request and in our experience this is best achieved if there is clarity on the terms upon which a request can be made and that any request should be put in writing. Setting things down in writing can help to avoid confusion and the idea set out in the Nuttall review of producing a template request that employees can use as required seems eminently sensible. Having made the request in our view a reasonable employer/business owner would arrange to discuss it with their employees at an early opportunity. This would allow both sides to make
their points and for the pros and cons of the issue to be considered in an open and transparent manner. Such an open discussion would also help to demonstrate that the employer/business owner had given the proposal reasonable consideration. In workplaces where trade unions are recognised, the trade union may also have a role to play.

Many employers/business owners may, however, be taken by surprise by such a request, and may have little or no knowledge of what the current practice and options are regarding employee ownership – whether the business owner would be obliged to donate shares for such a purpose or whether these would be paid for and if so then how the price would be determined and so on. It would be important therefore that employers/business owners knew where they could receive advice from in order to give the request proper consideration.

If the employer/business owner decided to reject the request then the reasons for the rejection should be set out, preferably in writing. We know from our experience of dealing with employment relations generally that providing employees with an explanation of why some request cannot be accommodated can help to defuse any tensions that might exist.

Lastly, as the Nuttall review makes clear, it would be important for employees to have some legal protection against any detriment that might befall them as a consequence of making the request for employee ownership.

Although not directly related to the notion of a right to request employee ownership you may be interested in a recent Acas discussion paper (Mutual advantage? The future implications of mutualisation for employment relations, Michie, March 2012) which traces the potential that employee ownership arrangements can have for promoting innovation through enhanced employee engagement. The paper identifies four core considerations in securing this engagement which you may wish to bear in mind as you develop your own ideas on employee ownership.

**Transition:** The first consideration is the importance of ensuring workforce consultation, and where appropriate, trade union involvement at the outset of proposals for transition. Without wider buy-in, there is a danger that decision may have a negative impact on employee engagement, and many of the benefits associated with employee ownership arrangements will be undermined. This is especially important since, as evidenced in transitions within the public sector, the period of change can be protracted.

A likely sensitive area of concern to all parties – employees, employers and trade unions – is the impact of any transitions on terms and conditions, pay, pensions and job security. In unionised workplaces, the trade union is likely to play a role in negotiating arrangements.

**Impact on HR knowledge and skills:** Any new ownership arrangements will need to be mindful of how HR knowledge and skills will be secured. If a change takes place in which HR arrangements currently exist, then how any new arrangement can draw on this resource will be important. Such skills and information will be especially important during a change in ownership and may carry resource implications.

**Voice:** Employee voice is as significant in employee owned arrangements as it is in other ownership arrangements. Much depends on the precise nature of the ownership but there may well be issues to address around distinguishing
between ‘voice’ arrangements for individuals, and the voice they have as owners. The role of trade unions in unionised workplaces merits particular attention. It may be that unions can represent the employees as ‘employees’ whilst alternative arrangements provide a voice for employees as ‘owners’. There is some evidence to suggest that employee ownership arrangements are more successful in unionised workplaces than is the case in non unionised ones.

**Managing employee owners:** A further fundamental question is how to manage employees who are also owners. Perhaps most significant is the importance of transparency – about the boundaries of duties, responsibilities, decision making and accountability. The position of middle managers is especially important: for instance where individuals have a long history of working in privately or shareholder-owned companies, the transfer to employee ownership will pose new challenges for instance in relation to sharing information, and securing involvement in decision making. Investment in management skills may therefore be particularly important.

I hope these comments are helpful. If we can be of further assistance, especially in the production of guidance, then please do let me know.

John Taylor