

# IRRU Briefing

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## In this Issue

This *Briefing* is published twice a year by the Industrial Relations Research Unit (IRRU). It contains summaries of key findings from recent and current research projects and analysis of significant industrial relations developments. The reports aim to inform and contribute to the thinking of practitioners in industrial relations and human resource management.

The theme of employee participation at work is the focus of the opening two articles. The first examines the issues surrounding implementation in the UK of the EU's Directive on employee consultation, arguing that it has potentially far-reaching implications for industrial relations practice. The second highlights main findings from three linked projects on the operation and conditions underpinning new forms of work

organisation, which often entail innovative 'direct' participation practices such as team working. The third and fourth articles are edited versions of features originally prepared for the European Industrial Relations Observatory, as part of IRRU's contribution in its role as the Observatory's UK national centre. This issue also contains a brief report of the second Warwick-ACAS Lowry lecture, which was delivered by outgoing TUC General Secretary John Monks.

IRRU's research ranges much wider than the topics covered in this *Briefing*. Many of our recent papers can be found on IRRU's web site. Please go to <http://users.wbs.warwick.ac.uk/group/IRRU>

To comment on this *Briefing* or to seek further information on our work, please contact the IRRU Research Secretary at the address on the final page.

## **Implementing the EU employee consultation Directive in the UK**

*Mark Hall*

The adoption last year of the EU Directive on employee consultation has pushed the issue to the top of the UK employment relations agenda. It means that, by March 2005, the UK will have to introduce legislation requiring undertakings with at least 150 employees to inform and consult employee representatives on a range of key business, employment and restructuring issues. By March 2008, the legislation will apply to all undertakings with at least 50 employees - affecting three-quarters of all UK employees.

Of all the EU countries, it is in the UK (along with Ireland) where the Directive is likely to have the biggest impact.

Reflecting their 'voluntarist' traditions, the UK and Ireland are the only EU member states without a generally applicable system of information and consultation through works councils or similar bodies established by law or by central collective agreement. Legislation based on the Directive will therefore represent a radical development in the UK context, introducing for the first time a comprehensive statutory framework regulating employee information and consultation issues.

The implications for UK employment relations will be far-reaching. In many companies, existing consultation

arrangements will need to be overhauled, or underpinned by formal agreements. In others, employee consultation arrangements will need to be introduced for the first time. Above all, the Directive will be the catalyst for a much-needed re-evaluation of the role and importance of employee consultation.

The government is issuing a consultation paper this summer, setting out its approach to UK implementation of the Directive and seeking views. While it must ensure that UK legislation complies with the requirements of the Directive, the latter provides only a 'general framework' and ministers face a number of key policy choices in determining the specific approach the UK legislation adopts. These include whether consultation should take place at establishment or undertaking level; whether to provide for some sort of trigger mechanism whereby employees may seek the establishment of consultation arrangements, and whether consultation should be via representatives of recognised unions where they exist. In a number of areas, including confidentiality and enforcement, the provisions introduced may mirror those of the Transnational Information and Consultation of Employees Regulations 1999, which implemented the European Works Councils Directive.

Management, trade unions and employee representatives will have considerable scope for flexibility in meeting the Directive's requirements by means of voluntary agreements. Key practical issues requiring attention will include ensuring that employee representatives are genuinely representative of their

constituencies and independent of management; the subjects covered by information and consultation; handling restructuring and confidentiality; the interface with trade union recognition arrangements; and meshing consultation via representatives with individual forms of employee involvement.

Arguably the key issue in the overall design of the UK's legislation is whether or not it will provide for a 'standard model', works council-type information and consultation body which could be enforceable in respect of employers who are unwilling to reach voluntary agreements. Clearly, if it does, the prescriptive effect of the legislation in terms of providing a benchmark against which voluntary information and consultation arrangements can be compared is likely to be all the greater.

The Directive offers a unique opportunity for the government, employers and trade unions to strengthen the basis for effective workplace partnership arrangements in the UK. The new legislative framework should aim to provide the right context for developing an 'information and consultation culture' and replacing the adversarialism that has often characterised UK employment relations with a more positive approach in which management and employees work together to produce mutual gains.

**Further reading:** Mark Hall, Andrea Broughton, Mark Carley and Keith Sisson *Works Councils for the UK? Assessing the impact of the EU employee consultation Directive* Eclipse. Available from IRS, 18-20 Highbury Place, London N5 1QP

### **2003 Lowry Lecture: 'A Eurovision at Work'**

Outgoing TUC General Secretary, John Monks took the opportunity of the Warwick-ACAS Lowry Lecture held on 17<sup>th</sup> March to reflect on changes in trade

union attitudes to Europe and the influence that the EU has had – and can have – on employment relations in Britain. Hosted by the Engineering Employers' Federation

in London, the lecture was the second in the series launched last year in honour of the late Sir Pat Lowry, who was Chairman of ACAS and an honorary professor of the University of Warwick and member of Warwick Business School's Advisory Board.

In his lecture, entitled 'A Eurovision at Work', John Monks – who became General Secretary of the ETUC in May - took the invited audience of senior figures from the practical and academic world of industrial relations back to the time when he joined the TUC thirty five years ago – when the unions wanted no more of the law than it should leave them alone. He traced the changes in the role of, and attitudes towards, legal intervention since then, and highlighted the gains from it, including law resulting from UK membership of the EU. Coming up to the present time, he argued that

implementation in the UK of the EU's employee consultation Directive, could provide a much needed lever towards the partnership and mutual gains model for which he has long argued. His argument, however, was not one solely for legal regulation. Rather, he called for a framework of minimum statutory standards within which there could be negotiated flexibility and room for regulation through collective bargaining. Government, employers and unions needed to rise to the challenge this 'reinvention' of collective bargaining poses.

The full text of the lecture is published electronically as *Warwick Papers in Industrial Relations* No. 70, available from IRRU's website <http://users.wbs.warwick.ac.uk/group/irru> or in case of difficulty from IRRU's Research Secretary.

## **The promise and constraints of new work organization**

Three recent publications throw light on continuing debates on the operation of and conditions underpinning new work organization. Together, they suggest that new systems can benefit workers and managers but that there are also costs while the conditions for their operation are often demanding.

### **The social relations of productivity**

*Paul Edwards, Jacques Bélanger [Université Laval] and Martyn Wright*

This study examined the introduction of team work in two aluminium smelters of the Alcan company, one in Canada and one in England. It analysed trends in two key productivity series and related them to the authors' observations and interviews in the plants. The two productivity indicators measured the efficiency of labour and capital. Since both were physical measures, and since plant technology remained largely unchanged, they were reasonably direct measures, uncontaminated by problems of changing product mix or the need to put prices on different products that bedevil studies in

this field. The sector's technology has long had an affinity with team working

principles, being based on groups of workers who co-operate on common tasks.

In addition, the product is unchanged for long periods and it calls for high levels of capital investment. Labour is a small proportion of total costs, and long-term relationships are important. How then was it that team work was not introduced until the later 1980s and early 1990s?

The first part of the answer was that productivity continued to improve during the 1980s. It was not the case that even a

'mature' technology – one of the plants was built in 1943 – had stagnated. Nor was it the case that there was a rigid 'Fordist' organization of work. Technologies ancillary to the main production process eased the work process, and continual adjustment of the balance of inputs and the technical process meant that output could be increased. Second, however, there were managerial concerns that these incremental process improvements would dry up. Third, product market competition was beginning to increase with the decay of the world oligopoly enjoyed by the 'Big Six' (of which Alcan was the second largest) aluminium producers.

These factors combined to focus attention on the organization of work. Even then, it was not the case that a self-evident 'solution' of team work appeared automatically. Its emergence reflected developments at company and plant level. Within the Alcan company there was a philosophy of concern for people, in the work process and in the wider community. The firm was perhaps more open to ideas of team work than others. It began to develop broad team work principles, but these were not imposed on plants, which were free to develop their own specific

practices, albeit against the benchmark or default option of teams.

Within the two plants, distinctive trajectories were followed. In the Canadian plant, a history of adversarial industrial relations in the 1970s had to be overcome, and there were slow developments during the 1980s in which the collective agreement reduced the number of job classifications. The further reduction in numbers of supervisors and the delegation of tasks to teams then followed. In this plant, an underlying factor was its age, and concerns to demonstrate its continued viability. In the English plant, viability was brought into focus more sharply by the closure of half the capacity in 1991, following a decline in demand. This provided a stimulus to change, but team work then developed more rapidly than in Canada, in part because there was a less adversarial tradition to overcome. Innovations such as team work thus have to be seen as the result of complex processes governing productivity, rather than as ready-made solutions.

**Further reading:** Paul Edwards, Jacques Bélanger and Martyn Wright, 'The social relations of productivity' *Relations Industrielles/Industrial Relations* 2002, Vol. 57, No. 2, pp309-30.

### **The pragmatism of new work organization**

*Paul Edwards, Margaret Collinson and Chris Rees [Kingston University]*

The point that new work organization reflects pragmatism and concrete political processes was developed in a second study. This examined the introduction of total quality management (TQM) in six UK organizations. Much of the debate here is divided between those who identify a shift towards 'empowerment' and others who, in the words of the well-known management scholar Chris Argyris, argue that empowerment is often a case of the emperor's new clothes. In this case, the clothes are a rhetoric of autonomy and

team work, but in reality managers rely on command-and-control principles.

The study was able to show that in the firms analysed TQM had less grandiose claims than implied by a language of empowerment. The 'clothes' were serviceable, real, and down-to-earth. The particular innovation in the study was to ask managers what they themselves understood by 'empowerment'. The great majority, while understanding the term, said that it did not apply in their case and that they preferred such concepts as

involvement and participation. A key reason why the larger term was not used was the need for financial discipline. Managers themselves had performance targets to meet and budgets to control, and in such an environment 'empowerment' was felt to be an unduly vague and unfocused idea.

Survey data from employees together with case studies in three of the organizations showed that workers, too, had realistic expectations of TQM schemes. The schemes, like team work, certainly altered work organization and improved workers' sense of autonomy. Concrete examples of the freedom to solve problems were given. But the constraints of meeting delivery deadlines and operating within budgets were also recognized. In one case, a manufacturing firm, TQM entailed the use of process improvement teams which had had some success. But workers also complained that pressures to meet delivery targets were so extreme that it was

impossible to work with product designers to address issues of how to design the product so as to make its manufacture as simple as possible.

If neither managers nor workers expect too much from TQM, it can make modest improvements. Such improvements often go along with new demands, for example tighter monitoring of work performance. The implication for theory is that approaches to TQM that have seen it as a subtle means of indoctrinating workers tend to exaggerate the threat. Workers are aware of what it entails, and managers do not use it in this way. Its results depend on more mundane issues such as the tightness of financial constraints and the degree of job security that workers enjoy.

**Further reading:** Paul Edwards and Margaret Collinson 'Empowerment and managerial labor strategies' *Work and Occupations* 2002, Vol. 23, No. 3, pp272-99.

## **New work organization: conditions for success and limits to achievement**

*Paul Edwards, John Geary [University College Dublin] and Keith Sisson*

The results of these two studies informed a wider overview of new work organization. Surveying quantitative and qualitative studies of innovations such as team work, quality circles and problem-solving groups, it concludes that the extent of these new work practices is considerable, in Europe and North America. Yet their depth, in terms of the amount of discretion granted to workers and the range of issues that they can influence, remains much more limited. There is also evidence of decay as well as the introduction of new approaches.

These approaches are shown to be most likely to succeed where they are consistent with the structure of work organization and with prior experience and expectations. Work organized on continuous process lines, as at Alcan, is

more compatible with team work than is assembly line production. Where workers had prior experience of autonomy, for example under craft systems, and where teams either did not add to this autonomy or challenged it by demanding a more output-oriented approach, workers were

likely to question the value of teams. But less ambitious approaches in other contexts, as in the TQM study, could create less opposition because expectations were lower. Other important conditions include the structure of employee representation. It is often the case that the most successful team experiments occur where management develops a constructive relationship with trade unions. Unions are not a necessary ingredient, and there are examples of successful teams in non-union environments, but in these cases

non-union representative structures were in place while elsewhere there is little evidence of lasting team work embracing substantial worker autonomy in the absence of employee representation systems. Finally, product market conditions giving workers a degree of employment security underpin many developments in new work organization.

The puzzle of why teams seem to work while being rare is thus explained in part by the rarity of the underpinning conditions. In addition, new work organization can be costly, in two senses. There are the direct costs of designing new systems and training workers in their use (and the TQM study showed strong evidence that worker acceptance of TQM was greatest where training specifically in problem-solving and similar techniques

was in use). But there are also the costs to managers of giving up long-established forms of authority for approaches which seem risky and uncertain. Costs, moreover, are immediate when returns are long-term. An environment of short-term returns and of the measurement of managers against immediate results does not encourage experimentation. These fundamental conditions of many organizations suggest that new work organization is likely to remain a minority experience.

**Further reading:** Paul Edwards, John Geary and Keith Sisson 'New forms of work organization in the workplace' in G. Murray, J. Bélanger, A. Giles and P-A. Lapointe (eds) 2002, London: Continuum, pp72-119.

## **Pensions rise up the industrial relations agenda**

*Helen Newell*

The issue of pensions rose up the political and industrial relations agenda during 2002 and has remained prominent into 2003. Trade unions have increasingly been prepared to threaten or take industrial action over the closure of final salary pension schemes. So why have pensions become such a contentious issue in UK industrial relations?

Following the breakdown of talks between the ISTC trade union and the engineering firm Caparo Group, the first ever strike over the closure of a final salary pension scheme (FSP) took place in August 2002. FSP schemes are commonly seen as the most generous and most secure type of pension. Under a FSP scheme staff are guaranteed a certain level of pension benefits at retirement, based upon their final salary. No matter how badly the underlying investments in the pension fund perform scheme staff are guaranteed to get their money - the company bears the risk. But increasingly employers are replacing

them with money purchase (MP) schemes, where employers and employees make a fixed contribution and the size of the eventual pension depends on the performance of the assets in the pension fund. The TUC has argued that closing FSP schemes is the first serious attempt to cut wages and conditions in the UK since the Second World War. Debate is not confined to the private sector: the government has also announced a review of its public sector pension schemes.

Employers in the UK are increasingly arguing that providing FSP schemes is not financially viable. Some of the UK's biggest companies have been named as having FSP schemes which are facing substantial shortfalls and many others have already closed FSP schemes to new members. The CBI's 2002 employment trends survey showed that nearly a quarter of employers with a final salary scheme have closed it to new entrants in the past five years. Companies blame several

factors for the spiralling costs of providing FSP schemes, including: declining investment returns; the fact that retired workers are living longer; and the controversial new accounting rule FRS17 which requires organisations to offset all of their future pensions liabilities against a current snapshot of their assets, mainly shares (whose value has been falling).

Trade unions contest these arguments, pointing out that the move away from FSP schemes predates the FSR17 rule and putting the blame for the current shortfalls in pension schemes on suspension of employer contributions during years when share values were rising. This was often done in an attempt to avoid legislation which restricted tax relief on pensions if the value of assets exceeded 105% of expected liabilities. Funds that breached the rules had five years to reduce the surplus by cutting contributions, improving benefits or taking money out of the fund. Most companies opted for 'contribution holidays', many of which continued beyond the five years. The savings from these could be substantial.

Employers cite two main reasons for substituting MP schemes in place of FSP schemes. First, operating a MP scheme will help to distribute the cost of pensions more evenly between employer and employee, by reducing the cost to the employer and placing more of the risk on the employee. Second, as has been strongly argued in local government, whilst existing schemes provide a good pension for those who put in 40 years' service and retire at their peak salary, it is not so well focused on the pension needs of part-timers, career-break employees, low-paid workers, contract workers or term-time employees.

Neither of these arguments are as straightforward as they seem. The way in which many employers have sought to reduce the costs of the pension scheme is by taking the opportunity of switching schemes to reduce their contributions,

leaving employees, who may not be in a position to make up the shortfall themselves, in a worse position. Furthermore, closing a scheme to new members is unlikely to make any material difference to company's financial risks for the next 20 years, since there will still be substantial sums tied up in the defined benefit scheme.

FSP schemes do tend to favour men over women, and time-servers over mobile workers, since pension rights accrue with job tenure. Yet, while it may be true that some workers, especially the young, shift jobs more regularly, the amount of time spent with an employer by workers aged between 25 and 49 has not changed substantially over time. It is, therefore, not clear that changing to a MP scheme, for example, would necessarily benefit local government workers many of whom are on relatively modest pensions.

FSP schemes can entail drawbacks. Many employees are unaware of the extent to which the preservation of their pension benefits in a FSP scheme depends upon their employer staying in business. Unlike the USA, where companies pay insurance premiums to ensure that all members of the scheme will receive a minimum benefit should the company close, in the UK both company insolvency and voluntary winding up of the scheme can leave scheme members without the benefits they thought were guaranteed. If a company becomes insolvent, the fund is divided up and those who have not yet retired can be left with nothing.

Closing existing FSP schemes involves a unilateral change in the terms and conditions of a long term contract. Breaking final salary promises to employees in their late 40s or older may mean a cut in remuneration from which they will suffer long into retirement. Where the closure of such schemes is combined with large 'pay outs' to highly paid executives, draining the fund of a large proportion of its assets, companies

should not be surprised that employees feel both determined and bitter over pensions issues. Imposing such a change at short notice, with insufficient compensation for employees, amounts to a breach of trust going to the heart of the 'psychological contract' between employer and employee and hardly likely to engender commitment from employees.

Employers seem to have miscalculated the strength of feeling over pensions as well as

unions' willingness to strike. In any case, it is not clear that such action is necessary. The compromises reached at Caparo and elsewhere show that employers and employees can reach sensible and practical solutions to the pensions problem.

**Further reading:** The full feature is available from the European Industrial Relations Observatory on-line: <http://www.eiro.euroworld.eu.int/2003/01/Feature/UK0301109F.html>

## **New code combats 'two-tier workforce' in local public services**

*Mark Hall*

In February 2003, the government announced the terms of a new code of practice to apply where local authorities transfer employees to a contractor providing local public services. The code includes a provision that new employees of service providers must be offered terms and conditions that are, overall, 'no less favourable' than those of transferred employees (whose previous, local authority terms and conditions must be protected).

The move came in response to trade union pressure to curb the development of a 'two-tier workforce' where public services are outsourced. Unions had been concerned that the transfer of employees from the public to the private sector could be followed by the progressive erosion of their terms and conditions of employment, and that there was no guarantee of equal treatment for employees recruited after private service providers had taken over, leading to a situation where colleagues doing the same job in the same organisation could have differing conditions of employment. Unions had been pressing for a new 'fair wages resolution', applicable to local government and other public sector contracts, to combat the two-tier workforce and prevent

competition based purely on worsening pay and conditions.

The code now forms an annex to revised statutory guidance on the 'best value' performance management regime that applies to local authorities under the Local Government Act 1999. Similar requirements will apply to other 'best value' authorities, including police, fire, waste disposal and passenger transport authorities. The code and associated government statements require local authorities and contractors to protect the terms and conditions of transferring local government employees on the basis of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE), and state that where TUPE does not apply in strict legal terms, the staff involved should be treated no less favourably than had the Regulations applied. This includes the right to ongoing access to the Local Government Pension Scheme (LGPS) or an alternative, good quality occupational pension scheme.

Where new recruits join an outsourced workforce providing services to a local authority, the service provider must 'offer employment on fair and reasonable terms and conditions which are, overall, no less favourable than those of transferred

employees'. There is some flexibility: the code will not prevent service providers from offering new recruits non-pension terms and conditions which differ from those of transferred staff, so long as this does not result in a less favourable package in overall terms.

The code requires service providers to consult representatives of a recognised trade union, or other elected representatives of the employees where there is no recognised union, on new recruits' terms and conditions. This should involve 'a genuine dialogue', aimed at agreeing on a package of terms and conditions for new joiners in keeping with the code. These provisions do not apply to pensions, but under the code new joiners must be offered membership of the LGPS, a good quality employer pension scheme or a stakeholder scheme with an employer contribution. Local authorities must monitor compliance with the code by service providers, and contracts must include a provision for a 'fast, efficient and cost-effective' dispute resolution procedure as an alternative to litigation.

While trade unions have welcomed the code, the CBI argued that it would '[prevent] employers from making changes to achieve best value for the customer', and that 'inflexible pay structures' would jeopardise the government's own objectives on public service reform. Employer criticism of the deal also reflects the fact that the final text

## About IRRU

IRRU embraces the research activities of the industrial relations community in Warwick University's Business School (WBS). We currently have seventeen academic staff. Our work combines long-term fundamental research and short-term commissioned projects. In all cases, we maintain the independence and integrity of the work, which have been the hallmark of IRRU since its establishment in 1970. We

of the code incorporated a rather tougher formula governing the terms and conditions of new recruits than that which appeared in a draft circulated in July 2002. The draft specified that these should be 'broadly comparable' to those of transferred employees, and would also have allowed recruitment and retention and local labour market conditions to be taken into account. The final version's more specific requirement for 'no less favourable' terms and conditions for new employees derives from the wording of the fair wages resolutions that applied to public contracts from 1891 to 1983.

The new code has potentially far-reaching implications for the government's push to improve and modernise public services through private sector involvement. It will force private contractors to compete against public sector provision primarily on the basis of quality rather than price, and could push up the costs of local authority service provision. The government, however, says it has always maintained that the involvement of the private sector in the delivery of public services should not be at the expense of lower terms and conditions for key public service workers.

**Further reading:** The original feature is available from the European Industrial Relations Observatory on-line: <http://www.eiro.eurofound.eu.int/2003/02/Feature/UK0302107F.html>

aim thereby to improve the quality of data and analysis available to industrial relations policy-making by government, employers and trade unions. Current research projects include collective bargaining between decentralisation and Europeanisation; the impact of inward investment on employment practice in Central Eastern Europe; equality, diversity and trade unions; employee consultation

practice in the UK; flexible working time arrangements; and the impact of employment legislation in SMEs.

IRRU publishes a series of textbooks on industrial relations and human resource management. The most recent are Paul Edwards, ed., *Industrial Relations: Theory and Practice* 2<sup>nd</sup> Edn (Oxford, Blackwell), published early in 2003, and Helen Newell and Harry Scarbrough, eds, *HRM: A Case Study Approach* (Basingstoke, Macmillan), published in 2002. The second edition of *Industrial Relations* completely revises the earlier (1995) edition, whilst continuing to provide a comprehensive treatment of the subject which blends description and analysis. It has two wholly new chapters on the influence of overseas-owned companies on British industrial relations practice and on 'individualisation' in practice. *HRM: A Case Study Approach*

applies analytical perspectives to concrete cases, by drawing on several IRRU research projects.

IRRU is the UK National Centre for the European Industrial Relations Observatory. Established in 1996, the Observatory collects, analyses and disseminates high-quality and up-to-date information on industrial relations developments in Europe. IRRU provides a range of inputs including regular *features* which analyse current developments in policy and practice, *in briefs* which report key UK developments and contributions to *comparative studies* which provide a cross-country perspective of a particular topic. The Observatory's database, including IRRU's input, is publicly accessible on-line at: <http://www.eiro.euofound.eu.int>

## **FURTHER INFORMATION**

Information on our current research programme and projects, and on recent papers and publications, is available from IRRU's website: <http://users.wbs.warwick.ac.uk/group/IRRU>

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