



**Workplace union representation in the British public sector:  
evidence from the 2011 Workplace Employment Relations Survey**

**Professor Kim Hoque, Warwick Business School**

**Professor Nick Bacon, Cass Business School, City University London**

**WARWICK PAPERS IN INDUSTRIAL RELATIONS  
NUMBER 101**

**August 2015**

**Industrial Relations Research Unit  
University of Warwick  
Coventry  
CV4 7AL**



## Editor's Foreword

The Warwick Papers in Industrial Relations series publishes the work of members of the Industrial Relations Research Unit (IRRU) and people associated with it. Papers may be of topical interest or require presentation outside of the normal conventions of a journal article. A formal editorial process ensures that standards of quality and objectivity are maintained.

Kim Hoque is Professor of HRM in IRRU, of which he has been Acting Director, and Professor Nick Bacon of Cass Business School is amongst his closest research collaborators, especially in the analysis of the Workplace Employment Relations Surveys (WERS). This paper presents fresh findings on trade union representation. It comes at a particularly appropriate time, as the government is bringing to Parliament a Trade Union Bill that would introduce important modifications in workplace employment relations, including on union representation facility time. While IRRU's research is independent and is concerned with rigour, not with political timing, it has also been convinced of the importance of what is now called 'research impact': the capacity of affecting policy through evidence as well as conceptual clarification. The Warwick Industrial Relations Papers provide rapid dissemination and I believe that this fresh work by Hoque and Bacon should really be taken into consideration in the parliamentary, as well as broader social debate on the Trade Union Bill. The Bill's rationale is largely based on perceived problems affecting specifically the public sector, and it is exactly the public sector that this paper focuses on. On this specific issue, its findings suggest that a lesson from the 'classic' IRRU research of the 1970s deserved to be retold: the limits of the law in industrial relations (paraphrasing the title of the fundamental book by Linda Dickens and John Lloyd, Oxford 1975).

Guglielmo Meardi

Note:

This paper appears in both Warwick Industrial Relations papers and the Cass Business School working paper series.

## **ABSTRACT**

This paper explores the presence of workplace union representatives in the British public sector, and also the extent to which union representatives are engaged in partnership working with management, drawing on data from the Workplace Employment Relations Survey 2011. This analysis is timely given government plans to introduce reporting requirements and reserve powers to restrict public sector facility time in the *Trade Union Bill 2015-16*. The analysis finds that in workplaces with union recognition, union representatives are more prevalent and there are more representatives per employee in the public than the private sector, but there is no evidence that this should be viewed as excessive or that managers view it as problematic. There is, on balance, greater evidence of partnership working between union representatives and managers in the public than the private sector. Given the importance of partnership working in improving public services, the results suggest the provisions in the *Trade Union Bill 2015-16* relating to public sector facility time are more likely to hinder rather than support public sector managers in their attempts to improve public service provision in the future.

## Introduction

The role of workplace union representatives (shop stewards and staff representatives) has been considered an important aspect of industrial relations in Britain since the 1950s (Terry 1995). Indeed the Donovan Commission's report to the British government towards the end of the 1960s regarded the lack of official recognition for union representatives in the workplace as a major cause of industrial unrest that hindered attempts to introduce changes and improve productivity (Royal Commission on Unions and Employers' Associations 1968). In order to reduce industrial relations conflict and improve productivity, subsequent attempts were made to formalise representatives' role and duties and to integrate them into consultation and negotiation processes. This was considered necessary not least as the number of workplace union representatives quadrupled from the mid-1960s to the mid-1970s, reflecting increased collective bargaining at the workplace-level (Charlwood and Forth 2009, p. 76).

Statutory backing was later provided in the 1970s for workplace union representatives in recognition of their increased role. This backing, subsequently incorporated into the *Trade Union and Labour Relations (Consolidation) Act 1992*, required employers in workplaces where unions were recognised for collective bargaining over terms and conditions of employment to provide reasonable facility time and facilities for union representatives to enable them to: carry out duties concerned with negotiations; represent employees; engage in consultation and negotiations specifically on redundancies and the transfer of undertakings; and to undertake training for these duties. In addition, the *Health and Safety at Work Act 1974* provided statutory backing for union safety representatives. These combined provisions recognised the role of workplace union representatives in promoting good employment practice, helping to manage change and developing a positive workplace climate (ACAS 2010).

The legislative support provided for union representatives therefore represents an acknowledgement of the benefits of collective representation for both employees and employers. Where employees are concerned, workplace union representatives provide a collective voice channel by which the workforce can express concerns relating to their working conditions, pay, training requirements and health and safety, for example (Freeman

and Medoff 1984). Employers may be more inclined to respond to such concerns if they are raised by workplace union representatives than by individual employees, as this will indicate that these concerns are widely-held among the workforce and that the union considers them to be legitimate; or by employer-union negotiations at a higher organisational level, as managers might not view these concerns as directly relevant to their specific workplace. In addition, workplace union representatives might also benefit employees via 'facilitation effects', whereby they provide information, advice and guidance to employees, and support them when raising issues and seeking to resolve complaints (Budd and Mumford 2004). As workplace union representatives will have considerable knowledge of the individual employees' workplace, they are likely to be better placed to provide appropriate help and advice than union representatives based above the workplace level.

However, union representative activity is also potentially of benefit to employers. The government-commissioned Macleod Report (Department for Business, Innovation and Skills 2009) endorsed by Prime Minister David Cameron (Department for Business, Innovation and Skills 2011), for example, suggests that managers should listen to the concerns expressed by employees and their representatives, and that addressing these concerns will increase levels of employee engagement, thereby helping to deliver sustainable economic growth. Similarly, the Advisory, Conciliation and Arbitration Service (ACAS, 2003) argue that by helping to ensure employees' concerns regarding their working conditions are listened to and addressed, union representatives play an important role in improving workforce engagement and morale. This in turn has the potential to improve labour productivity, the quality of services provided, and ultimately the financial performance of organisations. In addition, union representatives may play an important dispute resolution role, helping employers resolve conflict by accompanying employees to disciplinary proceedings (thus ensuring those proceedings adhere to the ACAS Code of Practice (ACAS 2015)). They might also provide advice to managers to prevent the escalation of disputes to employment tribunal cases, thereby helping to avoid the costs associated with such cases (ACAS, 2003). Beyond this, by improving consultation and information exchange, they might help managers to reduce sickness absence and upgrade employment practices in the workplace and possibly the broader organisation.

In light of the above debates, the aim of this paper is to draw on the 2011 Workplace Employment Relations Survey to provide further empirical analysis of union representatives'

presence in British workplaces, and the extent to which they are engaged in partnership working with managers, thereby indicating the extent to which they might be viewed as adding value to their workplaces. Partnership working refers to commitments by unions and managers to co-operative workplace relations, whereby union participation in a wide-range of management decisions may help improve organisational performance. The paper focuses in particular on the public sector given the recently-elected Conservative government's ongoing concerns over the value of union facility time in the public sector, and its plans to introduce reporting requirements and reserve powers to restrict public sector facility time in the *Trade Union Bill 2015-16*. The government's concerns (outlined in more detail below) are that there too many union representatives in the public sector (and in particular that too many union representatives are operating on a full-time basis), and that the activities in which they engage may be deleterious to their organisations. This paper seeks to identify, therefore, whether union representatives can indeed be considered to be too numerous in the public sector, and also whether they are failing to engage in the sort of joint working with management that is likely to engender workplace performance benefits.

*The regulation of facility time and the need for contemporary empirical analysis*

Despite acknowledging the positive impact that workplace union representatives may have, governments of all persuasions have conducted occasional reviews to assess their economic value and to reconsider the case for statutory facilities and facility time. A review under the former Labour government using the nationally-representative Workplace Employment Relations Survey 2004 conducted by the Department of Trade and Industry identified a range of positive effects associated with workplace union representative presence (DTI, 2007). It revealed, for example, that workplaces with union representatives had lower voluntary exit rates (saving the British economy recruitment costs estimated at £72m-143m per annum) and fewer employment tribunal cases (saving the British economy an estimated £22m-£43m per annum).

However, the economic downturn following the financial crash of 2008 led to a further reassessment by the coalition government of the value of workplace union representatives and the facility time provided by employers. This reassessment focussed on the role of workplace union representatives in the public sector for two reasons. First, union membership and union recognition is now heavily concentrated in the public sector. Second,

public sector expenditure has been squeezed by plans to reduce the government's spending and borrowing requirements, leading to the search for short-term cost savings.

This reassessment of the value provided by workplace union representatives and facility time initially concentrated on the civil service, and resulted in Francis Maude as Head of the Cabinet Office restricting facility time for civil service union representatives. This subsequently resulted in a reported reduction in the number of full-time union representatives in government departments from 200 in November 2011 to 20 at the start of 2014 (Cabinet Office 2014). The Department for Education also held a consultation over facility time in schools, subsequently issuing non-statutory advice (Department for Education 2013, 2014) suggesting 'All union representatives who receive facility time to represent members employed in schools should spend the majority of their working hours carrying out their main duties as school employees'. The Department for Communities and Local Government (2013, p. 5) also issued similar non-statutory advice stating: 'Employees should not be spending all or the majority of their working hours on trade union duties. The Government believes that for a trade union representative to function effectively and be able adequately to represent the views of employees, it is necessary for them to be actively involved in the work of their employing organisation'. It also encouraged local councils to reduce facility time for union representatives stating 'Councils should adopt private sector levels of facility time' (ibid., p. 3), implying the private sector offers less facility time although the precise levels are not specified.

The new Conservative government has gone a step further, however, with the *Trade Union Bill 2015-16*, introduced on first reading to the House of Commons on 15 July 2015, making explicit reference to facility time for union representatives. Provisions in the *Bill*, which represents the first significant change in collective labour law in Britain since the *Trade Union Act 1984*, include higher thresholds in strike ballots in specified parts of the public sector. Further provisions include the requirement for public sector employers to publish details of the paid time off received by trade union representatives to perform their representative duties (sometimes termed 'trade union activities') and reserve powers for government Ministers to limit paid time for union representatives (facility time) as a proportion of the representatives' working time. These provisions reflect the view that there may be too many union workplace representatives in the public sector and, in

particular, that there may be too many union representatives that spend all (or almost all) of their time on representative duties rather than in their job roles (Department for Communities and Local Government 2013; Department for Education 2013, 2014). There is also a concern that full-time representatives in particular do not 'reflect and respond to the wishes and views of the grassroots members' (Department for Communities and Local Government 2013, p. 3). In addition, concern has also been expressed that workplace union representatives are using facility time to engage in political activity, such as 'trade union activities and campaigning', producing 'political material, or material which incites industrial action' (ibid.). Government ministers have subsequently argued that, if true, this represents an inappropriate use of public money (Department for Communities and Local Government 2013), although no specific research is provided to justify these assertions.

Either way, the reporting requirements and reserve powers in relation to facility time in the public sector contained in the *Trade Union Bill 2015-16* appear likely to increase managerial scrutiny of workplace union representatives and result in less support for representative activities. Restricting facility time will, however, only help improve public services and public sector finances if the types of concerns described above regarding the impact of workplace union representative presence are valid, and if the benefits of facility time (as previously identified by government (DTI 2007) in terms of higher retention rates and fewer tribunal cases, for example) are outweighed by their costs associated with the time off union representatives take from their regular jobs.

This paper draws on data from the 2011 Workplace Employment Relations Study (WERS 2001) to contribute towards this debate by addressing the following research aims. The first is to provide an empirical assessment of the presence of workplace union representatives in the public sector. This will involve an estimate of the proportion of public sector workplaces that have union representatives and the ratio of representatives to employees, thus allowing an assessment of whether there are too many (or too few) representatives in place. The analysis will also estimate the proportion of workplaces in the public sector that have a union representative spending all (or almost all) of their time on their representative duties<sup>1</sup>. The paper will also consider the average number of hours per week spent by the lead workplace union representative on their representative duties and whether the lead representative is paid by the employer for the time they spend on these duties.

The second aim of the paper is to provide an empirical assessment of the extent to which union representatives are engaged in consultation/partnership working with managers, thereby indicating the extent to which they might be viewed as adding value to their workplaces. The *Information and Consultation of Employees Regulations 2004* require employers to put arrangements in place to inform and consult employees (where employees make such a request) on the business's economic situation, employment prospects and decisions likely to lead to substantial changes in work organisation or contractual relations. Increased levels of consultation were also viewed as central to management-union partnership working, encouraged by government to help reform and improve public services (DTI 1998; Work Foundation 2004), resulting in partnership agreements covering one-third of all public sector employees by 2007 (Bacon and Samuel 2009). The analysis therefore explores the involvement of workplace union representatives on joint consultative committees, as recommended by ACAS (2014).

Beyond this, as argued by Dietz (2004), a key indicator of the existence of partnership working is whether there are high trust relationships between union representatives and managers. The paper assesses this issue by evaluating the extent to which managers and union representatives trust each other to act with honesty and integrity. This might be regarded as providing insight into the government's suggestion that workplace union representatives may misuse taxpayer-funded facilities and facility time to produce 'political material, or material which incites industrial action' (Department for Communities and Local Government 2013, p. 3) – if union representatives are engaging in such activities on a broad scale, it may be considered unlikely that managers will report that they act with honesty and integrity. Further exploration of the existence of partnership working between managers and union representatives is undertaken by identifying the extent to which union representatives are involved in joint decision-making when changes are being introduced at the workplace, and the extent to which managers offer support to representatives by providing them with facilities to use as part of their representative duties at the workplace.

Given that a key government concern is that provision for facility time in the public sector exceeds provision in the private sector (Department for Communities and Local Government (2013, p.3), the analysis systematically compares union representative presence and involvement in partnership working in the public and private sectors. In

addition, given the government's specific concerns outlined above that full-time union representatives may be too numerous and particularly problematic, the analysis presents results for the union representative population as a whole and also for full-time representatives more specifically.

## **Data and method**

The analysis draws on data from two elements of the 2011 Workplace Employee Relations Study (WERS) (BIS 2013): the survey of managers and the survey of worker representatives. The Workplace Employment Relations Survey 2011 is co-sponsored by the Department for Business, Innovation and Skills (BIS), ACAS, the Economic and Social Research Council (ESRC), the UK Commission for Employment and Skills (UKCES) and the National Institute of Economic and Social Research (NIESR). Using these data also provides an element of continuity with previous government analyses of union facility time that used data from the Workplace Employment Relations Survey 2004 (DTI, 2007).

Where the survey of managers is concerned, this is designed to be nationally representative of British workplaces with five or more employees in all industry sectors (with the exception of agriculture, hunting, forestry and fishing and mining and quarrying) when probability weighted to account for the complex nature of the WERS survey design. Respondents to the survey are the most senior manager in the workplace with responsibility for employment relations, human resources or personnel. The complete WERS 2011 survey of managers includes 2680 workplaces, constituting a response rate of 46.3 per cent. Of these, 822 are in the public sector and 1858 are in the private sector. Workplaces with a union representative are defined as those in which a representative is present and their union is recognised for collective bargaining purposes<sup>2</sup>. This results in 561 public sector workplaces and 389 private sector workplaces being classified as having a union representative.

Where the survey of worker representatives is concerned, managers in workplaces with union representatives were asked for consent to interview one trade union employee representative and one non-trade union representative. The interview was conducted with the most senior lay representative of the largest recognised union at the workplace, or the largest non-recognised union if none were recognised. Among the 1153 workplaces that had

an eligible union representative, 797 workplaces generated a productive interview, giving a response rate of 69 per cent. The analysis is based on responses from 760 union representatives in workplaces with union recognition (472 in the public sector and 288 in private sector)<sup>3</sup>.

The results presented below are weighted throughout. This is essential if accurate population estimates are to be obtained, given the complex stratified nature of the WERS survey design, and in particular, the over-sampling of large workplaces.

## **Results**

### *The presence of workplace union representatives in the public sector*

The first aim of the paper is to consider the presence of workplace union representation in public sector workplaces. As outlined above, given the government's specific concerns regarding the number of representatives spending all (or nearly all) of their time on their representative duties, this requires an assessment of both the population of union representatives generally and of full-time representatives more specifically.

Turning first to the proportion of public sector workplaces that have a union representative, the first row of table 1 demonstrates that 35 per cent of public sector workplaces but only 4 per cent of private sector workplaces have a union representative present. This difference is to be expected, however, given that private sector workplaces are at present less likely than public sector workplaces to have a union. Restricting the analysis to workplaces with union recognition, however, public sector workplaces are still more likely to have a union representative (38 per cent) than are private sector workplaces (26 per cent) ( $p = 0.023$ ). However, to place these figures in historical context, the proportions of public sector workplaces where unions are recognised with union representatives present were 82 per cent in 1980, 85 per cent in 1984, 73 per cent in 1990, 71 per cent in 1998 and 63 per cent in 2004 (Charlwood and Forth 2009, p. 77). The figures for 2011 therefore indicate a significant and continued decline in the proportion of public sector workplaces with union representatives present.

**Table 1: Workplace union representatives in the public and private sector**

|                                                                                                                                                  | Public sector | Private sector | p value |
|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------|---------|
| Proportion of all workplaces that have a union representative                                                                                    | 35%           | 4%             | 0.000   |
| Proportion of workplaces with union recognition that have a union representative                                                                 | 38%           | 26%            | 0.023   |
| Proportion of employees in workplaces with a union representative present                                                                        | 71%           | 23%            | 0.000   |
| Ratio of employees to representatives in workplaces where representatives are present                                                            | 1:42          | 1:66           | 0.000   |
| Proportion of workplaces with recognition and a full-time union rep                                                                              | 2.8%          | 2.2%           | 0.498   |
| Average size of workplaces with a full-time union representative                                                                                 | 509 employees | 583 employees  |         |
| Average size of workplaces with a non-full-time union representative                                                                             | 97 employees  | 167 employees  |         |
| Average hours per week spent by the lead representative on their representative duties <sup>1</sup>                                              | 14.5          | 10.4           | 0.104   |
| Proportion of workplaces in which the lead representative is paid by the employer for the time spent on their representative duties <sup>1</sup> | 84%           | 95%            | 0.009   |

Base: all workplaces

<sup>1</sup> based on data from survey of worker representatives

Although these figures might suggest that most public sector employees do not now have access to a union representative in their workplace, it must be kept in mind that union representatives in the public sector tend to be found in particularly large workplaces (as demonstrated in the second row of table 1). Hence, 71 per cent of the public sector workforce are employed in workplaces that have a representative. The comparable figure for the proportion of employees in workplaces where representatives are present in the private sector as a whole is 23 per cent. In historical context, however, public sector workers' access to a workplace union representative has continued to decline. The percentages of union members employed in public sector workplaces with union recognition and a workplace union representative were 92 per cent in 1980 to 81 per cent in 2004 (Charlwood and Forth 2009, p. 78). Either way, there is little support for the argument that the number of representatives in the sector is excessive, given that 62 per cent of public sector workplaces do not have a representative at all.

In terms of the ratio of employees to representatives in workplaces where representatives are present, the third row of table 1 shows a ratio of 1 representative to 42 employees in the public sector compared to 1 representative to 66 employees in the private sector ( $p = 0.000$ ). It is, of course, a value judgement as to whether the ratio in the public sector should be considered too high relative to the ratio in the private sector. This is considered further below in the section on managers' views of union representatives. If the ratio is indeed too high in the public sector it might be anticipated that public sector managers will hold more negative views of union representatives than will their counterparts in the private sector.

The figures in the fourth row of table 1 consider the proportion of workplaces in the public sector with a full-time representative. In workplaces with union recognition, only 2.8 per cent of public sector workplaces with recognised trade unions have a union representative that spends all or nearly all of their working time on their representative duties. This is not statistically different than the figure of 2.2 per cent in the private sector ( $p = 0.498$ ). In interpreting these figures, one must keep in mind that while a given workplace might have one representative that spends most of all of their time on their representative duties, there may be many other representatives in the workplaces who spend significantly less time on their representative duties. As such, the figures should not be interpreted as suggesting that 2.8 per cent of representatives in the public sector spend most or all of their time on their representative duties – the actual figure is likely to be much lower than this. Therefore, also keeping in mind that these figures are reported by managers themselves and are not subject to underreporting by union representatives, it appears that government concerns about the number of union representatives in the public sector (and in particular the number of representatives that are operating on a full-time basis) may be overstated.

In further considering whether the number of full-time workplace union representatives in the public sector may be regarded as appropriate, it is helpful to consider the size of the workplaces in which full-time union representatives in the public sector tend to be found. This is explored in rows 5 and 6 of table 1. This shows that public sector workplaces with full-time union representatives are much larger on average (509 employees) in contrast with those with non-full-time union representatives (97 employees). A similar pattern is reported in the private sector, where workplaces with full-time union representatives have 583 employees on average, and workplaces with non-full-time

representatives have 167 employees on average. As such, the findings suggest that where representatives work on a full-time basis (in both public and private sector workplaces), they do so because they represent a large number of employees, hence they will have a wide range of employment relations issues to contend with. This further suggests that the existence of full-time union representation should not be viewed as inappropriate given the types of workplaces in which they are found.

Rows seven and eight of table 1 consider the average amount of time union representatives spend on their representative duties and whether the employer funds this time. The data for this assessment are taken from the WERS worker representative survey, which provides information on how many hours on average the lead representative usually spends each week just on representative activities, whether paid or unpaid (including both time spent at the workplace and at home). Row seven in table 1 shows that lead representatives in the public sector spend 14.5 hours per week on average on their representative activities compared with 10.4 hours per week for lead representatives in the private sector. This difference is not statistically significant ( $p = 0.104$ ). Also, as this is a survey of lead representatives in the workplace, the figures should not be interpreted as suggesting that representatives in the public sector spend 14.5 hours per week on average on their representative activities. Non-lead representatives are likely to spend much less time on representative activities than this. The figures also do not imply that more representatives in the public sector have facility time than representatives in the private sector. Indeed, the final row in table 1 shows that fewer lead representatives in the public sector (84 per cent) report that they are paid by the employer for the time spent on their representative duties than do lead representatives in the private sector (95 per cent,  $p = 0.009$ ). It appears, therefore, that public sector employers are not more likely to provide facility time for lead union representatives than private sector employers.

### *Consultation and partnership working*

The second aim of the paper is to explore the extent to which workplace union representatives are engaged in consultation/ partnership working with managers in the public sector, and hence are operating in a manner that is likely to add value within their workplaces. As with the analysis of union representative presence, results are presented for both the union representative population as a whole and also for full-time representatives

more specifically. This is important given the government’s specific concern that full-time representatives fail to ‘reflect and respond to the wishes and views of the grassroots members’ (Department for Communities and Local Government 2013, p. 3).

The first form of partnership working examined is union representative involvement with JCCs. Compliance with the *Information and Consultation of Employees Regulations 2004* often involves putting arrangements such as JCCs in place to enable managers and union representatives to discuss issues of concern and develop ways to address specific issues and improve organisational performance. Hence, the paper assesses the extent to which workplace union representatives are involved in partnership working of this nature.

With regard to this, as the first row of table 2 shows, JCCs are more widespread in the public sector than in the private sector, being reported in 15 per cent and 6 per cent of workplaces respectively ( $p = 0.000$ ). Unsurprisingly, therefore, public sector workplaces are also more likely to have a JCC on which a representative sits (7 per cent of workplaces) than are private sector workplaces (1.1 per cent,  $p = 0.000$ ). These figures might seem somewhat low in both sectors. However, JCCs tend to be found in larger workplaces, hence as row 3 of table 2 shows, 35.8 per cent of the public sector workforce are employed in a workplace with a JCC on which a union representative sits, in comparison with 12.29 per cent of employees in private sector workplaces ( $p = 0.000$ ). Therefore, if one indication of the existence of partnership working between union representatives and managers is representative involvement on JCCs, the figures here suggest that a sizeable minority of the public sector workforce is located in workplaces in which such partnership working occurs.

**Table 2: Representative presence on Joint Consultative Committees in the public and private sectors**

|                                                                                    | Public sector | Private sector | p value |
|------------------------------------------------------------------------------------|---------------|----------------|---------|
| Workplaces with a JCC                                                              | 15.1          | 5.7            | 0.000   |
| Workplaces with a JCC on which the union representative sits                       | 7.0           | 1.1            | 0.000   |
| Proportion of employees in workplaces with a JCC                                   | 35.8%         | 12.3%          | 0.000   |
| Workplaces with union recognition that have a JCC                                  | 15.8          | 16.8           | 0.757   |
| Workplaces with union recognition that have a JCC on which the representative sits | 7.7           | 9.0            | 0.454   |

|                                                                                                   |      |      |       |
|---------------------------------------------------------------------------------------------------|------|------|-------|
| Proportion of workplaces with a JCC and a representative where the representative sits on the JCC | 71.5 | 71.4 | 0.991 |
| Proportion of workplaces with a JCC and a full-time rep, and the representative sits on the JCC   | 84.6 | 95.0 | 0.084 |

Base: all workplaces

However, as requests backed by 10 per cent of employees under regulation 7 of the *Information and Consultation of Employees Regulations 2004* are required before employers need to put arrangements in place to inform and consult employees, it would be expected that more JCCs will be found in workplaces with union recognition, given that union members may be regarded as more likely in such circumstances to make requests. Given this, to compare union representative involvement in the public and private sectors on JCCs, it is necessary to focus on union recognised workplaces alone. With regard to this, the results in row 4 of table 2 show that among workplaces with union recognition, the proportion of workplaces that have a JCC is no different in the public sector (16 per cent) than in the private sector (17 per cent) ( $p = 0.757$ ), while row 5 of table 2 shows that 8 per cent of public sector workplaces with union recognition and 9 per cent of private sector workplaces with union recognition have a JCC on which the representative sits ( $p = 0.454$ ). In workplaces with union recognition, therefore, there are no differences in terms of the extent of adoption of JCCs or in terms of the extent of involvement of union representatives in those JCCs between the public and private sectors. The implications are further discussed below.

The figures in row six of table 2 extend the analysis of union representative involvement on JCCs by exploring whether, in workplaces that have both a JCC and a union representative, the representative sits on the JCC. This might be considered an important indicator, given that if union representatives in such workplaces are not able to sit on the JCC, this could be indicative of either a lack of management willingness to involve them in decision-making processes, or a lack of willingness on the part of the representative to engage in this form of partnership working. The figures show, however, that in workplaces with a JCC and a representative, the proportion of workplaces in which the representative sits on the JCC is high, and is almost identical in the public and private sectors (71.5 per cent and 71.4 per cent respectively) ( $p = 0.991$ ). The final row repeats this analysis for full-time

representatives. In public sector workplaces that have a JCC and a full-time workplace union representative in place, the representative sits on the JCC in 85 per cent of public sector workplaces and 95 per cent of private sector workplaces ( $p = 0.084$ ).

In instances where workplace union representatives are present, therefore, it would appear that their involvement on JCCs is commonplace. If this is viewed as an indicator of the extent to which union representatives and managers are engaged in partnership working, the figures here suggest that the vast majority of representatives are willing to work in this manner. Particularly notable, though, is that in workplaces with union recognition, the involvement of union representatives in JCCs is no different in the private sector than in the public sector. There is no evidence, therefore, that the public sector is exceeding the private sector in terms of the provision of facility time for workplace union representatives to engage in JCC activity.

A further indication of the existence of partnership working, as discussed above, is the level of trust that exists between managers and union representatives (Dietz, 2004). As table 3 shows, 86 per cent of management respondents in public sector workplaces in which workplace union representatives are present either agree or strongly agree that union representatives can be trusted to act with honesty and integrity. Fewer than 4 per cent of managers in such workplaces disagree with this. Notably, management's trust in union representatives is significantly lower ( $p = 0.018$ ) in the private sector than in the public sector, with 70 per cent of private sector managers believing that union representatives can be trusted to act with honesty and integrity and 11 per cent believing union representatives cannot be trusted. These figures are also notable in light of the higher ratio of reps to employees in the public sector than in the private sector reported earlier. The figures here suggest that public sector managers do not view this ratio as excessive, given that were they to do so, it is unlikely that they would report such high levels of trust in union representatives.

Table 3 also reports separate figures for workplaces with a full-time representative. These figures suggest that 84 per cent of management respondents in public sector workplaces with full-time representatives present either agree or strongly agree that full-time union representatives can be trusted to act with honesty and integrity. This suggests that public sector managers do not regard their relationships either with union

representatives in general, or with full-time union representatives more specifically, as problematic.

**Table 3: Managers’ views of whether representatives can be trusted to act with honesty and integrity (workplaces in which representatives are present)**

|                            | Public sector                         |                                 | Private sector                        |                                 |
|----------------------------|---------------------------------------|---------------------------------|---------------------------------------|---------------------------------|
|                            | Workplaces with union representatives | Workplaces with a full-time rep | Workplaces with union representatives | Workplaces with a full-time rep |
| Strongly agree             | 33.1                                  | 34.6                            | 27.5                                  | 32.6                            |
| Agree                      | 53.1                                  | 49.3                            | 42.3                                  | 53.6                            |
| Neither agree nor disagree | 10.3                                  | 11.5                            | 19.3                                  | 10.3                            |
| Disagree                   | 2.7                                   | 1.9                             | 8.2                                   | 2.8                             |
| Strongly disagree          | 0.8                                   | 2.6                             | 2.8                                   | 0.7                             |

N=944

Public sector workplaces with union representatives vs. private sector workplaces with union representatives,  $p = 0.018$

Public sector workplaces with full-time union representatives vs. private sector workplaces with full-time union representatives,  $p = 0.674$

Table 4 explores union representatives’ views of managers. Drawing on data from the WERS worker representative survey, the figures show that 70 per cent of lead workplace union representatives in the public sector agree or strongly agree that managers can be trusted to act with honesty and integrity and only 10 per cent disagree or strongly disagree. Lead workplace union representatives in the public sector are more positive in their views of management honesty and integrity than are their counterparts in the private sector ( $p = 0.041$ ), the corresponding figures in the private sector being 66 per cent of representatives in agreement with this statement and 20 per cent in disagreement. The proportion of full-time lead representatives (defined as spending 37.5 hours or more per week on their representative activities)<sup>4</sup> in the public sector who agree or strongly agree that management can be trusted is lower than the proportion of public sector lead representatives overall who agree with this statement, though the figure is nevertheless still almost six in 10. There is also no difference ( $p = 0.649$ ) between full-time public sector and full-time private sector

lead representatives' views on whether managers can be trusted to act with honesty and integrity. Overall, therefore, the high levels of trust between managers and lead union representatives in the public sector might be viewed as indicative of high levels of partnership working.

**Table 4: Representatives' views of whether managers can be trusted to act with honesty and integrity in their dealings with worker reps (worker representative survey)**

|                            | Public sector representatives | Public sector full-time representatives | Private sector representatives | Private sector full-time representatives |
|----------------------------|-------------------------------|-----------------------------------------|--------------------------------|------------------------------------------|
| Strongly agree             | 20.9                          | 9.7                                     | 26.4                           | 0                                        |
| Agree                      | 49.2                          | 47.2                                    | 39.4                           | 71.8                                     |
| Neither agree nor disagree | 19.5                          | 21.8                                    | 14.0                           | 23.1                                     |
| Disagree                   | 5.7                           | 2.9                                     | 18.2                           | 5.1                                      |
| Strongly disagree          | 4.7                           | 18.4                                    | 2.0                            | 0                                        |

Base: All union representatives in workplaces with union recognition  
N=755

Public sector representatives vs. private sector representatives,  $p = 0.041$

Public sector full-time representatives vs. private sector full-time representatives,  $p=0.649$

A further indication of the existence of partnership working between managers and union representatives is whether union representatives are involved in joint decision-making with regard to the workplace. Drawing again on data from the WERS worker representative survey, table 5 shows that a large majority of lead union representatives in the public sector (66 per cent) either strongly agree or agree that union representatives work closely with management when changes are being introduced in their workplace (table 5). The corresponding figure for lead representatives in the private sector is 71 per cent (the difference is not statistically significant  $p=0.117$ ). It should also be noted that in the public sector, more full-time lead union representatives than non-full time union representatives either agree or strongly agree that union representatives work closely with management when changes are being introduced in their workplace, with the figure for 'agree' plus 'strongly agree' increasing to 82 per cent among the cohort of full-time lead

representatives. This figure is also higher ( $p = 0.000$ ) than the figure of 61 per cent among the cohort of full-time private sector lead representatives. Hence there is no evidence that full-time lead representatives are unwilling to engage in partnership working with management in the public sector. If anything they are more likely to engage in this form of working than are part-time lead union representatives, thus suggesting that government plans to reduce the number of full-time workplace union representatives will do nothing to improve management-union co-operation in introducing change in public services.

**Table 5: At this workplace union representatives work closely with management when changes are being introduced (worker representative survey)**

|                            | Public sector representatives | Public sector full-time representatives | Private sector | Private sector full-time representatives |
|----------------------------|-------------------------------|-----------------------------------------|----------------|------------------------------------------|
| Strongly agree             | 24.2                          | 22.9                                    | 37.9           | 15.5                                     |
| Agree                      | 41.9                          | 58.9                                    | 33.4           | 35.2                                     |
| Neither agree nor disagree | 10.6                          | 1.2                                     | 16.1           | 40.4                                     |
| Disagree                   | 9.4                           | 0.6                                     | 7.3            | 0                                        |
| Strongly disagree          | 13.9                          | 16.5                                    | 5.3            | 8.9                                      |

Base: All union representatives in workplaces with union recognition

N=756

Public sector representatives vs. private sector representative,  $p = 0.117$

Public sector full-time representatives vs. private sector full-time representatives,  $p=0.000$

A final indication of the existence of partnership working is the degree of managerial support for the workplace union representative role. Drawing on data from the WERS worker representative survey, table 6 explores the extent to which managers provide facilities to union representatives to use for their representation duties at the workplace. Overall, lead union representatives report having access to most of the facilities asked about. In terms of differences between representatives in the public and private sectors, the results suggest that, in terms of statistical significance, lead union representatives in the public sector are no more or less likely to report having access to a telephone, an office also used for other purposes, rooms for meetings, a computer, email or space on the company

intranet. Although they are more likely (at the 5 per cent significance level) to report having an office specifically for representative duties than private sector representatives, they are less likely (at the 5 per cent significance level) to report access to a photocopier than are union representatives in the private sector. Overall, therefore, the evidence suggests that facilities for workplace union representatives in the public sector are similar to those in the private sector, suggesting that non-statutory advice from government departments to restrict the facilities for union representatives (Department for Communities and Local Government 2013) would reduce facilities to below private sector levels.

**Table 6: Facilities provided to representatives**

|                                               | Public sector | Private sector |
|-----------------------------------------------|---------------|----------------|
| Telephone                                     | 75.9          | 85.1           |
| Office specifically for representative duties | 34.2          | 19.7**         |
| Office also used for other purposes           | 48.2          | 54.1           |
| Rooms for meetings                            | 87.6          | 77.8           |
| Photocopier                                   | 73.8          | 86.7**         |
| Computer                                      | 70.5          | 77.7           |
| E-mail                                        | 68.9          | 76.8           |
| Space on the company intranet                 | 39.7          | 40.4           |
| None of the above                             | 5.4           | 3.2            |

Base: All union representatives in workplaces with union recognition  
N=758

\*\* p<0.05

## Discussion and conclusions

This paper explored the presence of workplace union representatives in the British public sector and the extent to which they are engaged in partnership working with management, thereby contributing to findings from previous consultations on trade union facilities and facility time in Britain (DTI, 2007). As discussed above, this analysis might be considered particularly timely given the provisions within the *Trade Union Bill 2015-16* concerning reporting requirements and reserve powers in relation to facility time in the public sector.

The government's justification for these provisions stems from concerns that the number of

union representatives (particularly full-time representatives) is excessive (Cabinet Office 2014; Department for Education 2013, 2014), and also that union representatives may have deleterious employment relations effects in the workplaces in which they are located (Department for Communities and Local Government 2013). The analysis presented here sheds light on whether these concerns are justified.

With regard to the presence of trade union representatives, the analysis found that public sector workplaces with union recognition are more likely than private sector workplaces with union recognition to have a union representative. It also found the ratio of union representatives to be higher in the public sector than the private sector. This does not, however, suggest that union representative presence should be viewed as excessive in the public sector given that 62 per cent of public sector workplaces do not have a union representative, and also given that a high proportion of managers in the public sector (86 per cent) state that representatives can be trusted to act with honesty and integrity, with their views being significantly more positive with regard to this than those of private sector managers. It is unlikely that public sector managers would report such positive views on union representatives if they considered the number of representatives, or the ratio of representatives to employees, to be problematic.

There is also no evidence that the government's concerns over the number of full-time representatives are justified, given that, within workplaces with union recognition, only 2.8 per cent of public sector workplaces have a full-time union representative. This is not out of line with the figure of 2.2 per cent in private sector workplaces. In addition to this, it is notable that the vast majority of public sector managers in workplaces with full-time representatives (84 per cent) either agree or strongly agree that union representatives can be trusted to act with honesty and integrity. It is doubtful that public sector managers

would hold such positive views if the full-time union representatives in their workplaces were not using facility time appropriately to help address organisational problems, or if, as alleged, they were using facility time and facilities to engage in inappropriate political activities (Department for Communities and Local Government 2013).

It is also notable that where full-time representatives are present, they tend to be located within very large workplaces. As such, it is likely that they are working on a full-time basis because they represent a large number of members, hence they will have a wide range of employment relations issues to assist management with. Given this, one might argue that full-time union representatives provide significant economies of scale. They might also be particularly well placed to help employers deal with a broad range of issues in an efficient manner, given that they are likely to have developed considerable levels of expertise as a result of the time they spend on representative duties. If the *Trade Union Bill 2015-16* prohibits them from performing their role on a full-time basis, employers will lose access to this skill and expertise.

Overall, therefore, it appears difficult to justify the claim that there are too many workplace union representatives (full-time or otherwise) in the public sector on the basis of the results from the government-sponsored WERS data presented here. This in turn suggests that the provisions to collect detailed information on public sector facility time in the *Trade Union Bill 2015-16* are unnecessary. If the purpose of collecting such data is to ensure public sector organisations adopt private sector levels of facility time and limit the number of full-time representatives, the analysis presented here suggests that facility time (and facilities) and the number of full-time representatives are already similar in the two sectors, and are not viewed as inappropriate by managers. During a period of significant pressure on public services the efforts involved in collecting data on facility time to inform

ministerial judgement as to the appropriate levels of facility time usage appear to involve significant and unnecessary expense. Arguably, greater concern should be expressed about the proportion of public sector employees (29 per cent) that do not have access to a workplace union representative in their workplace.

The second aim of the paper was to explore workplace union representatives' participation in partnership working. This involved a consideration of: workplace union representatives' involvement on JCCs; perceptions of whether both managers and unions can be trusted to act with honesty and integrity; whether representatives working closely with management when changes are being introduced; and the facilities provided to help representatives conduct their role. The findings suggest that in public sector workplaces where JCCs are in operation and union representatives are present, the union representative sits on the JCC in 72 per cent of cases (a figure that rises to 85 per cent where full-time representatives are concerned). Facility time that allows workplace union representatives to sit on JCCs might be viewed, therefore, as underpinning this important element of partnership working, as well as being important in enabling public sector employers to meet their obligations under the *Information and Consultation of Employee Regulations 2004*.

Further indicating the extent of partnership working between union representatives and managers in the public sector, 70 per cent of public sector representatives state that managers can be trusted to act with honesty and integrity, with public sector representatives being more positive in regard to this matter than are private sector representatives (with 66 per cent of representatives in agreement with this statement). This is a notable finding, particularly when combined with the finding reported above that public sector managers are more likely to state that union representatives can be trusted to act

with honesty and integrity than are private sector managers. It would appear therefore that levels of trust between union representatives and managers are higher in the public sector than in the private sector. This in turn might be seen as indicative of higher levels of partnership in the public sector than the private sector, given that high trust levels are considered to be an important feature of partnership working (Dietz 2004). In addition to this, and further suggesting high levels of partnership working in the public sector, 66 per cent of representatives in the public sector state that they work closely with managers when changes are being introduced (a figure that rises to 82 per cent for full-time representatives), and they also report being well-supported by managers in terms of access to facilities.

As such, the analysis finds considerable evidence of partnership working in public sector between managers and both full and part-time union representatives. Partnership working is considered to be highly important in terms of delivering improvements to public services (DTI 1998; Work Foundation 2004). However, if the provisions contained within the *Trade Union Bill 2015-16* contribute towards a climate in which public sector employers are encouraged to reduce facility time, this is likely to undermine this close co-operation between union representatives and employers, thereby threatening efforts to deliver improvements to public services in the future.

Overall, the findings suggest that the reporting requirements and reserve powers in relation to facility time in the public sector contained in the *Trade Union Bill 2015-16* are unnecessary, and may have significant deleterious effects on public services. It would not be unreasonable to conclude, therefore, that given the many challenges the public sector is likely to face in the forthcoming years, the provisions in the *Trade Union Bill 2015-16*

relating to public sector facility time are more likely to hinder rather than help public sector managers in their attempts to improve public service provision.

## Notes

1. The presence of full-time representatives is identified in the WERS survey of managers via the question: 'Are there any representatives or stewards of recognised unions who in practice spend all, or nearly all, of their working time on union affairs concerning this workplace?'
2. There are 74 workplaces in the survey of managers in which the management respondent states a union representative is present but their union is not recognised (31 in the public sector and 43 in the private sector). The statutory provisions for facility time for union representatives enshrined within the *Trade Union & Labour Relations (Consolidation) Act 1992*, only apply to representatives of recognised trade unions. Hence, these union representatives' activities and relationships with management are likely to be somewhat different from those of their counterparts in workplaces where the union is recognised. Therefore, to maintain consistency in the 'workplaces with union representatives' category, workplaces with union representatives in which the union is not recognised for bargaining purposes are allocated to the 'non-union' category.
3. Within the worker representative survey, there are 37 union representatives in workplaces in which the management respondent states that the union is not recognised for bargaining purposes. For the reasons outlined above, these representatives are excluded from the analysis.
4. Full-time union representatives are defined in the WERS worker representative survey as representatives that spend 37.5 hours or more per week on their role. However, it is not possible to ascertain within the WERS worker representative survey data whether these representatives are working in their regular job in addition to these hours or whether they receive paid time off for all of these hours. Hence, the results with regard to full-time representatives drawn from the WERS worker representative survey need to be treated with caution.

## References

ACAS (2003) *Information and Consultation at Work: from challenges to good practice*. Research Paper 03/03.

ACAS (2010) *Code of Practice 3 Time off for Trade Union Duties and Activities*. Norwich: TSO.

ACAS (2014) *Employee Communications and Consultation*. London: ACAS.

ACAS (2015) *Code of Practice on Disciplinary and Grievance Procedures*. Norwich: TSO.

Bacon, N. and Samuel, P. (2009) 'Partnership agreement adoption and survival in the British private and public sectors'. *Work, Employment and Society*, 23, 2: 231-248.

Budd, J. W. and Mumford, K. (2004). 'Trade unions and family-friendly policies in Britain'. *Industrial and Labor Relations Review*, 57 (2): 204–22.

Cabinet Office (2014) *Savings from a decline in full-time trade union representatives*. Press Release 24<sup>th</sup> July 2014.

Charlwood, A. and Forth, J. (2009) 'Employee representation'. In W. Brown, A. Bryson, J. Forth and K. Whitfield (eds) *The Evolution of the Modern Workplace*. Cambridge: Cambridge University Press, p. 74-96.

Dietz, G. (2004) 'Partnership and the development of trust in British workplaces'. *Human Resource Management Journal*, 14: 5–24.

Department for Business, Innovation and Skills (2009) *Engaging for Success: Enhancing Performance Through Employee Engagement*. URN 09/175. London.

Department for Communities and Local Government (2013) *Taxpayer Funding of Trade Unions: delivering sensible savings in local government*. London.

Department for Education (2014) *Review of Trade Union Facility Time in Schools: results of government call for evidence*. London.

Department for Education (2014) *Advice on Trade Union Facility Time: For school leaders, governing bodies, employers and employees in schools*. London.

DTI (Department of Trade and Industry) (1998) *Fairness at Work*, Cm 3968. London: The Stationery Office.

DTI (2007) *Consultation Document Workplace Representatives: A review of their facilities and facility time*. URN 06/1793.

Freeman, R.B. and Medoff, J.L. (1984) *What do unions do?* New York: Basic Books.

Royal Commission on Unions and Employers' Associations (1968) Report. London: HMSO.

Terry, M. (1995) Trade unions: shop stewards and the workplace. In P. Edwards (ed) *Industrial Relations: Theory and Practice in Britain*. Oxford: Blackwell, pp. 203-228.

Work Foundation (2004) *Trade union and employee involvement in public service reform*. London: Office of Public Services Reform.