

Unit 4

Employee representation

As well as discussing the benefits, this unit deals with the key issues involved in having employee representatives including:

- numbers and constituencies
- election procedures
- period of office
- reporting back
- time and resources
- training
- encouraging employees to stand as representatives

The benefits of employee representation

As the introductory module emphasises, while the Regulations say that agreements can involve direct *or* representative methods of information and consultation, these methods should be seen in practice as complementary and mutually reinforcing. In the words of the final report of the CBITUC Productivity Challenge Best Practice Working Group, Involving individual employees or teams in decisions that affect the day to day organisation of their work helps create a culture of autonomy and responsibility. And systems for encouraging employee feedback and suggestions are key to innovation and building commitment to continuous improvement.

Collective voice is important in building a climate of trust where individual employees are confident that their contribution will be valued. Equally valuable is its role in helping to identify shared objectives and resolve conflict. The involvement of employees' representatives can create the sense of mutuality that is essential for the sustainability of new working practices – the belief that both the employer and workers are reaping real benefits from improvements in work organisation.

1 Employee representation can bring considerable benefits, which are especially manifest in the case of information and consultation. Having representatives can 1 CBI-TUC. 2001. Productivity Challenge.

Report of the Best Practice and Productivity Working Party.

- make managers seem less remote by providing easier access to them at all levels
- encourage employees to 'voice' their views frankly and freely - in the absence of representatives to speak for them, employees may be reluctant to express their true opinions directly for fear that managers might interpret their comments as criticism and therefore hold this against them
- extend the range of the subjects over which information is given and consultation takes place – it is easier to maintain confidentiality with small numbers involved where sensitive issues are involved
- provide an opportunity to discuss and order priorities, which increases employees' sense of involvement and considerably improves effectiveness and efficiency - discussion of major matters affecting employees in general is practically very difficult to organise on an individual basis; if there are as many opinions as employees, it does not help managers very much.
- provide a barometer of employment relations, enabling management to gauge the likely reaction of employees at an early stage in decision making
- improve the quality of employee input into decision making - being involved in an on-going dialogue means that employee representatives are more likely to develop the knowledge and expertise to make a meaningful contribution
- develop the skills of managers, as well as employee representatives, in such areas as listening, diplomacy, making presentations and problem solving
- help to build trust and co-operation and thereby contribute to better understanding of the need for change, increased acceptability of decisions and improved business performance.

Against this background, this module looks at the issues involved in securing effective employee representatives for the purposes of information and consultation.

Numbers and constituencies

In deciding the numbers of employee representatives, you are strongly advised to adopt what might be described as a 'constituency-based' approach. The appropriate number of representatives, in other words, should depend on the structure of the organisation, with each major grouping and/or location (the "constituency") having their own representatives. For example, if there are 200 employees, all doing exactly the same job, 3 representatives might be adequate. But if there are 200 employees divided into five major groups or units, each doing different jobs, there will be a need for a minimum of 5 representatives.

Employees need to feel that their interests are being represented and management needs to know that they are getting the true picture. If the constituency is too large, it will be difficult for representatives to communicate effectively and seek feedback from their constituents. The same will be true if representatives have to cover too many different groups.

The basis of constituencies will need to reflect the individual circumstances of the organisation.

The basis could be occupational group or grade or function or operation (e.g. production or shop floor, warehouse, office); it could be shift patterns (constituencies of night and day shift workers, for example) or production line, perhaps with one representative per line; or by geographical area. It could also reflect the gender and race of your workforce. Indeed, paying attention to these considerations would be a very tangible way of promoting diversity and ensuring equality of opportunity more generally. Ideally, every effort should be made to accommodate distinct groups of employees reflecting the range of different interests and needs.

Also important is to build in arrangements for regular review. Constituencies will almost certainly change in line with developments in the business more generally.

Election procedures

It is not appropriate for managers to appoint employee representatives, although it may be necessary in some workplaces to get representative-based arrangements off the ground.

Employee representatives need to be genuinely representative of their constituencies, which normally means holding elections. Furthermore, the arrangements need to be transparent and acceptable to employees, with the outcomes seen to be demonstrably fair. In practice, there will be two main types of situation, depending on whether trade unions are recognised for the purposes of collective bargaining.

Undertakings with trade union recognition

In undertakings where trade unions are recognised for the purposes of collective bargaining, the arrangements for employee representation are likely to reflect union constitutions and/or collective agreements. Typically, trade union members in a constituency will elect their representatives on the basis of these procedures, with management being informed of the outcome. Effectively, therefore, in carrying out their role, these individuals will be representing their trade union as well as the immediate members. This means that they will not only enjoy the support of their union in terms of training and advice, but also will be subject to the discipline of its internal codes of conduct.

There could be complications where trade union recognition affects only some groups of employees and/or where membership among employees in the bargaining group is relatively low.

In practice, few UK undertakings these days have 100 per cent coverage of collective bargaining or union membership. The main options for handling mixed constituencies of union and non-unionised groups are considered in Methods and structures (Appendix 3.2).

Groups without trade union recognition

In the case of undertakings or groups of employees with no trade union recognition or history of employee representation, the following provisions are recommended. These build on the existing legislation dealing with collective redundancy, transfer of undertakings and workforce agreements under the 1998 Working Time regulations. They will need to be brought into line, though, with the arrangements covering union representatives in undertakings with mixed constituencies – it's not sensible to have marked and certainly unjustifiable differences between union and non-union representatives.

- The number of representatives to be elected should reflect the make-up of the workforce – as a general principle, there should be at least one representative from each of the major groups.
- The candidates for election as employee representatives should be relevant members of the workforce and of the particular group of employees on the date of the election.
- Any specific criteria for election such as experience and employment status should be clearly spelt out.
- No affected employee should be unreasonably excluded from standing for election.

- All affected employees on the date of the election should be entitled to vote.
- The employees entitled to vote should be able to vote for as many candidates as there are representatives to be elected; or, if there are to be representatives for particular classes of employees, for as many candidates as there are representatives to be elected to represent their particular class of employee.
- Where an employee representative ceases to act and, in consequence, certain employees are no longer represented, another election should be held which satisfies the rules.

The election should be conducted so that:

- those voting do so in secret, and
- the votes are accurately counted.

The best way of ensuring an open and fair nomination and election process is to involve an independent scrutiner. Acas can be contacted for help and advice.

Higher level representatives

A further issue is to be decided in undertakings that have arrangements involving two or more tiers. It is the procedure to be adopted in electing representatives to the higher tiers. It could arise in the undertaking with several divisions and/or establishments under its control. Or it could arise where the undertaking is one of a number of undertakings under the control of an even larger entity with perhaps a European Works Council at the apex.

Here the most practical outcome is to agree a procedure that provides for the representatives at the lower level to elect one or more of their number to go forward as representatives at the next level and so on. Numbers should reflect constituencies, which should take into similar considerations to those discussed above. The same criteria in terms of eligibility should also apply along with an open and fair nomination and election process.

Period of office

When considering issues relating to the period of office and arrangements for the retirement of representatives, conflicting pressures for continuity and change come to the fore. Continuity is important, but arrangements should also be flexible enough to encompass change. A period of from one to three years tends to be the standard term of office. This enables continuity in terms of committee composition, allowing for relationships and expertise to develop over time, as well as reducing the need for training of fresh

representatives. Constitutions can include provisions allowing flexibility for representatives to stand down after a 12-month review, however, if they change their mind about the role. In the case of committees, councils and forums, constitutions might also include provisions for a phased election process so that all representatives do not stand for election or re-election simultaneously, and thus leave at the same time, causing discontinuity. If half of all representative positions are put up for re-election on an annual basis, for example, this will allow for both change and continuity. Representatives who are involved in committees for too long can become stale.

Reporting back

If information and consultation arrangements are to be effective, it is essential that representatives have an opportunity to report back to employees as soon as possible. Any delay in reporting back is not only likely to lead to frustration but will also allow scope for rumours to develop in the place of hard information.

As Methods and structures also suggests, reporting back what happened at meetings is usually the responsibility of employee representatives, but management should also help to ensure that the outcome is spread quickly and accurately among employees. Methods that might be used for reporting back include:

- briefing groups
- news-sheets
- notice boards
- circulation of committee minutes
- circulation of recordings from video conference meetings.

The issue of reporting back, and the key role of employee representatives, also ought to figure prominently in any training programme. A useful way of getting across its importance is to ask employee representatives to discuss how, ideally, they would like their local councillors or MP to feed back to constituents. Discussing what they would like, and comparing the result with the expectations they and their colleagues have of employee representatives, can help to focus on the key behaviours that will be needed.

Time and resources

Employee representatives need to have the time and resources to do the job and their scale should not be underestimated. The Acas Code of Practice No 3, *Time off for trade union duties and activities* offers useful guidance.

Training

As the Maintaining effectiveness Unit emphasises, one of the main barriers to effective information and consultation is lack of knowledge and skills.

Employees and employee representatives will need training to make sense of the business information disclosed to them and to be able to contribute to decision making. Both employee representatives *and* managers need an understanding of the concepts, processes and mechanisms of information and consultation, along with training in such basic behavioural skills as public speaking, making presentations, 'brainstorming' and diplomacy. If possible, the training should be joint, which will help to improve mutual understanding. It should also be participative, with people being encouraged to exchange views, take part in discussions and share ideas and experiences. This will help to develop the behaviour that effective information and consultation require.

Training is particularly important for first line managers and employee representatives, both of who have pivotal information and consultation responsibilities, but often limited experience. Training can enable them to:

- become more aware of the importance of good information and consultation practice
- understand their roles and responsibilities as communicators
- support those who are less outspoken and improve their ability to communicate. Especially in organisations with little or no experience of employee representatives, training programmes can also be used to develop mutually acceptable expectations about the responsibilities of the role and of the qualities and skills required to fulfil it:
 - key responsibilities include representing the views of all their constituents and not just those of themselves or a small section
 - qualities include being approachable, impartial, open and honest, being decisive and being prepared to stand by decisions
 - skills cover listening, communicating and a good general awareness of the organisation's business and its procedures

These are just general indications only, though. It's important that managers and employee representatives discuss and develop their own shared understanding of what the role involves.

Encouraging employees to stand as representatives

One of the issues that Acas advisers report organisations having difficulty with in introducing committees in the light of the ICE Regulations is getting people to stand as employee representatives. Talk about responsibilities, qualities and skills can make the job appear to be a challenge too far for many people. The difficulty is underlined by a feeling that taking on the kind of responsibilities involved in being a representative is not something that people are looking for in any walk of life. As one adviser reflected, 'The problem is that most folk do not wish to volunteer for anything these days, a problem spread across the entire political and social spectrum ... I know that this sounds defeatist, but it is based on years of experience not just with workplaces, but a wide range of political, sporting and other organisations'.

Some of the suggestions about how managements might encourage employees to stand – for example, offering inducements such as vouchers - go to the extreme and should be avoided.

Employee representatives need to be committed. It is important that they are not encouraged to stand "for the wrong reasons". Pressurising employees to stand is also likely to be counterproductive.

There is nonetheless much that managers can do to create a more conducive environment.

Employees need to be convinced above all that standing is no going to be to their detriment, that they will get adequate training and that they will have the time and resources to do the job.

Absolutely fundamental here is that senior managers involve line managers in the process. It is totally counter-productive if, as so often happens, HR managers are doing everything they can to twist peoples' arms to stand, while their line manager colleagues are signalling that they don't have much truck with what is going on.

As the discussion in the Methods and structures Unit pointed out, it needs to be recognized that many line managers do not like their 'subordinates' having access to more "knowledge" and certainly not more than they do. Some also dislike being in a position where employees are able to pose questions and ask for answers.

More positively, the expectation that employees will be expected to stand as representatives can be underlined at recruitment. Making it clear that standing will be regarded as 'good citizenship' sends a very clear message. Emphasising the opportunities the role brings, and not just the challenges, can also help. Critical here is to stress the difference that employee representatives can help to make to both organisational performance and the quality of working life - which is why making consultation meaningful is so

important in the first place. The more meaningful the consultation process, the more play that can be made of the personal development opportunities being an employee representative can bring. Some senior managers themselves are likely to have started out as employee representatives and this information can usefully be referred to.

In larger organisations, it may also be sensible to think in terms of creating a number of full or part-time employee representative posts. This could be especially useful where the organisation is introducing a committee structure for the first time. Creating posts with specified blocks of time over a week/month/year brings several practical advantages as well as very clearly demonstrating top management commitment to the consultation process. Full-time/part-time representatives can considerably assist in the project management exercise involved in getting a committee structure off the ground for the first time. They can also provide help and support to employee representatives from individual constituencies. Knowing that there is someone other than a manager to turn to for encouragement and support is likely to make a significant difference to their willingness to stand.