

Unit 3

Methods and structures

This unit deals with the following:

- the main methods of informing and consulting with employees, including electronic systems such as email and video conferencing
- informing and consulting with managers
- the requirements for effective joint consultative committees
- handling mixed constituencies of union and non-union groups
- the 'pros' and 'cons' of having separate arrangements for consultation and negotiation
- the need for clear links and divisions of responsibilities in the case of multi-tiered structures

Methods of informing employees

Informal channels of information play a major role in any organisation, for example: in the course of daily work, in face-to-face encounters or on the telephone. Inevitably, too, there will be a "grapevine", which will pass news and information quickly. The question therefore is not *whether* to have information arrangements – it is the form and type that are at issue. Information and communication can to a greater or less extent be structured to help the organization and its employees to achieve their objectives. Or they can be left to their own devices, which means that rumour and suspicion will take over. John Cleese's legendary training film, *The Grapevine*, portrays the unintended consequences that can follow. A variety of formal methods is typically used to give information to employees, spoken and written, direct and indirect, the mix depending mainly on the size and structure of the organisation.

Face-to-face methods

Giving information face-to-face in a meeting is both direct and swift. It should enable discussion, questioning and feedback to take place but ought to be supplemented by written material where information is detailed or complex and where records are important. When spoken methods are used it is important that:

- the chain of communication is as short as possible
- the frequency and timing of meetings are carefully considered
- managers are fully briefed on their subjects and able to put them across clearly and consistently
- opportunities are provided for questions
- employees are given adequate information and with sufficient notice to enable them to respond properly.

As well as one-to-one meetings, giving information face-to-face takes the following main forms:

Group meetings between managers and the employees for whom they are responsible, sometimes referred to as team briefing or briefing groups. These provide valuable opportunities for discussion and feedback on matters directly related to the workgroup and also on wider information about the organisation's progress. Opportunities for employees to contribute their ideas may arise from the use of small groups of employees meeting regularly to identify problems, discuss and suggest possible solutions.

Cascade networks for passing important information quickly from one level to another, used mainly in large or widespread organisations.

Large-scale meetings or assemblies involving all employees in an organisation or at a workplace, with presentations by a director or senior manager. These are good for presenting the organisation's performance or long-term objectives; they require careful preparation but allow only limited opportunities for employee response. They should be used sparingly and need to be followed up in other ways.

Inter-departmental briefings between managers in different departments, which encourage a unified approach and reduce scope for inconsistent decision making, particularly in larger organisations.

Arms-length

Written methods

Written communication is most effective where:

- the need for the information is important or permanent
- the topic requires detailed explanation
- accuracy and precision in wording are essential
- the audience is widespread or large
- a backup is needed to oral communication
- there is need for a permanent record.

The main methods of written communication are set out below:

Company handbooks bring together employment and job-related information that employees need to know and does not change too often, such as holiday arrangements, company rules and disciplinary/grievance procedures. They can be given to all employees and may also usefully include background information about the company, its policies and objectives. The handbook can also provide useful information to new employees in support of any induction process.

Employee information notes inform employees about the activities and performance of their organisation. Good reports are written and presented so as to be readily understood by employees at all levels, with emphasis on their contribution and achievement. In large organisations it is often desirable to produce reports for operating divisions or local units and this enhances their impact. The use of clear illustrations is helpful in such reports provided they do not distort the information.

House journals and newsletters enable factual information about an organisation to be presented on a regular basis. These usually contain a large element of social or personal news. In large organisations their production is often highly professional but even small organisations can reap benefits from well-produced attractive newsletters.

Departmental bulletins give information on a sectional, departmental or wider basis about specific items of general interest. *Notices* placed on well-situated notice boards can draw attention to matters of general importance as well as items of specific interest. Care needs to be taken over location, over rights to use notice boards and in keeping them up to date. Diagrammatic notices and signs can also be useful for communicating with employees, particularly those with limited reading ability.

Individual letters can be used to give information about matters of major importance accurately and simultaneously.

Electronic methods

These have revolutionised the ability to deliver information and include the following:

Intranets, which allow information to be maintained on internal computer networks in a structured and easily accessible way.

Information points, which enable employees to listen to pre-recorded and regularly changed bulletins about matters of interest on an internal telephone system.

Audio-visual aids such as video, film or tape/slide presentations, which are particularly useful for explaining technical developments or financial performance.

Electronic mail, which is especially useful for communicating with employees in scattered or isolated locations

Video-conferencing, which goes beyond the benefits of electronic mail to embrace interaction between the participants.

Special needs Care should be taken to ensuring information is understood by employees particularly within a multi-racial workforce or by those who cannot read easily. It is equally important not to ignore isolated groups, for example: those on nights, shifts, maintenance or sales employees working away from base, employees working largely from home and those in remote locations, or staff who work on a part-time basis. In larger organisations it is also easy to ignore individual employees such as switchboard operators, receptionists and messengers who may work in isolation.

Methods of consulting with employees

Consultation methods will necessarily vary not just from organisation to organisation, but also from subject to subject and level to level. As in the case of information, there is no one single method that will do everything. Rather, as Box 1.1 in the Overview depicted, the mix of methods and how they support one another is what is important.

Direct

The face-to-face methods for informing employees can also be used to consult with them. One-to-one meetings can be used to discuss personal matters including reviews of performance or training and development needs. Group meetings at the level of the team or the unit can be used to discuss local issues. Large scale meetings or assemblies can be used to discuss matters of general interest.

As the Overview has already stressed, however, direct methods have weaknesses when it comes to consultation about major changes. Consulting directly with individual employees means that confidential issues are less likely to be put on the agenda. Lack of anonymity means that employees may be more reluctant to ask questions and express their true opinions about issues.

If there is no opportunity to discuss with one another what they have heard, employees will be further disadvantaged. For group and large-scale meetings to fulfil a consultative role, employees need to be given time to reflect, to discuss their response and have their concerns addressed.

Electronic methods also have a role to play as a direct method of consultation. For example, attitude surveys enable individual employees to express their opinions anonymously about such matters as the organisation's leadership, its management and the working environment. Just as managers can use electronic mail and video-conferencing to send information to employees, so employees can use it to feed back their views and comments.

Suites of conferencing tools are also now available that can be used on the internet and intranet as well in face-face meetings to allow people to work together from the same room or across the country. One such example is FAST ('Facilitated analysis and solution tool'), which is available to Acas advisers and conciliators on the Acas Intranet. These can be used to help conduct a number of activities on-line such as elections, surveys and remote meetings.

Electronic methods, however, do not automatically overcome the weaknesses of direct methods as a vehicle for consultation. Emails for example, can be very useful if the primary aim is to carry out what is in effect an opinion survey. A 'grapevine', where employees can let off steam with anonymous emails to the chief executive can also enable him or her to gauge the likely reaction of the workforce to proposals. Yet email systems in themselves are unlikely to be very helpful in gathering alternative ideas or helping them to be discussed where major restructuring issues are involved – debate by email is difficult and summarising a collective response extremely difficult.

Systems such as FAST can be helpful here, in that they enable managers to spell out the implications and trade-offs of different propositions. They also enable employees to respond in kind. They require considerable investment in training and equipment, however. Extra time also needs to be built into the consultation process to allow employees, as in the case of face-to-face meetings, to reflect, to discuss their response and have their concerns addressed.

Indirect

Committees, councils and forums

The normal vehicle for indirect consultation involves managers and employee representatives coming together on a regular basis to discuss issues of mutual concern. This usually takes place in a formally constituted body variously described as a committee, council or forum, committee being used here as the generic term.

Such arrangements can be informal and ad hoc, but a standard committee is recommended. Permanent arrangements mean that employee representatives can develop the necessary knowledge or expertise to make a meaningful contribution and this only comes from being involved in an on-going dialogue.

They are also critical in building trust between management and employee representatives, with regular contact making for greater understanding of what may be very different positions. A standing committee can also be used to deal with the many aspects of statutory consultation collective redundancies and business transfers and the conclusion of workforce agreements dealing with working time and parental leave issues.

Further details about the organisation of consultative committees will be found in Annex 3.1. Box 3.1 in this Annex outlines the key steps involved in setting up a committee for the first time and Box 3.2 lists the main things to be covered in a committee's constitution.

Video-conferencing

The approach and principles outlined in Annex 3.1 apply equally to meetings involving the use of electronic methods such as video-conferencing. Electronic methods have considerable advantages in terms of accurate recording and speedy reporting back. The need to prepare agendas carefully, run meetings effectively and make time available to digest report backs, however, are just as necessary as they are with 'face-to-face' meetings.

Using electronic methods also raises additional issues that need careful consideration:

- *Access to facilities.* There needs to be some understanding about the extent to which employee representatives will be able to use video conferencing to inform and consult with their constituents. If only management has access to video conferencing, employee representatives are clearly at a disadvantage.
- *Confidentiality.* There also needs to be some understanding about taking confidential matters 'off-line'. If not, the danger is that video proceedings may limit the scope of the discussion. Managers may be reluctant to raise

some issues because of the impossibility of holding each and every employee to a confidentiality obligation.

- *Storage and retention.* Video-conferencing also raises sensitive issues about data protection.

There needs to be some understanding about how long video recordings are going to be kept, who can use them and what they can be used for. Resolving these matters at the outset could prevent seriously damaging disputes over any future inappropriate use of recorded materials.

There is also an issue that figures prominently in the debate over 'cameras in courts'. It is what might be described as 'playing to the gallery'. There are real dangers that videoing proceedings will encourage people to lose sight of the purpose of the meeting. There is no simple answer to this one. Making sure everyone is aware of the problem at the outset, though, should help to minimise it. Hopefully, too, the more video conferencing is used, the more people will come to behave as they would in 'face-to-face' meetings.

Joint working parties

Joint working parties (JWPs) are usually set up to consider and suggest ways of resolving specific issues affecting the organisation, for instance a high rate of labour turnover or problems with the pay system. The emphasis in JWPs is on managers and employee representatives working together to understand issues and overcome common problems in a non-confrontational way.

As well as creating opportunities for employees to be involved and make their contribution, the JWP approach to consultation can:

- promote a process of joint problem solving in a non-negotiating forum which can help ensure that:
 - eventual solutions are acceptable to those concerned
 - there is a prospect of proposals being acceptable in any negotiating forum
- allow the parties to distil issues to their core elements, compare and debate realistic 'options' and balance differing opinions
- establish the commitment of the parties through the process of joint involvement
- build trust, which can benefit the consultative process more generally

The size of the JWP depends on the organisation concerned and the subject to be discussed. It is important to keep the working party as small as possible, though, to ensure that each member can become fully involved in the discussions. Between four and eight members is the normal size for a JWP.

If the recommendations of the JWP are to carry any weight it is important that its members are drawn from a representative cross section of the groups directly concerned with the issues under discussion, reflecting in particular the race and gender composition of the groups. Every effort should therefore be made to encourage participation and to ensure that barriers are avoided, such as holding meetings at times that might effectively exclude some employees.

Frequent meetings are recommended to ensure that the JWP maintains a reasonable momentum.

The exact frequency will depend on the availability of members but weekly or fortnightly meetings can greatly facilitate progress.

In certain circumstances the effectiveness of a JWP can be enhanced by the presence of an independent facilitator. By virtue of having no direct interest in the problem under discussion, a third-party can often help the parties work together more productively and may also be able to offer fresh ideas on how to tackle problems.

Informing and consulting with managers

There is strong tendency to forget that managers are also employees and have information and consultation needs. This often leads to directors or their equivalent making two mistakes that can undermine the best laid plans for informing and consulting with employees in general. The first is to assume that managers will be comfortable with the greater involvement of employees. It needs to be recognized that, consciously or not, many line managers do not like their 'subordinates' having access to more 'knowledge' and certainly not more than they have. Some also dislike being in a position where employees are able to pose questions and ask for answers. This is especially so if senior managers do not seriously inform and consult with them – "do as I say rather than do as I do" doesn't exactly set a good example.

The second, which reinforces the first, is to assume that managers are already fully catered for.

But many line managers are unlikely to be involved in the development of key decisions – they are too often simply told to execute them. Even very senior managers may feel that their voice is not properly being heard. They may be intimately involved in developing specific aspects of proposals. They may not get an opportunity to see the big picture, however, until things come together when it is too late to suggest changes that they would have put forward had they known how things were shaping up.

Managers can be fitted into the arrangements designed for employees in general. They can, for example, be allocated seats on any relevant committees. Arguably, though, this is not the answer – it can also make the conduct of these meetings more difficult. It is better to take into account managers' needs and the specific opportunities for them to maximise their contribution.

Any combination of methods can be used. Most fruitful, though, are likely to be meeting-based ones. Many large organisations already hold regular manager 'away days' to roll out key policies - these might usefully be used to consult about them at an early stage of development with breakout meetings reporting back.

It is also with managers that experiments might be undertaken with option-based consultation. As the Overview briefly described, senior managers typically will consider four or five possibilities when confronted with an issue. At one extreme, they can simply put their preferred option on the table and look to discuss the fine detail. At the other, they can put the four or five options on the table and invite discussion around these. They can even go further and ask their colleagues to add to the list. Discussing options with managerial colleagues would seem to be particularly appropriate – both in terms of giving managers a greater sense of involvement and getting the benefit of their knowledge and experience.

Annex 3.1 Effective joint consultative committees

Box 3.2 outlines the key steps involved in setting up a committee for the first time. Box 3.3 is a checklist of issues to be covered in a constitution.

Having a constitution means being clear about the purpose, scope and functioning of the committee, which will help to overcome subsequent problems and misunderstandings. As well as the objectives and terms of reference, issues particularly needing to be considered, agreed and communicated to the workforce and, where appropriate recognised trade unions, include:

- size and composition of the committee
- organisation of committee meetings
- subjects to be discussed
- facilities for committee members
- arrangements for reporting back

Size and composition

The number of members a committee should have will vary depending on the size of organisation and the constituencies to be covered. As a general rule, however the size of the committee should be kept as small as possible consistent with ensuring that all significant employee groups covered

by the committee are represented. Extra members can always be co-opted to deal with specific matters or problems. As consultative committees are not usually involved in voting, it is not necessary to have equal numbers of managers and employee representatives; indeed, it is often helpful if there are more employees than managers as this makes the point that the committee is not employer dominated.

Employee representatives have to be genuinely representative of their constituencies. They should be directly elected by the employees they represent or should be nominated by their trade union on the basis of a members' election. Further details of the considerations to be taken into account in deciding constituencies and electing representatives will be found in Employee representation.

The main options for handling mixed constituencies of union and non-unionised groups are considered in Annex 3.2.

It is usual for management representatives to be nominated as this helps reinforce the point that they are on the committee as part of the management team. In order to demonstrate commitment, however, it is essential that consultation is not seen as something that is just a concern of Human Resource managers. Senior managers with line authority and standing in the organisation need to be members and present at meetings. Other management representatives should be drawn from a variety of functions and grades within the organisation, including middle and first-line managers. Their absence will almost certainly lead to gaps in the communication of information.

Continuity of membership among management representatives is important for sustaining committees. It can be an advantage, though, if managers are replaced periodically in order to allow their colleagues a chance to gain experience of participating in a consultation committee.

Facilities for committee members

It is important that employee representatives know exactly how much time they will be allowed away from their normal work to undertake their duties as a committee member and what facilities they are entitled to use. Employee representatives should also be reassured that they will not lose pay as a result of attending committee meetings or of carrying out other activities associated with committee meetings. Without adequate, paid time away from normal duties there is a danger that representatives will only be able to put forward a personal view rather than the view of their constituents, thus undermining the effectiveness of the consultation process.

Subjects to be discussed

To avoid misunderstanding, it is important to agree at the outset which subjects can/cannot be discussed. One approach is to draw up a detailed list of issues that members feel should be the subject of consultation. The section dealing with 'Information about the organisation' in Annex 2.1 in Subject matter might be a starting point. The disadvantage is that, every time an issue emerges that is not listed, the committee can waste a lot of time in discussing whether it can consider it. Alternatively, the committee can list the issues it feels it would be inappropriate to discuss, making it clear that everything else is up for discussion.

Issues generally regarded as not appropriate are individual grievances or disciplinary matters. The same goes for representatives' individual views - the committee should be used to establish or express the majority view on collective matters.

A second issue needing clarification involves pay and conditions of employment. In most organisations, especially where trade unions are recognised, these subjects have traditionally been seen as the preserve of separate negotiating bodies. In some organisations, however, the two processes of consultation and negotiation have for practical purposes been combined. Further discussion will be found Annex 3.3.

Also needing clarification is the role of the committee in handling statutory consultation over redundancies and transfers. This topic is covered in more detail in *Handling restructuring* in Subject matter. In organisations with trade unions recognised for the purposes handling such matters especially, however, there will need to be an agreement about respective role of the committee and trade union representatives.

The issue of different tiers arises in the larger organisation. The undertaking could have several divisions and/or establishments under its control. Or it could itself be one of a number of undertakings under the control of an even larger entity. Further details will be found Annex 3.4.

Finally, there will be a need for the committee to agree which information can and cannot be communicated more widely to management and employees. Especially important is having an understanding covering the disclosure of confidential information together with the handling of such information by employee representatives (see the section on *Confidentiality* in Information and consultation).

Meetings and their organisation

It is important to set and keep to meeting agendas so that discussion is focused and issues are resolved appropriately. Agendas need not be complex, and agenda items should be set by both employee and management representatives. Meeting protocols and behavioural standards should be established at an early stage and may include rules on meeting behaviour, means of resolving difficulties, adequate preparation for meetings, and protecting employee representatives from discrimination.

Meetings should be regular, but the frequency with which they are held may depend on the issues being discussed, their complexity, and their urgency – once a month is usually sufficient for most organisations. In addition to regular meetings it is also helpful to provide for ad hoc meetings to be held as and when a particular need arises.

Every meeting should have as its focus a well-prepared agenda and all members of the committee should be given the opportunity of contributing items to the agenda before it is circulated. The agenda should be sent out at least five working days in advance of the meeting so that representatives have an opportunity of consulting with their constituents prior to the committee meeting.

As with all meetings, the committee needs to be well chaired if it is to run efficiently. The person selected to take the chair should ensure that all parties have an opportunity to express their opinion and that discussion is not allowed to wander from the subject under consideration. The chairperson should also allocate tasks to particular people to ensure that the views of the committee are taken into account by the decision-makers.

A poor chairperson will not only lead to disorganised meetings but also may, in some instances, bring the whole concept of joint consultation into disrepute. Getting the right person to chair the meeting is therefore crucial. In some organisations a senior manager who has experience of chairing meetings takes the chair. While this arrangement can help to emphasise the organisation's commitment to the concept of consultation, some may see it as giving management too much control over the committee. A number of committees therefore rotate the position of chairperson since this is seen as a more open procedure to adopt.

In addition to a chairperson, it is also helpful to appoint someone to act as secretary to the committee. The secretary's duties will include:

- gathering items and papers for the agenda
- circulating meeting notices and agendas
- taking and circulating meeting minutes
- dealing with any correspondence concerning the committee
- taking action on matters as instructed by the committee.

Whether the secretary is drawn from management or employees is a matter for discussion when setting up the committee. If agreement cannot be reached, rotating the role of secretary or having joint secretaries are possible alternative options.

One of the secretary's most important roles is keeping minutes of the committee's proceedings. Minutes should:

- be an accurate record of the main points raised and decisions reached
- indicate who is responsible for taking action on particular topics
- be distributed as soon as possible to all committee members and senior managers; copies should also be brought to the attention of all staff either by issuing them individually or putting a copy on a notice board
- be used by the chairperson to monitor progress on any action points decided by the committee.

Reporting back

If consultation is to be meaningful it is essential that the deliberations of the committee are reported 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 Employee representation also suggests, reporting back the outcome of meetings to employees is usually the responsibility of employee representatives, but management should also help to ensure that the outcome of consultation meetings is spread quickly and accurately throughout the organisation. Methods that might be used for reporting back include:

- briefing groups
- news-sheets
- notice boards
- circulation of committee minutes

Further information on the role of employee representatives will be found in Employee representation.

Obviously, if video conferencing is being used, the video of the meeting can be used to report back. It does mean, though, laying on the appropriate facilities as well as the time to digest.

Postscript

It is important to remember that consultative committees need time to bed down and for managers and employee representatives to develop trust and confidence in working together.

Such committees are often at their most effective once joint working is embedded in an organisation's culture, but this does not happen over night. This is something that managers and representatives often underestimate in setting up new consultative structures. If they are not careful, they can quickly become disappointed at the way the first few meetings go. This is because the committee may be the first official opportunity that representatives have had to raise issues, with the result that everything is brought up and immediate responses sought.

Managers' reaction can be that representatives are doing little more than 'whinge' or trying to bring 'negotiating' items to the table. Managers' annoyance can lead to attempts to exclude 'inappropriate' items or behaviour from the discussion, which in turn can confirm some representatives' worst suspicions about management's motives, which leads to disillusionment and non-attendance.

The other mistake to make is to have exaggerated expectations of 'informal' relationships and off the record discussions. Certainly the best structures are supported and work because of the informal underpinnings where off-the-record discussions oil the wheels and there is a climate of 'no surprises'. However, it is only by the successful, visible operation of the formal arrangements that trust and thereby informality can grow.

Both parties have to see the time and patience that will be required as a medium to long term investment, with the ensuing benefits being improved employment relations and productivity. If this is something they are reluctant to contemplate, they need to remember what might happen in the absence of effective arrangements. Much more time is likely to be spent in haggling over issues over which there has been little or no consultation, with neither managers nor representatives likely to be satisfied with the outcome.

Box 3.2 Key steps in setting up a consultative committee

- circulate outline proposals based on project paper
- hold meeting(s) with employees to discuss
- seek volunteers to consider details
- discuss subject matter
- discuss methods and structure
- discuss constituencies
- publicise final proposals

Step 1

Step 2

Step 3

- set up working party involving line managers as well as HR
- involve employee representatives where already in post
- prepare project proposal

- hold ballot to validate agreement
- hold elections for employee representatives
- training for managers
- training for management reps and employee reps
- joint launch

Step 4

Step 5

Box 3.2 Joint consultative committee constitution checklist

- the title and objectives of the committee
- its terms of reference – the matters it can and/or cannot discuss and its powers
- its composition:
 - (i) employee representatives (number, constituents)
 - (ii) management representatives
 - (iii) co-option and ex-officio provisions
 - (iv) named deputies for representatives
 - (v) method for obtaining members, appointment, election, etc
- election procedure
 - (i) who organises
 - (ii) when held
 - (iii) qualifications of candidates and voters
 - (iv) nominations
 - (vi) voting arrangements
- the period of office of members and arrangements for their retirement
- electing/nominating officers of committee, that is: chairperson, secretary
- meeting arrangements
 - (i) frequency, advance notice
 - (ii) when and where held
 - (iii) procedure for placing items on agenda
 - (iv) arrangement for minutes
 - (v) quorum
 - (vi) duration of meetings
- facilities for committee members
 - (i) time-off for liaising with constituents
 - (ii) payment while attending meetings

- reporting arrangements
 - (i) publication of minutes
 - (ii) methods of reporting back
 - (iii) responsibilities of members
- method of altering constitution.

Annex 3.2 Handling mixed constituencies

In undertakings where trade unions are recognised for the purposes of collective bargaining, shifts in the employment relations landscape have resulted in very different and, sometimes, very complicated patterns of representation of which the following are the main types:

- The trade union(s) represents the great majority of employees in the undertaking, which comprises one or more bargaining units.
- The trade union(s) represent the great majority of employees in the bargaining unit(s) where it/they have recognition rights, but there are significant groups in the undertaking without representation – it could be office or salaried employees, for example, or head office.
- The trade union(s) has only a minority of members in the bargaining unit(s) where it/they have recognition rights, say, less than 30 per cent.
- The trade union(s) has only a minority of members in the bargaining unit(s) where it/they have recognition rights and there are also significant groups in the undertaking where there is no representation as in the case of the second scenario
- There is a mixture of the second, third and fourth scenarios. The trade union(s) could represent the great majority of employees in the bargaining unit(s) in some locations. In others, however, it/they have only a minority of members among the bargaining group, reflecting merger or take over or different regional traditions. There are also significant groups in the undertaking without representation.

In the first case, there are unlikely to be grounds to change the status quo. In cases 2, 3, 4 and 5, things get more complicated. Cases 2 and 3 are the critical ones, with 4 and 5 involving combinations of them.

In case 2, there are two main options. The first is to introduce separate information and consultative arrangements for the non-union groups without collective bargaining arrangements.

The second is to introduce an over-arching information and consultation committee, incorporating representatives of both union and non-union groups, with collective bargaining continuing for union groups.

In case 3, low union membership may not in itself be a good reason for disturbing existing arrangements. Rather than dissatisfaction with these arrangements, low membership could reflect the nature of the work – employees may come and go very quickly – or the local culture. If it is felt that change is needed, having separate arrangements for union and non-union members makes no sense, given that they will be working side-by-side. But information and consultation could be separated from negotiation. The trade union, in other words, could continue to be responsible for collective bargaining, but there could be a separate committee, for information and consultation.

The unions could nominate their representatives to this based on their normal election arrangements, with non-union employees electing their representatives by secret ballot.

Alternatively, there could be a secret ballot election of representatives, involving union and non union members, as in the case of works councils in Germany and the Netherlands.

Mixed constituencies of union and non-union representatives will need very sensitive handling, with both senior managers and full time trade union officials possibly having to become involved.

Some union representatives may feel resentful of sharing their skills with non-union representatives. Some may feel disgruntled that non-members can reap the benefits of trade union involvement and expertise without paying membership fees. Management assurances that the consultative process will not detract from the powers or decisions of the recognised negotiating body may go some way to allaying fears about the longer-term implications, but it will be actual behaviour that really makes the difference. Also important to recognise is that non-union representatives may feel at a disadvantage and lack confidence compared to their trade union counterparts. Trade union representatives are able to rely on support and back-up from the union and its full-time officers if they require help.

Similarly, trade union representatives will have access to the opportunities for training and development that their organisations provide.

It is in these circumstances that the training of employee representatives becomes a top priority.

Ideally, such training should cover union and non-union representatives as well as their management counterparts. It should also focus on the skills that will be required to make a success of the organisation's information and consultation arrangements. As the Maintaining effectiveness unit emphasises, both employee representatives *and* managers need an understanding of the concepts, processes and mechanisms of information and consultation and how they differ from those of 'negotiation' and collective bargaining.

Annex 3.3 Single or parallel arrangements?

In most organisations, management and employee representatives have sought to maintain a distinction between the subject matter of consultation, on the one hand, and negotiation or collective bargaining, on the other. This is especially the case where trade unions have been recognised for the purposes of collective bargaining. Thus pay and conditions of employment have traditionally been seen as the preserve of a separate negotiating committee or committees. In some cases, this means a parallel negotiating arrangement. In others, such as the public service, it has also meant pay and conditions being dealt with at a higher level in the organisation.

In some organisations, however, the subject matter of consultation and negotiation has been combined. This is often the situation in companies with representative structures that are employee rather than trade union-based. In the absence of a trade union, management has sometimes put pay and conditions on the agenda of the consultative committee for the purposes of information and/or consultation. In some organisations where trade unions are recognised, the reverse has happened – the negotiating body has effectively taken over the functions of its consultative counterpart.

In the circumstances it is difficult to draw hard and fast rules. Different employment traditions and histories have to be respected. Even so, regardless of their present position, there is a case for management and employee representatives reviewing their arrangements in the light of the changed circumstances the Regulations bring. This is especially the case where management and trade union representatives have combined consultation and negotiating machinery. Separating the processes of consultation and negotiation could potentially help to resolve two issues. One is the representation of non-union employees for the purposes of information and consultation.

There could be a single consultative forum embracing union and non-union representatives, with trade union representatives continuing to negotiate with management in a separate body.

The other issue arises in the organisation where negotiations take place at a level lower than the undertaking, such as an individual establishment or business unit. There could be a single consultative forum for the undertaking as a whole, which could also embrace union and non-union representatives, with trade union representatives continuing to negotiate with management at individual establishment or business unit level.

Having separate machinery could also lead to a wider range of issues for consultation. The disadvantage of combining consultation and negotiation is that the more adversarial approach associated with negotiation can come to dominate the consultation process as well, leading to a much-restricted agenda of issues being discussed.

Annex 3.4 Multi-tiered structures

There are two situations where management and employees will need to think in terms of a multi tiered structure: in undertakings with several divisions and/or establishments under its control; and in organisations with two or more undertakings sharing the same consultative and/or negotiating arrangements.

As well as the other issues dealt with here, particular attention will need to be paid to establishing clear links and divisions of responsibilities between the different levels. Especially important is that issues are dealt with at the relevant level. Other things being equal, it might be expected that the wider issues such as strategy and policy would be the subject matter for the top level, along with matters of common interest coming from the lower levels; the operational implications, by contrast, would be more appropriate for the undertaking or division; and issues of immediate workplace concern would be the main topics for the individual branch, store or unit.

The passage of issues and decisions from one level to another also needs to be closely monitored in order to ensure that there is clear feedback. Otherwise, the danger is that frustration will set in, which will undermine the consultative process more generally.

Many organisations that have recently revamped their arrangements have multi-tiered structures, taking advantage of their introduction to help resolve the potential conflict between consultation and negotiation. In some cases, negotiation is restricted to the higher level. In others, negotiation is at the decentralised level and consultation at the higher. See Case study references for further details.

Multinational companies fulfilling the requirements for a European Works Council, i.e. having at least 1,000 employees throughout the EU with at least 150 employees in each of two or more countries, will need to clarify the respective roles and activities of the *domestic* as opposed to the

transnational bodies, together with the links between them. Indeed, it might be expected that this issue would appear on the agenda of EWCs with a view to developing a coherent approach where possible.