

Non-union employee representation in the United Kingdom: Management strategies and union responses

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ABSTRACT

The introduction of the European Directive on information and consultation and its implementation into United Kingdom (UK) law has increased the focus on workplace representation arrangements. However, existing research into non-union representation (NER) arrangements in the UK is limited. This research examines NER arrangements in nine UK firms and assesses their effectiveness in representing the needs of employees and employers. The research explores these issues by using a multi-variant analysis including employee surveys, interviews, focus groups, observation and internal company documentation.

The research attempts to address a number of research questions. First, what are the management strategies towards and objectives of NER arrangements? Second, are NER arrangements a complement to union representation or do they act as a substitute for union-based voice arrangements? Third, how effective are NER and union arrangements perceived to be at representing the interests of and providing voice for employees? Fourth, what are the perceived workplace outcomes of both NER and union-based voice arrangements? Fifth, what are the union responses and approaches towards NER arrangements? Sixth, what are the potential implications for employers, unions and NER-based voice arrangements in the future?

Overall, the evidence presented in this research questions the legitimacy of NER forms as alternatives to unions in effectively representing the interests of employees. The findings would also suggest that while trade unions may provide greater voice than NER arrangements, the strength of that voice is dependent on their responses to such arrangements and effectiveness in representing employees' interests at the workplace. And that in turn depends on the union being perceived by the workforce as both representative and able to act independently. From a management perspective, allowing influence over workplace issues and at times an acknowledgement of differing interests may also be essential conditions for more effective decision-making processes in organisations.

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CHAPTER ONE

INTRODUCTION AND STRUCTURE

1.1 History of non-union employee representation in the UK

With a few exceptions, it is apparent from existing research that little is known about the effectiveness of employee consultation and representation in United Kingdom (UK) non-unionised firms¹, in particular how such non-union employee representation² (NER) and consultation structures are composed, their independence from managerial influence, and their ‘representativeness’ (Gollan, 2000; Gollan, 2001; Lloyd, 2001; Terry, 1999; Watling and Snook, 2003). In addition, little has been documented about the impact and influence of such structures on managerial decisions.

This doctoral thesis explores the development of NER arrangements and union responses to such arrangements. It also tracks the development of dual channel NER and union arrangements and examines the interplay between channels of NER and trade unions. In addition, this research examines management strategies towards representation, and the processes at play in situations when firms attempt to restructure industrial relations at the workplace.

¹ Non-union firms in this context are firms which do not recognise a registered independent trade union for the purposes of collective bargaining. It does not preclude that such firms may have union members. In Britain, the government’s Certification Officer has responsibility for deciding whether a trade union is fully independent of employers under Section 5 of the *Trade Union and Labour Relations (Consolidation) Act 1992*. In particular the *Act* states, ‘not under the domination or control of an employer’ and ‘not liable to interference by an employer’. Key criteria may include: history, membership and organisational structure, and the way it is financed. Upon meeting these requirements, a certificate of independence is issued in accordance with Section 6 of the *Act*. Such trade unions may be industry or occupationally-based, multi-firm or single-firm based. For example, staff associations may be single enterprise-based and still deemed to be fully independent trade unions under the *Act*. (See Certification Officer, 2001 and Bryson, 2004 for further details).

² NER structures can also be referred to as union-independent forms of employee representation or alternative forms of employee representation. However, it is recognised that while such representative structures may be formally independent of trade unionism, they may also involve union members. Moreover, these structures may operate with, against, or in the absence of union organisation.

Importantly, NER has tended to play a minimal role in many Anglo industrial relations systems (including the UK), with few formal processes or legal requirements³. However, the lack of representative structures covering increasing numbers of non-union employees due to declining levels of trade union density and legislative changes banning closed shop or compulsory union arrangements have prompted the current interest in NER structures.

While the capacity to operate NER arrangements in certain countries such as the US is severely curtailed, although not totally eliminated (Kaufman, 2003) under Section 2(5) and Section 8(a)2 of the *National Labor Relations Act* (NLRA), this is not the case in the UK. Such arrangements were in operation in the UK as early as the 1920s with the introduction of the Whitley Councils in the public sector (Gollan, 2000: 416; Taras, 1997). This first phase was part of a wider movement of industrial democracy that occurred during and just after the First World War in western industrial countries from 1917 to 1920. During this period, joint employer and employee bodies – the so-called ‘Whitley Councils’ – emerged. While many councils included a degree of trade union representation, their role was principally to represent all employees. Marchington (1994) has suggested that the origins of Whitleyism can be found in a mixture of socio-economic and political pressures at the time and a desire to integrate workers more closely within the enterprises in which they were employed. In addition to these developments, some companies were experimenting with other forms of non-union employee representation.

Notably, Spedan Lewis in 1929 set down the rationale for creating the John Lewis Partnership, which still exists today. This Partnership embraced included extensive employee participation and involvement with the formation of representative structures as its foundation. This included a ‘Branch Council’ made up of elected representatives, the managing director and some members of the management team. In addition, a second structure was created at a national level called the ‘Central Council’, of which 80 per cent of the 130 members are elected from all parts of the

³ However, there are formal requirements that health and safety committees be established in some union and non-union workplaces.

company with management making up the remaining 20 per cent. The Central Council also provides the electoral college to appoint five directors to the Partnership's Central Board of 12 (see Chapter Five and Appendix 3 for more details).

During the Second World War and the years immediately afterwards, the second major phase of collective participation primarily took the form of Joint Consultative Councils (JCCs) at workplace level (Kessler and Bayliss 1992) or Joint Production and Advisory Committees (JPACs). Both of these were part of a drive at government level to stimulate productivity growth and reduce conflict. Marchington (1994) estimates that by the mid-1940s there were over 4,000 committees in existence in engineering alone, covering in excess of 2.5 million workers, with numbers declining during the post-war part of the decade. Marchington (1994) suggests that the reason for the decline of such committees related to their abuse by management as a means to increase power and control, and the lack of real management commitment.

The 1960s and early 1970s also witnessed an increase of 'staff associations'. In 1992 total membership of such associations stood at 1,166,433 employees (IRS 1995: 7). As Industrial Relations Services (IRS) stated in 1995, the first annual report of the Certification Officer (CO) defined staff associations as: "Organisations, usually of white-collar workers, ... whose membership is confined to the employees of a single employer (or associated employers) in sectors other than central or local government and the nationalised industries." Moreover, while most associations evolved from employer inspired bodies, the IRS study found that most function as independent trade unions both in terms of the CO legal definition, and thus are included in the statutory list of trade unions maintained by the CO.

Principally their growth was greatly assisted by the establishment of staff associations in the UK finance sector in the 1970s and 1980s with 24,700 building society employees represented by staff associations. While some employees were members of certificated associations, many associations were not regarded as fully independent. Importantly, the trade association for building societies, the Building

Societies' Association (BSA), which was formed in 1869 and had a membership of 238 societies representing approximately 99 per cent of the assets of the entire movement, refused to recognise and negotiate with existing industry-based trade unions (Winterton and Winterton, 1982). Following the introduction of the *Industrial Relations Act 1971* the BSA established a 'staff relations advisory service' and encouraged its member societies to form staff associations.

In 1974, the Federation of Building Society Staff Associations (FBSSA) was formed as a response to the introduction of the 1974 *Trade Union and Labour Relations Act*, with new criteria for independence and the creation of a new post of certification officer, which threatened their continuance (Winterton and Winterton, 1982). By 1982 some 20 building society staff associations were affiliated to the FBSSA. Winterton and Winterton (1982) suggest that it was the *Trade Union and Labour Relations Act 1974* that stimulated the development of staff associations in building societies.

The last major phase in non-union collective participation occurred in the 1970s with Britain's accession to the EEC's draft Fifth Directive with its proposals for worker members on boards of directors and harmonisation of company law. The entry of Britain into the EEC and the election of a Labour government in 1974 led to the establishment of the Bullock Committee of Inquiry, which proposed a degree of employee representation at board level. However, the subsequent White Paper in 1978 watered down the Bullock majority proposals and they were not implemented.

In recent years there has been renewed focus on such arrangements due to European developments, in particular the introduction of the European Directive on Information and Consultation. While the Directive arguably represents a significant development in terms of promoting and enhancing work representation, some commentators (Bercusson, 2002; Scott, 2002) have suggested that the effectiveness of the Directive will be questionable given the UK Government's less than enthusiastic response to and support for the original proposal in November 1998. The Blair Government persisted in its reservations by blocking and weakening the

Directive during its drafting. It is argued that this has resulted in a watered down and potentially ineffective piece of legislation. Scott (2002: 2) argues that while there are a number of interpretations over the impact of the Directive, it may leave the UK with the worst of both worlds – neither decent works councils, nor strengthened unions. While this conclusion is open to debate it does highlight the challenges for representation in the UK posed by the Directive.

1.2 Legal perspectives and the Information and Consultation Directive

The importance of NER arrangements in the UK has been highlighted by recent initiatives from the European Commission. On 11 March 2002, a general framework for informing and consulting employees in the European Community was formally adopted and came into force on 23 March of the same year⁴. This Directive will eventually apply to undertakings or businesses in member states with at least 50 employees (or establishments with 20 employees or more), and will require them to inform and consult their employees in good time about issues directly affecting work organisation, job security and employment contracts regarding terms and conditions. More specifically, the new Directive will require employers under a legal obligation to inform their staff on a continuing basis about matters such as firm performance and strategic planning⁵.

While the Directive offers a substantial degree of flexibility in relation to the shape of information and consultation arrangements, some commentators have suggested that this proposal implies the establishment of national-level works councils in the UK, or at least in non-union establishments some form of non-union employee representation (Gospel and Willman, 2002; Gospel and Willman, 2003). For some member states, notably the UK, it will require organisations to have much more extensive employee consultation processes than are currently in place. Importantly,

⁴ Official Journal (Directive No.2002/14/EC).

⁵ The UK Information and Consultation of Employees (ICE) Regulations based on the Directive are being introduced in phases: firms with more than 150 employees were covered from 6 April 2005 to set up information and consultation procedures; firms with more than 100 employees but fewer than 150 have until 6 April 2007; and those firms with more than 50 employees but fewer than 100 will be included under the Directive from 6 April 2008.

the Directive requires workplace bodies comprising elected representatives and consultation to be structured in such a way that these representatives and their constituencies can influence management decisions.

The European Directive is a general framework for informing and consulting employees and goes well beyond communication or consultation arrangement *per se*. Clearly, the spirit of the Directive – if not the letter of the law – is to provide greater involvement in and influence on organisational decision-making processes. The European Commission in 1998 stated that the aim of the Directive was to not only keep employees informed of management decisions but, more broadly to provide as a social objective enhanced employee rights and increasing employee involvement over a range of enterprise issues⁶.

In November 1998, the European Commission proposed a Council Directive establishing a general framework for informing and consulting employees. The European Commission (1998) stated that:

This initiative is an essential step in completing the EU's social dimension and in achieving the creation of an adaptable, high-skilled and motivated workforce, because of the role of information and consultation in developing adaptability and contributing to increases in productivity.

The European Commission suggested that this proposal complements existing national and EU provisions and legislation, and seeks to 'fill the gaps and inadequacies that have been identified in the long process of consultation'. In other words, the proposal is seen by the Commission as building upon the 'piecemeal' nature of existing Community law, enhancing the impact of the existing directives on collective redundancies and safeguarding employees' rights in the event of transfers

⁶ A call for further EU action regarding consultation rights was made after the closure of the Renault plant at Vilvoorde in Belgium because the consultation processes were seen as inadequate under EU legislation. Following this case, the Commissioner responsible for social affairs and employment at the time, Pádraig Flynn, reaffirmed his commitment to extend employee rights. In June 1997, the Commission initiated a first round of consultations on the advisability of legislation based on the procedure outlined in the Social Policy Agreement annexed to the Maastricht Treaty (Gollan, 2001).

of undertakings. It was argued that creating a general framework for employee information and consultation at the EU level would make these legislative provisions more effective, comprehensive and workable. The Commission also highlighted that 'consultation between employer and employee is based on a dialogue and exchange of views', including decisions likely to lead to substantial changes concerning work organisation and contractual relations and an 'attempt to seek prior agreement on the decision concerned' (European Commission, 1998).

Importantly, speaking after the adoption of the proposal, the then Employment and Social Affairs Commissioner, Pádraig Flynn, stated:

This is an important day for social Europe, as, after a long phase of preparation and consultation, we are presenting an important tool in the search for greater adaptability in the workforce. The Commission's proposal provides a framework within which the Member States and the social partners can ensure an effective and balanced involvement of workers in a more positive and flexible approach to reorganisation and change, especially the modernisation of work organisation (European Commission, 1998).

On the date of the formal agreement and adoption of the Directive, the European Commissioner for Employment and Social Affairs, said: 'This Directive provides a 'fail-safe' protection for employees and, used intelligently, can be a modern business tool. Enlightened self interest is already driving companies to anticipate and manage change. Many businesses already involve employees in this. All businesses should provide a baseline level of involvement'.

Generally speaking, it can be argued that firms set up NER forms to provide a more structured basis for employee involvement and/or for purposes of union avoidance. Regardless of the motivations of employers in setting up NER arrangements, the UK Information and Consultation of Employees (ICE) Regulations (based on the

European Directive⁷) require effective consultation for all employees in an establishment covered by the legislation. Thus it is important that an assessment is made of the appropriateness of the existing NER and union arrangements in satisfying these requirements. Under proposed arrangements, the implications of not satisfying these requirements could be greater legislative intervention in management decision-making processes. Furthermore, not meeting these requirements could increase dissatisfaction towards management and result in lower productivity and performance and more industrial action.

This research will focus on the effectiveness of NER and union arrangements in representing the needs of employees in providing employee voice (see chapter two for definitions and meanings of employee voice) by the legitimate expression of collective aims of workers, and will assess the outcomes of NER and union responses to NER arrangements.

1.3 Management perspectives towards NER arrangements

Another recent development to renew the focus on NER arrangements has been the growing emphasis on employer-sponsored employee involvement arrangements which are aimed at direct engagement with workers in autonomous or semi-autonomous team approaches based on productivity enhancement and continuous improvement. The impetus for this development has been heightened global and domestic competition, information and skill-intensive production systems, shortened product and technology life cycles and a greater focus on employee expectations of involvement in workplace issues and satisfaction at work (Taras and Kaufman, 1999). This has resulted in leading firms developing and implementing new work systems with traditional command and control systems replaced by more decentralised decision-making, job restructuring through teamwork systems, and enhanced opportunities for employee involvement and participation.

⁷ Under current European requirements European Directives are required to be transposed into domestic national legislation before they become law.

Leading advocates have described such approaches in terms of high involvement management, high commitment management or high performance work systems under a mutual gains approach (Appelbaum and Batt, 1994; Guest, 1995; Kochan, Katz and McKersie, 1984; Lawler, 1986; Levine, 1995; Levine and Tyson, 1990; Wall and Wood, 2005; Walton, 1985; Wood, 1996)

Taras and Kaufman (1999: 2) suggest that for many medium and larger-sized firms employee participation and involvement is representational in nature for reasons of cost and efficiency. While traditional collective bargaining arrangements are an avenue for such employee involvement, many employers 'have neither the basic inclination nor economic incentives to recognise and bargain with trade unions, nor do the majority of workers express a desire for union representation' (p.2).

Kaufman and Taras (1999: 2) go on to state:

As a consequence, interest in and experimentation with alternative non-union representational structures has proliferated in recent years among the management advocates of industrial democracy. By promoting greater opportunities for employee voice in non-union situations, these representational groups not only serve management interests in improved productivity and communication, but also ensure that employee interests in equitable terms and conditions of employment are factored into management decision making.

While this research is concerned with non-union representation rather than more direct forms of employee involvement and consultation, it examines more direct forms when they are complementary to NER arrangements.

Importantly, it is suggested that NER arrangements are an integral element in providing the diffusion of information provision and employee involvement through consultation as a means to enhance organisational performance. According to Taras and Kaufman (1999), the discussion of NER by its advocates is embedded in the

rhetoric of HRM. Opponents view NER arrangements as simply company-initiated 'subterfuge to pacify and deceive workers, who might otherwise seek union representation' (Taras and Kaufman, 1999: 16). As such, they describe NER arrangements as 'brittle' and unions as 'durable and independent'.

Alternatively, proponents view NER arrangements as a means to foster 'genuine labor-management harmony, thus NER arrangements are cooperative compared to unions which are considered adversarial' and encourage a 'singularity of purpose' between workers and managers for the good of the common enterprise, or a 'mutuality of interests' based on a win-win outcome as part of the strategic HRM agenda (Taras and Kaufman, 1999: 16).

However, when NER is viewed through the industrial relations lens (rather than the HRM agenda) a number of issues can be identified and exposed. In essence, industrial relations academics and commentators assume that the interests of workers and employers are inherently different or mutually exclusive of one another. These differences and conflicts are resolved through the use of collective bargaining with an independent representative agency representing the interests of workers (i.e. trade unions) and the use of conflict resolution mechanisms and processes (i.e. conciliation and arbitration). Under this pluralistic perspective, the workplace is viewed in terms of power bargaining and conflict resolution. It is suggested by some commentators that the capacity of NER arrangements to produce 'win-win' outcomes is constrained and limited due to the lack of effective power and capacity to achieve employee outcomes (Taras and Kaufman, 1999).

For some firms, NER arrangements are part of a progressive vision of employee relations (Taras and Kaufman, 1999: 9) embraced both by early welfare capitalist philosophies (Jacoby, 1997) and by a modern high performance workplace focus. Taras and Kaufman (1999: 9) suggest that firms become committed to NER 'because of its value to the development of harmonious relations with workers, and the belief that it has the capacity to deliver tangible benefits to the firm and its workforce (although these benefits appear difficult to quantify)'. Moreover, in unorganised

workplaces little is known about why employees represented by non-union arrangements reject or show little interest in trade union representation. Examples in North America have included Imperial Oil (Taras, 2000), which was coined 'fortress Imperial' due to employees' reluctance to embrace trade unions, and Delta Airlines (Kaufman, 2003). Jacoby (1997) highlights this within the context of 'welfare capitalism' where comprehensive employee involvement and people-centred programs were able to reduce the effect of union organising campaigns.

Thus NER arrangements can also be perceived as organs aligning common interests of employees and employers, while unions can be perceived as more independent entities. As such unions can be seen as operating in separate domains, in pursuit of agendas that sometimes conflict with those of employers. This line of argument would suggest that NER arrangements are complementary to unions although through co-existence may develop interdependences with union arrangements.

Taras and Copping (1998) have suggested that NER traditionally involved three themes: efficient production and quality improvements; workplace democracy and representation; and removal of incentives for workers to join trade unions. NER forms may range from very structured arrangements with regular meetings of elected worker delegates to less formal forums with employees meeting line managers on an *ad hoc* basis.

The research in this thesis endeavours to determine whether NER and unions can be regarded as continuum or as a separate domain (Kim, 2004). The continuum argument posits that NER structures and unions pursue similar goals by satisfying similar needs of employees. The separate domain thesis (Kaufman, 2000) states that NER aligns workers with management goals, while unions have different goals which may diverge from employer interests. Kim's (2004) research would also suggest that employees perceive unions and NER arrangements as satisfying different types of employee needs, thus are seen as performing different functions.

1.4 Research Questions

This thesis will attempt to address a number of research questions:

- First, what are the management strategies towards and objectives of NER arrangements?
- Second, are NER arrangements a complement to union representation or do they act as a substitute for union-based voice arrangements?
- Third, how effective are NER and union arrangements perceived to be at representing the interests of and providing voice for employees?
- Fourth, what are the perceived workplace outcomes of both NER and union-based voice arrangements?
- Fifth, what are the union responses and approaches towards NER arrangements?
- Sixth, what are the potential implications for employers, unions and NER-based voice arrangements in the future?

These questions have several consequences for the research outcomes. It is envisaged that they will provide a framework for examining NER arrangements in terms of independence, autonomy, and resources. Moreover, how these factors influence employee perceptions of trust in management, and levels of influence and power in the decision-making processes will also be explored. The research questions also allow an analysis of the different employment relationships, such as those between employees and management, between employees and their representatives, and between the representatives and senior management. The thesis will also explore the ‘want’ and ‘have’ gap between expectation and satisfaction based on three dimensions – distributive issues, employee advocacy issues and mutual interest issues.

In attempting to address the research questions this thesis will examine the main theories concerning non-union employee representation. It is argued by some commentators that non-union employee representation arrangements are union

avoidance mechanisms either by intent or by effect – workers are less likely to unionise because the perceived instrumentality of joining a union is lowered. Such arrangements – it is maintained – exert strong inhibiting factors on the process of unionisation due to the fear of reprisal by management, or alternatively good management practices render unions unattractive and unnecessary. On the other hand, if employers reduce wages and conditions (voluntarily or involuntarily due to labour or product market conditions or pressures for unit labour cost reductions) to a level lower than that in more unionised plants or workplaces, they create a condition for union activity and presence. Thus, the longevity of non-union employee representation is said to be dependent on matching or exceeding the achievements of union arrangements. This thesis also examines the drivers for unionisation and assesses the inhibiting and facilitating conditions that have a moderating effect on employees joining unions.

1.5 Structure

The structure of the thesis is as follows:

Chapter Two explores the concept of voice, and how and why non-union voice arrangements are introduced in firms. Management behaviour in terms of strategies and attitudes towards voice will also be examined. The next section examines developments in voice arrangements in general and NER structures in particular. The current evidence in the UK is reviewed, examining existing survey and case study research into non-union employee representation and briefly highlighting the available research and debates on consultation and representation. In particular, the scope, structure and presence of NER arrangements in the UK are examined, outlining some important themes from the existing research into voice and NER arrangements. The following section looks at issues of power and influence, autonomy and independence within the context of NER arrangements. Finally, a summary of the main issues is presented.

Chapter Three explores the current debates concerning NER arrangements from an

international context. The chapter reviews the current literature and debates around three core themes: First, management strategies towards NER arrangements and if such arrangements are used by management as a complement or substitute for union representation; Second, the perceived effectiveness and workplace outcomes of NER arrangements. This section also explores if perceived effectiveness and the likely outcomes have any relationship with management's reasons for establishing NER arrangements, or are they unimportant; Third, conditions of unionisation and union responses to NER voice arrangements. In particular, are trade unions likely to have more influence if they work with and 'colonise' NER arrangements, or are NER arrangements a threat to their existence and thus act to marginalise such bodies. Finally, having reviewed this debate the chapter concludes by developing a framework of management strategies towards NER arrangements and union responses to such arrangements.

Chapter Four sets out the methodological approaches adopted in this research and presents a rationale for using such approaches. The empirical research was conducted over a period of approximately seven years (1998 to 2005) and involved case study analysis, using interviews, company documents, employee surveys, focus groups and observation. A fundamental feature of the research design was to use an approach allowing the rich evidence and complex issues to emerge from such dynamic processes (Dundon and Rollinson, 2004). The emphasis on rich and detailed information in the case study approach by utilising qualitative and quantitative methods can be useful in explaining social processes and outcomes. It can also be argued that a combination of methods provides the best means to understand the 'delicate and intricate interactions and processes occurring within organisations' (Hartley, 1994: 209) as a means to triangulate and thereby improve validity in analysing the results. While the interviews and observation provided explanations for why certain policies and procedures were adopted, the questionnaire gave insights into employee perceptions and attitudes of their effectiveness and outcomes.

Chapter Five examines NER structures in the UK by assessing management strategies, processes and practices of NER arrangements in nine organisations –

Sainsbury's plc (hereafter referred to as Sainsbury's); John Lewis Partnership; HP Bulmers Ltd (hereafter referred to as Bulmers); Grosvenor Casinos; Ciba Specialty Chemicals; Panasonic (Matsushita) UK, Eurotunnel (UK) (hereafter referred to as Eurotunnel), News International Newspapers (hereafter referred to as News International) and South West Water. The nine organisations were selected to provide insights into the strategies of management in establishing NER structures and to review the processes and practice of such arrangements. The nine cases were also selected on the basis that either their structures were well established (thus capable of showing their potential effectiveness), or were recognised as leading companies in their field or market (examples of good practice behaviour) and had recently adopted NER arrangements as part of their industrial relations strategy. These nine organisations have also provided a means to further explore management strategies towards NER arrangements in light of formal union recognition procedures as part of the UK *Employment Relations Act 1999* and the anticipated European Directive on information and consultation.

Chapter Six examines the environment of what would appear to be a widening 'representation gap' developing in many organisations. There has been considerable discussion about the effectiveness of NER structures as communication devices and mechanisms for employee involvement, or as a substitute for unions in the collective bargaining process. The underlying debate centres on whether NER forms make trade unions unnecessary, or whether NER forms have a different but complementary role to that of unions at the workplace. This thesis will attempt to address these issues by examining the experience of non-union and union representation arrangements at HP Bulmers, Ciba Specialty Chemicals, Eurotunnel, News International and South West Water (SWW). These organisations were chosen to provide insights into the strategies of management in establishing NER structures and union responses to such arrangements, and to shed some light on the outcomes and implications for management, trade unions and employees of these arrangements.

While it can be argued that firms set up NER arrangements to provide a more

structured method for employee involvement and/or for purposes of union avoidance, this chapter focuses on the effectiveness of union responses in providing voice through bargaining, consultation and representing the needs of employees. As a means to explore these issues, a review of union strategies and tactics of 'colonisation' and 'marginalisation' of NER arrangements is undertaken. Issues of industrial relations instability, and management and union intentions are also explored by reviewing representation arrangements before and after union recognition at Eurotunnel and Ciba Specialty Chemicals and examining increased union influence on the Bulmers Employee Council (EC), News International Staff Association (NISA) and SWW Staff Council (SWWSC).

Chapter Seven further explores the Eurotunnel case study. Despite the rising importance of NER, few studies have examined employees' commitment to and participation in union and NER arrangements in the same workplace. The chapter examines the interplay between non-union and union representative arrangements at Eurotunnel (UK) and assesses their effectiveness in representing the needs of employees over a five-year period. This section evaluates the results of two employee surveys at Eurotunnel – one carried out before union recognition in 1999 and another conducted after union recognition at the end of 2002, assessing the views of non-union employees and union members towards trade unions and the Company Council (CC). Importantly, the chapter examines the pros and cons of both NER and union arrangements. It also gives some indication of the important representation and consultation issues from the perspective of employees at Eurotunnel generally, and of the effectiveness and interplay between union and non-union representative structures in the organisation.

Chapter Eight synthesises the major issues surrounding NER arrangements and the implications for public policy are examined. In particular, this chapter highlights the perceived effectiveness of both NER arrangements and the trade unions in providing a more effective means of representation and consultation in terms of management relations, employee participation and the quality of communication and consultation. Finally the chapter also assesses the future implications of this research for re-

shaping workplace representation and outlines the research limitations and strengths of the research in light of current developments in workplace representation. The research also highlights the potential impact of the Information and Consultation of Employees (ICE) regulations for management strategies and union responses to NER. In conclusion, the chapter explores the challenges of employee representation for employers, unions and government policy regarding the structures needed for effective consultation and employee representation.

CHAPTER TWO

VOICE AND NON-UNION EMPLOYEE REPRESENTATION: STATE OF PLAY

2.1 Introduction

The first section of this chapter explores the concept and meaning of voice, and how and why non-union voice arrangements are introduced in firms. The next section examines developments in voice arrangements in general and NER structures in particular. It examines NER by reviewing current survey research and examining the scope, structure and practices of NER voice arrangements in the UK. The following section examines issues of power and influence, autonomy and independence and highlights certain theoretical insights as a means to explain representation arrangements. Finally, an overview of the main issues is presented.

2.2 Definitions and meanings

Employee Voice

A number of researchers have attempted to define voice and as such there are variations between definitions. Bryson (2004: 220) defines voice in terms of the possibility of two-way communication between management and employees, thus giving employees the opportunity to voice their wishes and concerns, and to voice them regularly. According to Dundon and Rollinson (2004: 52) in simple terms 'employee voice can be described as methods that provide for employees to have a say in matters that affect them'. Greenfield and Pleasure (1993: 193-4) define workers 'voice' as a communication that has the power to persuade and is a legitimate expression of the collective aims of those workers.

Moreover Dundon *et al.*'s (2004:1149) research into the meaning and purpose of

employee voice suggests that it is best understood as a complex and ‘uneven set of meanings and purposes with a dialectic shaped by external regulation, on the one hand, and internal management choice, on the other’. They concluded, ‘that the degree to which voice practices are embedded in an organisation is much more important than reporting the extent of any particular individual or collective schemes for employee voice’ (2004: 1149).

Prosser from the Transport and General Workers Union (T&GWU) argues that ‘collective voice achieves what the lone voice could never do: it humanises and civilises the workplace’ and stating that collective representation is the foundation of a partnership relationship that brings positive benefits for business’ (Prosser, 2001, as cited in Dundon *et al.*, 2004: 1154). McCabe and Lewin (1992) define voice in two ways: first, as an expression of grievances at work by employees to management, and second, as participation and involvement of employees in the decision-making processes.

After reviewing the variety of meanings Dundon *et al.* (2004: 1152) identify four different manifestations of voice. First, voice can be articulated as *individual dissatisfaction* that is aimed at a specific problem or issue with management. Second, voice can be an expression of *collective organisation* which is a countervailing source of power to management (for example through trade unions). Third, there are voice arrangements which contribute to *management decision-making* and are concerned primarily with efficiency and productivity improvements (often coupled with high involvement management and high commitment initiatives). Fourth, another form of voice can be expressed through *mutuality* of interest in the form of an employee-employer partnership aimed at securing long-term viability and sustainability for the organisation and its employees. Overall, the application of and rationale for voice at the workplace may be based on economic, moral/ethical or pragmatic grounds.

In light of the literature, two issues concerning voice can be highlighted: first, the way employers articulate employee voice in the light of regulation, and second the

linkages between employee voice and employee satisfaction and its perceived effectiveness.

Regarding the articulation of voice in light of regulation, Dundon *et al.* (2004) suggest this is dependent on how deeply the arrangements are embedded into the organisation. This goes beyond the frequency of a set of voice practices or the number of arrangements. Rather, it implies a systematic alliance and alignment of purpose and practice of voice arrangements covering issues of concern with employer and employee outcomes. Dundon *et al.* (2004: 1167) also argue that the depth of consultation and negotiation both in distributive and integrative terms incorporates a broader set of strategic policies.

The second issue of the link between employee voice and employee satisfaction and perceived effectiveness is problematic, given that the actual contribution of a voice mechanism to various outcomes may be diffuse and complex, and it is thus difficult to isolate its impact. Importantly, this may also rely on the extent to which a voice mechanism is embedded in an organisation. As Dundon *et al.* (2004:1167) suggest, consequently we are largely dependent upon management's and employees' assessments of the perceived impact of voice on attitudes and behaviour at work. As Dundon *et al.* (2004:1167-1168) also argue, 'should assessments be made in terms of merely having a voice (ie the process) or in terms of how things may be changed due to voice (ie the outcomes). ...Broadly speaking, employee voice is primarily a loose and imprecise notion that was seen to contribute to competitive advantage but also as part of a general and broader bundle of human resource practices'.

Finally, Dundon and Rollinson (2004:53) argue that employee voice mechanisms are often defined according to management's own interpretations of what the expression of voice is taken to mean, thus shaping the prevailing climate in an organisation and the extent of influence which employees feel they have on matters that affect them.

In this thesis, voice is defined as the means not only to communicate or consult but to potentially influence the decision-making process. However, it could be argued that

influence provides the foundation for power and the expression of that power through industrial ‘muscle’, and consequently it is acknowledged that voice and influence are linked, but are nonetheless different constructs with different purposes.

NER voice arrangements

More specifically, in structure terms NER voice arrangements can take a number of forms in the UK with the precise structure and level of the NER arrangements varying considerably. They may take the form of peer review panels, safety committees, works councils, consultative councils/committees or joint consultative committees. In addition, the official terminology varies between jurisdictions and even among research surveys. But in reality the variations in terminology do not equate to differences in function. This lack of commonality between NER structures are a result of the absence of prescriptive legal requirements and definitions associated with NER structures in the UK.

Due to the complexity of and the variations in NER arrangements precise definitions are problematical. However, five elements can be identified. First, only employees in the organisation can be members of the representative body. Second, there is no or only limited formal linkage to outside trade unions or external employee representative bodies. Thirdly, a degree of resources is supplied by the organisation in which the employee representative body is based. Fourthly, there is a representation of employees’ interests or agency function, as opposed to more direct forms of individual participation and involvement⁸. Finally, such structures represent all employees⁹ at the establishment or workplace.

In addition, the range of issues considered by a non-union form of representation varies considerably, and is often dependent to some extent on its level and structure in the organisation (i.e. ranging from workplace/work zone safety committees to

⁸ Other forms of direct participation may include TQM teams, self-managed work teams and quality circles. Importantly, these forms of direct participation are not representational in nature as they include every worker in the work group. Research from the European Works Council Study Group has suggested that direct employee involvement is lower in organisations with formal representative structures. This may imply that direct and indirect employee involvement are to some extent acting as substitutes (Fenton-O’Creevy, Wood and Callerot 1998: 24).

⁹ These structures may include union members where present.

company-wide joint employee-management structures) (also see Gollan, 2000: 410-411). Some structures may also have management representation (often as chair) and involve union representatives.

In more conceptual terms Taras and Kaufman (2006: 515) define NER voice arrangements as:

...one or more employees who act in an agency function for other employees in dealings with management over issues of mutual concern, including the terms and conditions under which people work. Selected workers' representatives meet with managers, usually in committee-type structures in which communication and exchange of thoughts is fostered. Representatives usually are internal to the company and serve in leadership roles for limited terms. NER is based on a quid pro quo between managers and workers. In setting up such plans, management expects that the plans will encourage cooperative, advisory, and consultative modes of interaction so that friction points between management and employees can be lessened or eliminated. In taking on a representational function, workers expect that NER will provide a meaningful forum for employee voice, a capacity to influence managerial decision-making, and recognition by managers that workers have a right to respectful treatment.

2.3 Scope and presence of NER voice arrangements

Using data from the British 1998 Workplace Employee Relations Survey (WERS98), the extent of NER forms, such as joint consultative committees (JCCs) can be assessed. In 1998, 20 per cent of non-union workplaces in the UK reported the presence of NERs at workplace level and 27 per cent of workplaces did not have a workplace-level committee but had a committee that operated at a higher level in the organisation (Cully *et al.*, 1999). This is in contrast to the first findings from the

2004 Workplace Employment Relations Survey (Kersley *et al.*, 2005), which indicated 14 per cent of workplaces with 10 or more employees had a workplace-level committee, and 25 per cent had a higher level committee. Overall, two-fifths (or 42 per cent) of all employees worked in a workplace with a workplace-level joint consultative committee compared with 46 per cent in 1998 (Kersley *et al.*, 2005: 14).

Evidence from WERS98 has indicated that only 11 per cent of workplaces had a representative committee at the workplace as well as at a higher level in the organisation (Cully *et al.* 1998: 12). This would suggest only limited adoption of an integrated collective consultation strategy in UK organisations, with such structures either located at workplace level dealing with a narrow range of workplace issues, or with consultation structures located at higher levels of the organisation far removed from workplace involvement (also see Cully *et al.* 1999).

Bryson's (2004: 214) analysis of successive Workplace Industrial Relations Surveys of workplaces with 20 or more employees suggests that between 1984 and 1998 the proportion of workplaces with union only voice arrangements fell from 24 to 9 per cent, while the proportion of workplaces with solely direct voice mechanisms rose nearly threefold, from 11 to 30 per cent.

This is significant given the overall reduction in collective industrial relations (Cully *et al.*, 1998: 28) and the widening of what has been termed the 'representation gap' (Freeman and Rogers, 1993: Towers, 1997). In particular, this was particularly evident in the fall in union recognition from 66 per cent in 1984 to 45 per cent in 1998¹⁰ (Cully *et al.*, 1998: 15). In addition, there was an increase in the number of workplaces without union members, from 36 per cent in 1990 to 47 per cent in 1998. It has also been suggested that even where union recognition and union-employer agreements were secured, there was a 'hollowing out' of worker representation with half of all workplaces with worker representatives in the WERS98 survey having no negotiations over any issues (Cully *et al.* 1998: 110). It has been suggested that this transformation 'points to many trade unions "withering on the vine", and where

¹⁰ Workplaces with 25 or more employees.

traditional industrial relations procedures remain in place they increasingly come to resemble a “hollow shell” (Bacon and Storey, 2002: 408; Hyman, 1997).

Millward, Bryson and Forth (2000) compared the findings of the previous workplace surveys for the period from 1984 to 1998. A fundamental change over the period was the proportion of employees *without* access to active consultative structures through “functioning consultative committees” (committees that regularly meet and discuss important issues at the workplace). Millward, Bryson and Forth (2000) paint a bleak picture for such institutions and suggest that these committees may actually be declining, in step with the fall in trade union membership over the period. Consultative committees were present in only a quarter of workplaces in 1998, compared with just under a third in 1984. The proportion of employees in workplaces with a consultative committee also fell from 50 per cent to 43 per cent over the same period.

This research also highlights the importance of the complementary presence of a trade union and consultative committees at the workplace. It suggests that workplaces that do not recognise a union are significantly less likely to have a consultative body. Only a third of non-union workplaces had a joint consultative structure compared to around three-quarters of workplaces where a trade union is recognised. In addition, the findings suggest that consultative committees are not enduring institutions of employee representation.

Between 1990 and 1998 just over one-in-ten workplaces operating through this period discontinued their consultative committee. However, analysis of successive workplace surveys in the series from 1984 to 1998 in workplaces with 25 or more employees suggests that the proportion of employees without access to voice mechanisms remained relatively stable at around 17 per cent (Bryson, 2000). This study also highlighted the increase in direct forms of employee involvement and participation in UK workplaces. During the period from 1984 to 1998 the incidence of representative-only structures halved, while direct voice channels increased threefold (see Table 2.1).

Table 2.1 Changes in employee voice arrangements from 1984 to 1998 (percentage)

Type of voice arrangement	1984	1990	1998
Union only ¹¹	24	14	9
Union and non-union	43	39	33
Non-union only ¹²	17	28	40
No voice	16	19	17
Representative voice only	29	18	14
Representative and direct voice	45	43	39
Direct voice only	11	20	30
No voice	16	19	17
Weighted base	2,000	1,997	1,991
Unweighted base	2,019	2,059	1,920

Source: Bryson (2000) adapted from Millward, Bryson and Forth (2000), Tables 4.13 (p. 122) and 4.15 (p. 127) Base: all workplaces with 25 or more employees

More challenging for the future of trade union arrangements are the attitudes of employers. The WERS98 findings also indicated that only around a third of managers were in favour of employees being union members (Cully *et al.*, 1998:87). This is significant given that the WERS98 survey findings also suggest that management attitudes crucially affect union presence and effectiveness in the workplace (Cully *et al.* 1998: 19).

Millward, Bryson and Forth's (2000: 69) review of the WERS98 data also suggests that while the proportion of workplaces in the survey where management gave employees no information fell from 22 per cent in 1990 to 16 per cent in 1998 with a greater proportion of managers providing information on financial matters, 'there remained a substantial minority of employers divulging little information to their

¹¹ Union voice is defined as one or more recognised trade unions or a joint consultative committee meeting at least once a month with representatives chosen through union channels.

¹² Non-union voice is defined as a joint consultative committee meeting at least once a month with representatives not chosen through union channels, regular meetings between senior management and the workforce, briefing groups etc.

workforces' with the unionised workplaces twice as likely to provide such information as non-union workplaces.

Millward, Bryson and Forth (2000) research also posits that while formal NER voice mechanisms help to promote communication in the workplace and are more effective in enhancing responsiveness of management to specific employee issues, they also appear less effective than unions at promoting fair treatment for employees in general.

The first findings of WERS 2004 would also point to an increase in direct communication in the private sector. Some 82 per cent of managers in the private sector held meetings with their entire workforce or team briefings in 1998, compared with 90 per cent in 2004. There was little change in the public sector during this period. The findings from WERS 2004 first findings also indicate that only 34 per cent of all employees in workplaces with 10 or more employees were union members and 64 per cent of workplaces had no union members. Importantly, union members made up a majority of the workforce in only 18 per cent of all workplaces in the survey (Kersley *et al.* 2005).

2.4 Structures and practices of NER voice

As Butler (2005: 273) notes, qualitative data on NERs is limited and piecemeal, consisting largely of a handful of isolated case studies (see below), along with some impressionistic conclusions. Given the decline in trade union coverage, Millward *et al.* (2000: 108) highlight the importance of NERs by stating 'it is now ever more pertinent to examine the incidence of other forms of employee voice'. However, Butler (2005: 273) argues that the incidence *per se*, 'tells us little if anything about the dynamics and outcomes of the voice process. Ultimately there is a need for in-depth qualitative data to unravel such issues'.

Previous case study research in the UK details the composition, structures and processes involved in NER arrangements (Cressey, 1985; Cressey, Eldridge and

MacInnes, 1985; Flanders, Pomeranz and Woodward, 1968; Gollan, 1999; IDS, 1989; IDS, 1994; IDS, 1995; IDS, 1997; IDS, 1999; IDS, 2005; IRS, 1996; Littlefield, 1996; McLoughlin and Gourlay, 1994). A review of the case study research indicates that in a large majority of firms the main aim of NER arrangements was to increase consultation and communication, with few having a bargaining role (in-depth discussion of management strategies towards NER is provided in Chapter Three). It would seem from their stated objectives that management view NER structures solely as a means to increase company productivity and efficiency, and to promote an understanding of company policy rather than as an effective forum of collective representation for the interests of employees rather than management.

The most important link between members of NER arrangements and those who are being represented is the process and procedures for appointing representatives. While the literature would suggest that these NER structures have some formal procedures, with most having secret individual ballots organised by the personnel departments for terms of up to three years, others had representatives appointed by management. The majority of companies operate a qualification period for membership of the committees (usually six months to two years' service with a minimum age requirement), although this is not always enforced. The majority also exclude employees involved in disciplinary procedures.

Another important issue regarding the representativeness of committee members is the interaction of the views of those represented and the representatives themselves. The election process is the most obvious form of interaction, but other forms are less evident. While few companies address this issue, some companies allow representatives 'reasonable time' away from their places of work to seek the views of employees. In addition, shift employees who attend meetings are often not paid, nor are their travel expenses reimbursed. Moreover, few companies provide induction programmes involving training in communications, interviewing, time management and business for employee representatives.

A review of case study research in the UK by Beaumont and Hunter (2003); Bonner and Gollan (2005); Broad (1994); Butler (2005); Cressey *et al.* (1985); Dietz, Cullen and Coad (2005); Dundon and Rollinson (2004); Gollan (2000, 2001, 2002a, 2003b); Kirkbride (1986a, 1986b); Lloyd (2001); McLoughlin and Gourlay (1994); Terry (1999); and Watling and Snook (2003) have reinforced the finding that for a large majority of non-union firms the main aim of collective consultation is to increase information and communication, rather than negotiation or bargaining. Thus NER arrangements appear to have limited ability to influence wages policy, strategic issues and organisational change. Most of these organisations see non-union representation and consultation as providing a more effective channel of communication than unions, stressing more 'harmonious' and less conflictual relations with the workforce, thus building and encouraging an atmosphere of mutual co-operation.

An important issue regarding the representativeness of NER arrangements is the number of representatives per employee and the frequency of meetings. Previous case study research also highlighted considerable variation in the range of employees covered by such arrangements. Committees were either based on an actual area in the organisation or on function, or a combination of the two. Some included management representatives as well as shopfloor employees.

In these studies, committees vary from around 10 to 12 employees per representative to between 200 and 500 plus. These committees have different levels of representation (workplace, division and company) with the average being around 40 to 60 employees per representative. This variation in the ratio of employees to representatives would suggest considerable differences in terms of their ability to effectively represent the views of employees.

Most committees have a mix of employee and management representatives with the majority of committee members representing employees. However, most committees are chaired by senior management, usually the managing director or senior divisional director, who has the authority to veto decisions taken by the committee. In addition,

some committees can only make recommendations to management but not formal decisions. Frequency of meetings in the sample ranges from once a month to twice yearly, with the average being around every two months. Some companies also make provision for special meetings where necessary.

The case studies reveal a further area of concern – the attempt to distinguish between –bargaining and consultation. Some have suggested these two aspects go to the core of the effectiveness of such bodies (Terry, 1999), while others have suggested that NER arrangements may have many different functions, purposes and roles, with negotiation and bargaining a relatively insignificant part of the process (Gollan, 2005). Findings from the case studies would suggest that in reality the negotiated agreement then took the form of a recommendation to corporate management or, as previously mentioned, the chair (most often senior management) had the right of veto. Notably, there was an absence of matters relating to financial, investment and company strategy. It must be questioned whether this form of ‘consultation’ and ‘negotiation’ would be able to exist in a unionised environment.

Dundon and Rollinson’s (2004: 157) case study research in four non-union firms indicated that all the NER arrangements in their study were designed and controlled by management and where employees could contribute, their contributions were limited to those issues deemed ‘appropriate’ by management. They also highlight that on more substantive issues (such as wages or conditions), ‘only a small number of employees in all these case studies were satisfied with the arrangements to speak to their employer’ (Dundon and Rollinson, 2004: 157).

The research also reveals that few organisations allowed consultation over individual grievances, although there were some organisations which encouraged representatives to accompany individual employees through grievance or disciplinary procedures. This lack of representation over individual grievances would therefore not signify an alternative to the grievance handling role of a trade union. In addition, many companies use some form of external mechanism for resolving disagreements. It must then also be questioned whether these arrangements have any influence

without the ability to impose sanctions on organisations in the interests of those represented (as is the case with trade unions). This would appear to undermine the effectiveness of these committees in this respect.

Additional research from the WERS98 survey by Millward, Bryson and Forth (2000) posits that while formal non-union voice mechanisms help to promote communication in the workplace and are more effective in enhancing responsiveness of management to specific employee issues, they also appear less effective than unions at promoting fair treatment for employees in general.

Oxenbridge *et al.* (2001: 19) suggest that the issues most commonly discussed by existing consultative committees in both unionised and non-union firms relate to organisational change, including the implementation of restructuring, redundancy, short-time working programmes, harmonisation of terms and conditions following company mergers and acquisitions, and the transfer of workers after winning outsourcing contracts. The researchers argue that 'the growth of consultation over such issues may offer an explanation as to why many employers were planning new, formal committees' (Oxenbridge *et al.*, 2001: 20).

From this review of the research it would appear that NER arrangements have been viewed primarily as a means of increasing company productivity and efficiency, and promoting an understanding of company policy rather than as a forum of collective representation for promoting the interests of employees. As such two major themes appear to underlie these conclusions – power and influence, and the level of autonomy and independence of NER arrangements.

2.5 Conceptual issues

From the above discussion of the research two major themes can be identified: one, the power and influence of NER voice arrangements; and two, their level of autonomy and independence from management. These themes are examined within the context of NER arrangements.

2.5.1 Power and influence

It has been suggested by Butler (2005) that one of the more neglected areas in the case study literature on NER arrangements is a systematic analysis of the concept of power. As Butler (2005: 275) states, 'notwithstanding the centrality of power to various facets of the employment relationship, the term remains poorly articulated'. Martin (1992: 2) notes, 'orthodox industrial relations scholars have recognised the central importance of power, but not subjected it to conceptual analysis' (also see Butler, 2005: 275).

According to Butler (2005), although less formally specified, power is an implicit theme within employee representation. However, in these instances the focus is more centrally on the inability of NERs to gain concessions via formally articulated grievances (ie observable rather than latent conflict). For example, Broad's (1984) study of 'DenkiCo' raises issues relating to the organisation of work. Similarly in Lloyd's (2001) study of 'Aeroparts', changes to shift patterns, work organisation and the distribution of overtime are 'bulldozed' through by management (Lloyd, 2001: 322). A number of studies have suggested that the ability of NER forms to vigorously and proactively pursue a specifically employee set of goals is problematic (Butler, 2005: 274). Overall these studies would suggest that NERs have little influence in curbing managerial power rendering attempts to modify or frustrate the managerial agenda useless.

Poole (1978) is one theorist who has attempted a formal conceptualisation of power. His approach focuses on 'manifest power'. According to Butler (2005), operationally 'manifest power' can be captured through the development of the dimensions of the 'scope' and 'range' of issues influenced (or controlled) by the representative agency. Scope may be viewed as a gradation of potential involvement ranging from negotiation at one extreme, down to the mere right to information at the other, with consultation occupying the intermediate territory. Range can be seen conceptually as a hierarchy, at the top of which are the traditional areas of managerial prerogative e.g. investment, job

security and the pace of work. The setting of wages is customarily viewed as occupying an intermediate position, while more integrative issues such as hiring and training occupy the bottom rungs. Butler (2005) suggests that the intersection of these vectors can be used to provide a broad index of visible or manifest power.

Under voluntarist industrial relations systems an employer may dissolve or severely restrict employee involvement and influence over firm decision-making structures by channelling the power and activities of employee representatives into narrow roles (Hammer, 1997) (in the case of direct participation, narrowing the 'domain' and scope of issues).

The evidence would also suggest that voice arrangements and monopoly power mechanisms such as unions may be straightforward to acknowledge but in many other situations it is difficult to 'disentangle the separate contributions of voice and monopoly power because the two often act together to reinforce each other' (Verma, 2005).

Interestingly, Dundon and Rollinson's (2004: 156) research into non-union firms indicated an inverse relationship between the presence of a set of non-union voice arrangements, and employees' perception of the utility and effectiveness in influencing the decision-making process. As an example, a firm in their study – Water Co. – lacked any formal voice arrangement, yet employees reported a high degree of satisfaction regarding opportunities to express their voice and to influence management. However, in other firms – Chem Co. and Delivery Co. – which had a range of voice arrangements, a significant number of employees indicated dissatisfaction over such arrangements in terms of their effectiveness and influence over the decision-making processes.

2.5.2 Autonomy and independence

According to Butler (2005), in its simplest form autonomy relates to the sovereignty of the individual, or in a collective context, 'the capacity for self government – agents are

truly autonomous if their activities are truly their own' (Blackburn, 1996: 31). Importantly it can also be said that elected representatives may be seen as lacking in autonomy, if their will is under the control or manipulation of another (Butler, 2005).

While autonomy can be seen simply as freedom from external constraints, Butler (2005) argues that conceptually autonomy can be understood along two dimensions. The first concerns the degree of autonomy a representative structure has in terms of the extent to which the terms of reference, constitution, and overall representative framework are determined by employees and/or their representative agents. Secondly, consideration is given to the autonomy of the resultant representative process and agenda. Butler (2005) further suggests that theoretically this mode of autonomy may be further sub-divided. One issue is whether representative agents are subject to explicit and/or implicit pressures that function as signposts curbing and/or sanctioning specific modes of behaviour. Butler (2005) also argues that this is linked to concepts of other latent or potential aspects of power and their actual realisation (Poole, 1978: 19). Research would also suggest that individuals' perceptions of justice are influenced by the amount of control and autonomy they have over both processes and outcomes (Folger, 1986) based on the psychological beliefs of fair treatment of oneself (also see Hammer, 1997: 13).

Gollan's (2002b) work on News International is significant in questioning the independence of NER structures. This analysis drawing on Kaufman and Kleiner's (1993: 325) principal presupposition that such 'employer sponsored structures' are inherently flawed, given that they are usually created and controlled by management. As Butler (2005: 274) has suggested, this theme is reflected in the wider literature, where much of the data is demonstrative of an absence of institutional distance between delegates and their managerial sponsors, amid characteristic concerns that representatives are 'in the pockets of management' (Watling and Snook, 2001: 8). Given their questionable autonomy, the extent to which these institutions are free to formulate both policy and strategy independently is hence problematic. Interestingly, there is a notable tendency for NER arrangements to prove somewhat unstable, with the lack of independence serving to undermine the legitimacy of these institutions.

Indeed in a number of the studies (Bonner and Gollan, 2005; Broad, 1994; Gollan, 2001; Watling and Snook, 2001), NER forms are eventually ousted and superseded by trade union recognition agreements.

2.6 Overview

In summary the research reveals three main areas of concern: first, the attempt to distinguish between negotiation or bargaining and consultation; second, the ability of NER forms to resolve conflict and 'deadlocks'; and thirdly the degree of independence NER forms have from management influence. It is argued that these three factors go to the core of the effectiveness of such bodies. Although a minority of the NER arrangements were allowed a degree of consultation, there were few instances where pay and conditions were negotiated. On the other hand, some researchers have suggested that NER may have many functions, purposes and roles, with negotiation and bargaining a relatively insignificant part of the process (Gollan, 2001; Lloyd, 2001; Terry 1999).

A number of important points can be made from the research presented in this chapter. First, NER arrangements generally have limited access to resources (eg training) for establishing independence, thus reducing their ability to effectively evaluate the issues discussed at meetings and represent the views of employees. Second, most NER bodies are structured on a mixed basis of employee-elected representatives and appointed management delegates, with the latter occupying the most senior position of chair. The case study evidence also suggests that management is usually the party that controls the structure and agenda at meetings. While the election of employee representatives could give the impression of legitimacy to decisions, in reality this must be questioned. Third, most bodies are only given powers of recommendation to management or the chair has the right of veto over decisions. Fourth, unlike unions, few committees have negotiation and bargaining rights over pay and conditions, while consultation issues often lack financial, investment or strategic data. Finally, few of these bodies in practice fulfil the traditional trade union activities of grievance handling and conflict resolution,

with such issues being dealt with by local managers or internal dispute resolution mechanisms.

Overall, the literature and research highlight fundamental problems with NER voice arrangements, with issues of conflict resolution in negotiations, the level of power and influence, and finally the autonomy and independence underpinning such concerns. While such issues in the wider industrial relations context can also be found in relation to trade union voice, the nature and resources of NER voice arrangements as managerial creations make this more acute.

CHAPTER THREE

NON-UNION EMPLOYEE REPRESENTATION: A DISCUSSION OF THEORETICAL FRAMEWORKS AND EXISTING RESEARCH

3.1 Introduction

This chapter addresses the current debates concerning NER arrangements from an international context. The chapter reviews the current literature and debates around three core themes: First, management strategies towards NER arrangements and whether such arrangements are used by management as a complement to or substitute for union representation; Second, the perceived effectiveness and workplace outcomes of NER arrangements. This section also explores whether perceived effectiveness and the subsequent outcomes have any relationship to management's reasons for establishing NER arrangements, or whether they are unimportant; Third, conditions for unionisation and union responses to NER voice arrangements are examined. Finally, having reviewed this debate the chapter concludes by developing a framework of management strategies towards NER arrangements and union responses to such arrangements.

3.2 Management strategies towards NER

A critical question in the debate is why firms introduce NER voice arrangements? Flood and Toner (1997) have presented a conceptual framework indicating how a Catch-22 situation¹³ is avoided in non-union firms. This is premised on the hypothesis that the fear of trade unions requires such firms to provide pay and conditions, job security and complaints procedures at least as good (and most often better) than in a comparable unionised environment. Thus any benefits derived from

¹³ For example, non-union firms may go to great expense to avoid union organisation, however they cannot take advantage of the absence of unions in offering less favourable pay and conditions than the market rate since this would give workers an incentive to join a union (Flood and Toner, 1997: 258).

non-unionism are dissipated by the extra cost in providing these benefits. However, they state that this Catch-22 situation can be avoided since the more adversarial climate associated with unions can be reduced. They go on to argue that non-union status may enable them to gain greater cooperation from employees in making unpopular changes and economies without the threat of industrial action, stoppages, demarcation or other forms of retribution. Flood and Toner (1997: 269) also state, 'Non-union status does afford the opportunity to build a strong company culture, and to design policies aimed at increasing motivation and co-operation'.

However, they also highlight a note of caution, stating that employers 'cannot take unlimited liberties with employees just because they are not in a union. If they do, the unitary culture will show signs of strain and may break down, and in the worst case employees will turn to unions for support' (Flood and Toner, 1997: 267-268).

The literature has identified two central issues as being at the core of management strategies towards NER – the question of establishing a single or dual channel representative arrangement, and whether such arrangements are used by management as a complement to or substitute for union representation

3.2.1 Single or dual channel representation

Willman, Bryson and Gomez (2003) see the rationale for employer demand for voice in terms of the product market model based on the beneficial effects on firm performance¹⁴. In particular, they explore the positive effects attached to representation in the workplace based on economic utility and psychological benefits (also see Freeman and Rogers, 1999). They see voice (including non-union representation) in the context of institutional economics with the emergence of

¹⁴ Research findings by Batt, Colvin and Keefe (2002) applying Freeman and Medoff's (1984) exit-voice model suggest that union institutions and management policies that facilitate voice can significantly reduce exit, despite significant declines in union density and controlling for team-based voice mechanisms, pay and other human resources practices that are affected by collective bargaining. Importantly, they suggest that union representation and direct participation (for example, problem solving groups and self-directed teams) may be viewed as complementary vehicles for employee voice at work.

different voice arrangements based on a contracting problem – ‘make or buy decision on the part of the employer’ (Willman, Bryson and Gomez, 2003: 1).

As part of their analysis they suggest, ‘the probability of union voice within an establishment may be defined in terms of the values of and relationships between’ three variables: employee propensity to join a union; union propensity to organise at a workplace, and employer propensity to deal with a union (Willman, Bryson and Gomez, 2003: 2). Union voice may have a number of complex or varied combinations. For example, employees become active around a grievance or set of grievances and seek to join a union. A union may focus its organising activity within a particular workplace or industry and force the employer to recognise a union. Or an employer may pre-emptively recognise a union by choosing a particular union. Significantly, they suggest that, ‘employer preference for a particular voice regime is likely to be a prime factor in its emergence’. They also add that while employer preferences may change due to a number of factors (legislation, union campaigns, employee dissatisfaction, industrial action etc) there is ‘stickiness’ to regime choice based on the high cost of switching (Willman, Bryson and Gomez, 2003: 4).

Applying transaction cost economics to employment, the decision to make (own voice) or buy (contract voice) is based on a number of factors. These include the specificity of the asset (the type of employee), frequency of the interaction (voice exchange through consultation and bargaining), its uncertainty (permanent or temporary employee and the need for a voice arrangement), and its governance structures (voice effectiveness and value). According to transaction cost economics, the more idiosyncratic or unpredictable situations are, and increase frequency of interaction and duration of exchange, the greater likelihood of the employer ‘making’ their own voice arrangement. Such a choice will be governed by bounded rationality and trust between parties (ie expectation of opportunism by the other party). The limitation of the model is explaining why there is continued existence of different governance mechanisms (or voice arrangements) for similar transactions (for example, consultation and bargaining).

Making voice would require an employer to create a non-union voice arrangement which would be perceived as legitimate by employees. Buying voice would mean subcontracting out to a trade union all aspects of voice provision. Hybrid (or dual) forms of voice arrangements with a mixture of union and non-union voice structures could be established based on the nature of the transaction process (asset specificity, frequency and uncertainty) or the behaviour of the other party (boundedness of rationality, expectation or perception of opportunism and risk preference) (Willman, Bryson and Gomez, 2003: 6).

Employers may choose not to create voice either because they are not concerned with exit costs or the costs associated with the creation of voice exceed those of exit.

Where voice is chosen within a transaction cost framework, three options can be identified:

- Buy (union) – where an employer subcontracts one or more unions to establish voice. This involves a long-term contract of voice provision where an employer's direct costs are low but the risk of supplier (or in this case a trade union) opportunism is high.
- Make (non-union) – This is closely associated with the more sophisticated HRM approaches and involves employers choosing directly to provide a set of employee voice mechanisms and excluding third party intervention. While direct employer costs are high (and there is a risk that such arrangements may not provide the required level of voice), the risk of a counter behaviour from a third party (for example, trade unions) is greatly reduced. (Under current legislative arrangements on union recognition it is not totally eliminated given the threat posed by unions outside the firm or workplace when there is insufficient voice).
- Hedge (dual channel) – Under this approach there is a mixture and co-existence of union and non-union voice arrangements (Williamson, 1991). This may be seen as a form of employer hedging, with the employer

attempting to control and balance both cost and risk (Willman, Bryson and Gomez, 2003: 6).

From an employer perspective the choice of which option to apply will be dependent on a number of factors and influences. For example, under the ‘make’ option a consideration for the firm will be its ability to hire HR specialists and expertise to generate institutional forms which elicit voice without the existence of a third independent party. In addition, the effectiveness and long-term survival of NER will also be dependent on acquiring the capacity and skills among employee representatives to maintain and increase the effectiveness of such arrangements. This may incur additional costs for the employer in terms of training, education and skills development. On the other hand, a key risk for buying in voice is the probability that the firm will have a totally non-opportunistic (weak union etc) or a counterparty (militant union etc). For example, if a union becomes more militant, the firm may seek to provide an alternative voice channel as a reliable alternative (Willman, Bryson and Gomez, 2003: 8).

Hedging is the highest cost option overall although the one with the lowest risk. Willman, Bryson and Gomez (2003: 8) suggest that firms wishing to change existing arrangements are more likely to switch from wholly union or wholly non-union to a dual channel rather than switching from wholly union to wholly non-union single channels (or the reverse). They argue that if one channel is unsatisfactory (because the union is unreliable) or too costly (perhaps because of the number of personnel specialists required or being able to extract a greater share of profits) then hedging to a dual channel arrangement is more likely than the abandonment of sunk costs (see Table 3.1).

Table 3.1 Voice regime: effectiveness, risk, direct cost and switching cost

Channel	Buy (union)	Hedge (dual)	Make (NER)
Direct cost	LOW	HIGH	HIGH
Switching cost	HIGH	HIGH	LOW
Risk/Opportunism	HIGH	MED	LOW
Effectiveness in meeting firm's objectives	MED	MED	HIGH

(Adapted from Willman, Bryson and Gomez, 2003: 23)

In summary, under the 'buy' option the switching cost may be high due to the potential for industrial action and disputes. Equally, under the hedge option the set-up costs may be high due to the establishment of a dual structure. However, switching from the 'make' option to either the 'hedge' or 'buy' option would involve little or no additional cost of recognising a union. Importantly, a number of factors might induce or encourage firms to switch voice arrangements: union voice is fragile with low union membership; interruptions to voice supply (strikes etc); where administrative costs rise; where employer-made voice is not viewed as legitimate by employees and is considered ineffective; or the union wage premium disappears.

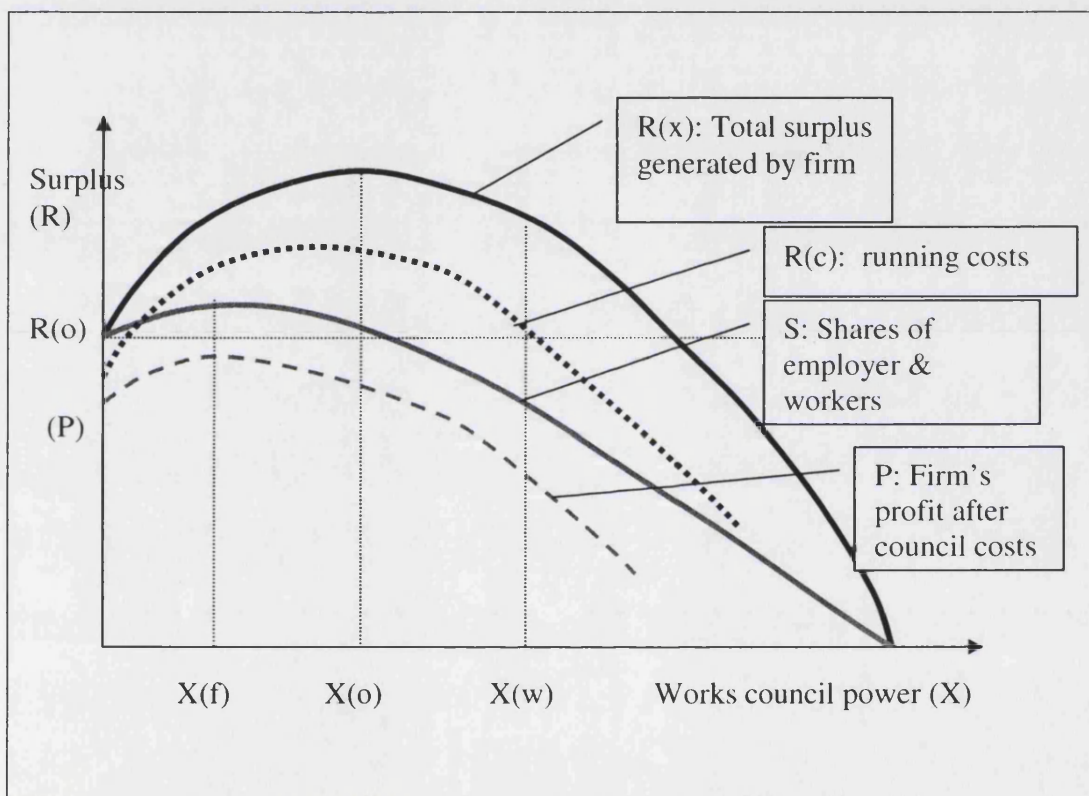
Economists would suggest that firms have at their disposal a range of options for securing employee commitment, compliance, retention, motivation, and knowledge and information sharing. This can be conceptualised as 'asset specificity', where an employer experiences substantial exit costs and where the value of knowledge and information sharing is high, either due to a highly skilled workforce or where the nature of the product or service delivery requires highly trained, experienced or specialist personnel. Thus the employer is able to generate higher revenues and endure higher costs. However, as Chiles and McMackin (1996) suggest the risk preference of the employer may generate different choices in otherwise identical situations. For example, risk averse firms may opt for non-union voice arrangements (with greater cost) than union channels due to an overestimation of union risk.

As such may establish NER arrangements for the purposes of negotiation to reduce the likelihood of outside involvement by trade unions in organisational decision-making, thus ensuring that negotiation processes are contained within the organisation. This may be due to the perception that an outside influence can distort internal processes and structures, impacting negatively on employee behaviour and organisational performance (Taras and Kaufman, 1999).

Freeman and Medoff (1984) highlight these integrative and distributive functions of unions both as bargaining agents over the distribution of the surplus of labour-management cooperation and as a collective voice to raise productivity. In other

words, they impact on both the distribution and the size of the surplus. It is argued that these two activities can interfere with each other, in that the information shared in raising productivity can be used strategically to increase the share of the surplus. As such, it is suggested that cooperation can be fragile and tenuous. Freeman and Lazear (1995) also examine the two options facing collective voice arrangements such as a works council: to provide collective voice arrangements and to bargain over rents earned by the firm (see Figure 3.1).

Figure 3.1 Distributional impact of works councils on surplus and cost



(Adapted from Freeman and Lazear (1995: 30))

Freeman and Lazear (1995) argue that both firms and employees are interested in the size of the surplus earned by the firm (R), and their relative shares (S). Thus works council decision power has three effects. It raises ' R ', the total surplus earned by the firm, as works council input leads to better decisions. However, over time its power is too great for management to make effective decisions (so R then declines). Moreover, the works council is also used to bargain over shares of the surplus earned by the firm. According to their model ' R ', reaches a maximum when the works

council is given power level $X(o)$, which is the socially optimal level of power for the works council. The employer wishes to maximise profits and lower the cost of works council facilities etc. and thus decides on the basis of P , and chooses the works council's power to be $X(f)$. If the employees also seek to maximise the size of their share of the surplus, they will want a works council with power $X(w)$ (Marsden, 2003).

From this model two conclusions can be made. First, the social optimum will lie in between the preferred levels of works council power of firms and of employees $X(o)/R(o)$. Second, $R(o)$ shows the surplus with no works council (no representative worker voice), so if profits are below that, the firm will not want a works council (Marsden, 2003). From these conclusions, three implications can be highlighted. One, the parties might bargain towards the social optimum (especially if $R(o)$ is greater than running costs). Two, the size of the gap between $X(f)$ and $X(w)$ can be reduced by taking distributive bargaining out of the picture. This can be useful because it minimises the role of distribution of rents at the firm level, and makes the workplace institution concentrate on work conditions and increasing the size of the surplus, rather than the distribution of the surplus. Thus workplace representatives can increase the rewards for their constituents only by increasing the size of the pie. Three, works councils should be mandatory because employers will not give them enough power voluntarily to provide their voice function for fear it will be used to bargain a greater share of the surplus earned by the firm.

Finally, legislative frameworks may encourage the adoption of voice arrangements. Appelbaum and Batt's (1994) analysis of the impediments to the diffusion of high-performance work systems¹⁵ (including voice arrangements) suggests, 'an important role for public policy in developing an institutional framework that would support, rather than undermine, the transformation to high-performance work systems'. They go on to argue, 'A more hospitable institutional setting might enable recent or newly emerging high-performance systems to survive the challenges posed by low-wage, low-skill competitors and by poor macroeconomic performance (Appelbaum and

¹⁵ The High Performance Work Systems approach includes practices that invest in the skills of the workforce and provide the opportunity and incentives for employees to use those skills effectively (also see Appelbaum *et al.*, 2000).

Batt, 1994: 159-160). In addition, Appelbaum and Batt (1994) have applied institutional theory as a means to explain labour-market adaptations prompted by trigger events generating the diffusion of new 'solutions' to employment/labour management problems. Importantly, the incentive for 'first moving' is likely to be asset specificity.

As such, it is argued that choices of channels of voice are made by 'bounded rational employers'. Bounded rationality contains within it the assumption that agents (parties) are pursuing their own goals which may partly overlap and diverge. Moreover, under imperfect information there is a probability of 'asymmetry' based on each agent being better informed than the other about different aspects of their collaboration. In the context of employment and work this usually means that workers have more detailed knowledge of how to perform the work task, and management have greater knowledge and information about the entire production process and the business strategy employed (Marsden, 1999: 12).

It is also argued that switching costs are high with employers tending to 'stick' to existing arrangements; where switching does occur it tends to be to a dual channel voice arrangement (Willman, Bryson and Gomez, 2003). This is premised on the belief that employers make rational decisions/choices within certain constraints or pressures. A rational choice model sets out free choices for firms to maximise utility (benefits over costs). Under bounded rationality it is assumed that such choices are constrained by limited access to relevant information or employers are limited in their capacity to deal with all the necessary information, thus creating conditions for opportunistic behaviour by other parties.

Applying agency and incentive theory to employee participation may address the principal-agent problem and assist employers to make more informed decisions, since managers cannot easily monitor performance of their subordinates (creating incentives for employees to 'shirk')¹⁶. In addition, participation may create scope for

¹⁶ Agency theory recognises that the interests of principals (owners) and agents (managers) are not the same and that the principal and agent must align their differing interests. NER and employee participation arrangements may play an important role in motivating employees and managers. Agency theory can also be influenced by a number of psychological and social processes, for

peer group pressures encouraging cooperative solutions. It could also be assumed that cooperation in the workplace gives rise to a prisoner's dilemma problem (all would be better-off if no one 'shirked', but each one privately has an incentive to free-ride if they think it will go undetected). As such, colleagues may be better at detecting who is 'shirking' than supervisors and managers, thus voice may engender positive motivation via increased levels of employee participation leading to increased levels of commitment. Such peer group pressures can be reinforced by other procedures (appraisals and performance-related pay) which make pay dependent on team or firm performance.

Askildsen, Jirjahn and Smith's (2002) research would seem to suggest that the combination of greater profit sharing and active owners in less complex and bureaucratic firms could lead to a reduction of principal-agent problems between owners and managers, increasing trust, and lead to more cooperative and participative employee-employer relations. This would make formal representation of employee interests through NER unnecessary and superfluous. However, they found the opposite in organisations which were complex, with NER arrangements and profit sharing important in creating more formal and cooperative employment relations. The research also found that firms with strong insider interests make both formal employee representation and adversarial employment relationships more likely.

Other influences

Studies in the UK have identified managerial attitudes as key to the existence of more formalised employee consultation and participation practices (Fenton-

example, procedural justice and notions of fairness. The agency problem may have opposing effects on trustful employer-employee relations (Jirjahn, 2003). Managers' incentive to break an implicit promise on behalf of short-term profits is lower than that of the owners since they obtain only a small proportion of the short-term profits from the opportunism of owners, although have a disproportionate personal cost from informal sanctions and actions by the employees. Thus it can be expected that the separation of ownership and control can produce a more cooperative and participative employment relations environment. However, alternatively managers may take advantage of their control and use their discretionary power for self-interest since managers retain control over information processing and dissemination. This discretionary power creates opportunities for managers to limit responsibility and authority and pursue individual over longer-term company goals thus managers' rent seeking behaviour distorts the incentives for employees to increase effort and reduces loyalty to the firm (Askildsen, Jirjahn and Smith, 2002).

O'Creevey, Wood and Callerot, 1998; Kessler, Jennings and Undy, 2000; Millward, Bryson and Forth, 2000; Wood and Albanese, 1995; Wood and De Menezes, 1998; Wood and Fenton-O'Creevy, 2005). These studies suggest that underpinning such practices is a relationship based on a high level of trust between management and employees. It is assumed that employees can be trusted to make important workplace decisions that will result in greater productivity and effectiveness. Employees are therefore given the opportunity to develop their knowledge and skills so that they can make these decisions.

Other studies in the US (Kaufman, 2003) have suggested that formalised consultation and participation arrangements such as NER structures can also provide management with an opportunity to 'fine-tune' the employer message before sending it out and give it greater credibility with the workforce. It has also been suggested that employee representation can improve the efficiency of information collection, processing and dissemination within a complex firm structure with multiple levels of authority (Kaufman, 2003; Kaufman and Levine, 2000). Kaufman (2000) argues that by skipping the various layers which can filter and distort information, employees and senior levels of management are able to communicate directly with each other. This is particularly important in larger firms¹⁷.

3.2.2 Research on management strategies towards NER

Quantitative research

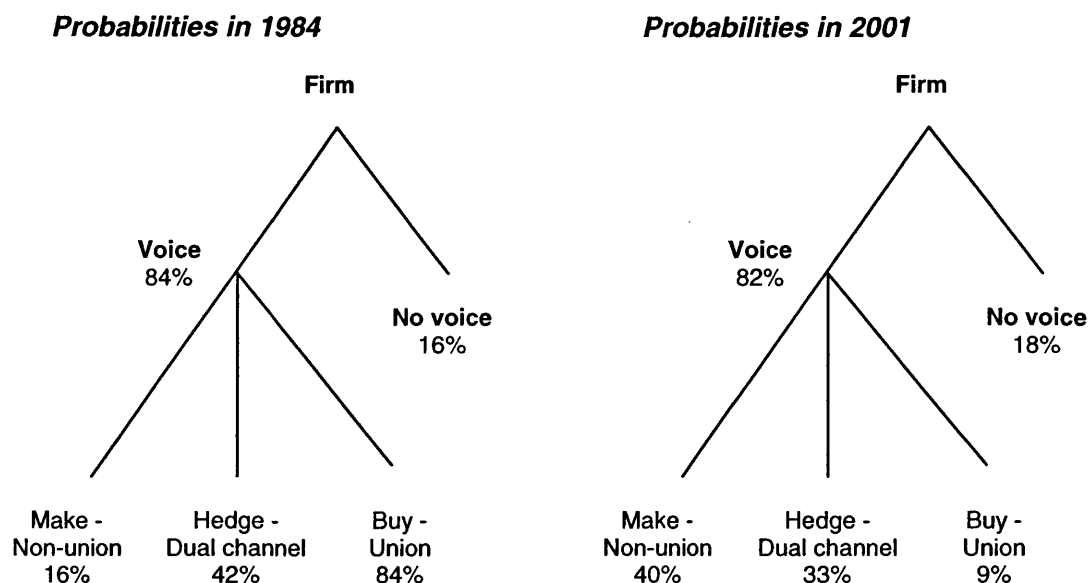
Interestingly in Australia, findings from the Australian Workplace Industrial Relations Survey (AWIRS) series (Callus, *et al.*, 1991; Morehead, *et al.*, 1997) indicated that employees in unionised workplaces felt more dissatisfied than their counterparts in non-union workplaces¹⁸. In addition, unionised employees were less likely to be satisfied with or have trust in management. What these findings suggest

¹⁷ It has been suggested that the 'insulation barrier' created by hierarchy may encourage lower level management to minimise the true extent and level of shop floor discontent to their superiors (Kaufman, 2003).

¹⁸ These findings would also suggest that only 30 per cent of unionised employees compared to 52 per cent of non-union employees were satisfied

is that the presence of a union may reduce employee identification with corporate aims and approaches. This may explain why management in non-union firms which are willing to establish alternative voice arrangements often offer enhanced wages and benefits and encourage a culture and image of mutual employee and employer goals and objectives.

Furthermore, Willman, Bryson and Gomez' (2003) research in Britain suggests that since 1984 there has been a steep decline in union-only voice arrangements, with a less marked decline in 'dual-channel' voice involving union and non-union channels in combination (Willman, Bryson and Gomez, 2003: 12). Significantly, these options were offset by a steep increase in voice arrangements which did not involve unions. Interestingly, while there have been substantial changes to the extent of voice arrangements since 1984, the proportion of workplaces wanting some type of voice arrangement and those choosing no voice has remained relatively stable. As can be seen in Figure 3.2, since the early 1980s most unionised workplaces operate under a dual channel structure of union and non-union voice arrangements. However in the latter half of the 1990s, the figures would suggest a trend from 'buying' to 'making' voice (Willman, Bryson and Gomez, 2003: 12-13).

Figure 3.2 Voice channel choice in Britain: 1984 and 2001

Source: Willman, Bryson and Gomez (2003:27)

For the period 1990-1998, just under a third of workplaces (29.5 per cent) switched voice regimes with 42 per cent moving to dual channel arrangements (hedging the risk attached to a single channel regime). Nine per cent of workplaces opted out of single channel union-only arrangements (only two per cent of workplaces opted for union-only arrangements). Interestingly, the 'stickiness' of such arrangements was reinforced with only just over five per cent of workplaces derecognising unions (or some 9 per cent of workplaces with a union in 1990) (also see Millward *et al.*, 2000: 125). As highlighted by Millward *et al.* (2000: 124-125), the decline in union-only voice was largely accounted for by continuing workplaces switching from single-channel union representation to dual-channel arrangements.

Willman, Bryson and Gomez (2003: 13) attribute the switch away from union-only to dual channel voice arrangements to, 'employers [were] hedging against the increased risk of union-only voice delivering effectively for them'. They present three reasons for this. First, the decline in union density within unionised workplaces made it more difficult for unions to operate as effective agents for employers (also see Millward *et al.*, 2000:139-145). Second, the decline in national and sectoral-level

collective bargaining encouraged employers to negotiate pay and conditions directly with their workforce without the need for a third party (also see Millward *et al.*, 2000: 145-149). This view was expressed by over half (54 per cent) of managers in unionised workplaces in 1998 and some 86 per cent of managers in non-union workplaces¹⁹. Third, while there were just under 10 per cent of workplaces (9.6 per cent) opting for non-union only voice arrangements within continuing workplaces, just under eight per cent (7.7 per cent) dispensed with non-union only arrangements, suggesting an increasing volatility and vulnerability of these arrangements. This would indicate that there is a lower switching cost under dual arrangements than under single non-union arrangements.

According to Willman, Bryson and Gomez (2003: 14), cohort effects were more significant than behavioural change among continuing workplaces in the rise of non-union only voice arrangements in the 1990s. They state that non-union voice was more prevalent in the post-1980 workplace cohort compared to the pre-1980 cohort suggesting that the post-1980 cohort of workplaces utilised a greater level of alternatives to union-only voice which continued in the 1990s.

As Millward *et al.*'s. (2000: 124-125) findings show, the increase in non-union only voice arrangements between 1990 and 1998 was largely accounted for by new 'greenfield' workplaces deliberately adopting direct employer-employee communication and consultation methods rather than union channels of representation. These workplaces were also more likely to adopt such practices than continuing workplaces. Willman, Bryson and Gomez (2003: 15) argue that such mimetic behaviour is partly attributed to the application of benchmarking²⁰. They cited evidence that 60 per cent of workplaces with non-union only arrangements had used benchmarking practices compared with 42 per cent of union-only and 54 per cent of dual channel regimes.

¹⁹ These figures are based on managerial respondents to the Workplaces Employee Relations Survey 1998 in all workplaces with 10 or more employees.

²⁰ According to Willman, Bryson and Gomez (2003: 15), benchmarking can be defined as 'examining the way things are done at other workplaces compared to this establishment'.

Research would also suggest that the probability of non-union voice arrangements rises with the degree of product market competition. Willman, Bryson and Gomez (2003: 16) argue that, 'with an increase in the number of competitors, the probability of any union involvement in voice – either through union-only or dual channel forms – decreases. Of interest also is that the probability of "no voice" also increases'. Forth and Millward (2002: 15-16) also indicated in their research that product market pressures (for example, productivity targets and JIT inventory systems) are associated with an increased presence of direct communication as part of a non-union only voice regime²¹.

Willman, Bryson and Gomez (2003: 17-18) conclude that the increasing compositional shift from manufacturing to services associated with high levels of asset specificity increased the levels of non-union only voice arrangements. However, in workplaces and firms with union-based arrangements, such change was likely to be part of a dual channel voice arrangement. Importantly, competition in the product market or service delivery would also encourage non-union voice arrangements due to pressures on rent sharing with unions (for example, profits and wages). In addition, such employers may also want to control labour supply and risk through increased voice at the workplace and greater input into decision-making processes.

They also state that the relative decline in cost associated with the 'make voice' option due to an increasing supply of HR and employment relations expertise and knowledge also encouraged the non-union only voice option. However, evidence would suggest that switching costs makes regime choice and change 'sticky', therefore rendering significant switching (for example, union to non-union and vice versa) rare. Significantly, it is worth noting that recent research by Batt, Colvin and Keefe (2002: 589) suggests that it would be a mistake to assume the provision of voice arrangements in the workforce is associated with increased productivity due to

²¹ Kaufman's (2003) review of high-level employee involvement at Delta Air Lines also suggests that greater outcomes can be achieved where customer service requires employees to have direct contact with customers, where it is important to business success and when the production process is complex, interdependent, and subject to significant external uncertainty. A highly skilled, educated and diverse workforce may also be a significant factor in potential performance outcomes.

lower quit rates. Their findings suggest that the increased usage of voice arrangements may increase quit rates. This may reflect ineffectiveness of such voice arrangements or a lack of a coherent strategy by management towards employee voice.

It can also be argued that non-union voice mechanisms may on the one hand reduce the willingness of employees to join a union since the non-union voice arrangement satisfies their needs and thus increases perception of instrumentality. Alternatively, the limitations of alternative or non-union voice arrangements may actually increase the desire for unionisation since where voice arrangements are considered to be ineffective in satisfying their needs.

Bryson's (2004: 214) research in the UK is arguably one of the few quantitative studies to examine the issue of effectiveness of union and NER voice arrangements in delivery of benefits for employees using data on employees' perceptions of managerial responsiveness (Butler, 2005). Bryson (2004: 234) concluded that direct non-union voice is more effective than representative voice (whether union or non-union). Importantly Bryson states, 'The only voice regime that proves more effective than having no voice is the combination of direct voice and non-union representative voice and this only proved effective for non-members'. In fact, Bryson (2004) goes on to suggest that singular non-union representative voice is generally ineffective except when combined with direct voice whereupon it becomes more effective than any other voice regime²².

Bryson's analysis focuses on the relative utility of non-union representative voice compared to unionised and direct forms (e.g. briefing and problem solving groups). The findings echo the case study results outlined below, suggesting that NER voice is ineffective (Bryson, 2004: 230). However, interestingly NERs are seen to be more effective when the representatives are elected, rather than appointed (ibid). However, as highlighted by Butler (2005) what this means in terms of the operational effectiveness of the voice process nevertheless remains questionable because what is

²² However, as Bryson (2004) states this type of voice arrangement only covers around 10 per cent of employees in Britain.

actually evaluated in Bryson's research are employee *perceptions* of managerial responsiveness, rather than any consideration of substantive outcomes.

Butler (2005: 284) suggests that, 'on the one hand elected delegates may well be more vigorous and adept in holding management to account. Conversely, it is possible that the enhanced legitimacy afforded by the balloting process simply serves to bias employee perceptions'. Moreover, 'although a residue of autonomy exists, representatives are nevertheless heavily and systematically exposed to managerial ideology. Such norms, once internalised, respond to the managerial agenda. This is the case particularly in strategically important areas such as wage determination, where the process is at its most intensive' (Butler, 2005:284).

In addition, Beaumont and Hunter's (2003: 7-11) secondary analysis of the WERS98 survey data suggests that no single establishment relied solely on JCCs. Rather where JCCs did exist they were in combination with direct individual employee-based information disclosure and consultation arrangements (for example employee briefings). They also examined the effect of normal representative arrangements (JCCs etc) and direct consultation. They found evidence that while direct employee arrangements were more common than representative ones and were used more in organisational change, the combination of representative and direct arrangements had significant outcomes. These dual arrangements were commonly associated with positive measures of perceived (by management) organisational performance in the following areas: financial performance; labour productivity; quality of product; labour costs; management-employee relations; and employee involvement in the processes of change.

In an Australian study, Benson (2000) found that unionised workplaces were more likely than non-union firms to implement employee voice mechanisms, and non-union workplaces less likely than union workplaces to use more HRM-associated voice mechanisms. Finally, the Benson study concluded that the presence of unions at workplaces significantly increased the number of voice mechanisms available compared to non-union workplaces and the more active a union, the greater range of

alternative voice mechanisms are established.

Qualitative research

Beaumont and Hunter's (2003) review of 16 firms in the UK preparing to address the information and consultation requirements under the European Information and Consultation Directive demonstrates a high degree of diversity in how organisations currently communicate and consult employees due to differing organisational structures, past history, market circumstances, organisational characteristics and corporate objectives.

From these findings Beaumont and Hunter (2003: 11) concluded that it seems important to both establish and maintain a complementary relationship between direct and representative sets of arrangements. They also suggest that '...it would seem to support the notion that direct communication is a powerful tool for downward communication, and that a JCC (or a similar NER arrangement) provides a representation mechanism for channelling feedback up the line, so that the combined effect would be to provide a complementarity or 'fit' that strengthens impact' (Beaumont and Hunter, 2003: 9). However, they also caution about the nature of this interaction process 'whereby ignoring one set of arrangements relative to the other, or sending inconsistent messages via the two sets of arrangements is an obvious major mistake to be avoided' (Beaumont and Hunter, 2003: 11).

Haynes' (2005: 261) research in the New Zealand hotel industry suggests that while union representation might be superior to non-union voice, given that the majority of workers in many countries do not have access to union membership, non-union voice provides a degree of influence (and in some instances a high level of influence) that would otherwise be denied in non-union workplaces.

Beaumont and Hunter (2005: 5) argue that the 'process' aspects of employee voice in the literature have been 'seriously underplayed in relation to the consideration of structural issues such as the composition and remit of consultative groups, the

frequency of meetings, etc.’ They go on to suggest that the process is both critical to outcome and heterogeneous in character. In essence, they define ‘process’ as a ‘series of steps leading to an outcome or decision involving a social interaction between management and employees or their representatives with the aim of reaching or confirming a decision affecting the mutual interests of the parties’ (Beaumont and Hunter, 2005: 5). According to their research, the interaction will be affected by a wide range of influences, in part from the structures, from the characteristics of the parties, the nature of the relationship between the employer and employees (and their representatives), the type of issues on the agenda, and the values and expectations the parties bring to the consultative process.

Moreover, the experience derived from such involvement, the nature of the information exchange and the ability to influence decisions will affect attitudes and perceptions, and as such will have a future impact on attitudes and behaviour (Beaumont and Hunter, 2005: 5). According to Beaumont and Hunter (2005), the first influence is the environmental or structural conditions in which consultation takes place. In particular, the level of union presence and influence, and the business and economic position of the organisation may present a number of conditions. Structurally, a single or dual channel for employee representation and the structure of the organisation either through multi-site or single site may also be important factors. Other factors may include whether the relationship between the parties is based on conflictual or consensual terms, the maturity of the consultation procedure, the experience of representation in the process, and the level of training provided for such representatives.

Luchak’s (2003: 115) study in a large Canadian utility organisation of voice and loyalty utilising Hirschman’s (1970) exit-voice framework indicates that feelings of attachment to an organisation and voice are not one-dimensional constructs. He found that employees with feelings of emotional attachment are less likely to use representative voice but more likely to use direct voice, while those attached for more rational or calculated reasons are more likely to use representative voice. Those employees feeling attached for either reason are found less likely to exit the

organisation than those not feeling any attachment. Freeman and Medoff (1984) also came to a similar conclusion.

Luchak (2003: 130-131) goes on to suggest that while direct voice depends largely on management's goodwill to act on employees' suggestions (which is unlikely to occur where there is a serious conflict of interests), representative voice on the other hand can remove this potential conflict, since employees and their representatives can initiate discussion and create incentives for management to deal with employees' concerns. However, this may be problematic since this type of voice heard will be from continuance – committed employees who do not have a particularly strong desire to contribute to the organisation. He concludes that this requires rethinking the mechanisms of 'voice' with labour management committees or NER better suited to addressing problems in unionised environments. On a cautionary note, Luchak (2003: 131) argues that voice heard through these programmes is not likely to reach its potential unless the organisation clearly signals the value it places on workers' inputs through such programmes.

Freeman and Medoff (1984) have argued that although unions can provide an effective method of collective employee 'voice', there may be an incentive for employers to provide some alternative collective voice mechanism where workplace union organisation is weak or absent²³. The academic literature has identified the important role of unions in giving employees a voice, enabling them to express dissatisfaction with the working environment without fear of management retaliation through victimisation and of free-riding by their colleagues²⁴. Thus, it is suggested that where unions are weak or non-existent this voice effect will be absent, or alternatively an employee may exercise voice through the exit option, although

²³ The concept of exit and voice was originally coined by Hirschman (1970) as a metaphor to redefine the social or economic relationship in terms of an disenchanted individual to exit (to leave the organisation) or voice (to demand a say) (see Hyman, 2005).

²⁴ Freeman and Medoff's (1984) exit-voice model suggests a link between union voice and higher productivity and lower quit rates. It was based on the assumption that unions reduce the probability that employees will quit their jobs for two fundamental reasons. First, unions provide a voice mechanism through which employees gain higher wages than they could earn in a similar non-union job. Second, unions provide employees with a voice in determining other rules and conditions of work, including policies that reduce pay inequality, grievance and arbitration procedures, and fairness in discipline procedures (Batt, Colin and Keefe, 2002: 574).

Freeman and Medoff also argue that the exit option may be a less than optimal amount of voice (Freeman and Medoff, 1984). Using Birch's (1975) observations, Hyman (2005) notes that exit and voice may not be mutually exclusive; a person may exit vocally or a person may also stay in an unsatisfactory relationship but remain silent.

3.2.3 NER arrangements as a complement to or substitute for union representation

There has also been considerable discussion (Dundon, 2002; Dundon and Rollinson, 2004; Foulkes, 1980; Gall and McKay, 2001; Gollan, 2000; Kaufman, 2003; Kochan *et al.*, 1986; Marchington *et al.*, 1992; Marchington *et al.*, 2001; Oxenbridge *et al.*, 2003; Taras and Copping, 1998; Terry, 1999; Watling and Snook, 2003) as to whether NER arrangements act as a 'substitute' for unions or – as some commentators have suggested – as a 'complement' to management decision-making (see Table 3.2).

Table 3.2 Characteristics and objectives of non-union employee representation forms

Characteristics	Complement	Substitute	
Representative interest	Mutual (win-win)	Conflictual (win-lose)	Mutual (win-win)
Bargaining strategy	Integrative bargaining – positive sum problem-solving approach	Distributive bargaining – zero sum wage bargaining	Integrative bargaining – positive sum problem solving approach
Process	Co-determination/ Joint consultation	Representation of employee interests	Co-operation
Power Base	Legally imposed or management initiative	Legally imposed or management initiative	Management initiative
Channel of representation	Dual	Single	Dual
Rights	Information, consultation, co-decision making, limited veto powers	Information, consultation, limited workplace decision-making	Production line information, suggestion schemes, problem identification
Outcomes	Equity and equality	Internalisation of employment relations	Productivity improvement

(Adapted from Gollan, 2000: 415)

One notion of a 'substitute' is that it serves in place of a union. It assumes employers create an alternative form of employee representation which employees will prefer to a 'union'²⁵. As Watling and Snook (2003: 268) indicate in their research, management pragmatism towards trade union recognition often concealed a 'covert' employee relations strategy which was bolstering the non-union structures as a process of union avoidance or substitution. However, as Taras and Kaufman (1999: 14) suggest, 'It [NER] is no easy substitute for unions, and employers who believe they can use NER for this purpose are seriously deluding themselves'.

²⁵ This view has been challenged because for many employers it is not important whether non-union employee representation structures can approximate unions as part of the collective bargaining process, since this may not be the objective or desired outcome. This is also linked to Ramsay's (1977 and 1983) notion of cycles of control where consultation (or any participation mechanism) is introduced by employers when they feel they are under threat from organised labour such as trade unions and discard it when such a threat is reduced or is dissipated (also see Marchington *et al.*, 1992; Marchington *et al.*, 2001).

According to Taras and Kaufman (1999), this union substitution function works in two ways. First, at workplace level NER arrangements can be subverted to serve a union avoidance function by being a captive audience to management for the purpose of instilling anti-union messages and to 'socialise workers to see the world through management eyes' (p.19). Second, at a more institutional level NER neither instils worker activism or mobilisation – either in the context of political action and social change, nor provides the close network of diffusion of such activism from firm to firm. Kochan *et al.* (1986) term this approach as 'union suppression' employing methods of strong resistance in union organising drives, possibly involving the use of coercive employer strategies to retain a union free environment.

On the other hand, an entirely different notion is that alternative forms of employee representation make traditional union structures unnecessary in the sense that they transform the employment relationship, with other high commitment practices, into a mutually productive relationship. This notion is based on the premise that employees do not desire or need a protective agency through traditional bargaining *per se* (since this emphasises the adversarial, distributive element of the employment relationship) because their basic interests are satisfied. In this approach, the purpose of NERs is to encourage and foster an alignment of interests between employer and employees.

Kochan *et al.* (1986) describe this union avoidance strategy as a union substitution approach which removes the forces or triggers for unionisation. Kochan *et al.* (1986) suggest that it is primarily large firms which employ union substitution strategies since they have the financial resources and capacity to act as a substitute or replacement for traditional union activities. These are sometimes described as 'soft' human resource management approaches in retaining non-union status.

An alternative strategy is evident when traditional trade union structures and alternative forms of employee representation 'complement' each other, dovetailing in terms of form and function, as in the case of German works councils through the co-determination process and industry-wide trade union bargaining. Chaykowski's

(2000) research of the National Joint Council system and Taras' (1997) study of the petroleum industry in Canada would suggest that union and NER arrangements can develop interdependencies and over time become complementary. As such, they are not directly substitutable because they are situated in separate domains, and interactions between them help each refine and focus on areas of special competency (Taras and Kaufman, 1999: 18).

The debate over whether NER arrangements are a complement or a substitute for union representation is based on two approaches: first, NER structures are an inherent 'win-lose' or 'zero sum game'. For employees, this is based on the premise that an individual employee is inherently at a disadvantage in the employment relationship due to the monopoly power of the employer, and such arrangements act as a balance for such employer power. For employers, NER arrangements may be seen as the better of two evils, giving a degree of involvement in the decision-making process to an NER forum, while not relinquishing management control to a trade union.

Alternatively, NER structures can be viewed as an instrument through which both sides realise a 'win-win' outcome in the employment relationship or 'positive sum' game perspective, highlighting common interests between employers and employees and promoting a unitarist approach based on shared beliefs and goals, or a pluralist 'mutual gains' approach emphasising a co-operative system of employment relations. This is referred to as 'integrative' bargaining based on a positive sum problem-solving approach²⁶. This approach has been most actively promoted by the current UK Government in its response to the EU Directive establishing a General Framework for Informing and Consulting Employees and the implementation of the ICE regulations into UK law²⁷.

²⁶ This perspective is encapsulated by human resource management (HRM) theorists advocating high commitment work practices and emphasising mutual gains in the enterprise (Kochan, Katz and McKersie, 1986; Walton, 1985).

²⁷ See Department of Trade and Industry (DTI) green paper 'High Performance Workplaces: The Role of Employee Involvement in a Modern Economy: A Discussion Paper' (2002) and DTI consultation paper 'High Performance Workplaces – Informing and Consulting Employees' (2003). The British initiative on information and consultation can be compared to proposals forwarded by the Dunlop Commission in the United States in the 1990s, which sought to enhance worker voice through increased information and consultation arrangements (Metcalf, 2003).

However, Dundon (2002) and Edwards (1995) note that the ‘substitute’ or ‘complement’ debates can oversimplify and/or polarise union avoidance strategies that are in practice very diverse and complex. Dundon (2002) suggests that the ‘absence of industrial discontent or union membership “may” point towards some level of commitment or trust between an employer and employee’ (Dundon, 2002: 236). Alternatively, it could reveal fear of management and abuse of management prerogative, or union membership may be less attractive to workers because employees in non-union workplaces can potentially earn market premiums underpinned by more individualised and productivity-driven remuneration arrangements.

While debates have been centred around the complementarity of NER and union voice arrangements, it must be recognised that much of the intellectual efforts to explain work behaviour and attitudes to improve workplace employer-employee relations have been embedded in a unitarist approach to employee relations. Unitarists assume a commonality of interests between employers and employees. While not denying the potential existence of employee-employer conflict, unitarists claim such conflicts are unnecessary and undesirable, and can be avoided by encouraging common interests and sharing aims and goals (Hammer, 1997). Unlike the pluralist perspective of the industrial relations approach, unitarists suggest that collective bargaining by employee representation in the form of trade unions to counterbalance employers’ power and grievance machinery to manage conflict are unnecessary because in an open, trusting employment relationship based on a commonality of interests, there will be no exploitation for private gain (Hammer, 1997: 2).

The argument of Freeman and Medoff (1984) that in order for employee voice to be effective in influencing management behaviour it must be union voice, appears to reflect the prevailing view (Haynes, 2005: 260). According to this perspective, unions are both independent of management and provide an incentive for workers collectively to express preferences and – unlike NER voice arrangements – invest

greater time and effort in forwarding employees objectives. Kahn-Freund once stated, 'trade unions are more likely to be an effective force in redressing the imbalance of power than the law is, or ever could be' (as cited in Dundon, 2002: 244), although one could argue that the law may facilitate unions and thus be an effective force. However, Boxall and Haynes' (2005) review of the findings of a linked series of worker surveys in the US, UK, Canada, Australia and New Zealand suggest that outside the US, non-union and union forms of voice are increasingly complementary which is to the benefit of workers.

In addition, Beaumont and Hunter's (2005) study of information and consultation arrangements in the UK also identified two main strategies – some firms were establishing a 'single track' approach with collective bargaining and consultation combined, while other companies preferred a more 'dual track' approach to representation arrangements.

In a study by Kim (2004) into union and NER commitment in three union and three non-union establishments in Korea, the findings would indicate greater employee perceptions of representative effectiveness, commitment and identification in union establishments than in non-union establishments. The evidence would support the notion that NER and unions represent different employee interests and NER aligns employees with management goals. Kim's findings support the separate domain perspective with unions and NER voice mechanisms satisfying different types of employee needs thus performing different functions. In the complementarity/substitution debate these findings would seem to support the complementary perspective with these channels not directly substitutable, situated in separated domains and NER arrangements insufficient as a substitute for unions due to a lack of influence on primary distributive and employee advocacy issues.

Watling and Snook's (2003) research suggests that non-statutory works councils in the UK cannot expect automatic workforce and management support if alternatives such as trade unions emerge. They state that in this sense, 'works councils and trade unions are currently competitors rather than being complementary to one another'

(p.268). They go on to argue that, notwithstanding the Trade Union Congress (TUC)²⁸ acceptance of dual channel representation, their research ‘raises questions as to the future prospects for the revised EU Directive establishing a general framework for informing and consulting employees in the EU and attendant representational bodies’ (Watling and Snook, 2003: 268).

3.3 Effectiveness and outcomes of NER

The effectiveness and outcomes of NER arrangements may be influenced by the expectations that employers and employees place on such arrangements. For example, managers and employers may regard the involvement and consultation aspects of employee voice²⁹ as desirable as a means to improve firm performance, for example, direct communications to inform employees of what managers expect, and employees providing suggestions to improve productivity. However, employers are less keen on the bargaining side of ‘employee voice’, for example, fighting redundancy plans or demanding higher wages in return for increased productivity.

Agency theory states that when the principal delegates to the agent, it wants an effective decision-making structure and one which leads to outcomes that maximise the principal’s goals (and not some other goals of the agent). Under such circumstances, unions will undoubtedly have different goals to those of employers, or the consultation and negotiation process may create an incentive to prolong the decision-making process and provide less than optimal outcomes for the firm because unions could avoid responsibility for difficult decisions. Thus there may be an incentive for employers to try to contain consultation and bargaining processes within the organisation.

Taras and Kaufman (1999: 15-16) have expressed this more succinctly, ‘very few employers are genuinely interested in fostering collective worker identity. [It’s]... Like inviting a pet bear into the house, there is an omnipresent fear that the creature cannot be controlled although it can be pacified, temporarily, by feeding it a rich

²⁸ The TUC is the peak trade union body in the UK.

²⁹ See Chapter Two for a definition of employee voice.

diet’.

For employees, a critical question is whether NER may approximate ‘voice’ more than traditional union structures. Commentators have argued that from a social perspective, the role of NER as bargaining agents (thus similar to traditional trade union forms) may be desirable for power equality or ethical industrial democracy reasons, and recognition that the employment relationship is not a ‘one-off exchange’ but a continuing relationship of unequal interdependence (Hyman, 2005).

Conversely, Taras and Kaufman (1999: 12-13) suggest that there might also be more instrumental reasons with NER arrangements able to produce better wages and job security than unions can deliver and thus can remain an attractive vehicle to some workers who prefer to remain non-union.

The thesis draws a distinction between the concepts of ‘effectiveness’ and ‘outcomes’. For employees, perceived effectiveness relates to the processes in satisfying and furthering their interests, while for employers it is a means to increase understanding of company policy and secure consent for organisational change. Outcomes on the other hand, are the impact of NER arrangements. For employers, outcomes may be a change in employee attitudes and behaviours or increases in productivity and performance, for example. For unions, one important outcome would be whether NER arrangements weaken or strengthen union presence.

Effectiveness of NER

Taras and Kaufman (1999) highlight the fact that there is a natural instinct for industrial relations research to compare NER arrangements to unions, with little acknowledgement of or research into comparing NER to a situation of no representation. This, they say, raises the question of whether NER voice arrangements provide advantages to employees over no representation. Taras and Kaufman conclude that NER arrangements do indeed ‘provide workers with benefits that exceed what they could accomplish on their own. The positive benefits include improved communication, both bottom-up and top-down, greater access to

managerial decision-makers, and the venue and means to express voice opportunities for leadership and positions (Taras and Kaufman, 1999: 20).

Similarly in New Zealand, Haynes' (2005) research into the lightly unionised New Zealand hotel industry over a ten-year period would suggest that while NER voice arrangements may be less effective than union representation, in a non-union setting they may provide a measure of influence that would otherwise be denied to such workers. His research suggests that while hotel management retain their traditional decision-making prerogatives and worker influence is constrained, there is evidence that interest in developing non-union voice channels to gauge employees' concerns and interests at work is valued by management, albeit for instrumental reasons. While such channels for voice may be less effective than union representation, in a non-union setting they may provide a measure of influence that would otherwise be denied such workers (Haynes, 2005).

Other evidence suggests that non-union voice can be as effective as union voice in furthering employees' interests, especially where mutual benefits are involved (Haynes, 2005; Kaufman and Taras, 2000). Moreover, research by Haynes, Boxall and Macky (2003) and Haynes and Fryer (2001) into New Zealand's experience of NER voice arrangements would suggest that rather than simply losing their (union) voice, many workers may have gained a new (non-union) one. Research from the UK by Bryson (2004) would further suggest that non-union forms of representative voice may not necessarily be less effective than union voice.

This would reconfirm evidence based on an analysis of WERS98 data which suggests that non-union voice is more effective than union voice in British workplaces in terms of eliciting (perceived) managerial responsiveness, although not in eliciting fair treatment (Bryson, 2004; Millward *et al.*, 2000).

Based on research into the Workplace Employee Relations Survey 1998 (WERS98) in the UK, Millward, Bryson and Forth (2000: 129) appear to reinforce these findings by suggesting:

Employees with some type of non-union voice arrangement generally felt that managers were better at keeping them up-to-date with proposed changes at the establishment than did those employees in workplaces without any formal voice mechanism. This was true whether non-union arrangements were found in isolation or together with union channels of voice.

Boxall and Haynes (2005: 11) conclude in a review of a linked series of large scale worker surveys of employee voice in the Anglo-American world would, 'Imply that the caricature of non-union voice practices as toothless or ineffective is misleading and should be avoided'. They go on to state:

The surveys suggest that contemporary workers see unions as relevant in traditional areas of conflict – such as pay bargaining – and very relevant in seriously dysfunctional workplaces or when they personally feel vulnerable in the labour market. They suggest, however, that workers are sceptical about the relevance of unions to the developmental agenda of skill acquisition and personal growth, which may now be dominating employee thinking about their working lives.

(Boxall and Haynes, 2005: 11)

Taras and Kaufman's (1999: 13) North American evidence indicates that where union representation is strong (or at least where there is a valid union threat) NER arrangements are likely to be more effective for employees than they would be in the absence of unions. Taras and Kaufman (1999: iii) argue, 'that in the long-run, non-union representation works best when practiced in the shadow of a viable union organizing threat'. In their example of Imperial Oil employees in Canada, such structures are described as 'the toothless dog got molars' (1999: 13). They also predict that managerial attention to NER arrangements would diminish when co-existing with a weak union movement (Taras and Kaufman, 1999).

Taras and Kaufman (1999: 16) also suggest that when NER arrangements are examined through the lens of industrial relations laws and institutions, with an assumption that the interests of workers and employers are different, then the flaws of NER are starkly exposed. The way these industrial relations laws are structured is premised on the belief that there will be a conflict of interests between the employee and employer and conflict is natural in that relationship. Since there is an imbalance of power in the employment relationship then institutions such as unions and tribunals are established as a means to redress this perceived inequity and to channel this conflict of interests. They suggest that this pluralistic view of the workplace raises issues of power, influence, bargaining, confrontation, independence and the articulation of separate agendas (Taras and Kaufman, 1999: 16).

To reinforce this point, Haynes (2005) suggests that researchers have generally assumed that employees need to be able to exert measurable influence over high-level decisions if non-union voice is to be at all effective, otherwise it is considered to be of limited or no value to employees. However, as Haynes (2005: 261) argues citing Hammer (2000: 183), its value may derive from its 'ability to satisfy basic psychological needs ... [including] the freedom of the individuals to make decisions about how, and sometimes when, his or her work should be organised and carried out.' To support his claim, Haynes (2005) suggests that additional findings of recent large-scale surveys of worker attitudes appear to provide support for this perspective (Diamond and Freeman, 2001; Freeman and Rogers, 1999; Haynes *et al.*, 2005).

Haynes (2005: 261) concludes that researchers may be missing an important part of the picture; in private sector services, where unionism is fragile or absent, a more pertinent comparison would be between non-union voice and no voice at all'. Finally according to Haynes (2005: 268-269), while there is evidence to support the view that union representation is superior to non-union forms as a mechanism of employee voice. Nonetheless, he argues that there might be a possibility that non-union voice might have some value for workers in non-union environments. Dundon *et al.*'s (2005) recent findings on the dynamics of employee voice in Ireland would also

suggest that participatory processes are more robust when the channels for the information and consultation serve dual purposes that accommodate both conflictual and cooperative outcomes.

As such, role theory may also be an important factor in the effectiveness of NER. Hammer (1997) posits that role theory can also be applied to NER forms. In essence, the theory suggests that management and employees have difficulty in moving beyond traditional roles into new cooperative relationships that require different definitions of behaviours and responsibilities. Underpinning this is the belief that certain roles produce patterns of behaviour in an organisational system based on norms, expectations and values of employees. This may be mediated by past experience of representative forms, developing arrangements for cooperation with common definitions of roles and obligations for employers and employees. In cases with little experience, without agreeable role definitions, each party attempts to define the respective roles that favour its own group interests.

Much case study evidence supports the view that NER achieves little in the way of effectiveness, is commonly viewed by managers and employees with cynicism, and is vulnerable outside of periods of growth (Dundon and Rollinson, 2004; Gollan, 2001, 2003b, 2005; Terry, 1999).

Outcomes of NER

Employer outcomes

Case study research in the UK by Bonner and Gollan (2005), Gollan (2000; 2001; 2003a; 2005), Lloyd (2001), Terry (1999) and Watling and Snook (2003) have indicated that for a large majority of non-union firms the main aim of NER is to increase the flow information and communication, rather than negotiation. Most of these organisations see non-union representation and consultation as providing a more effective channel of communication than unions, stressing more 'harmonious' and less conflictual relations with the workforce, thus building and encouraging an

atmosphere of mutual cooperation.

This agenda has been subsumed more recently within the debate surrounding the implementation of high performance work systems (Black and Lynch, 2004). Leading advocates have described such approaches in terms of high involvement management, high commitment management or high performance work systems under a mutual gains approach (Appelbaum and Batt, 1994; Kochan, Katz and McKersie, 1984; Lawler, 1986; Lawler *et al.*, 1992; Levine, 1995; Levine and Tyson, 1990; Wall and Wood, 2005; Wood, 1996). While such approaches represent a significant development, this thesis is primarily concerned with non-union representation rather than more direct forms of employee involvement and consultation³⁰.

In this context, the concept of employee commitment has assumed importance as a significant factor impacting on organisational performance (Guest, 2002: 38). As Butler (2005) and others have suggested, given that commitment is commonly viewed as being allied to notions of involvement and empowerment, organisations are increasingly seeing the need to 'recognise the importance, even the necessity, of maximising employee voice' (Butler, 2005: 273; McCabe and Lewin, 1992: 112).

Research by Peccei *et al.* (2005) indicated that while information disclosure tends to be greater in union than non-union workplaces, such higher levels of information disclosure do not translate into higher levels of 'either employee commitment or organisational performance in the union contexts and such benefits are more associated with non-union workplaces rather than union workplaces (Peccei *et al.*, 2005: 33). Apart from information on general financial and staffing information, information in union settings is more likely to have a weaker positive impact on performance outcomes than in non-union settings, and the impact is weakest where unions are strongest (Peccei *et al.*, 2004: 33). The authors go on to say that access to certain operational information may have a negative impact, suggesting that unions may use such information for more opportunistic reasons. They conclude that greater

³⁰ However, where appropriate more direct forms will be reviewed where they act as complementary to NER voice arrangements.

company benefits can be gained from information disclosure in non-union than in union settings (Peccei *et al.*, 2004:33).

More generally, Dundon *et al.*'s (2004) research into employee voice (including NER) suggests that there are three ways in which it can have a positive impact. First, valuing employee contributions might lead to improved employee attitudes and behaviours, loyalty, commitment and more co-operative relations. Second, it could lead to improved performance including increases in general productivity and individual performance due to lower absenteeism and greater teamwork. Thirdly, it could improve managerial systems by tapping into employees' ideas, knowledge and experience, promoting greater diffusion of information and facilitating improved relations with trade unions.

Taras and Copping's (1998) research into NER arrangements at Imperial Oil in Canada suggests a cautionary note. An important finding of their investigation was that the company allowed perceptions of 'worker power and influence to develop', and representatives 'over-estimated their capacity to halt corporate-level initiatives' (Taras and Copping, 1998: 39). Thus this experience contributed to 'widened expectations-achievements gaps' creating frustration, lost of trust and the impetus for union organising certification (Taras and Copping, 1998: 39). Interestingly, Taras and Copping (1998: 40) also highlight that the principal inhibiting condition of unionisation 'was the desire by employees to give management a chance to correct its errors'. They state that employees worked with management until 'all vestiges of trust were dissipated. Had the company been more responsive to worker discontent ... there is little doubt that the union would have failed', and employees were reluctant to form a union even though they were frustrated with voice arrangements.

The concept of 'welfare capitalism' has been explored in the US by Jacoby (1997) who suggests that NER voice arrangements are a sophisticated management strategy to reduce employee turnover and provide welfare support to employees through consensual employment relations. He argues that, as a result, the need for interest representation through traditional unions is reduced and replaced by more

paternalistic approaches and management style. This can be achieved through higher pay, wide provision of employee benefits, and most importantly greater employee voice through participation arrangements, including non-union employee representation voice mechanisms. Thus employers gain greater organisational commitment from employees in exchange for their willingness to voluntarily forgo collective representation through an independent voice mechanism such as trade unions (Colling, 2003).

In his study of Delta Air Lines, Kaufman (2003) describes its management approach as 'enlightened paternalism', where employees frequently spoke of the company as 'mother Delta' or the 'family' management model, which required great expense and effort devoted to securing and maintaining employee loyalty and *esprit de corps*. However, Taras and Kaufman's (1999) review of NER arrangements in the US and Canada suggest that while it could be assumed that the creation of NER voice arrangements by some firms may be part of a welfare capitalism strategy in light of greater employment insecurities, it can also be seen in many workplaces as part of a 'high performance' human resource management and more participative strategy, rather than a paternalistic model.

Fairris' (1995: 494) historical study of US company unions³¹ during the 1920s suggests that such voice mechanisms cannot be understood entirely in terms of employers' efforts to block independent unionisation or to foster greater worker loyalty through the paternalistic provisions of welfare capitalism. Fairris argues that these non-union voice arrangements were 'mechanisms by which workers voiced their concerns about shop floor conditions to employers instead of exiting the firm' (Fairris, 1995: 494). According to Fairris (1995: 494), they were an effective method for addressing workers' shop floor discontent, and as a result led to both increased productivity and enhanced safety and thus were 'mutually beneficial for labor and management'.

In the US, Kaufman's (2003: 25) research at Delta Air Lines would seem to confirm that if the motive and purpose of non-union voice arrangements is to foster

³¹ From a European perspective these can be considered non-union representation structures.

cooperative and positive employee relations, then employees feel satisfied with their jobs and will often express commitment to the company. As Kaufman therefore suggests, an indirect by-product of such voice arrangements is that many of the conditions that lead employees to seek outside representation are not present. However, Kaufman also argues that if firms establish NER arrangements for the explicit purpose of avoiding or keeping out unions, this may lead to negative outcomes as employees' perceptions and expectations are not met and they quickly grow disillusioned (Kaufman, 2003: 25)

An interesting insight into employee views of NER was presented in the Freeman and Rogers (1999) survey of American private sector workers. Given a choice between joint committees, unions, or laws protecting individual rights, some 61 per cent chose joint committees, 23 per cent opted for unions and 16 per cent favoured individual rights (p.151). When presented with the choice of a voice structure run jointly by employees and management or one run by employees only, 85 per cent of respondents to the study choose the first option (Freeman and Rogers, 1999: 142). More recent survey results have reconfirm these findings (Diamond and Freeman, 2001; Haynes, Boxall and Macky, 2003; Pyman, Cooper, Teicher and Holland, 2006).

Union outcomes

Regarding outcomes for unions, Hammer (1997: 9) argues that, 'In the absence of legislation that legitimises indirect non-union participation, the effectiveness of such programmes depends on the goodwill, trust and power relationship between the parties'. Interestingly, research has shown that trust and legislation are interlinked indicating that specific representational forms can be effective if general legislation 'is sufficient to deter management from using committees, boards, or councils to make decisions that can hurt worker interests' (Hammer, 1997: 10).

Others have suggested that the question is not whether NER structures will weaken unions, but rather whether unions will be prevented from developing a strong

presence where there is an existing NER arrangement (Terry, 2003). In essence, this argument is based on the premise that ‘confident, assertive unionism can still make effective use of collective action to obtain management concessions’ (Terry, 2003: 491). Based on UK evidence, Fishman (1995: 7) has stated, ‘There is surely no inherent reason why a works council should inhibit union growth’. These views are often linked to the notion of workplace ‘partnership’, which stresses the need to transform the traditional adversarial and conflictual forms and behaviour to a consensus-based approach (Terry, 2003).

In contrast, other commentators have suggested that NER arrangements along the lines of works councils have ‘consolidated a more recent shift to non-unionism’ (Kelly, 1996: 56). This rationale is premised on the belief that employer-initiated structures are based on employers’ terms and cannot be effective in providing a true voice for employees’ issues and concerns because they institutionalise worker cooperation, thus limiting scope for trade union action (Kelly, 1996; Lloyd, 2001). Some argue that NER structures such as works councils are used by management as ‘cosmetic’ devices (Terry, 1999) or are little more than ‘symbolic’ forms of representation (Wills, 2000) as a means to avoid trade unions. (These points are explored in more detail in the following section)

3.4 Conditions for unionisation and union responses to NER

Why do employees join unions?

There are a number of theoretical frameworks attempting to explain why employees may join unions, thereby providing a fuller picture of the possible union responses to NER.

Barling, Fullagar, and Kelloway (1992) argued that the unionisation process involves both the union recognition phase and a period of ‘socialisation’ or legitimatisation driven by workplace activism and commitment to the new union. The union begins campaigning – sometimes referred to as the ‘pre-election’ phase-in – which a union

sets a position, and identifies and frames issues.

In addition, literature on union commitment stresses dual allegiance, whereby workers experience conflicting loyalties to their union and their employer (Newton and Shore, 1992). This is often cited as a reason for a firm to oppose unionisation in that unions are a rival for employee commitment. In the UK, Guest and Dewe (1991) examined employee 'identity' and 'allegiance' in three electronics plants along four criteria: union; management; dual union-management; and no identity. They focus on the 'identity' component as part of commitment (as distinct from the outcome elements such as turnover) which they break into three components: attitudinal (to what extent a union or management reflects an employee's own views); interests over a number of issues; and finally, the sharing of interests with other groups (top management, line management, occupation, or other employees).

Their main findings suggest that one of the main antecedents of identity is job satisfaction, which is largely determined by the scope and level of employee involvement and participation. In addition, their findings would seem to indicate that the most positive firm-related outcomes are from dual management and union identity. In addition, Taras and Copping (1998: 25) highlighted the fact that the research 'overlooks another actor/rival in the relationship – the formal non-union alternative'. They argue that these workers might be balancing a *triad* of allegiances'.

Other influences on why people join unions could include external macro forces such as labour market conditions, market wage rates, public policy and legislation. More micro institutional context variables such as organisational/firm size, quality of management and supervision, systems of procedural justice and grievance procedures, human resource policies and union relations could also be considered important (these factors will be assessed in this research by using interviews, committee minutes and company documentation). Individual level factors could also be significant, such as the demographics of the workforce, previous experiences with and attitudes to unions, commitment to work, the perceived influence of unions and

the level of job satisfaction (these factors are explored here in this research via focus groups and survey responses).

Overall, three causal models attempt to explain why people join unions:

- *Model A* – This model is initiated by an employee's dissatisfaction which leads to a decision as to whether a union would assist in achieving their objectives (Wheeler and McClendon, 1991). This is normally associated with dissatisfaction with pay, working conditions, or job characteristics (Fiorito *et al.* 1986). As Kelly (1998) and Terry (2003) have described, 'feelings of powerlessness' or unfavourable sentiments toward company policy can also initiate the process of unionisation. Frustration over influence or level of participation in decision-making can also be a strong predictor of pro-union behaviour (Bornheimer, 1985).
- *Model B* – This model does not require the presence of dissatisfaction based on rational behaviour. An assumption under this approach is that employees survey the available alternatives and make rational, calculative decisions to maximise utility based on a belief that economic (pay rise etc) or non-economic improvements (work & life balance, training, career progression etc) are achievable (Wheeler and McClendon, 1991). Importantly, Taras and Copping (1998: 25) argue that when dispute resolution mechanisms break down or become unreliable, workers turn to unions, with the most important factor in an employees' decision to unionise being 'instrumental' rather than because of attitudes to collective consciousness or ideological attachment. This could be called 'instrumental collectivism' rather than 'ideological or social collectivism' (Haynes, Boxall and Mackey, 2003).
- *Model C* – This model is based on notions of procedural justice under the psychological literature. Essentially this model suggests that if employees believe the procedures for attributing rewards and outcomes are fair and just, employees are more likely to accept distributional outcomes they consider to

be adverse or not beneficial. Procedural justice can be contrasted with distributive justice. The latter relates to the actual distribution of rewards (how much each person gets), whereas the former relates to the procedures used to decide who gets them (eg by appraisals, measures of output etc).

NER and conditions for unionisation

The UK literature is also rich with case studies examining the transformation of non-union consultation and representation arrangements to more formalised union-based arrangements (Bonner and Gollan, 2005; Dundon and Rollinson, 2004; Dundon, 2002; Gollan, 2001; Gollan, 2003b; Gollan, 2005; and Watling and Snook, 2003).

However, much of the literature is based on the assumption that there are rational choices for employees in their choice of voice arrangements. In particular, if employers match or exceed wages and conditions compared to comparable unionised workplaces, NER arrangements are perceived as effective and are maintained and supported by employees. However, if employers reduce wages and conditions (voluntarily or involuntarily due to labour or product market conditions or pressures for unit labour cost reductions) to a lower level than those in more unionised plants or workplaces, they create a condition for union activity and presence. Thus, the longevity of NER arrangements and prospect for unionisation is dependent on management strategies and approaches that match or exceed those of union-based arrangements (Taras, 1994; Taras and Copping, 1998).

Taras and Copping (1998:27-28) also state, ‘...dissatisfied workers in non-union plants are *more likely* than non-represented workers to seek union structures because they have existing leaders and have accepted the legitimacy of collective action’. It could also be argued that not only have employees accepted the legitimacy of collective action but may have great expectations over the likely success of such arrangements which have not been fulfilled (Gollan, 2003b).

As such, some commentators have argued that NER voice arrangements are union

avoidance mechanisms either by intent or by effect, and workers are less likely to unionise because the perceived instrumentality of joining a union would be lowered (Gollan, 2000; Kaufman and Taras, 2000; Taras and Copping, 1998; Terry, 1999). Such arrangements exert strong inhibiting factors on the process of unionisation due to the fear of reprisal by management, or good management practices rendering unions as unattractive and unnecessary (Gollan, 2000; Kochan, Katz and McKersie, 1986). In addition, these commentators also state that such structures are packed with 'hand-picked cronies' or in the cases where employees can elect representatives (including union representatives) may not be fully independent of the company and will not have the backing of national union organisers to enforce action or outcomes.

Terry (2003) suggested that the question is not whether works councils will weaken unions, but rather whether unions will be prevented from developing a strong presence where there is a works council. In essence, this argument is based on the premise that 'confident, assertive unionism can still make effective use of collective action to obtain management concessions' (Terry, 2003:491).

Another important debate around collective representation is the notion of 'fairness' and the sense of injustice. Kelly (1998) has been a leading advocate of the approach that places emphasis on the perceived injustice of workers, which can lead to the mobilisation of collective organisation, representation and organised action. Kelly (1998) argues that in order to mobilise collective action, workers need to acquire a sense of injustice or grievance in their work environment. This process, he argues, requires leadership and a collective organisation and structure (Kelly, 1998).

Likewise, Cropanzano and Folger (1991) argue that procedural justice can be important in organisations because it can make employees more willing to accept unfavourable distributive outcomes (eg not getting performance-based pay). For example, procedural justice may boost the effectiveness of incentive schemes designed to encourage employees to use the discretion they have in their work to the organisation's advantage. Employers want them to be positively motivated, not just doing what they have to for fear of reprisals.

Dundon's (2002: 243) research into seven non-union organisations also highlights that while there was support for the principle of union representation, employees' pragmatic concern was the 'efficacy of a union to correct a perceived injustice'.

Dundon (2002: 243) argues:

In many of these companies, workers were fearful of managerial reprisals, and this led them to question the ability of a union to challenge managerial attitudes effectively or provide any instrumental job improvements ... In part, this is because existing evidence suggests a dual strategy by the unions: they want to appear respectable to employers while at the same time trying to appeal to workers ... Of course much depends on the contours of specific partnership arrangements. Recent evidence indicates that 'weak' rather than 'strong' partnerships are developing in some non-union organisations.

Hyman (1997) has argued that structures representing the interests of employees through collective bargaining (legally enforced or not) may give more legitimacy and efficacy to the decision-making process, ensuring greater organisational commitment. In addition, Hyman (1997) suggests that NER forms have the capacity to assist unionism in workplaces where they are given many responsibilities and especially when enforced through statutory rights.

Appelbaum and Batt (1994: 153) suggest there are two interrelated issues guiding union decisions to support non-union voice arrangements and whether the union should participate in or with such arrangements – the welfare of members and the institutional integrity of the union. It is said that these two issues are closely linked because the institutional strength of the union determines how well it can represent the interests of members over the longer term. Importantly, the welfare of members is premised on the success of the firm in providing employment security and increased wages. Appelbaum and Batt (1994) argue that the decision by union

members to participate in these arrangements will be largely based on two guarantees – that employees will share in gains derived from such initiatives and the union's security in the firm will be maintained, and its ability to organise new members is unrestricted.

In unorganised workplaces, an alternative argument has also been presented. This is based on the belief that NER provides a condition for union representation (Taras and Copping, 1998). As Taras and Copping (1998: 27) argue, 'By enabling workers to experience collective representation, non-union plans act as the thin edge of the wedge toward [union] certification'. Taras and Copping (1998) cite Ichniowski and Zax's (1990) research, which indicates that the presence of non-union associations strongly predicted the formation of bargaining units in American local government departments. In the UK, it has also been highlighted that the establishment of non-union Whitley Councils in the 1920s in the public service further encouraged unionisation (White, 1933; Gollan, 2000) and the development of workplace unionism in the traditionally status and hierarchy driven civil service.

Drago and Wooden's (1991) research also suggests that formal employee participation structures (direct or indirect) heighten employees' desire and appetite for representation at workplace level. A parallel can be drawn to Sako's (1998) research findings of the interaction between direct and indirect participation arrangements, with one the necessary condition of the other. Similar findings were raised by Batt, Colvin and Keefe (2002) in their examination of employee voice in the telecommunications industry.

Charlwood's (2002) analysis of a representative sample of non-union employees in the UK also confirms the importance of job dissatisfaction and perceived union instrumentality as predictors of the willingness to join a trade union, with union instrumentality being the most significant factor³². Charlwood's (2002) figures based on the 1998 British Social Attitudes Survey Data would suggest that overall some 40 per cent of non-union employees expressed a willingness to join a union if one were

³² The representative sample of non-union employees was derived from the 1998 British Social Attitudes Survey.

available. Political beliefs and left wing views were also important factors in the decision to join a trade union. Charlwood (2002) further states that, 'These results suggest that if unions are to win the support of the non-union workforce, they will need to invest considerable effort and resources in persuading employees that a union will make a difference to their workforce' (p. 488).

Kelly (1998) also suggests that political and ideological beliefs may be important influences in the willingness of employees to join a trade union. In particular, left-wing political views could encourage social solidarity between employees since political beliefs may influence an individual's views on trade unions which mediate the costs and benefits of unionisation. As Charlwood (2002: 470) argues, 'an individual with left-wing political views is likely to believe that the benefits of unionisation are higher and the costs lower, while an individual with right-wing political views is likely to believe the opposite (also see Kelly, 1998: 27-29). Thus employees with left-wing views are likely to believe in union instrumentality. Kelly (1998) also states that such employees may view their employment in terms of capitalist exploitation and be less satisfied with their job.

Recent research by Badigannavar and Kelly (2005) explored why certain organising campaigns were more successful than other campaigns as measured by membership growth and recruitment of activists. They found that unions that generated greater social cohesion and union identification amongst employees were considered more effective in voicing workers' concerns and more successful in attributing blame for problems on management, which promoted a stronger sense of union instrumentality and perceived effectiveness and highlighted the benefits of union membership. They go on to state that while those were important intrinsic factors, other extrinsic issues mediated the intention to be a union member. In particular, the size of the firm in establishing a critical mass of activists and the influence of local labour market conditions may also be important, with workers who have more 'exit' options likely to be in a much stronger bargaining position than workers with fewer alternatives. Badigannavar and Kelly (2005: 532) argue these extrinsic factors may 'not directly affect the intention to unionise, they may have an indirect effect through reducing the

perceived effectiveness of the union’.

Related to this are the views, beliefs and attitudes towards unions and work from the normative attitudes of family, local community and social class (Blanden and Machin, 2002; Charlwood, 2002). The rationale is that employees in a local community dominated by traditional heavy industry with high unionisation are more willing to join a trade union due to their experience of trade unionism from family and friends. Such normative attitudes may influence perceptions of union instrumentality and political views. Previous union experience through union membership may also be a significant factor, since impressions left by their previous union experience may encourage (or discourage) union membership.

Importantly, Appelbaum and Batt (1994: 151-152) suggest that ‘as the central conflict between labor and management has shifted from wage bargaining to saving jobs, unions have recognized the need to represent members’ interests by taking a proactive rather than a reactive stance on corporate decisions that affect the ability of the company to remain profitable in an increasingly competitive environment’. Within this context it may seem problematic for trade unions with increasing focus away from traditional collective bargaining issues concerning pay and conditions, to a new focus on more strategic issues such as capital investment, product development and/or service delivery, technology and work organisation. It is argued that traditionally few unions have the necessary capabilities, knowledge or capacity to assume such ‘partnership’ responsibilities (Appelbaum and Batt, 1994: 153; Terry, 2003).

Within this context Bacon and Storey (2000: 408) argue that the evidence now strongly points to ‘many trade unions withering on the vine’, and where traditional industrial relations procedures remain in place they increasingly came to resemble a ‘hollow shell’ (Hyman, 1997).

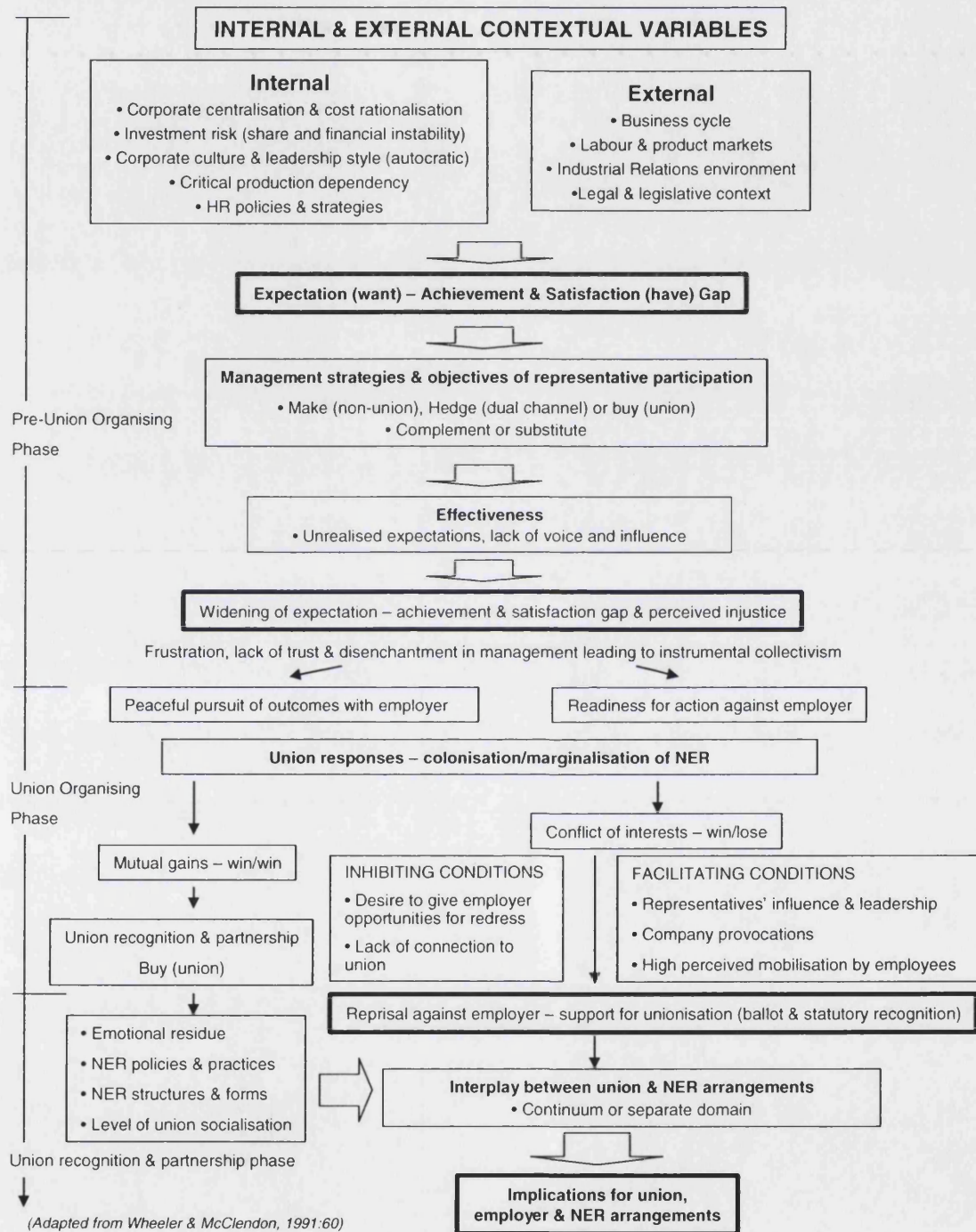
Research by Rubery *et al.* (2004) into changing organisational forms and inter-organisational relations in the UK shed some light on these developments. They

found that worker voice was often fragmented or disconnected. One example was at an airport where business contracts and the nature of employment contracts were complex and fragmented. This was partly due to government regulations breaking up the existing employment relationships across a number of private sector companies. They found that union solidarity was weakened as staff started to identify previous colleagues as potential competitors and cost-cutting created a multi-tiered workforce on different terms and conditions, with newly appointed staff on less attractive terms and benefits than longer-serving staff (Rubery *et al.*, 2004). Consequently tensions and divisions developed undermining worker and union solidarity. They concluded that those staff employed on precarious contracts lacked clearly defined channels of representation to articulate their grievances and lacked any collective strength to make their voice heard.

3.5 Management strategies towards NER and union responses: A framework

Figure 3.3 below sets out a framework highlighting the major themes and influences on the interplay between NER and union voice arrangements. It seeks to address the research questions presented in Chapter One. In particular, the model shows that a number of processes are involved in the mobilisation of union representation and its interaction with employer strategies and interplay with NER voice arrangements. It starts from the premise that certain internal and external contextual variables create an expectation and achievement/satisfaction gap, which management attempts to fill by creating a voice arrangement. This may be achieved through a single representation channel buying in a union or by establishing a non-union voice mechanism.

Figure 3.3 Management strategies towards NER and union responses: A framework



However, management may decide to ‘hedge’ by recognising a union and establishing an additional voice arrangement creating two voice channels as a means to address lack of employee voice and mediate union demands (addressing research question one). Such strategies determine whether NER arrangements are established as a complement to or a substitute for union representation (addressing research question two). It is suggested that when such NER arrangements, are established they create certain employee expectations about outcomes from such arrangements. If these expectations are not realised, a widening of the gap between expectation and achievement results in greater frustration, lack of trust and disenchantment in management leading to instrumental collectivism due to a lack of perceived effectiveness (addressing research question three). This could manifest itself either as the peaceful pursuit of desired outcomes through mutual gains by union recognition by the employer and/or employer-employee partnership. These arrangements lead to certain partnership and collective bargaining outcomes, which in turn influence employee responses and perceptions (addressing research question four). Alternatively, union responses may be expressed through a readiness for action against an employer based on a conflict of interests as an expression of a ‘win’ and ‘lose’ strategy. This will be mediated by union responses, in particular union strategies to colonise or to marginalise NER voice arrangements (addressing research question five).

Under the union recognition/partnership path a number of factors may influence the type and level of interplay between union and NER arrangements including NER policies and practices, NER structures and forms and the level of union socialisation. Under the ‘win/lose’ conflict path, the reprisal against the employer through support of unionisation may be influenced by a number of conditions. One inhibiting condition may be the desire by certain sections of the workforce to give the employer opportunities for redress, the lack of desire to be members of a trade union or the lack of connection to the union movement among employees. This may be due to more individualist, cultural and societal values towards or lack of historical connection to unions. More facilitating conditions include the strength of the union representatives’ influence and leadership, company views and opinions towards

unions, and high perceived mobilisation by employees. As a result, these conditions and influences, affect the interplay between union and NER and if such structures provide a continuum or separate domain for employees, and in so doing have implications for unions, the employer and NER arrangements with in the context of recent legislative development in Europe (addressing research question six).

CHAPTER FOUR

RESEARCH METHODS AND STRATEGY

4.1 Introduction

The research method and strategy employed in this thesis principally follows a qualitative case study approach. Yin describes the case study approach as an empirical enquiry that investigates a contemporary phenomenon within a real-life context, when there is a blurring between phenomenon and context, where multiple sources of evidence are used (Yin, 1994). Stoecher (1991: 97-98) defines a case study as 'those research projects which attempt to explain holistically the dynamics of a certain historical period of a particular social unit'. It could be argued that the advantage of the case study approach is the ability to evaluate the process of change and its consequences to give an account of actions, events and people. However, there are certain limitations to the case study approach, since it focuses on events within a particular context and it can be difficult to generalise from the results. Scott (1994: 30) argues that the case study should be seen as something different from general social surveys:

Case studies are not about indicating how common a particular phenomenon is, but rather about helping to understand situations ... this means using the evidence of behaviour in particular enterprises to shed light upon issues which are common to a wide range of business organisations. (as cited in Dundon and Rollinson, 2004: 60)

A fundamental feature of the research design was to use a strategy that would allow the flexibility of rich, deep and complex factors to emerge from what are essentially dynamic processes (Dundon and Rollinson, 2004). The emphasis on rich and detailed information in the case study approach by utilising both qualitative and quantitative methods can be useful in explaining social processes and outcomes. While the

interviews provide in-depth understanding of a particular given situation and focus groups can represent a collective response to questions that permit testimonies and narratives (Gephart, 2004: 458), the use of a questionnaire can 'bridge the gaps' of qualitative data and help facilitate the management of a mass of information and allow direct comparison between nodes of data or variables (Dundon and Rollinson, 2004; Yin, 1993).

It can also be argued that a combination of methods provides the best means to understand the 'delicate and intricate interactions and processes occurring within organisations' (Hartley, 1994: 209) as a means to triangulate and thereby improve validity in analysing the results. The aim of this research was not only to determine 'what' were the structures, processes, procedures and outcomes of NER voice arrangements but also to inform and explain 'why' and 'how' such arrangements were introduced and the likely implications of the introduction of such voice arrangements. While the interviews and observation provided explanations for why certain policies and procedures had to be adopted, the questionnaires provided factual information on employee perceptions and attitudes. In effect, this research endeavours to shift away from a variable-centred explanation to one based on narrative, thus attempting to capture social realities as a network of complex social interactions and locating small case study based surveys within more firm-based general social science thought.

As a means to ascertain a fuller picture of NER arrangements, this research attempts to measure the breadth and depth of such voice arrangements. As Cox, Zagelmeyer, and Marchington (2006) suggests relying on questions about absence or presence does not take into account how these schemes work in practice and questions about extensions tell us nothing about the extent to which schemes are embedded within a workplace or an organisation.

Breadth can be considered to be a measure of how many different schemes operate in a workplace or organisation or industry. Depth, however, measures how embedded an individual technique or channel of voice is within the workplace or firm, assessing

factors such as regularity, significance, level of power, independence and autonomy, level of trust, resources and capability, and legitimacy.

While it could be argued that each of these factors assesses slightly different aspects of voice, they all measure depth and the degree of effectiveness and influence over decisions, and assess whether such voice arrangements are merely a cosmetic exercise and a device to incorporate, or a genuine attempt to share influence and give workers a say in the decision-making process.

Combining breadth and depth offers greater acknowledgement and capacity to evaluate voice and participation at the workplace level. As Cox, Zagelmeyer and Marchington (2006) suggest these indicators should be assessed through longitudinal case study work. Cox, Zagelmeyer and Marchington (2006) also argue that greater breadth and depth of voice arrangements are associated more significantly with positive employee outcomes, including commitment, satisfaction, loyalty, pride, fairness and shared values, than presence alone.

Importantly, qualitative research is often designed at the same time as the research is undertaken and is open to unanticipated events, which requires highly contextualised individual judgements. While it offers holistic depictions of realities that cannot be reduced to a few variables, clarity can be gained by contrasting qualitative research with quantitative research which focuses on measurement and analysis of causal relations between certain variables (Gephart, 2004: 455) and provides the bases for understanding social processes that underlie management strategy and actions.

According to Gephart (2004), qualitative research highlights the linkages between theories and methods. In addition, it explores the processes that occur naturally and studies phenomena in the environments in which they naturally occur, and uses social actors' meanings to understand this phenomena (Gephart, 2004: 455).

Gephart goes on to suggest that qualitative research 'provides a narrative of people's view(s) of reality and it relies on words and talk to create tests. Qualitative work is

highly descriptive and often recounts who said what to whom, as well as how, when and why. An emphasis on situation details unfolding over time allows qualitative research to describe processes. Qualitative researchers also seek to explain research observations by providing well-substantiated conceptual insights that reveal how broad concepts and theories operate in particular cases ... An important value of qualitative research is description and understanding of the actual human interactions, meanings and processes that constitute real-life organisational settings' (Gephart, 2004: 455).

This research employs an interpretive perspective as a means to understand the 'actual production of meanings and concepts used by social actors in real settings', thus describing how different meanings 'held by different people or groups produce and sustain a sense of fact, particularly in the face of competing definitions of reality', and seeking to describe and understand individually held meanings and the implications that different meanings hold for social interaction (Gephart, 2004: 457). It also examines how particular meanings become shared, dominant, and/or contested in situations in which alternative meanings and understandings are present.

According to Harrison and Freeman (1999: 482), the quality of empirical research in the social sciences is measured in terms of validity, reliability, internal validity, and external validity. As a means to address these criteria, Yin (1994) has suggested a number of elements which could be addressed. To ensure construct validity (establishing correct measures for constructs under consideration) multiple sources of evidence could be used and key informants could review and comment on the findings and evidence. Reliability (the means by which a study can be repeated and yield the same or similar results) requires detailed research frameworks and protocol. Internal validity (relevant for explanatory cases) can be gained from pattern matching by explanation building or time series analysis. To address this requirement, the Eurotunnel case presented for example builds in this thesis on explanation building through a time series of longitudinal analysis. The issue of external validity or generalisability however, is more problematic for case studies.

Yin (1994) states that simply contrasting a sample as representative to the large population is an incorrect evaluation of case studies, since survey research relies on 'statistical' generalisation and case studies rely on 'analytical' generalisation, where a researcher is trying to generalise a 'particular set of results to some broader theory' (Yin, 1994:36). Another way to address this issue, according to Yin, is to use replication with multiple or a series of cases that reinforce each other. This has been addressed in this thesis by examining a series of cases as part of the research strategy.

In particular, the selection of the cases highlighted a number of distinguishing characteristics that enabled a better understanding of management motives and union responses towards NER, and the effectiveness of NER arrangements as a mechanism of employee voice.

The cases were selected on the basis that either their structures were well established (thus capable of showing their potential effectiveness), or were recognised as leading companies in their field or market (examples of best practice behaviour) and had recently adopted NER arrangements as part of their industrial relations strategy.

Some cases were also selected to highlight conditions for representative change under certain environmental conditions. In particular, the catalysts for change at South West Water, News International and Eurotunnel were both internal to the firm and as a result of external changes in environmental conditions outside the firm. In the case of South West Water, internal catalysts were a change of management style from a new leadership team and the change of ownership from government control to privatisation. In the case of News International, environmental changes such as availability of new technology allowed greater flexibility of labour and reduced the demand for highly unionised craft skills.

4.2 Methodological framework

The central focus on the perceived effectiveness of NER systems has several methodological consequences. First, it allows an analysis of the different types of relationships, such as the relationship between the employee and the employer, the employee and employee representative, and the representative and the employer. Second, it can provide a framework for examining the operation of NER arrangements (ie how do they impact on employee trust in management and perceptions of influence etc.?) Third, what this all means for unionism is explored indirectly, by studying union responses to such arrangements. Fourth, it allows an examination of the effectiveness of representative voice arrangements through employee perceptions, attitudes towards and satisfaction with NER arrangements and how such arrangements are perceived in representing the interests of, and providing voice for employees³³.

It was considered inappropriate to explore effectiveness and outcomes using objective data (performance, employment levels, turnover etc) due to a number of factors. First, objective workplace data was difficult to obtain in a number of firms. While public data through annual reports was accessible, much of the data was too general and distant from the central focus of the research. Second, where data was available (eg. turnover) movements and trends identified in these data were difficult to attribute to actual representative and consultative processes and arrangements. Third, objective indicators of effectiveness (performance, profits, productivity etc) invariably depend on a number of inputs, thus isolating the contribution of representative and consultative processes to these outcomes would be difficult and problematic. Thus 'perceptions' of effectiveness and outcomes from respondents (employees, management, and worker representatives) who have knowledge and experience of the representative and consultative processes were considered to be a more appropriate measure.

³³ It must be recognised that while perceptions of effectiveness are potentially biased and should be treated with caution. However, such opinions could be considered important since the level of support for voice arrangements may impact of the level of success and longevity of such arrangements.

This raises two general methodological questions. First, 'How is the research going to answer the questions presented?', and second, 'What process or approach will be adopted to develop the research? As such, the research strategy consists of five stages.

The first stage was the identification and exploration of NER voice arrangements. This involved a literature review, exploratory fieldwork, 'pilot' case studies and finally selection of the cases. The second stage involved the case study research by reviewing management strategies towards NER arrangements in nine organisations. The third stage identified five organisations to undertake a more thorough analysis using a combination of qualitative and quantitative research techniques over specific time periods as a means to identify the perceived effectiveness of NER in representing the interests of and providing voice for employees. These cases also provided data for examining union responses to such arrangements. The fourth stage applied a longitudinal investigation of Eurotunnel to explore whether NER arrangements were a complement to union representation or acted as a substitute for union-based voice arrangements. This stage also provided a means to assess the workplace outcomes of both NER and union-based voice arrangements. In the final stage, the findings were synthesised and conclusions drawn to highlight the potential implications for employers, unions and NER-based voice arrangements in the future.

4.2.1 First stage: literature review and case study selection

The first stage established the background to and development of NER arrangements through a review of relevant literature and findings. An examination was made of definitional questions (ie what is an NER structure?) and an assessment made of the approaches to certain forms of NER from an employee's and employer's perspective (including managerial strategies towards employee representation in general). As such, the first stage was divided into two parts.

Literature review

Until recently, research into NER was limited in the UK and was mainly based on a small number of North American studies. While research on works councils in Europe was very well developed, little was known of NER in Anglo countries where no legal framework of NER had been established. In 2000, Bruce Kaufman and Daphne Taras edited a collection of papers around the issue of NER titled *Nonunion Employee Representation – History, Contemporary Practice and Policy* (Kaufman and Taras, 2000) based on a conference in Banff, Canada in September, 1997. The volume contained a number of perspectives and views towards NER and outlined the theory and practice of NER arrangements, primarily in the US. The volume also contained three chapters focusing on NER arrangements in Germany, Japan, and the UK and Australia. While this provided an initial step towards filling a void, little was still known of NER in practice from a UK perspective.

Using Kaufman and Taras' (2000: 17) words, the aim of this doctoral research was to 'materially advance the state of knowledge and debate' by consolidating and integrating the available (and limited) literature on NER in the UK. The literature outlined a number of descriptive details of the policies, practices and structures of NER voice arrangements but provided little insight into how such arrangements were implemented, the management strategies involved, or their impact on performance or industrial relations outcomes for employers or employees.

Case study selection

The initial empirical research began by identifying a number of 'pilot' studies from the general press and trade journals based on the definition of NER generated in the first stage. Academic and practitioner contacts were also utilised to undertake an initial review of organisations with NER. Upon identification of the organisation, initial contact was made via telephone and email normally with a senior HR manager or director to ascertain the type of NER arrangement and its appropriateness for addressing the research questions generated in the first stage of the project.

Another consideration was the probability of gaining access to firms with appropriate NER structures. This process identified nine organisations in total. These firms represented a cross section of service-based market sectors and manufacturing (see below for further details). Given the limited research previously undertaken in the area, this stage was considered important to enable a clear systematic understanding of what was required in the subsequent research stages (see Table 4.1 for details of case study organisations and characteristics).

Table 4.1 Characteristics of case studies³⁴

Sainsbury's

Retail (Grocery)

Sainsbury's was founded in 1869 as one of the first grocery stores in Drury Lane, London. At the time of the study, the group had 140,000 full-time and part-time employees in over 380 Sainsbury's, Savacentre and Homebase stores nationwide. Sainsbury's employed 115,000 people in around 363 supermarkets and four depots (two-thirds were part-timers). In addition, there were 12,500 administrative staff. Homebase employees accounted for 17,000 staff in 332 stores³⁵. Savacentre had 10,000 staff in 12 hypermarkets. About 66 per cent of the total workforce were part-time and are mainly women.

John Lewis Partnership

Retail (Department store)

The company was founded in 1864 when John Lewis established a draper's shop in Oxford Street, London. In April 2002, John Lewis had 50,000 staff with 40,000 partners (permanent full-time and part-time staff) employed in 25 department stores, 130 Waitrose food shops, five manufacturing units, distribution centres and warehouses.

South West Water – Pennon Group

Water utility (Water & sewerage)

South West Water Limited (SWW) is the water and sewerage company for the South West region, which employed around 1,600 people at the time of the study. It is part of a larger group of companies under the umbrella of the Pennon Group Plc. SWW holds the licence from the Government to provide water and sewerage services to the South West for 25 years from 1989 to 2014.

Panasonic (Matsushita) UK

Sales (Electrical appliance)

Panasonic (UK) is the trading name of the Matsushita Electric group based in Japan. At the time of the study it had 11,000 employees in Europe and a workforce of 260,000 worldwide. There were around 4,000 employees in the UK where its European head office is based.

³⁴ All figures were as of 2001 unless otherwise stated.

³⁵ Sainsbury plc sold its Homebase stores in December 2000.

Table 4.1 **Characteristics of case studies (continued)****HP Bulmers Ltd***Food and drink (Alcoholic – cider)*

Bulmers was founded after Percival Bulmer began making cider at Credenhill in Herefordshire in 1887. In the autumn of that year he began operations in Hereford. In 1888, his brother Fred Bulmer joined him to establish HP Bulmer and Company. While it became a public company in 1970, at the time of the study the Bulmer family still owned about 50 per cent of the shares. Subsidiary companies include Symonds (Herefordshire), Inch's (Devon) and businesses in Belgium, Australia and New Zealand. At the time of the study Bulmers had around 60 per cent market share in the UK and accounted for 80 per cent of the UK's cider exports. In 2001, it had around 800 employees at the Hereford plants and a worldwide workforce of 1,250 employees³⁶.

Grosvenor Casinos*Entertainment (Casinos and clubs)*

Grosvenor Casinos is one of the largest entertainment operations in the UK with interests covering casinos, bingo, bowling alleys and nightclubs. The company forms part of the leisure division of the Rank Organisation plc. Grosvenor opened its first casino in 1970 and has been developing its portfolio ever since. At the time of the research, it operated over 33 clubs throughout England and Wales (providing over 300 gaming tables). In addition, two clubs in Belgium were bought in 1998. On average, there were 120 employees per club, although one London club employed some 500 people. Overall, Grosvenor Casinos employed approximately 3,500 staff (including part-time and casual employees) and was divided into four geographic regions. Some sites operated 14 hours a day seven days a week, 365 days a year.

News International*Media and entertainment (Newspapers, television and motion pictures)*

News International Newspapers (UK) is part of the Australian-based News Corporation³⁷. News Corporation is one of the world's largest media companies with total assets of approximately US\$40 billion. News Corporation has diversified global operations in the United States, Canada, Continental Europe, United Kingdom, Australia, Latin America and the Pacific Basin. These operations include: the production and distribution of motion pictures and television programming; television, satellite and cable broadcasting; the publication of newspapers, magazines, and books; the production and distribution of promotional and advertising products and services; the development of digital broadcasting; and the creation and distribution of popular on-line programming (The News Corporation Limited Overview, 1999). At the time of the study News Corporation had a worldwide staff of 50,000 employees. In 2001, News International Newspapers UK employed around 3,600 staff in London (Wapping), Manchester (Knowsley) and Glasgow (Kinning Park).

Eurotunnel (UK)*Transport*

Eurotunnel has a 99-year lease to operate the Channel Tunnel link between Britain and France. It has a complex structure consisting of two legal entities to meet requirements in the UK and France. The company is owned by private shareholdings in France and the UK. Around 26 per cent of shareholders are banks, a similar proportion are institutional investors and 48 per cent are individual shareholders. In 2001/2 Eurotunnel employed a total staff of 2,300, with approximately 1,300 based in Britain on UK contracts. The UK head office is in Folkestone (Longport) with a separate office nearby for some administration activities (ie call centre).

³⁶ In September 2002 HP Bulmers' share price collapsed and 280 employees were made redundant. In 2003 HP Bulmers sold their Australian business to Calton United Brewers and in 2003 HP Bulmers was bought by the Scottish and Newcastle Brewery.

³⁷ In 2004 News International shifted its corporate domicile from Australia to the US.

Table 4.1 Characteristics of case studies (continued)**Ciba Specialty Chemicals (UK)***Chemicals*

Ciba Specialty Chemicals (UK) is the UK division of the Swiss-based Ciba Specialty Chemicals group. Previously, the UK division was an independent UK company under the name of Allied Colloids. It was sold to the Ciba group in 1998. Worldwide, the group has around 25,000 employees. The Bradford site at the time of the study employed around 1,800 staff. It is a leading specialty chemicals and associated chemicals producer with a focus on chemicals for water treatment³⁸.

Particular emphasis at this stage of the research was to identify the various approaches and strategies towards NER arrangements. After a review of firms as part of the first stage of the research, it was considered that these firms represented a diverse range of NER approaches, which could highlight particular management strategies in attempting to achieve organisational aims and objectives. Given that the aim of case selection was to achieve a diversity of approaches, firms with similar approaches and strategies to those cases already identified were rejected.

In addition, the theoretical and conceptual frameworks presented in section 3.1 were used to guide case analysis. In particular, the Willman *et al.* (2003) buy (union), make (non-union) or hedge (dual channel) model (incorporating risk and switching costs) based on transaction cost economics was used to identify the rationale for employers to choose between different voice regimes and to provide a theoretical basis for employer strategies towards NER arrangements. As such, the cases represent dual (union and non-union) and single channel (non-union only³⁹) approaches to employee representation.

As previously mentioned, the cases were also drawn from diverse industries and were selected on the basis of *dissimilarity* allowing for a comparative analysis of the variability and adaptability of employer strategies across industry sectors, occupational groups, difference in systems of corporate governance and geographical spread. Importantly, all organisations in this study were medium to large private sector firms since these firms would be covered by the European information and consultation provisions. This research also investigates management perceptions of

³⁸ By 2005 Ciba Specialty Chemicals group employed around 19,000 people at 80 sites in 28 countries. By this time the Bradford site reduced its workforce to 1055 employees.

³⁹ Union only approaches were not included in the case selection since this was not the focus of the thesis.

effectiveness (or ineffectiveness) of non-union voice configurations and tests possible complementarities by using qualitative variations in voice arrangements. It was considered that management strategies and perceptions of the role of employee voice would influence management's desire to obtain certain union and non-union channels of voice.

4.2.2 Second stage: fieldwork

The initial fieldwork in these nine organisations was undertaken between October 1998 and June 2000. This phase enabled an assessment of management strategies and motivations towards NER up to and immediately following the introduction of the *Employment Relations Act* with its new provisions and procedures for statutory union recognition. This review of management strategies towards NER in the period preceding and following the introduction of the *Employment Relations Act* could also give an indication of the management strategies likely to be adopted for the forthcoming Information and Consultation Directive and the UK ICE Regulations.

In addition, assessing management strategies towards NER in these cases would provide a basis for exploring the internal influences on employers rationale for establishing NER arrangements and assessing the value of the Willman *et al.* (2003) framework based on the transaction cost economics model. In addition, it also allowed an opportunity to examine the importance of Appelbaum and Batt's (1994) institutional framework of external factors conditioning and influencing NER strategies.

In all cases, the research was based on interviews with senior HR personnel (normally the HR Manager and/or HR Director) in order to explore management strategies and NER processes. Where appropriate the employee representative and senior trade union representatives were also interviewed. Fieldwork was carried out in these organisations by identifying key informants who could outline and review their NER arrangements in fine detail (see Appendix 1 for the list of key informants). In several organisations, access was also given for interviews with other worker

representatives and employees.

In total, the research is based on approximately 45 interviews with managers, employee representatives and union officials. In many cases, access was also given to detailed employee survey data and other internal company documents, such as committee minutes, management memos and committee constitutions. A semi-structured interview was used on each occasion with interviews lasting between one and three hours.

Key themes raised in the interview schedule included: drivers in establishing NER voice arrangements; involvement of trade unions; structures and processes of representative voice arrangements; issues raised at meetings; relationship between representatives and management; perceptions of the value of information and consultation processes; role of negotiation, bargaining and consultation; perceptions of effectiveness among management and employee representatives; and perceptions of influence and impact of NER arrangements.

In addition, in those organisations with a trade union presence material from relevant union sources was sought to assess union and employee representatives' views on NER strategies. Interviews were also conducted with employee representatives and, where present, trade union representatives, as a means to assess the perceived outcomes of NER from the perspective of worker representatives. Themes raised in the employee representative interviews were: degree of personal involvement; information received from management; perceptions of the extent of voice and influence; level of training and of representative skills; relations between union and non-union representatives; conduct and procedures of council meetings; and representatives' relations with management (see Appendix 2 for full interview schedule).

4.2.3 Third stage: cases for further investigation

The third stage of the research identified five organisations (from the pool of nine organisations) worthy of further investigation – HP Bulmers, Ciba Specialty Chemicals (UK), South West Water (SWW), News International and Eurotunnel (UK). In particular, these cases were selected on the basis that their NER structures were embedded within workplaces, which had a degree of active union presence. These cases also provided an opportunity to examine company wide representation arrangements across a diverse range of occupational roles within a single firm.

One of the aims of this stage of the research was to provide insights into union responses to such arrangements, thus shedding some light on the potential outcomes and implications for management, trade unions and employees. The research also explored union strategies and tactics of ‘colonisation’ and ‘marginalisation’ of NER voice arrangements. These cases also provided a basis for assessing Freeman and Lazear’s (1995) model of rent distribution in underpinning the rationale for maintaining NER voice arrangements.

In addition to the methods employed in the previous stages of the research, this stage widened the scope of investigation to include focus groups in three organisations (South West Water, News International and Eurotunnel). Access was given at News International to a PricewaterhouseCoopers survey on representation and other internal company records, and at Eurotunnel permission was given to conduct a Consultation, information and representation employee survey in 1999 before union recognition and again in 2002 after union recognition (see below for further details of the surveys). Access was granted to council minutes and internal correspondence between management, the union and the company council, senior management and employee representatives. In order to assess employee views at South West Water, a previous trade union representative at the company arranged focus groups with employees to ascertain employees’ views as well as interviews with senior management and employee representatives. The detailed research strategies are

outlined below.

HP Bulmers Ltd

The HP Bulmers case study was based on two interviews – one with the Employee Councillor and Deputy Chair of the Employee Council and another with the T&GWU Convenor – in June and July 1999. The interviews provided an opportunity for indepth questioning of leading representatives from the union and the Employee Council.

This case was selected because of the presence of dual channels of representation, which could highlight the processes and interplay between union and non-union arrangements. Bulmers' long history of paternalistic partnership practices based on a strong sense of social harmony, co-operation and equality was also a significant factor in the case selection, particularly given the company's aim of diminishing 'class distinction'. In addition, the long history of union representation and non-union arrangements could provide further insights into the processes and procedures required for the co-existence of union and non-union voice arrangements.

Ciba Specialty Chemicals (UK)

This case study was based on interviews with the Company Council Leader and Union Site Representative, and the union (GMB) Regional Organiser in June 1999. The case provided an opportunity to review the strategy of the long-standing Company Council before and after union recognition. It also provided an opportunity to assess the union's strategy in finally gaining union recognition in early 1999. It became evident from the interviews that the union had maintained a high presence before union recognition. Thus strategies by the GMB in gaining union recognition and the union's responses to the existing Company Council were significant in establishing relations with management through a partnership agreement and developing relations with non-union employees and the Company Council.

South West Water

South West Water (SWW) was identified as a suitable organisation for researching the rationale behind the changes in industrial relations policy and recognition of trade unions that had taken place over a nine-year period. Important observations and unique insights into the representation arrangements at SWW were recorded during this period. Access was also given to internal company and union documentation.

A series of interviews were carried out over a two-year period (before and after union recognition) with the Head of Personnel, Personnel and Services Manager, the full-time UNISON Officer and the UNISON Branch Secretary. The interviews each lasted between two and four hours. The interviews were recorded and the transcripts verified with the interviewees.

Importantly, this longitudinal study is not based on snapshots at the beginning and end of the process but examines important events during the process and the dynamics of management decisions and attitudes throughout the period of the study. The interviews attempted to establish what motivated SWW to re-establish relations with UNISON and to recognise them after the establishment of the non-union Staff Council (SC). By exploring this issue and examining reactions to a number of important events in the intervening time, it was hoped to assess the importance of partnership at SWW, the influence of senior management and the impact that the 1999 *Employment Relations Act* had made on management strategies towards representation in the organisation.

As Cutcher-Gershenfeld *et al.* (1995: 13) have argued, there are few detailed accounts of change processes at organisational level. They go on to suggest that 'it is only by tracing the twists and turns in the change process that we can fully appreciate why the pathways to change are so complex'. This case study attempts to trace such 'pathways' and provide an in-depth examination to understand the rationale behind a history of derecognition leading to a non-union SC, followed by a review of personnel policies, which resulted in partnership initiatives and a subsequent

recognition agreement with UNISON.

News International Newspapers (UK)

The study of News International was based on fieldwork undertaken between March 1999 and June 2000. This period allowed an examination of the issues involved in the transition from the previous consultative structure to the development of a new staff association. In particular, it enabled an assessment of management strategies towards and motivations regarding NER at News International. During this period, six interviews were carried out with the Director of Human Resources and other senior managers. As a means to assess employees' views, access was made available to the PricewaterhouseCoopers' employee attitude survey data. Other internal company and staff association documents were also examined. In addition, material from relevant union sources was also sought to assess union views on employee representation and management strategies.

The Employee Consultative Council (ECC) employee attitude survey was carried out by PricewaterhouseCoopers in November 1998 on behalf of the ECC. Questions were asked covering issues of work satisfaction, communication, management style, representation and the ECC. Of the 3,553 questionnaires⁴⁰ sent to employees, some 1,656 self-completion questionnaires were sent directly back to PricewaterhouseCoopers. The overall response rate was 47 per cent with two largest sites, Wapping and Manchester, having the lowest response rates – 39 per cent and 33 per cent respectively. The data from this survey was also analysed to further explore employees' views towards employee consultation in general, and more specifically towards the ECC, unions and the future of representation at News International.

Eurotunnel

As previously mentioned, together with the SWW and News International case studies, the Eurotunnel study provided an opportunity to examine representation

⁴⁰ All employees at News International at the time.

arrangements in a number of operations. However the Eurotunnel study could also review these diverse operations within one single establishment (call centre, engineering, train drivers, administration etc).

In the Eurotunnel case study, qualitative and quantitative techniques were applied to improve internal validity. The method employed and the time period under investigation was more extensive than the other case studies due increased access to the site. Qualitative techniques included: structured and unstructured interviews with managers, union officials and company council representatives; fieldwork and site visits; participant observation and examination of company and company council archives and documents. The quantitative dimension complemented the qualitative research and enhanced and reinforced the overall research results and analysis.

While management was initially hesitant about distributing the surveys to its employees due to perceptions of survey overload, raising employee expectations, and work interruptions, the company eventually agreed to proceed with the surveys since it might provide valuable independent data on employee views and a more accurate account of employee attitudes, than surveys conducted by management.

4.2.4 Fourth stage: in-depth case study

The fourth stage identified one organisation for further analysis. This involved a longitudinal investigation of Eurotunnel to examine the interplay between non-union and union representation arrangements. This was done by comparing the views of employees and representation before and after union recognition and by comparing union members' views with non-members' views on union and NER voice arrangements.

This stage was largely based on a longitudinal study of the events and issues raised over a five year period at Eurotunnel (UK) from 1998 to 2003 by using a variety of sources. These sources included two company-based employee surveys (before and after union recognition), interviews, focus groups, attendance at meetings, a review

of company and company council (CC) documentation (notably CC minutes since its establishment in 1992), and observation of CC meetings over this period.

The first survey was particularly problematic given the debate over trade union recognition among Eurotunnel management and on the CC. However, after consultation and negotiation with management and the CC, it was considered appropriate to survey a limited number of employees. By the 2002 survey, union recognition was established and no such restrictions were requested, allowing a full survey of all UK-contracted employees. The results could be compared (with additional union-based questions in the second survey) over the two time periods.

Employee surveys and focus groups were conducted as a means to analyse the feelings, views and perceptions of employees towards management, work, consultation and representation before and after union representation. In addition, based on the approach of Taras and Copping (1998) the study has employed a 'critical incident' research method by encouraging specificity in interview responses. This was done by asking respondents to recall and describe an event which could be viewed as the pinnacle of the CC's effectiveness and an event which could be described as the CC's least effective.

This method is used to highlight such examples and events and to define otherwise 'nebulous' terms such as 'effectiveness' and 'power' (Taras and Copping, 1998: 28). By analysing these critical incidents, the research could go beyond respondents' 'ex post' views and sentiments, which may be influenced by other events, by identifying the basis for their perceptions. The study has also employed an issue analysis approach of the processes and outcomes derived from CC minutes.

Both qualitative and quantitative methods were applied in the case study. The quantitative approach added an important extra dimension to the research and could be seen as a distinguishing feature of the case study research framework. Importantly, the purpose of the questionnaire was to augment this qualitative analysis, not to supplant this approach. Thus the analysis and results of the

questionnaire are used in this research to triangulate the qualitative analysis enhancing and reinforcing the overall conclusions and findings.

It was envisaged that using such a research strategy would reduce any potential limitations in the survey methodology. This longitudinal study was not only derived from a comparison of snapshots taken at the start and end of the research, but significantly it follows through the dynamics and implications of management interventions and assesses the policies as they are 'considered, engaged in and reappraised' during this five-year period of transformation (Bacon and Storey, 2000: 411).

Importantly, this approach assessed how attitudes and intentions had changed over this time period, rather than just providing a static snapshot of employee views. As Beaumont and Hunter (2003: 55) suggest, 'the consultation process has been relatively little researched in the UK context'. Furthermore, the multi-variant nature of the research and the longitudinal perspective could give an insight into the dynamic of the processes and the trends that have developed, examine Eurotunnel strategies towards representation arrangements before and after union recognition and give an initial assessment of the outcomes of such arrangements. It was also anticipated that this approach to examining NER and union voice arrangements could highlight issues around 'bounded rationality' and 'principal-agent' problems.

As mentioned previously, in order to assess employees' responses prior to union recognition an employee survey was undertaken between December 1999 and January 2000, expanding on some of the issues raised in earlier interviews. In addition, a second survey was conducted after union recognition during December 2002. For the surveys, a draft questionnaire was piloted on all CC representatives, and detailed comments were received in relation to style, format, content, appropriateness of questions. The comments were addressed and incorporated into a final draft.

The first survey undertaken in 1999 consisted of a self-completion questionnaire of

27 questions and was distributed to almost a third of the UK workforce (400 employees) by CC representatives and deputies. Some 123 completed questions were returned, representing a 31 per cent response rate. The themes raised in the questionnaire included: work involvement; personal involvement in the consultation process; information received from management; the extent of voice and influence; relations between CC and union representatives; perceived CC effectiveness; and perceptions of management behaviour and responsiveness.

The second survey undertaken in 2002 replicated the first survey but included additional questions relating to trade union recognition and trade union presence. It consisted of a self-completion questionnaire of 31 questions. It was distributed to all UK employees (1,400 employees) and was attached to employees' pay slips by the CC. Some 552 completed questionnaires were returned, representing a 40 per cent response rate of the total UK workforce. The objective of the second survey was to ascertain how Eurotunnel employees' views and opinions towards management and representation had changed over this period and to examine the likely success of these new arrangements. In addition, at the end of the questionnaire employees were invited to make open comments about their work environment in relation to several issues, such as management, voice and representation. This yielded some 253 open comments, providing additional depth to employee responses.

Potentially, the survey could highlight distinct attitudes towards trade unions, and between management and the Eurotunnel workforce. In addition, an issue analysis of CC meetings was also made to ascertain the most important matters raised by CC representatives. The second survey and interview data highlight issues and views raised by non-union employees and union members towards the recognised union (T&GWU) and the CC after union recognition and the establishment of the partnership arrangements. However, the 1999/2000 survey was used as a reference point regarding certain union issues.

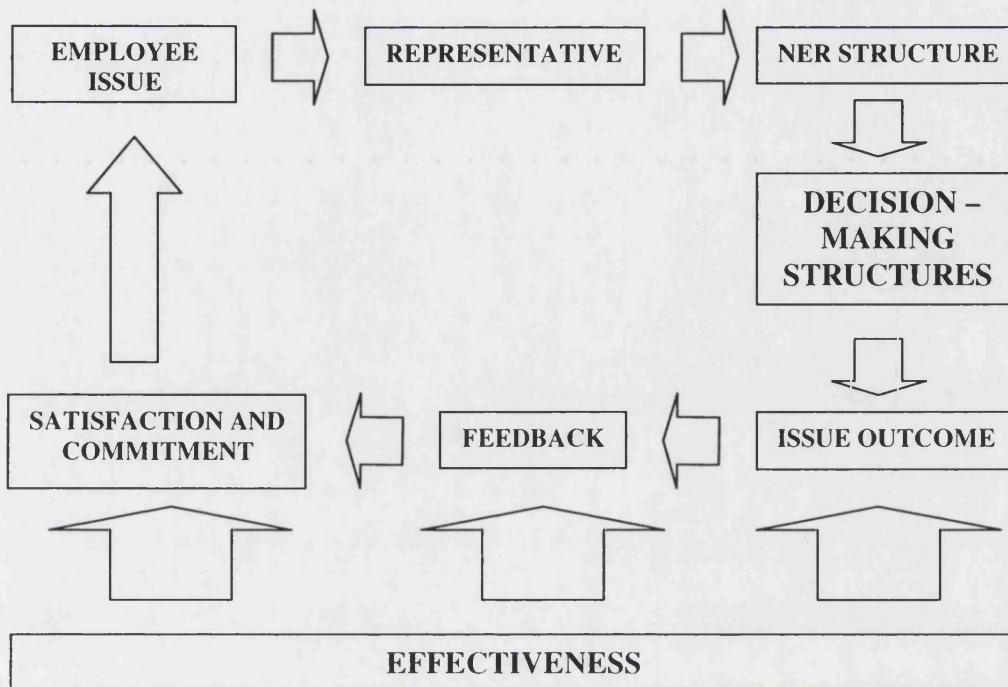
The intention of this was to assess the feedback on and satisfaction with the perceived effectiveness of CC arrangements at Eurotunnel in representing and

communicating the interests of employees to management and the degree of satisfactory outcomes that had been achieved. This formed the basis of ascertaining the CC's contribution to general organisational productivity and effectiveness and the climate of management/employee relations.

Levels of significance were tested from the findings of both surveys using Chi-square analysis. This was considered appropriate as it allows a statistical assessment of whether two variables are different in their distribution of values. Chi-square is a non-parametric statistic and thus can be used to assess data that is normally and not normally distributed.

In addition to the survey's undertaken as part of this thesis, previous company surveys were also analysed for comparison. Three focus groups were also held in 2002 to highlight and discuss themes raised in the completed questionnaires and in total, a series of twenty-five interviews were conducted with trade union and CC representatives over the five-year period. Each interview lasted appropriately 60 to 90 minutes. In addition, eight interviews were conducted with the Eurotunnel Human Resources Director and the T&GWU Regional Industrial Organiser over a two-year period (during the process of union recognition).

The multiple methods used also allowed a way of cross-checking data collected in different ways. Figure 4.1 shows diagrammatically the structure on which the case study analysis is based and how it addresses the issues raised by the research questions.

Figure 4.1 Non-union forms of employee representation as a system

As Baird (2004: 427) has highlighted, relations with ‘managers can, in themselves, prove to be a delicate path and acceptance from such managers is critical to the success of the research and can be very dependent on the “goodwill” of the managers. This at times can create a certain tension with the researcher reliant on open access to the workplaces from the manager while at the same time maintaining independence and objectivity by balancing the views of the firm through managers with those of employees, unions and other workplace representatives’. In addition to these challenges, two other issues should be considered. While the initial point of contact was the first HR Director in 1998, which defined the context and parameters of the research, the researcher depended on the support and access given by the CC under the agreement with the HR Director. Finally as with many large organisations, internal politics between managers, unions and CC representatives created extra challenges regarding the openness of informants and access to resources.

This was exacerbated at Eurotunnel with allegiances often formed by both UK and French workers, or within the UK site between different divisions which have very diverse cultures and backgrounds. In addition, during the course of the research it

was vital to establish a wide network of contacts as a means to embed the project within the organisation and to increase trust and transparency. This approach was also critical to establishing continuity during changes in personnel and management, specifically turnover among HR Directors (during the course of the research there were three HR Directors).

4.2.5 Fifth stage: synthesis of the findings

The fifth and final stage of the research involved a synthesis of the findings to emerge from the previous stages to address the key research questions and to provide an examination of the implications of these findings for employers, unions and NER-based voice arrangements in the future. The implications were then considered in light of the literature on voice and NER arrangements and theoretical inputs, and where appropriate, were integrated into the case study analysis. This formed the basis of the write-up stage of the research and subsequent conclusions.

CHAPTER FIVE

MANAGEMENT STRATEGIES TOWARDS NON-UNION REPRESENTATION ARRANGEMENTS

5.1 Introduction

This chapter examines the management strategies towards NER arrangements in nine UK organisations in the lead-up to the introduction of the *Employment Relations Act 1999* (which involved the introduction of formal union recognition procedures⁴¹ and union-employer partnership initiatives), and the formal agreement on the European Directive establishing a general framework for information and consultation, which came into effect in March 2002⁴². It was anticipated that these two developments would have an impact on the type, structures and the processes of NER arrangements in light of the new legislative provisions and would highlight the potential implications and possible influence of such legislative developments in a traditionally 'voluntarist' industrial relations environment.

In particular, this review examines 'what' was established, 'why' such structures were set up, and finally, 'how' such arrangements are structured. These organisations include: Sainsbury's plc; John Lewis Partnership; HP Bulmers Ltd; Grosvenor Casinos; Ciba Specialty Chemicals, Panasonic (Matsushita) UK, Eurotunnel (UK), News International, and South West Water⁴³. The nine cases were selected on the basis that either their structures were well established (capable of showing their potential influence on management strategy) or were recognised as leading

⁴¹ Under the *Employment Relations Act 1999* there is a set procedure for union recognition when an employer refuses to recognise a union for negotiating over pay and conditions. Under these provisions, an independent trade union may make an application to the Central Arbitration Committee for recognition in firms which employ at least 21 workers. To be granted union recognition by the CAC the union must have at least ten per cent membership and be likely to attract majority support in a ballot or be able to prove that 50 per cent of workers are members of the union. Majority support is defined by a procedure which requires a majority of those voting, and at least 40 per cent of all workers in a workplace (or bargaining unit), to vote in favour of union recognition.

⁴² Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for information and consulting employees in the European Community (European Parliament and Council, 2002) *Official Journal of the European Communities*. L080, 23/03: 29-34.

⁴³ Full details of these cases are in Appendix 3.

companies in their field or market (examples of good practice behaviour) and had recently adopted NER arrangements as part of their industrial relations strategy.

In addition, these organisations demonstrate the diversity of non-union representative voice arrangements in the absence of mandated information and consultation structures. While some organisations in the sample have had a long history of well established NER arrangements (eg John Lewis, HP Bulmers, Ciba Specialty Chemicals, Eurotunnel and South West Water), other organisations had limited experience with such arrangements (Sainsbury's plc, Grosvenor Casinos, Panasonic (Matsushita UK) and News International). It was also considered that well developed NER arrangements were more likely to be present in large private sector organisations since they would have the resources required to successfully establish and operate such arrangements, were less likely to be heavily unionised and more likely to be more exposed to current legislative reforms.

Management strategies and organisational outcomes

Quantitative research into consultation arrangements would lend support to the view that management strategies and the practice of voice arrangements may impact on organisational outcomes and perceived effectiveness. For example, Millward, Bryson and Forth's (2000: 129) review of employee views in WERS98 found a strong link between how often consultation occurs and its perceived value – with a lack of consultation contributing to perceptions of poor management among employees. Millward, Bryson and Forth (2000: 129) also found that:

Employees with some type of non-union voice arrangement generally felt that managers were better at keeping them up-to-date with proposed changes at the establishment than did those employees in workplaces without any formal voice mechanism. This was true whether non-union arrangements were found in isolation or together with union channels of voice.

However, in terms of employees' perceptions of 'fair treatment' only the combined presence of a recognised union and union representation on a consultative committee seemed to be a key factor (Millward, Bryson and Forth, 2000:137). Thus, Millward, Bryson and Forth (2000) conclude that while formal voice mechanisms help to promote communication in the workplace, with non-union or direct voice mechanisms more effective in enhancing the responsiveness of management to specific employee issues, they also appear less effective than unions at promoting fair treatment for employees in general.

Beaumont and Hunter's (2005) review of a sample of NER arrangements suggest that influence was dependent on the nature and scope of issues that are subject to consultation such as integrative or productivity enhancing issues, as opposed to more distributive issues like wages and conditions. The values and expectations of the parties involved in the consultation process may also be an important influence in terms of how the parties interpret the consultation process. Finally, another major influence are the steps or procedures involved in the process of establishing voice. These might include the level of preparatory activity such as the agenda of items to be discussed, the degree of formality in dialogue, the gathering of information, the level of cooperation and discussion achieved, and the type of outcome (Beaumont and Hunter, 2005: 5-12).

This chapter addresses some of these issues in the nine organisations by examining the management strategies towards and objectives of NER arrangements.

5.2 Management strategies towards and objectives of NER arrangements

5.2.1 Sainsbury's plc

A number of consultative committees have been established in the company since the late 1950s (all continue to exist). The most notable of these is the joint consultative committee (JCC), established in 1959 to enable the company to consult with

employees or their representatives on a regular basis. The aims of the JCC were to provide information on policies and plans, exchange ideas and to seek the views of employees on decisions likely to affect their interests and future company policy. However, the JCC only covered 2,500 staff working within the Central Services departments at two locations in London (Blackfriars and Streatham). In total, the main committee consisted of 20 elected representatives and met on a quarterly basis. The main JCC also split into two local JCCs representing each location.

Three main factors drove the establishment of the staff councils at Sainsbury's. The first occurred in late 1996 when in response to a company-wide employee attitude survey conducted in February that year, managers began to explore the possibility of establishing a company-wide representative structure. The first survey to cover all 115,000 of Sainsbury's staff, it achieved a high response rate of 80 per cent. The 'Talkback' survey indicated that many employees were dissatisfied with the level and quality of communication and consultation at Sainsbury's and suggested that they lacked 'effective' voice in the workplace. According to the Senior Manager for HR Policy, the survey indicated that existing channels of communication which included the JS Journal (an internal newsletter), videos and ad hoc team meetings, did not provide sufficient employee voice and representation (Interview, 15-10-98). The survey suggested there was little two-way consultation providing limited opportunity for employee feedback⁴⁴.

In addition, the questionnaire provided an opportunity for employees to ask questions and state their views. These comments identified serious problems with the level of understanding and consultation at the workplace. About 25 per cent of the 24,000 individual comments related to communication. Summaries of the individual statements are below:

⁴⁴ For example, although some 68 per cent of respondents agreed with the statement, 'I know exactly what my department is trying to achieve', the figures fell below 50 per cent on other questions relating to communication. For example: 43 per cent of staff stated that communications where they worked were open, honest and direct; only 14 per cent of respondents indicated that company directors listened to staff suggestions; 36 per cent felt encouraged to make suggestions to improve the way things are done; 34 per cent said that their manager valued employees who made suggestions to improve the way things are done; and 25 per cent stated that their manager acted on their ideas to improve the way things are done.

Statement 1 - 'I feel that communication on all levels is very bad. It has led to people feeling despondent. This in turn has affected the way employees treat customers'.

Statement 2 - 'There is a general lack of communication between management and staff, noticeboards are not enough, nor are mass group meetings (ie STAR – Supporting Teams Achieve Results). There needs to be more open one-to-one communication, an open door policy. By improving morale, Sainsbury's can become a better place to work with more enthusiasm to do things properly...'.

Statement 3 - 'Senior management should be more approachable, maybe setting aside one day a month on a timetable basis to see staff and hear their suggestions/problems...'

Statement 4 - 'Managers should listen to their staff more often and learn to treat them with respect as we do them. Staff meetings should be regular – a way of communicating and getting feedback to better the standards at Sainsbury's for staff and customers'.

For example, according to the Senior Manager for HR Policy at Sainsbury's an employee survey indicated that many employees were dissatisfied and that existing more direct channels of communication were perceived as not providing sufficient employee voice and representation. In particular, it was suggested that there was a lack of two-way consultation resulting in little opportunity for employee feedback, which had serious business implications in terms of poor frontline morale and commitment. She concluded, 'These comments made it very clear that there was a huge gap in internal consultation and communication channels, which needed to be filled quickly – the business and HR arguments were indisputable. In summary, it could be said that people had the feeling that we were not always listening to their ideas and that they did not really have a way of making their voices heard'.

She suggested that while these figures were not out of line with other company

surveys they nevertheless had serious business implications of poor front line morale and commitment. A Senior HR Manager stated, 'Some of the questions were very simple ones, like 'Why can't they leave the lights on when the staff on the evening shift go to their cars?' This was obviously causing a huge amount of frustration among staff and is actually terribly easy to address ... but we had no way to know.'

At the same time as the Talkback survey, a review was underway of the existing JCC for the 2,500 head office staff. This review was the second major driver in the establishment of the staff council. The review found that the JCC meetings focused on minor matters and were too limited, concentrating on 'tea, towels and toilets' issues rather than on the more substantive issues which employees wanted to address. Most of these discussions were limited to parking arrangements and canteen facilities. The representatives on the JCC suggested that a separate forum be set up to deal with more substantive issues.

The third major driver was the introduction of the European Works Council Directive in September 1996 and the Directive's influence on internal collective consultation within European companies. As the Senior Manager for HR Policy suggested, 'Synergy did exist between the demands of the EWC Directive and the needs of our company' (Interview, 15-10-98). In addition, while Sainsbury's had one store outside the UK (Calais in France) they were not directly brought into the remit of the Directive because they had under 150 staff at the Calais site⁴⁵. However it was considered possible in the future that stores could be established in other European countries, thus bringing the company into the Directive's provisions.

During the setting up of the staff council, a wide range of employees were consulted over the possible type and processes of such a structure. Lessons drawn from a staff council in the Durham Sainsbury's store were also reviewed. In addition, consultation with and benchmarking of other companies (including Marks and Spencer, HP Bulmers, NatWest and John Lewis Partnership – see below for details) were undertaken to review other representative structures. Organisations such as the

⁴⁵ The Directive requires the establishment of a European Works Council (EWC) if a company has 1,000 employees in the EU and more than 150 in each of two EU states.

Industrial Society and Involvement and Participation Association (IPA) were also consulted to establish possible options. In April 1996, a proposal went to the executive board and to other management committees. The trade unions were informed and consulted in June and July following further changes. The in-house JS Journal outlined the proposal and invited comments and views from employees.

Finally, according to formal management policy, 'The (Staff councils) are a communication tool for employees to communicate upwards to the Chairman, and also a process for the business to communicate information to all employees' (Sainsbury's, 1998: 14). In reference to the Group Council, the same information guide states, 'A group CC enables representatives from all areas of the business to hear from the Chairman on key issues and changes that affect them. It will also provide an opportunity for ideas from employees to be communicated to Directors' (Sainsbury's, 1998: 14).

5.2.2 John Lewis Partnership

NER arrangements at John Lewis Partnership and HP Bulmers are the most well established and paternalistic out of the nine organisations. In 1950, Spedan Lewis established a written constitution for the business and transferred his rights of ownership to trustees⁴⁶. As an internal document states, 'Every member of staff who works for John Lewis is one of the owners, with a say in how the company is run and a share in the profits' (John Lewis Partnership, 1998a). In addition, one of the core issues was to recognise the importance of participation in community life. However, this sharing of power, which is part of the Partnership's underlying ideology, in no way implies that Partners have the right to appoint or to elect their own managers (Flanders, Pomeranz and Woodward, 1968: 35). It was also considered that giving employees that right would have prejudiced the economic viability of the enterprise and thus the interests of all its members, or in the words of a former chairman 'the

⁴⁶ John Lewis Partnership is not the only employee-owned business in the UK. Similar trusts have been set up by Baxi-Boilers in Preston when Philip Baxendale passed over his shareholding. Tullis Russell, the Scottish paper milling company, also has similar features. Shares in Tullis Russell were bought from family owners in a complex purchase scheme designed to transfer ownership to employees (Donkin, 1998).

results are unfortunate and often disastrous' (Flanders, Pomeranz and Woodward, 1968: 182-183). 'It is felt that the requirements of industrial democracy are met through acceptance of the idea that managers should be completely accountable to all Partners' (Flanders, Pomeranz and Woodward, 1968: 35).

Sir Bernard Miller (former Chairman of the John Lewis Partnership) has argued:

The Partnership believes that the fruits of their common work, after all outgoings, including the cost of borrowed capital which should be fixed and moderate, should belong to managed and management alike and that the interests that are common to both and should be pursued in partnership together are therefore far greater than those which divide them. Dividing influences cannot, of course, be eliminated entirely since the individual worker's interest, which is frequently short term, will often conflict with the interest of the whole which is generally long term. But they can be very greatly reduced by the fairer sharing of gain, knowledge and power. The Partnership's democracy aims to resolve such differences by keeping the general body of the Partnership fully and properly informed on what is being done and why, by consultation and by sharing in decisions to the greatest extent that seems practicable.

(Flanders, Pomeranz and Woodward, 1968:16)

The Chief Registrar suggested that the Partnership's network of consultative and communication mechanisms take the place of trade union representation. However, Partners may join a trade union if they wish. Rule 51 of the Partnership's Constitution states: 'Every member of the Partnership has complete freedom to belong to a trade union, though in the case of conflict between a trade union and the Partnership those concerned must remember the special obligations which they have to their Partners'. In the organisation's textile printing plants, management consults with union representatives. However, they are not recognised in any other part of the company.

In 1995 the then Chairman, Stuart Hampson argued, 'Our belief and our objective is

that the efficient running of the Partnership should bring benefits to all those who have an interest in the company – the employees, the suppliers, the customers and the community. We do not accept the inevitability of the adversarial approach' (IPA, 1995: 16).

5.2.3 HP Bulmers Limited

It appears that Bulmers was always a proponent of social harmony establishing a long history of paternalistic partnership practices. For example, in 1920 a Life Assurance and Pension Scheme was first introduced, a policy for providing housing for employees was also in operation, and in 1938 the Welfare Trust was established that provided family allowances, non-contributory sick pay and holiday pay to all employees. To reinforce this philosophy, on winning his election as Mayor of Hereford in 1925 Fred Bulmer argued, 'We must eliminate class distinctions which are the root of our troubles. Close the social gap between employer and employed, as in America, which enables them to keep in touch more easily'. In 1931, Bulmers became one of the largest employers in Hereford with a workforce of 431. By 2000, Bulmers had around 800 employees at the Hereford plants and a worldwide workforce of 1,250 employees⁴⁷.

According to Bulmer's management, from the late 1960s there was a determined effort to diminish 'class distinction' in the firm. Initiatives included abolishing clocking on and off for all employees, directors undertaking a stint on the shop floor or on the lorries once a month, reports being written in plain English and the implementation of an Employees Annual General Meeting. In his book 'Leadership is not a Bowler Hat' Fred Bulmer stated that participation was about team building and noted that while there were extreme advocates of authoritarian management, they were unfortunately matched on the union side by an equally vociferous minority of left wing extremists, advocates of antagonism rather than cooperation. In addition, he argued that: 'Participation was not just about power, but about achievement through co-operation'.

⁴⁷ From 1995 to 2000 there was a reduction in the workforce of about 25 per cent.

Until the 1960s, there had been no strong union push for unionisation at Bulmers. However, as part of its paternalistic attitude to its workforce the company established a works advisory committee in the late 1950s. This consisted of about 15 representatives elected by departments, the personnel manager, a departmental manager and the works manager as chair. It met once a month and its scope was limited, covering only factory employees. In addition, since Bulmers at that time was a private company, it was not required to publish its accounts. Thus information was restricted and discussion over wage rates was excluded from its remit. According to the T&GWU Convenor, in theory the scope of discussions was unlimited but in practice 'it tended to concentrate on internal factory administration covering such topics as the provision of a car park for employees'. Although the T&GWU Convenor suggested that these initiatives might seem minimal representation by modern standards, they were the first real steps towards employee/management negotiations.

In the mid 1960s, the distribution drivers formed a separate works committee and began concluding their own agreements separately from the rest of the factory. These agreements established between 1965 and the early 1970s were the first to be jointly agreed between management and employees at Bulmers.

The rationale for establishing the Employee Council (EC) is stated in the first paragraph of its constitution: 'The company understands and welcomes the desire of employees to become more deeply involved in decisions which affect their future as it recognises and encourages the important part which employees play in ensuring the continuing success of Bulmers for the ultimate benefit of customers, employees and shareholders' (Employee Council Constitution, 1977). The constitution also states: 'the objective of the Employee Council is to provide a platform where discussions can take place on those matters which affect all employees and hence, their future and the success of the company; these matters would not include particular areas which are subject to negotiations with the recognised trade union' (Employee Council Constitution, 1977).

The company and the T&GWU agreed to form the Employee Council in 1977. At the first meeting on 10 October 1977, the Managing Director explained that at meetings all delegates were equal regardless of rank or seniority. At that time, the Employee Council consisted of ten managers and ten shop stewards with the original objective being to eventually elect its own Chairman⁴⁸. The council was also to become the main participatory bridge between the Board and the employees. The Managing Director later added that he hoped that the Employee Council would eventually represent the views of workers at board level and that, in the event of the appointment of worker directors, they would be elected from the Employee Council. It was also agreed at the first meeting that the Employee Council should discuss capital investment policy, although the Chairman highlighted that the commitment of investment 'must remain a management prerogative' (Employee Council Minutes, 1977). In addition, there would also be nominations to the Profit Sharing Committee and Pensions Advisory Committee from the Employee Council, which would eventually provide recommendations for the position of Trustees of the Company Pension Fund. (Employee Council Minutes, 1977)⁴⁹.

5.2.4 Grosvenor Casinos

Before the introduction of the employee councils, Grosvenor Casinos introduced staff forums and general manager surgeries. Although these initiatives seemed to have had limited success in some divisions and units, management recognised that there was a need to replace them with a more effective and open form of staff representation. The Employee Council Coordinator suggested that there was a 'general feeling [that] employees were the poor partners in the business, while sister companies had works councils. A change in senior management three years

⁴⁸ However, the Chair was either the company's Managing Director or Chief Executive.

⁴⁹ In addition to these objectives, the Council was also pivotal in a major restructuring exercise in the mid 1990s. In 1995 after the axing of several hundred jobs, a joint Employee Council code of practice statement on job losses was agreed. This 19-point plan stated the main responsibilities of the company and the procedures required if there was a need for job losses in the future. It set out the procedures for redundancy and early retirement programmes and the requirement for management to inform the Employee Council of the number and type of job losses and the need for compulsory redundancy. It also stated that during periods of enforced job losses a sub-committee would be established from the Employee Council, which would monitor the code of practice and issue regular reports to the Employee Council (Employee Council Code of Practice on Job Losses, 1995).

previously came to recognise this and something needed to be done to address these concerns. As such, an employee survey was conducted which acted as a catalyst for addressing these concerns. The survey highlighted employees' perceptions of the business, which was very hierarchical with dictatorial management. Employees wanted a more career approach in the company' (Interview, 13-05-99).

Consequently, a random sample of staff representing a cross section of departments and casinos were invited to attend a meeting in February 1998 to discuss ways of developing a workable concept of employee representation. According to management, the consensus among the representatives was that the existing employee forums had no clearly defined roles, lacked a structure and a purpose, and rarely achieved the actions promised, thus creating mistrust between staff and management.

The Employee Council Coordinator went further, '...Staff forums had no structure and were ad hoc; they required and depended on local management support for their effectiveness. Generally, they did not live up to expectations and people went away from meetings disappointed with the experience. [There was] Also a feeling among employees that they feared to raise issues due to comeback from management. In training this was identified and it was emphasised that this was not going to happen in the new structure'.

Bearing in mind the concerns and issues raised, the company undertook a review of the existing structure with the objective of creating a new structure. This process was finalised at a second meeting in April 1998 with the establishment of final terms of reference for the new employee councils in a 'policy document'.

The introduction of the employee councils coincided with heavy trade union action against their establishment within the London region (picketing outside casinos and posters etc). The response from staff was that it looked like management were introducing the employee councils as a means to circumvent the unions (in particular the T&GWU). According to the Employee Council Coordinator, 'It wasn't, since we

had our original meeting at the beginning of 1998 and by the time we started to roll out the council process the union at the London sites [had already] started their campaign. Before the campaign there was very little trade union activity and [few] members. Now [these have] greatly increased. However, while the T&GWU does have union members (mainly in the London region), management does not recognise them. Management wanted the councils to be an effective alternative to unions. Management wanted a body that knew about the business and that they could trust rather than a third body, which could have its own agenda. The T&GWU action had little effect outside London' (Interview, 13-05-99). Overall, in 2000 T&GWU membership was between five to ten per cent of the workforce.

A briefing paper for the introduction of the Employee Councils states their aim and purpose: 'To work in partnership to improve the working environment and morale of all staff in Grosvenor Casinos through Employee Councils by effective open communication and problem solving to enhance future prospects and employability'. In addition, it states: 'The model has a clear structure and purpose, and identifiable roles. Accountability is built into the structure, along with an ethos of working on a team basis, with open two-way communication in order to solve issues (Briefing Paper – Introduction of Employee Councils, 1998: 4).

5.2.5 Ciba Specialty Chemicals (UK)

The Ciba Specialty Chemicals Company Council (CC) was established in May 1973. In the absence of any recognised trade union, its role at that time was to act as the sole communications and representation channel for employees and managers. According to its early constitution, the company recognised that its success depended on 'teamwork, the cooperation of people, both individually and collectively by departments, to achieve the collaboration necessary to translate ideas through to sales'.

The CC constitution states: 'The CC acts as a forum for discussion of matters of common interest to the employees of the company. The council acts as a means of

communicating ideas and opinions to the board, and allows the board to meet and consult with the employee representatives. The Council aims to increase the understanding of the company's affairs by all employees. All sections of the company's employees should be represented on the council' (Company Council Constitution, 1998).

The CC mission statement states that 'the role of the CC is to ensure all employees are treated fairly and that matters are dealt with appropriately. Our goals are to: promote effective two-way consultation between the workforce and management; support employees by providing a confidential service for those who request our assistance; improve working conditions in line with the chemical manufacturing sector; and promote a culture of harmonious teamwork throughout the Company that improves production and safeguards jobs' (Company Council Mission Statement, 1998).

5.2.6 Panasonic (Matsushita) (UK)

The company has two main consultative forums which cover its UK employees. First is the Panasonic European Congress (PEC), which was set up in 1996 under a voluntary agreement under section 13 of the European Works Council (EWC) Directive. The second forum is the nationally-based Panasonic UK Consultative Committee (PUCC), which was established in 1996 to cover mainly the non-unionised part of the company (sales and administration and in theory also managers)⁵⁰. It was established after consultations with ACAS and the setting-up of an internal working party in 1995, which considered the best way to introduce the system and to formulate the rules and constitution. After extensive communication with all staff (about 800), employees were encouraged to nominate representatives for their own area.

The Personnel Manager indicated that while European legislation provided one of the main drivers for the establishment of the consultative forums, other drivers were the

⁵⁰ According to management, there was only one employee who was a member of a trade union in the administration and sales division (out of a total of 850 employees). The AEEU had a single union agreement with Panasonic (UK) covering the six UK manufacturing plants.

adoption of an EWC at the UK European Headquarters and the strong push from other European companies in the group to improve communication in non-union areas of the company. She also indicated that there were: 'some people thinking about joining a union because they saw their rights were not being represented, and this would discourage them from doing so' (Interview, 10-05-99). It was also suggested that the philosophy of the Japanese parent company based on group decision-making was also an influential factor in the process to improve communications. Other more direct communications methods were also used such as bulletin boards, the intranet, workshops and team briefings if major changes are taking place⁵¹.

As stated in the PUCC Constitution, 'The objective of the PUCC is to provide a means of communication and consultation between the management and the staff of Panasonic UK on all matters of mutual interest including: company performance and efficiency; physical conditions of work, health and safety; training and further education; plans for technological or organisational change; and other matters which management or employee representatives may wish to raise which cannot be covered elsewhere' (PUCC Constitution, 1996). The constitution also states that 'consultation' means the exchange of views and establishment of dialogue between employee representatives and senior management.

The Personnel Manager stated, 'The PUCC is used as a means of communication between management and staff and acts as a sounding board for new ideas. It is also used to monitor suggestions or management ideas'. At the time of the study, the PUCC had no formal or informal bargaining or negotiation power over wages. However, management indicated that the PUCC could possibly evolve into a formal negotiation forum in light of the *Employment Relations Act 1999* and European Information and Consultation Directive.

⁵¹ The Personnel Manager emphasised strongly that the company would rather deal directly with employees rather than unions or the PUCC (Interview, 10-05-99).

5.2.7 Eurotunnel plc (UK)

Eurotunnel Group has a 99-year lease to operate and manage the infrastructure of the Channel Tunnel link and operates accompanied truck shuttle and passenger (car and coach) services between Folkestone in the UK and Coquelles in France. The company started operations through the tunnel on 6 May 1994. It is a market leader for cross-Channel travel transporting nearly 50 per cent of passenger traffic. Eurotunnel Group also earns toll revenue from other train operators – Eurostar for rail passengers, and English, Welsh and Scottish Railway (EWS) and the Société Nationale des Chemins de Fer Français (SNCF) for rail freight, which use the Tunnel – and income for coaxial and digital cable links through the tunnel. It operates 24 hours a day, 365 days a year. Some 2,336,000 cars and 72,000 coaches used the Channel Tunnel in 2002. Every day an average of 400 trains and shuttles travel through the Channel Tunnel, carrying some 40,000 people (Eurotunnel Group, www.eurotunnel.com, accessed 10-10-03)

The company has a complex structure consisting of two legal entities to meet requirements in the UK (Eurotunnel plc⁵²) and France (Eurotunnel SA) and is quoted on the London, Paris and Brussels Stock Exchanges. It is owned by private shareholdings in France and the UK. Eurotunnel Group employs a total of 3,400 staff, with approximately 1,400 based in Britain on UK contracts. In addition, certain terminal positions are also filled by subcontractors and immigration and customs officers. The UK head office is in Folkestone (Longport) with a separate office nearby for some administration activities and the call centre. According to management, the company's human resource policy systematically takes into consideration its bi-national balance, whether regarding staff allocation or the fixing of salaries and benefits. The 1999 annual report stated:

National differences are taken into account when creating personnel management policies, especially as far as labour laws are concerned, the main objective always being to ensure as far as possible equal status for the personnel of each country.

⁵² Eurotunnel plc (UK) will be referred to as Eurotunnel in the rest of this thesis.

Salaries are competitively fixed in line with the current market conditions of each country, with most of the associated salary benefits (paid holiday, retirement pension, medical insurance) being either identical or directly comparable

(Eurotunnel Group, 1999: 23)

The Eurotunnel CC was established in 1992 as the sole channel of employee representation. The CC consists of employees who are democratically elected every two years⁵³. Importantly, it is the company's communications forum and has three main aims: to give information and consult on matters of common concern to employees; to manage the social and welfare budget equal to one per cent of payroll (approximately £250,000-£350,000 per year)⁵⁴; and to represent all employees at Eurotunnel. (Before June 2000, its role also included informal bargaining and negotiation over pay and conditions).

As part of an early policy decision to integrate and harmonise the UK workforce, the CC for UK-contracted employees was established in December 1992, and is broadly similar to the enterprise committee (or comité d'entreprise) under French legislation. However, the HR Director acknowledged that there was a gap between the theory and the practice of the harmonisation policy. He suggested, 'In theory there would be a single bi-national company with most middle management having a mixture of British and French personnel, unless there was some legal reason, we would treat everybody the same. However, in practice first line management and wage staff are either French or British, and to an extent the way the business is run, the service is very different between these two groups'. He went on to say that these differences could not be really resolved since 'you will not totally eliminate the difference'.

⁵³ In addition, the Eurotunnel Group created a European Company Council (ECC) in November 1998, chaired by the Group Managing Director. It is made up of 16 members, eight British and eight French. The ECC meets at least twice a year and is 'informed or consulted on all matters of general bi-national interest within the Company, without encroaching in any way on the autonomy of the national Committees, which preserve all their prerogatives'. The representatives are drawn from the national committees.

⁵⁴ This may include welfare support for needy families, money for trips away, nights out etc. It must be noted that the CC are trustees only. These benefits are based on a 'Declaration of Trust' agreed and signed by the CC and Eurotunnel in 1993, and later revised in 1995 which created a 'Trust Fund'. This gives the CC representatives (as the trustees) authority to fund social and sporting events, allocate individual hardship and education grants, provide donations to registered charities and fund administration expenses for the Trust and/or the CC.

5.2.8 News International Newspapers (UK)

News International Newspapers (UK)⁵⁵ is part of News Corporation. News Corporation is one of the world's largest media companies with total assets of approximately US\$40 billion. It has diversified global operations in the United States, Canada, Continental Europe, United Kingdom, Australia, Latin America and the Pacific Basin. These operations include: the production and distribution of motion pictures and television programming; television, satellite and cable broadcasting; the publication of newspapers, magazines, and books; the production and distribution of promotional and advertising products and services; the development of digital broadcasting; and the creation and distribution of popular on-line programming (The News Corporation Limited Overview, 1999).

In 2000, News International employed around 3,600 staff in London (Wapping), Manchester (Knowsley) and Glasgow (Kinning Park). There has been no recognised union at News International since 1988 after the long-running Wapping dispute which began in 1986. In that dispute, Rupert Murdoch (News Corporation Chairman) sacked around 5,800 print workers and derecognised trade unions when he moved production from Fleet Street in central London to Wapping in east London and to Kinning Park in Glasgow. This event was regarded as a watershed in British industrial relations.

Despite derecognition, union membership remained high in some parts of the company. News International management estimated that at the time there were approximately 500 union members out of 750 production workers at Wapping. Among the 1,000 journalists at Wapping, a significant majority belonged to the National Union of Journalists (NUJ) (previously to get a press card you needed to be a union member), the Amalgamated Engineering and Electrical Union (AEEU) and the Graphical Paper and Media Union members (GPMU)⁵⁶, although management questioned how many active union members there were in the company. However,

⁵⁵ News International Newspapers (UK) will be referred to in the rest of this thesis as News International.

⁵⁶ In 2001, the AEEU merged with the Manufacturing, Science and Finance (MSF) union to establish Amicus. The GPMU joined Amicus in 2004. It is Britain's second largest union and covers manufacturing, technical and skilled workers in both the private and public sectors.

management conceded that membership was slightly higher than national trends at the time.

In April 1999 the company held a ballot to win support for the establishment of the News International Staff Association (NISA)⁵⁷ as a means to expand the role of its existing Employee Consultative Council (ECC), which was established in 1994 to provide sole representation for employees. The Director of Human Resources was open about his rationale for the ballot, 'We don't want external unions, that's the driver, and with all the employment relations legislation coming through, we needed to do something' (Interview, 04-08-99)⁵⁸. The vote at the ballot was 1,618 to 588 (or 73 per cent) in favour of setting up the NISA. Out of 3,616 staff, 60 per cent voted. Overall some 44 per cent of all employees voted yes to the establishment of the NISA and only 16 per cent of the total workforce voted no⁵⁹. It was suggested by some employee representatives that many staff at News International saw this as the best form of representation they were likely to get from a 'virulently anti-union company' (Gall and McKay, 1999)

In an internal e-mail to all staff, the Director of Human Resources said, 'If a union made a claim for recognition, they would argue that the Employee Consultative Council (ECC) is not totally independent. In all honesty, they would probably be right. If you do nothing you would almost certainly end up with a union. It is not an

⁵⁷ The ballot started on 6 April 1999 with leaflets stapled to employees' payslips setting out the process and stating the negative influence of 'external third parties'. Voting began six days later. It was claimed by the NUJ that staff in some sections were gathered together by managers to go and vote. Employees also received a 15-minute audio tape of interviews with managers and selected workers expressing, in NUJ words, 'enthusiasm' for the scheme, together with a copy of the NISA charter. On the audio tape the Director of Human Resources stated, 'When our staff read the specifics of what is being proposed they will appreciate that what senior management have agreed to is better than anything an external union can offer. Senior management is determined to make it work' (*Journalist*, May, 1999: 9). The NUJ protested by sending out 'Vote no' leaflets and when voting started thousands of activists were outside the Wapping plant in London. The NUJ argued, 'The News International Staff Association (NISA) was set up after a rigged ballot – no time or facilities for anyone to campaign against it, while the company deluged staff with propaganda' (*Journalist*, November, 2000: 14).

⁵⁸ In a subsequent interview, the Director of Human Resources defined the future success of the Staff Association as follows, '...if external unions do not come across the gates, it's a success...Long-term, it's a success if it's around in two years' time in its current form' (Interview, 4-8-99).

⁵⁹ The Director of Human Resources suggested that most of the respondents who voted 'No' would probably be located in the production areas. In response to the 40 per cent who did not vote, the Director of Human Resources thought that these employees could fall into three main categories: a group that did not vote because they knew what the outcome would be; another group which was happy with the current arrangements; and those who were not interested at all (Interview, 4-8-99).

option if you want your interests to be represented without the involvement of an external third party' (*Journalist*, May, 1999: 9).

Interestingly, when asked why the company feared trade unions, the Director of Human Resources replied: 'A Staff Association is in-house, it's an internal body, not an external body which may have prejudices. The problem is history – it's that strong. Unions have changed etc – but so what. No partnership deals even with a no strike clause can be overturned under legislation with a ballot' (Interview, 04-08-99). He also suggested, 'It was considered that under the requirements of the union recognition legislation the establishment of so-called "sweetheart" or "in house unions" was not completely debarred (see discussion below). Therefore, News International set up a new staff association following the staff ballot. The NISA does not levy subscriptions, which are subsidised by the News International. All costs are also borne by the company' (Interview, 12-05-99).

In August 2000, News International began procedures to set up a company-sponsored 'independent union'. To satisfy the 'independence' requirements of the legislation, News International gave the NISA £250,000 in lieu of membership subscriptions for employing a full-time general secretary and provided the NISA with facilities including an office⁶⁰. In addition, if independence were granted by the Certification Officer (CO), the Director of Human Resources had indicated that News International would provide a charitable donation of one to two million pounds as further support. However, there would be safeguards, 'Of course, we would write conditions into the funding. In the event of an external union gaining favour here, the money would be stopped and then we would ask for the money back. The point is we have to fund it, and for independent status, employees have to pay subscriptions, even if it's only a penny a year' (Interview, 04-08-99). In an interesting development, the Father of the Chapel for the NUJ was elected unopposed as Chair of the NISA.

⁶⁰ According to company figures, the NISA was projected to cost up to £100,000 a year to run for the three NISA sectors of Wapping, Knowsley and Kinning Park. In addition, News International provided £20,000 for legal support for the financial year 1999-2000. This figure is revised annually by the Director of Human Resources.

In addition to the previous 'consultation' powers of the ECC, the Charter for NISA states: 'To encompass collective bargaining over not only these matters [for the ECC] but also: hours of work; rates of pay; benefits; and other terms and conditions of employment;To enjoy rights equivalent to those conferred by law upon an independent trade union in respect of all rights to information and consultation; To agree procedures generally for making the representative body fully effective in respect of all the above matters and any other matter it is agreed with News International to include from time to time' (Charter of News International Staff Associations and Staff Associations Executive Committee, 1999: 1).

5.2.9 South West Water

The privatised utilities in UK have perhaps been a sector where industrial relations changes have been most prevalent. The water industry in particular has been through rapid changes since 1989 with a change in government policies and wide variation in employer strategies within this sector⁶¹.

In economic terms, the 1980s saw controls on public spending which restricted investment in infrastructure and employees by water authorities. There was also a desire to enforce efficiencies prior to privatisation. Following privatisation, employee numbers generally increased in the water industry as a response to the capital expenditure that was necessary to comply with European Union legislation. However by 1994, as a response to tighter price regulation, many water companies started outsourcing work and making staff redundant. SWW was no exception, with the number of employees at SWW rising to around 2,250 by the early 1990s and reducing to around 1,400 in 2002. SWW is part of the Pennon Group Plc and in 2000 contributed to 61 per cent of turnover and 83 per cent of group profit.

Falling union membership reflected the change from public to private ownership at SWW, with new staff recruited from the private sector where union membership was less common. In addition, management excluded higher-graded staff from

⁶¹ One of the first and best known examples in the water industry is probably the partnership agreement at Welsh Water (later renamed to Dwr Cymru and now part of Hyder plc) (Thomas and Wallis 1998: 160-170).

participating in union representation, reducing the propensity for higher-graded staff to retain membership.

Before privatisation in 1989, bargaining in the industry had been conducted at industry level through national committees, although some agreements were negotiated at the local level. After privatisation, bargaining was undertaken at the company level and SWW established separate negotiating committees for white-collar and blue-collar staff with representation from the respective trade union lay officers and the union full-time officers. Before 1993, SWW had recognised NALGO for white-collar employees and NUPE, AEU, T&GWU and GMB for blue-collar employees. In 1993, the major unions at SWW – NALGO, NUPE and COHSE – merged to form UNISON, with some members transferring to the new National Rivers Authority (NRA) union branch.

At this time, most of the new management of SWW came from the private sector and a programme was implemented to change the culture of the organisation. Prior to 1991, the grading structure had been negotiated at national level and comprised 10 grades with incremental points based on length of service. During 1991, management wanted to introduce individual performance-related pay (PRP) and started negotiations with NALGO. Despite union protests, the introduction of the PRP system went ahead with all jobs evaluated using the Hay system prior to being allocated to a grade. Increments on job grades were replaced with performance payments but a 'cost of living' increase was negotiated with the union. Management refused to negotiate over the new pay bandings, which created a number of discrepancies at the lower end of the salary bands. At this time there was a union campaign for a change in the salary band structures. As a result, management reopened negotiations and extended the range of each band to reduce the number of employees affected by the discrepancies. During this period, union membership increased substantially.

In July 1993 when UNISON was formed, both NALGO and NUPE had been recognised by SWW and UNISON expected that recognition to continue.

Significantly, that year the union submitted a pay claim but management advised that pay awards would be based solely on individual performance. In October 1993, SWW announced through team briefings that it would not recognise UNISON for collective bargaining purposes and would not operate the check-off scheme. SWW argued this was non-recognition rather than what UNISON considered as derecognition.

As a result, SWW established a Staff Council (SC) for the purpose of consultation but not negotiation. Representatives were elected from management determined constituencies covering all grades of white-collar staff, with the exception of senior managers who had individual contracts. The Head of Personnel stated that, 'The main driver for the establishment of the SC was the introduction of a company-based performance-related pay system in the 1990s. The former NALGO union (now part of UNISON) did not participate in the performance-related pay process, thus SWW needed to introduce a mechanism of representation that could deal with such local issues'.

The Head of Personnel went on to suggest that management's aim was to create a new culture, as the previous union arrangement 'was based on an attitude that what was good for the company was bad for the employees ... with this new way we have tried to emphasise things that unite us rather than separate us. History was a problem with water being the least popular privatisation, so tools were put in place to unite employees and management to create a new culture' (Interview, 27-03-00).

The original structure of the SC consisted of four consultative committees (one for each of the operations divisions and one for head office) with a percentage of the members from those committees being elected to the SC. There were problems in some areas of attracting staff to become representatives with many representatives elected unopposed. In only ten out of the 32 constituencies was a ballot necessary. However, the SC only provided representation for white-collar staff. The manual UNISON and non-union employees had no form of representation, since the remaining craft and industry unions would not formally participate in the SC.

In effect, SWW had replicated the consultative committee structure that existed before derecognition without any employee negotiation or consultation. As Brown *et al.* (2001: 189) have suggested:

From the employers' point of view, even where trade unions were vulnerable, collective representation continued to have a role because [of] continuous pressure to maintain high quality and to increase productivity. Many firms found that the task of motivating employees to cope with these pressures cannot be left to individualised incentive structures alone. Collective voice ...had a role to play [so] it was common for employers to set up non-union consultative bodies ... as a basis for the expression of collective employee voice.

The aim of the SC as stated in its Constitution was to provide, 'the primary focus for our consultation arrangements and [provides] the opportunity for all employees through their representatives to influence and be involved in decisions which are likely to affect their interests'. For its part, it was stated that the company would take account of the views expressed by the SC in reaching decisions which may affect the working arrangements of its employees and the employment relationship.

There are 14 elected members representing constituents from the various functions or from 'natural' communication groups within the company. There is only one elected representative per constituency. The chairperson is the Chief Executive or a nominated deputy, and the secretary is normally the Personnel and Services Manager. Other members of staff or managers who have a specialist contribution may also be invited. Representatives must be permanent employees of SWW and are elected for a three-year period. Meetings normally take place four times a year, although other special meetings may be called to discuss extraordinary matters affecting the company or employees by agreement with the Chairperson. The SC representatives are provided with email facilities and access to management. Minutes are normally emailed to staff, displayed on notice boards where appropriate and

posted on the Intranet.

While the primary role of representatives is to represent their own constituency, other specific responsibilities (as stated in the SC constitution) may include: communicating issues discussed in meetings to constituents; bringing to the Council matters of importance and relevance within the scope of the subject matter; participating constructively in the business of the SC for the benefit of employees; and 'enhancing the smooth and efficient running of the Company'. Employees in SWW elect representatives from all levels to the SC, which deals with matters of concern to all staff employees – both trade union and non-trade union members. While representatives are free to be union members, they sit as non-union representatives on the SC.

5.3 Review of management strategies towards and objectives of NER arrangements

These nine organisations have provided a means to further examine management strategies towards NER arrangements and how such arrangements are structured in practice. The case studies also highlight a number of reasons for the establishment of NER arrangements. The rationale for establishing NER structures are central to a discussion of management strategies in implementing NER, given that managers initiate and are the architects of such schemes.

Table 5.1 Reasons for establishing NER arrangements

	Sains	John Lewis	Panas	HP Bulmers	Gros Casinos	Ciba	Euro	News	SWW
Negative employee attitudes regarding previous consultation	X				X		X		
European Directives	X		X			X			
History of participative culture		X		X					
Union avoidance strategy		X	X					X	X
UK legislation (eg Fairness at Work)	X		X						
Fill representation gap (sole representation body)/only representation structure	X	X	X		X			X	
Part of parent company HR strategy						X	X	X	X
New leadership team					X				
Development of a new participative culture					X	X	X		X
Other companies doing the same					X				
Primary means of information and communication	X	X	X	X	X	X	X	X	
Forum for new ideas	X		X			X			
Opportunity to influence management decisions		X		X					
Development of shared values and a participative culture						X	X		
Achieved improved commitment and performance			X						X
Exchange of views						X			
Monitor management decisions			X					X	
Problem solving					X				
Regulation of wages and working conditions									
Management of social and welfare budget		X		X			X		
Ensure fair treatment for employees						X			
Improve working conditions						X			

In summary, there are six principal reasons why managers established NER arrangements, although these are not mutually exclusive and may be multiple reasons in any one organisation. First, they were set up as a pragmatic response to improve information flows and communication between employees and managers in organisations and aid the diffusion of information and consultation (eg Sainsbury's, Ciba Specialty Chemicals and Eurotunnel).

Second, such arrangements were perceived to act as a 'safety valve' (allowing employees the opportunity to express their views and grievances) especially in the absence of an active union presence (eg Sainsbury's, Grosvenor Casinos and News International). Some companies with a long history of formal consultation structures through a more paternalistic senior management organisational culture (eg John Lewis Partnership and HP Bulmer) see this as a primary reason for low levels of industrial conflict. These firms also indicated that other aims of such structures were to provide a means for exchanging views between management and employees, to act as a forum for problem solving, to regulate wages and working conditions, to ensure employees were treated fairly and to improve working conditions.

Third, an NER structure may help facilitate the process of organisational and workplace change by enabling management and employees to highlight issues of concern at an early stage thus reducing potential conflict at the implementation stage (eg Ciba Specialty Chemicals). Fourth, NER could potentially increase organisational performance in terms of productivity and quality by providing a forum for new ideas and employee input and developing a shared set of values and culture, thus increasing employees' understanding of business behaviour and producing greater employee commitment (eg Sainsbury's, Panasonic (Matsushita), Grosvenor Casinos, HP Bulmer, John Lewis Partnership, Eurotunnel and South West Water).

Fifth, NER structures were introduced as a response to recent legislative initiatives over information and consultation and the introduction of UK legislation on union recognition (the 'Fairness at Work' initiatives as part of *Employment Relations Act 1999*) (eg Panasonic (Matsushita) and Sainsbury's). Finally, NER arrangements may

be used as an alternative body for negotiating purposes in situations where there is little active union presence. Among this group of cases, it would seem that a significant reason for implementing NER arrangements could be the desire by employers to avoid an active trade union presence or reduce third party influence in their workplaces – five of the nine companies in the study suggested that this was the main reason for their establishment (eg Sainsbury's , Panasonic (Matsushita), Grosvenor Casinos, News International and South West Water). It was also suggested by all the organisations in this group that establishing NER arrangements would fill a void or 'representation gap' in the absence of unions.

CHAPTER SIX

UNION RESPONSES AND APPROACHES TOWARDS NON-UNION EMPLOYEE REPRESENTATION

6.1 Introduction

During the 1980s, 1990s and through to the present day there have been rapid changes in industrial relations in the UK. These changes have taken place against the background of changing political emphasis, economic pressures, declining union membership and density, an increase in the use of individualistic HRM practices and a rise in NER arrangements.

This chapter reviews union strategies and approaches towards NER, in particular exploring ‘colonisation’ and ‘marginalisation’ tactics towards NER arrangements. This is undertaken by reviewing representation arrangements before and after union recognition at Eurotunnel, HP Bulmers and Ciba Specialty Chemicals where the union works alongside a pre-existing non-union arrangement. The chapter also examines increased union influence as a response to a union avoidance strategy at News International in establishing the News International Staff Association (NISA), and at SWW in forming the SWW Staff Council (SWWSC) as a response to periods of unionisation.

6.2 HP Bulmers Limited

The union movement at Bulmers was created out of the necessity for delivery drivers in the 1960s to be union members. Bulmers drivers found it increasingly difficult to enter closed shop workplaces without a union membership card. By 1975, the T&GWU and

the MSF gained recognition at Bulmers, as did in 1976 the Association of Clerical, Technical and Supervisory Staff (the T&GWU clerical trade group). The company's partnership approach with the unions started with the establishment of a Joint Working Party (JWP) with representatives from management and the T&GWU. It was set up to examine and review the structure of shift pay, sick pay anomalies and the harmonisation of conditions of employment for all workers. In total, three senior managers and four senior shop stewards negotiated and debated the issues over the following three years. An agreement was eventually signed in 1994 entitled the 'Joint Statement on Employee Relations Development'. In 1995, the MSF was de-recognised to help provide a more coherent representation approach thus leaving the T&GWU as the only recognised union.

The T&GWU represents employees through the JWP arrangement on the lower grades 6 to 9 (around 340 employees). According to T&GWU Convenor, about 96 per cent of the shopfloor were union members (although office staff membership was very low at around 5 per cent)⁶². As well as the four ex-officio shop stewards on the Employee Council, many of the representatives were also T&GWU shop stewards⁶³, and thus involved in the negotiating forum with union representatives only. However, most issues discussed in union negotiations have been previously discussed in the Employee Council.

The T&GWU Convenor suggested that he is comfortable with the Employee Council's present role and argues that it should not be given negotiating powers. From a union point of view, the Council provides an opportunity for discussion and enhanced understanding of all sides of the business, as well as a forum for formulating important policies. In addition, he argued that shop stewards already had considerable input into the revision of the company's vision, mission and strategic goals statement and that their participation was strongly supported by the Chief Executive.

⁶² The Employee Council is the only representative channel for the higher grades from 1 to 5.

⁶³ T&GWU Convenor stated there were eight shop stewards in 2000 on the Employee Council, representing all employees not just union members.

6.3 Ciba Specialty Chemicals (UK)

Since 1999, the GMB⁶⁴ has had sole union recognition, and a partnership agreement at the Bradford plant. Before recognition was granted, the GMB had approximately 500 members. It was estimated that by 2000 there were 800 members at the site.

The partnership agreement signed in March 1999 sets out a number of objectives, some of which detail how the union should work together with the CC. For example: both parties 'work together for the mutual benefit of the business and all those that it employs'; 'the company recognises the right of the GMB to recruit, organise and give guidance and assistance to its members at the Bradford site and agrees to give reasonable facilities for that purpose; the 'GMB agrees to work in tandem with the CC in improving two-way communications and understanding of common objectives'; the company recognises the GMB as the sole trade union for collective bargaining and the GMB promises to train all its site representatives with the company giving 'reasonable time off with pay for the purpose'; the company encourages membership of the GMB and for 'new employees the company will arrange for the CC leader to meet with them and advise of the benefits of GMB membership'; union contributions will be deducted from salaries for those employees requiring this to be done; and the company and the GMB have 'a common objective in using the process of negotiation to achieve results beneficial to the company and the employee' (Partnership Agreement – Ciba Specialty Chemicals and GMB Trade Union, 1999). Notably, the agreement does not contain a 'no strike' clause. The GMB Regional Organiser argued, 'I would never sign one because I see strike action as the ultimate [sanction] – I see it as a failure' (Interview, 18-06-99).

The rationale for Ciba to finally accept and give union recognition was summarised by the GMB Regional Organiser,

⁶⁴ Officially the GMB stands for 'GMB - Britain's General Union'. These initials were adopted as the official title in 1989. Historically the 'G' derives from General, the 'M' from Municipal and the 'B' from Boilermakers but GMB is not an abbreviation for these titles as over 100 unions have merged with GMB making the initials its official name.

At one time, management had a more paternalistic type approach to industrial relations. They thought they knew best. We were outside the gates for 11 years – a long and slow struggle. People were paid for the type of job they did, they had stability of employment and generally they were not badly treated – they had share options, nice staff restaurant, social clubs etc. The problem was that some managers were not particularly well trained which meant that some industrial relations issues, which could have been handled easily were handled very badly. There were some horror stories. We still managed to gain 500 members over a ten-year period with no union recognition. The harder we knocked outside the gates, the more the company gave representatives inside training and power. There was no doubt the CC was used as a union avoidance mechanism. I either come in and work with the CC or hold onto the legislation and go through the process and demand recognition. I would rather work by consensus and a more modern approach to industrial relations (Interview, 18-06-99).

Unions must go through the CC for recognition purposes. However, the majority of the representatives on the CC are union representatives. The GMB Regional Organiser argued that while ‘the CC is a complication in the partnership process due to the non-union representatives on the CC, over time with the hard sell, we will have all representatives on the CC as trade union members. In this current redundancy situation, the union experience has been helpful. I am sure consultation through us [GMB] took the heat out of the situation’ (Interview, 18-06-99). He went on to say: ‘The problem when you are an employee is that it is like a collar around your neck when it gets hot. They don’t employ me and that makes a hell of a difference. In training we told them what their rights were, where they could go and what they could do. They had never been told that before’ (Interview, 18-06-99).

Most of the production-based representatives by 2000 were union members (with around 20 representatives). In contrast, few office-based representatives were unionised. While previously this had not caused any conflicts on the CC, since union recognition it highlighted a higher standard of training provided by the GMB for its union representatives. Non-union office staff consequently requested a higher standard of training for non-union representatives to address this imbalance.

The CC Leader and Union Representative stated that union recognition allowed the CC access to more information and offered greater legal protection for employees in disciplinary procedures by giving representation to those employees who were dismissed due to disciplinary action (Interview, 18-06-99). For example, the redundancy programme required the CC to call on the assistance of the GMB. The CC Leader and Union Representative suggested that the ‘unions are there as an extension and tool for the CC to use and it’s my responsibility to get the union in for help and guidance. The company has a dual channel of representation’ (Interview, 18-06-99).

6.4 Eurotunnel plc (UK)

As a new site, recruitment of employees with the right skills mix was a major factor in Eurotunnel’s development and growth⁶⁵. Thus Eurotunnel’s original philosophy and selection criteria of employees for operational roles in the early 1990s was an important factor in establishing the culture of the company.

In terms of recruitment of the general employee population at Eurotunnel, one agency (Mercuri Urval a bi-national organisation) was charged with assisting Eurotunnel Group on both sides of the channel. As a former Human Resource Manager suggested, ‘We were looking for a particular type of individual in all areas – fresh, enthusiastic,

⁶⁵ According to Labour Force Survey 2001 data, Kent (including Ashford) had a slightly higher unemployment rate of 3.7 per cent compared to the South East average of 3.3 per cent (National Statistics, 2002).

customer focused, flexible in thought and action. It should be said that this led us to recruit in large numbers away from outside the local ferry, railway and mining groups. Similarly we tried, for instance, to avoid the military when recruiting for security staff as we found that some had difficulty in converting to civilian life’.

He went on to state the difficulties of recruiting the right type of staff, ‘We did not see our product as anything but new. Our locomotives and rolling stock were totally new and required different skills to master than the main line stock. Subsequently despite high salaries being paid on the main line, only three or four employees have left us to go and work for them. The main line drivers did not want to come and work for us as we of course did not pay enough. We needed to employ technicians who had the skills, but as our technology was at that time at the leading edge and not in line with the current railway environment, we tended again to recruit from outside of that industry’.

He went on to say, ‘We did employ individuals from TML [Transmanche Link⁶⁶] where their skills and approach matched those of the emerging company. For all roles we were very selective as at the time we were inundated with applicants for all roles. At the time of this mass recruitment (1993/4/5), unions were at a fairly low point and as we had recruited away from what could be considered as staunch union arenas, at the same time offering similar support to staff, very few seemed interested in union activity. I will say that the recruitment was not actively anti-union, but in looking for the particular type of individual this was the end result.’ (Former Human Resource Manager, email correspondence, 21-07-03)

In 1996, a major fire in the tunnel stopped the service for seven months as repairs and safety inspections were carried out. This caused severe financial strain on the operating company both in terms of costs to repair the tunnel and in terms of lost service and market share during this period.

⁶⁶ The company was set up during the construction phases of the tunnel.

In another development, Eurotunnel management approached the CC in October 1996 requesting negotiations regarding 120 redundancies (including agency staff) at the company. This was a response to the completion of the construction phase of the project to a full operational transportation company and the loss of revenue resulting from lost service due to the fire. It was proposed that while some redundancies would be voluntary, it might be necessary to enforce redundancies. During this period, the CC called upon the Industrial Society⁶⁷ (of which the CC is a member) for advice and delivery of a five-day training course on employment law with particular emphasis on redeployment and redundancy procedures. The CC also employed an independent consultant to help on various employee matters and issues that arose during the period of reorganisation.

It was suggested by the CC in its monthly newsletter that ‘an element outside of Eurotunnel ... are determined to undermine the efforts of the CC by distributing half truths and downright inaccurate information regarding the various meetings that have been held with Management’ (Eurotunnel UK CC, Newsletter – November, 1996: 1). This message was in response to views expressed by the T&GWU through a T&GWU sponsored ‘Eurotunnel Bulletin Number 1’, which highlighted a number of issues regarding the ineffectiveness of the CC in relation to Eurotunnel’s lack of resources dedicated to security, the degree of information provided by management to the CC, consultation over organisational restructuring, and protecting staff on short-term contracts. In particular, the T&GWU Bulletin suggested that the ‘French side’ had more rights to information over these issues than the ‘British workers’. The then UK Director of Human Resources responded by stating in a letter to the T&GWU: ‘This [the CC] frankly is a better service to employees than an emotive programme of obstruction based on ill-informed understanding and calls for support from Parliamentary and community groups to intervene in issues which will be resolved only between the company and its employees’.

⁶⁷ This organisation is now called The Work Foundation.

As a result of subsequent negotiations between the CC and Eurotunnel management, an agreement *The Social Contract – Eurotunnel Operational Effectiveness and Job Security Protocol* was signed in 1997 which guaranteed job security, additional consultation and information rights for the CC and outlined procedures to avoid future redundancies.

In 1999, Eurotunnel management faced a number of industrial relations challenges. In June of that year, French Eurotunnel employees supported by all five French unions blockaded the entrance to the Calais departure terminal when French train crews and other French contracted workers parked about 30 cars across the entry lanes over a dispute involving increases in pay and conditions. This halted Shuttle services for a number of days during one of the busiest periods of the year for passenger and car traffic. In yet another development, the abolition of duty-free goods in 2000 increased financial difficulties costing Eurotunnel about £100 million in yearly profits. This also resulted in increased fares as a means to compensate for the losses incurred through duty-free abolition.

Around the same time, the CC initiated an all employee share scheme (called the Eurotunnel Sharesave Scheme) and promoted its development with discussions and negotiations during 1998 through to its introduction in November 1999. It was considered by the CC at the time as a means of involving employees in the future success of the company and increasing the share of profit to employees.

With respect to representation, until June 2000 Eurotunnel (UK) only recognised the CC for consultation and negotiation purposes. This is in contrast to France where five unions are recognised for bargaining and negotiation purposes⁶⁸.

⁶⁸ These include: French Democratic Confederation of Labour (CFDT), General Confederation of Professional and Managerial Staff (CGC), General Confederation of Labour (CGT), French Christian Workers' Confederation (CFTC), and Force Ouvrière (FO)

Regarding representative arrangements prior to June 2000, one representative and one deputy were elected to the CC from each of eight constituencies, which are geographically or functionally based, including: Technical Engineering, Shuttle Services, Tourist Division, Train Crew, Freight Division, Corporate (Administration), Technical Railway and the Call Centre. Each constituency had a representative and deputy on a joint ticket. Election was by secret ballot for a two-year period. All representatives had to be permanent employees with at least one year's service, and on permanent rather than temporary contracts. They could, however, include full-time or part-time employees.

With the introduction of the *Employment Relations Act 1999*, a recognition and partnership agreement was signed by Eurotunnel management and the T&GWU in June 2000, which conferred negotiation rights, confirmed the acceptance of the existing consultation framework and established a joint management trade union forum. As a result, the agreement created two representation structures. A modified CC with eight representatives meets six times a year and represents all employees at Eurotunnel. The joint management trade union forum represents union members at Eurotunnel covering all issues of concern, including sole negotiating rights over UK pay and conditions.

It was suggested by Eurotunnel management that the company was in favour of the partnership agreement as a means to assist the organisational change process. In addition, any conflict could be resolved through a formalised conflict resolution procedure. At the time of union recognition, the then HR Director hoped that within six to 12 months Eurotunnel might be able to move towards a single unified negotiation body with a merger of the CC and the T&GWU anticipated.

At the time that Eurotunnel management introduced union recognition and signed the partnership agreement between Eurotunnel and the T&GWU, the then Director of HR indicated that the impetus for change was the threat of industrial action in late 1999 by train drivers who were members of a rival trade union Aslef, which had created

operational upheaval and a situation of crisis management. Aslef had been lobbying Eurotunnel for many years to gain recognition. From August 1997, Aslef worked in tandem with the T&GWU in order to bring about joint recognition, whereby Aslef would represent the Train Crew division with full negotiating rights, and the T&GWU would represent other grades (*FireFighter*, December 2000: 16).

Prior to recognition of the T&GWU, the CC and the Industrial Society conducted a survey of Eurotunnel employees as a means to gauge their views towards trade union recognition. The survey found that an overwhelming majority of employees were in favour of trade union recognition. The results also indicated that employees did not believe that the CC, as it was constituted, was an effective body in representing employees over pay and terms and conditions of employment, and just over a half (52 per cent) wished to be represented by a trade union. Only eight per cent of respondents supported the existing arrangements, while 35 per cent stated they would like to have the CC with negotiating as well as consultative powers. Over a third of respondents supported the alternative of having trade union representatives on the CC. 50 per cent of the sample of 902 respondents (out of 1438 questionnaires distributed, representing 63 per cent response rate) indicated that they would be willing to join a union should Eurotunnel management go down the route of recognition, and a further seven per cent indicated they were already union members (Eurotunnel CC Recognition Survey, 1999: 1).

Importantly, a quarter (24 per cent) stated that they would not join a union even if it were recognised by the company, with an additional 18 per cent not sure if they would. However, the report concluded in theory at least, that the necessary majority for recognition under the *Employment Relations Act* was present (CC/Industrial Society, 1999: 1). Analysis by division showed strongest support for trade union representation in the Train Crew division (76 per cent), Technical Engineering (55 per cent), Call Centre (52 per cent) and Technical Railway (51 per cent). There was lower support in Shuttle Services (29 per cent) and the corporate division (28 per cent).

As a consequence, Aslef wrote to Eurotunnel management on 15 March 2000, bringing the results of the survey to their attention and seeking a further meeting to establish a framework within which the T&GWU and Aslef would 'establish mutually acceptable recognition agreements' (Thornton, 2000: 16).

Eurotunnel management responded that they would offer a single union recognition agreement with the T&GWU, and both parties (to the exclusion of Aslef) signed the agreement. In June 2000, the Annual Assembly of Aslef considered an emergency report on the situation at Eurotunnel and carried a resolution calling for a ballot for industrial action. On 20 August, Aslef members at Eurotunnel (about 220) balloted for industrial action by banning all non-contractual overtime. It was recognised that this would be insufficient to persuade management to return to the negotiating table and a second ballot was held which approved a series of discontinuous 24-hour strikes (Thornton, *FireFighter*, December 2000: 16).

The first of these strikes took place on 20 November 2000 and continued on a weekly basis until the end of December as a means to disrupt Eurotunnel's operations over the busy Christmas period. Their French counterparts also agreed not to run any services that would normally be operated by British drivers. Aslef alleged that Eurotunnel had intimidated their members with a series of 'threatening' e-mails. At the time general secretary Mick Rix said, 'Eurotunnel is bent on confrontation and intimidation of staff when it should be trying to negotiate' (BBC News, 20 November, 2000). However, the effect of the strike was limited with management filling in some of the driver positions⁶⁹. As a result the single union recognition agreement was with the T&GWU maintained.

⁶⁹ It is interesting to note that in September 2003, Eurotunnel Group edged closer to a potential confrontation with French unions in response to the company's insistence that it continue plans to run its own freight trains across France, affecting the monopoly position of SNCF in conducting freight services across France. French railway staff threatened to block the tunnel with *ad hoc* unannounced strikes if Eurotunnel Group proceeded with its plan, which was part of a rescue strategy to increase the company's finances and reduce debt. The Eurotunnel Group technical director was reported to have said, 'There is a minority among the unions who can bring the network to a standstill. They are instinctively against anything which would change the status quo and they are going to resist the widespread break-up of SNCF

The industrial action was considered to be critical due to the company's £6.5 billion debt and the perishable nature of service delivery as it was costing potentially millions of pounds a day in lost revenue⁷⁰. Another important influence on union recognition were the union recognition requirements under the provisions of the *Employment Relations Act 1999*. It was felt by management that the legislation could be a catalyst for a number of diverse and complex union-based arrangements within Eurotunnel.

The partnership agreement was finalised with little consultation with the workforce and in the face of opposition from the rail union Aslef. It was stated by the HR Director that a mainline rail union would not be appropriate since Eurotunnel was not a mainline rail company. He suggested, 'Jokingly, we are a railway line with two stations. In fact we are partly a process engineering factory, that is what the tunnel is, and partly a ferry service on wheels. We are not comparable to any UK rail companies. On the technical side (terminals, tunnel and rolling stock) we are more like a train factory rather than a rail company'. From the union side, the importance of the partnership agreement and working with the CC was voiced by one T&GWU official who stated:

We are a pragmatic union and we would complement the CC. We would not want to bypass it or undermine it. We, as a union, could enhance the role of the CC. The recognition agreement is a new significant development for Eurotunnel and the T&G. We see this agreement as a

to meet European regulations' (Webster and Sabbagh, 2003). These problems were encapsulated by the response from Eurotunnel management which stated, 'The cross-Channel rail industry currently suffers from underutilisation of expensive infrastructure, financial losses and conflicting contractual relationships' (BBC, 2004).

⁷⁰ Confirming this negative financial situation and the difficulties faced by the company, income from passengers fell by 11 per cent at the end of 2003 in the face of a 20 per cent drop in revenue. After ten years of no profits, the company posted its biggest ever loss of £1.3 billion in early 2004. It was suggested by Eurotunnel Group management that this was aggravated by increased competition from low-cost airlines offering cheap tickets to mainland Europe and reduced activity due to government-imposed increases in the price of alcohol and tobacco in France. In April 2004, a group of French shareholders led by Nicolas Miguet engineered the removal of the previous management, including its Chief Executive Richard Shirrefs and Chairman Charles Mackay, from the main company board.

model agreement, looking at it as a basis of a very good example of best practice.

6.5 News International Newspapers (UK)

In response to a reference in the Newspaper Society Report on the Employment Relations Bill which stated that, 'A truly independent staff council could become a dangerous animal, and would exercise its influence company-wide' (Newspaper Society Report on the Employment Relations Bill, July, 1999: 4), the Director of Human Resources replied that while he agreed that it could: 'We would prefer to keep our dirty washing inside rather than going external' even if the possibility exists that it could one day lead to an association with one of the large unions or even affiliation with the TUC.

When asked what concerns the company had over union representation, the Director of Human Resources argued, 'The problem is that we have a long history and they [employees] do not want to return to yesteryear. They know how damaging [union action can be] and how much damage was caused by the unions. If we have to handle the unions as a result of the new legislation and this process not getting certification, then we will handle them. But as a preference we would rather give our own staff a body that can represent their interests and interface with management without having to go to an association or union and be overturned, which can be described as bloody Sunday many years ago. They (the unions) are desperate to get in and we are desperate not to let them in. We can think of other processes that meet the interests of our staff' (Interview, 04-08-99).

The Director of Human Resources also acknowledged that in the early days the NISA was seen by management as a union avoidance strategy, although he went on to say, 'We are where we are now. It is not about union avoidance but [about] having a credible association that truly represents all of the employees within News International. This is about us getting the biggest bang for our buck. It is very competitive out there, a very

closed sector with journalists moving around between the titles very freely. What we wanted to do is maintain the quality we have got and provide as much opportunity to all employees across News Corporation. This (NISA) is one vehicle for it' (Interview, 04-08-99).

He went on to say that the current management-employee relationship was very good. He suggested it was that way because a lot of work had gone into improving the relationship in the last five years, from what was a very poor relationship. According to the Director of Human Resources, this improvement started with the establishment of the previous ECC, 'It was an acknowledgment that we were very poor communicators and a lot of frustrations were out there we did not know about.

According to the ECC employee survey in 1998⁷¹ some 67 per cent of respondents reported that there was not enough opportunity for employees to let News International know about things that affect them and their work. Over 69 per cent indicated that speaking up on issues where they disagreed with management could damage their career prospects. 48 per cent also disagreed with the statement that 'senior management explained the reasons behind major decisions', 66 per cent wanted to see more evidence of senior management taking an interest in employees' part in the company, and 37 disagreed with the statement 'senior management lead our organisation by example' compared to 25 per cent who agreed with the statement. Regarding the level of communication only, 33 per cent felt they were fully or fairly informed at company level. In addition, in nearly all important performance and strategy issues the respondents were far more likely to report there was 'too little' information compared to those who stated they had the 'right amount'.

⁷¹ The ECC employee attitude survey was carried out by PricewaterhouseCoopers in November 1998 on behalf of the ECC. Questions were asked covering issues of work satisfaction, communication, management style, representation and the ECC. Out of the 3,553 questionnaires sent to employees, some 1,656 self-completion questionnaires were sent directly back to PricewaterhouseCoopers. The overall response rate was 47 per cent and the two largest sites, Wapping and Manchester, had the lowest response rates – 39 per cent and 33 per cent respectively. Nearly half of all respondents were from production areas.

The ECC employee survey also reinforced the level of support for giving negotiation rights to the ECC. In relation to improving the ECC, 67 per cent of respondents favoured giving the ECC pay negotiating powers, 80 per cent were in favour of giving it powers to negotiate over working conditions, and 67 per cent felt it should have the right to negotiate directly with News International management. Over two thirds of respondents also suggested that fair representation could be achieved if the ECC could represent staff in grievance issues and on disciplinary procedures. In addition, 60 per cent stated that fair representation could be achieved if the ECC became a staff body independent of News International management. 70 per cent of respondents also suggested that overall representation could be improved if the ECC was properly consulted prior to meetings.

Interestingly, only 24 per cent stated that the ECC in its current form (at the time of the survey) was successful in its consultation with management. 32 per cent thought it did a 'good job' of representing employees' interests and only 22 per cent stated that the ECC 'does not need to change significantly to achieve fair representation'. Around three quarters of respondents wanted to hear more about how the ECC helped to improve work conditions in their area and in News International in general. While 65 per cent understood what the ECC did, only 38 per cent of respondents indicated the ECC representative in their area did a good job.

The Director of Human Resources stated that: 'The ECC was set up as a vehicle to understand what those frustrations were and gave [us] an opportunity to do something about it' (Interview, 04-08-99). He added that the ECC 'got lots of wins'. These included the establishment of a pension scheme, health care and dental insurance. According to him, another measure of the success of the ECC was that over the last five years labour turnover had declined greatly, retention rates were running at around 100 percent, and pay was well above the market rate⁷². To reinforce these views, the ECC

⁷² He gave the example of a printer at News International earning on average around £33,000 compared with the industry average of £24,000.

survey stated that 66 per cent of respondents were very or fairly satisfied with their present job at News International.

In June 2000, News International reached an agreement with NISA over a package of changes to terms and conditions of employment, including a three-year pay deal. This consisted of a five per cent increase in the first year and a 3.75 per cent rise the year after (or if the inflation rate was above this figure, the increase would be tied to a formula of inflation plus one per cent up to a cap of five per cent). Similarly, in the final year there would be an increase of 3.75 per cent unless inflation went above 4 per cent. If this occurred, salaries would increase by the inflation rate plus one per cent, with a cap of six per cent (IDS Report 811, June, 2000: 4).

The timing of the three-year deal coincided with the establishment of the NISA and the introduction of union recognition legislation. It has been said that given News International's historical resistance towards unions, this agreement could be regarded as an attempt to prevent unions such as the GPMU and NUJ from regaining recognition rights. It was reported that a NISA representative allegedly said: 'We are convinced that no outside party could have negotiated a better agreement. The company is confident that the proposed package is better than any other deal in the industry. The same was true of our Millennium payments deal, which was also the result of negotiations between NISA and the company' (IDS Report 811, June, 2000: 4).

The NUJ magazine *Journalist* described these settlements as follows: 'In its short history, the NISA has had startling successes, 'winning' the best Millennium payments in the business and also pay rises without even having to try. Cynics have recalled Rupert Murdoch's past generosity, paying a £2,000 lump sum plus a ten per cent pay rise to those who broke the Wapping dispute in 1986. Such short-term costs are clearly preferable to having to deal with a union.' (*Journalist*, August/September 2000: 9). This seemed to be confirmed by the Director of Human Resources, who said of the NISA's effectiveness, 'If it's not influential it will fail. If it does not get results on behalf of its

staff it will fail ... They (NISA) have to get some prizes out of this and some early gains so they can go back to staff to say what they have secured' (Interview, 04-08-99).

The NISA executive member responded by saying that the NUJ's action against NISA's application for registration had 'given us a bit of a gee-up', and added: 'but clearly it has always been our intention. We think we are doing a very good job and we don't want the NUJ coming in and mucking it up for us'. (*Journalist*, August-September 2000: 9). The NUJ National Organiser Jeremy Dear indicated in his response to the move that, 'It shows the NISA up for what it is – a company union. With the company paying for the staff, the offices and all its functioning, how anybody can consider that to be independent is beyond me'.

The Director of Human Resources was more circumspect, 'I did not think they will [Certification Officer granting NISA recognition as an independent trade union] but that is what they [NISA] want. The problem of the interpretation over some issues will also need to be resolved. Somebody said it was a 'muck-up'. Even if it is not accepted, they will come back and say this is where it falls short and that will give us an opportunity to work on it'. In addition he said it was management's desire to make the NISA a full trade union, 'Once the hare comes out of the trap, there was only one journey we could make, and that is ultimately being an independent trade union' (Interview, 04-08-99).

A joint submission to the Certification Officer for Trade Unions from the NUJ, GPMU and AEEU asked the Certification Officer not to grant a certificate of independence to the NISA, arguing that there was strong evidence that the NISA was wholly dependent on the company's resources (*Journalist*, March 2001: 11). This was a clear attempt by these unions to reduce the possibility of a recognition claim (Gall and McKay, 1999: 11). Under the *Employment Rights Act 1996* (ERA), the existence of an agreement with another 'independent union' is a reason for refusal of an application for recognition by another union.

On 18 May 2001, the NISA was refused recognition as an independent trade union by the Certification Officer (CO) for Trade Unions. Under the *Trade Union and Labour Relations Act 1992*, the CO needed to establish whether the NISA was ‘not under the domination or control of an employer’ and ‘not liable to interference by an employer’. Areas of concern highlighted by the Certification Officer were the Millennium bonus deal worth up to £990 per employee and a three-year pay deal, front-loaded with a 5 per cent increase from 1 July 2000.

News International suggested that these outcomes were evidence of the strong and effective negotiating powers of the NISA. The CO argued in his judgment, ‘There is real difficulty in assessing their significance as the union could have been pushing at the open door of a compliant employer who wished them to appear to be effective negotiators’ (CO, 2001, s28). He went on to say, ‘Both deals took effect before NISA was formed and while the staff association was still much management’s creature’ (CO, 2001, s28).

The verdict centred on four key reservations based on NISA’s history, its membership, its organisational structure, and the way it was financed (IDS Report 835, June, 2001: 7). The CO stated that while the NISA had made progress towards independence, it was based on various consultation structures controlled by News International and it ‘had some way to go’ (CO, 2001, s29) before it had independence from the firm. Importantly, the CO highlighted the lack of a membership register and the dependence on News International for communication with its members. The CO argued that potentially News International could refuse access to its members and stop it providing services.

The CO also suggested that there was some ambiguity over how much support the NISA had from members since theirs was a ‘no fee’ paid membership and all employees are automatically members. This was problematic when many employees were already members of other unrecognised unions.

Interestingly, the ECC employee survey had indicated that 37 per cent of respondents stated they wanted to be represented by a third party (such as a union) while 35 per cent stated they did not. 41 per cent agreed that representation by an independent third party would improve management and staff working relationships, while only 28 per cent stated that it would improve the company's business success.

Regarding financing, the CO argued that the NISA was entirely dependent on the financial support from the company, in particular the £250,000 trust fund. The CO stated, 'While the union [NISA] is at least potentially dependent on management finance for its effective operation it is hard to see how it can be free from management influence, whether such influence is explicitly or implicitly expressed or merely in the minds of the union's members' (CO, 2001, s34).

It has been suggested that in seeking recognition for purposes of collective bargaining under the *Employment Relations Act 1999* a trade union need not be a fully independent trade union as defined by the 1992 Act. Para 35 (4) of the *Employment Relations Act 1999*, states that in practice and as a general rule, an application by an independent trade union may be defeated by a trade union which does not have a certificate of independence if it is recognised for the purposes of collective bargaining. In effect, this means that the presence of a staff association with 'negotiating' rights (as in the case of the NISA) can operate to defeat a claim by an independent trade union (Ewing, 2000).

6.6 South West Water

A challenge for UNISON in the mid 1990s, while it was campaigning to make the company reconsider the recognition issue, was to decide whether to participate in the SC or remain outside it. It was decided after lengthy discussions that the members could be best represented if UNISON activists and members put themselves forward for election to the SC. In all cases where a UNISON representative stood for election they were successful and were often elected unopposed. This reflected the confidence among both

union and non-union elected members of the SC and lower level committees. Of the 14 seats on the SC 'eight were UNISON members of whom three were shop stewards' (Griffin and others v South West Water Services Ltd. (1995)).

In relation to the presence of union members and representation on the SC, the Head of Personnel suggested:

From my perspective, I didn't care, the prize was getting people involved and participating in something that was really exciting. It would have been illogical to say that if the reason for the derecognition or non-recognition was to try to get a better way of doing things, how could you exclude anybody from that process. It just wouldn't have made a lot of sense. Unless you believe that we were anti-trade union or anti-UNISON and that wasn't and isn't the case, it was an irrelevance (Interview, 27-03-00).

Interestingly, the Head of Personnel also suggested that an important driver in the derecognition process was the style of the previous Chief Executive's (pre-1993) which was based on traditional notions of 'us' and 'them'. The Head of Personnel described him as a person who made a fundamental difference to the way things were conducted and saw the setting up of the SC as a defence strategy and as necessary due to union opposition to changes in the company.

One of the early problems for the SC was that no training was provided for representatives and the Managing Director denied the representatives the opportunity hold pre-meetings to discuss the agenda. This caused problems for the SC in providing effective representation and in the ability to work as a team. Representatives were expected to represent constituents in disciplinary and grievance hearings, but many non-union SC members felt they were ill-prepared for this role and were concerned about the potential for conflict of interest, particularly among the higher-graded representatives. UNISON representatives were also unwilling to represent non-members in such hearings

and to take on a health and safety role, since there were no legal safeguards for individual representatives.

According to the Head of Personnel, the importance of the SC to SWW was not underestimated as evidenced in a takeover threat by two water companies in 1996:

There was a need to involve employees in what was going on and to help and assist against the potential takeover through involving employees in the issues and by asking them to write to MPs and writing letters in newspapers. This was important to all because it would also mean job losses throughout the company. Clearly employees had an interest in what the outcome would be. This was a good example of not only effective communication but also employee involvement. This would have been more difficult to achieve without the SC. Without this process it would place a greater burden on other processes you have got (Interview, 27-03-00).

The Personnel and Services Manager added, ‘The question is not that the business would stop without it but would the business work as effectively. It [SC] is a very important part of the toolkit’. He also highlighted another example of the importance of the SC to SWW when he suggested, ‘Perhaps a negative measure, over this period there was a reduction in manpower from 2,250 ten years ago to around 1,650 people today and in terms of unfair dismissal claims [during this time] around half a dozen. This is a very positive result due in part to the consultation process and management listening to employee concerns. Outcomes were arrived at in the way [that] the process was handled – fair and businesslike’ (Interview, 27-03-00) ⁷³.

Notwithstanding the positive views from management, the Personnel and Services Manager felt that the main concern was maintaining employees’ interest in the SC. He

⁷³ The figures stated were as of June 2000 (before union recognition). By 2002, the SWW workforce was around 1,400 employees.

suggested that many employees had little interest in the issues raised at SC meetings and thus pressure was placed on representatives to give the views of all workers. Another problem was that workers are geographically dispersed over a large area. Many water plants operate 24 hours a day and many employees work away from their base for much of the time. In this environment, there can be difficulties in keeping people informed of the latest developments. He went on to say that while the SC was increasingly effective and successful, it had experienced little success in the early years for a number of reasons. These included, the lack of effective leadership and support from higher management, and lack of trust among SC representatives based on their experience with previous consultative arrangements and management structures and the previous two-tier committee process. This had created a culture which encouraged issues to be handled higher up the management structures rather than to be resolved lower down the line, resulting in a lack of clearly defined roles and responsibilities.

During this period the former NALGO branch orchestrated a long-running campaign against the derecognition, which involved leafleting outside the main offices, publicity stunts, a petition to the European Parliament and letters to local MPs. They tried to maintain membership levels by asking members to pay subscriptions by direct debit but without a workplace presence found it difficult to retain and recruit members. Coupled with the continuing redundancies, this meant that by 1998 the membership had reduced by two-thirds to approximately 200.

An important development was the High Court action in determining who were the 'workers representatives' at SWW with respect to the issue of collective redundancies. The expert witnesses were Lord McCarthy and Dr Neil Millward for UNISON and SWW respectively. The Hon Mr Justice Blackburne stated in the judgment, 'I was left with the impression that the consultative machinery established by SWW was very much the exception in the field of modern day industrial relations and that, despite an increasing trend towards de-recognition of trade unions for collective bargaining purposes, many employers still continue to recognise trade unions for other purposes

including dealing with collective redundancies' (Griffin and others v South West Water Services Ltd. (1995)).

Before privatisation there were well-established procedures for determining pay, conditions of service and resolving disputes with little history of industrial action. This was confirmed by the Head of Personnel at SWW when he stated, '... up until that point I think we had a reasonably open relationship with our trade unions ... sometimes quite confronting, nothing wrong with that, but reasonably open'. The UNISON and former NUPE full-time officer concurred: 'Certainly the manuals had been negotiating and talking with the company and the relationships, by and large, had been reasonably good on a one-to-one level'.

However, the formation of UNISON in 1993 and the relative inexperience of the branch officers had caused disruption within the union. During this period the company took the opportunity to derecognise the union in October of that year. Talking about reasons for the derecognition the Head of Personnel said: 'I think it was as a result of UNISON being formed [and] their introversion. Looking in from the outside, you don't see it all and all you see is this organisation being totally wrapped up in itself and not concerned with us as an organisation or dealing with the issues we were having to deal with. Just the sheer irritation with UNISON, its inability to handle what we saw as a stakeholder in ourselves...' (Interview, 27-03-00).

In a later interview, the Head of Personnel suggested that the previous traditional collective bargaining arrangements restricted and limited flexibility and as a result reduced productivity. He also stated that another important factor was the lack of active union presence in the company. It was suggested by the Personnel and Services Manager that trade union membership in the white-collar area at that time was as little as 15 to 20 per cent, therefore the company was sensitive to the views of an increasingly significant number of staff for whom trade union membership was no longer relevant. He suggested that a more direct relationship between employees and their representatives was desired,

and as a result, when the unions decided to amalgamate into UNISON the company decided to end recognition.

Interestingly, unions were not completely excluded at SWW. Within the company there were notable variations in the scope and range of arrangements, with derecognition confined to mainly collective issues, allowing UNISON representation on individual matters. The UNISON full-time officer suggested the union was:

'always received well by the company when representing members in disciplinary hearings or grievances. I got the impression that personnel were grateful they had someone there who knew what they were doing. It makes it easier for them I think. I never had any hostility from either individual managers or personnel people' (Interview, 02-04-00).

This proved to be important later on when SWW decided to contact UNISON about re-establishing a full relationship. The Personnel and Services Manager stated:

[the union] had been more and more present in the organisation, albeit on individual matters but we have never said ... that people would not be able to have individual representation ...' (Interview, 27-03-00).

The Head of Personnel added:

'...we never actually lost contact with UNISON ... firstly ... that there were UNISON representatives on the Staff Council and secondly we always supported the idea that people had access to UNISON on individual grievance or disciplinary matters, so there was always a link there, there was never a divorce in a clean kind of way. We never got to decree absolute, decree nisi maybe' (Interview, 27-03-00).

UNISON invested significant time and resources in fighting the derecognition, but continued to lose members. The Personnel and Services Manager described this as a 'vicious' campaign against derecognition. However, there was a difference between the pattern of membership loss regarding manual and non-manual workers. It could be argued that manual workers had a higher attachment to union membership and many chose to join one of the other unions. For the non-manual workers, there was not the same attachment, with the company being able to establish a non-union SC for representation and ceasing to deduct union membership subscriptions from pay.

Fairbrother (1996: 24) sums up the situation in the privatised utilities succinctly when he says 'With the restructuring that has taken place in these sectors over the last decade and the ending of national forms of bargaining and negotiating procedures, there has been an attempt to replace one set of consensual procedures at the national level with another at the local level. This was accompanied by an attempt to individualise and fragment previously collective work relations. The outcome has been a dramatic change in work and employment relations in these sectors, with startling implications for trade unions'.

SWW approached UNISON in February 2000 concerning rebuilding the relationship and a possible recognition agreement. As a result, a recognition agreement with UNISON was signed in the summer of 2001, after agreement over the continuation of existing non-union arrangements. Given that seven years previously they had derecognised UNISON, it was thought that a key element in the change of management strategy was the appointment of a new Managing Director. The new appointee's career was based entirely in the water industry, having previously been the Engineering Director at SWW. His management style was more open than that of his predecessor and this undoubtedly went some way towards rebuilding the relationship with UNISON.

Gall and McKay (1999) suggest that the new recognition agreements reflect the revival of a more pragmatic 'pluralism' approach rather than 'unitarism' within employer circles. They suggest 'that some employers appear to be turning away from non-union

collectivised and individualised arrangements and towards using trade unions. These employers have recognised the costs and difficulties of organising employee relations through works councils and performance-related pay and the ease, cheapness and legitimacy of the joint regulation that union recognition can afford. Often the vehicle for this change has been a change in ownership or a change in management personnel' (Gall and McKay 1999: 610).

Moreover, the *Employment Relations Act 1999* also had an important role in the re-recognition process. As the full-time UNISON Official stated, 'The legislation, almost undoubtedly, or the threat of it ...[was] the catalyst, with the prospect of ballots and more confrontation'. The Head of Personnel agreed by stating,

It was the impending change in the legislation that had prompted them to start discussions with UNISON. The Act was floating around in the background and we were aware of that. The Act might potentially sour the situation rather than improve it, which may sound odd ... it is better to have a relationship which is done on a positive basis, or there isn't a relationship because you have fought it off, and that is the potential that you can get into with the Act (Interview, 27-03-00).

It could be suggested that by adopting the voluntary approach, SWW were able to secure an agreement which gave them the advantage. The UNISON full-time Official stated,

... we are still on a building process really. We know where we want to be but we are a long way from being there yet. I think it is about biting your tongue sometimes whereas with an employer where you have got 90 per cent membership you can be a bit more robust ... than you can be with these, but it is all part of the longer game plan really. It would be silly to throw the baby out now, better to look to the future (Interview, 02-04-00).

An important factor in the re-recognition was the leadership of the UNISON representatives at SWW. Management suggested that the personality of the full-time officer was extremely important, especially a person that the company can trust. As Brown (1999: 168-9) has argued, ‘.. recognition will to a considerable degree depend not just upon what employers choose to offer, but also upon what unions can earn for themselves, by means of nurturing a relationship of trust with management’.

Regarding partnership at SWW, the Head of Personnel suggested that, ‘I am not sure whether UNISON know what they want out of the partnership agreement *if there is going to be a partnership agreement* because I don’t think we have got a partnership agreement at the moment, we have got a recognition agreement that is specific, there is a history here and you can’t ignore that, so let’s just take it slowly and rebuild the relationship. It’s more evolutionary than revolutionary’ (Interview, 27-03-00).

The full-time UNISON Official concurred, ‘...you have got to recognise that you can’t change the world overnight, you’ve just got to do small bite-sized chunks and hopefully over a period of time you’ll come quite a long way but you don’t realise it in the small steps you are taking’ (Interview, 02-04-00).

Haynes and Allen (2001: 165) also highlighted this point in their research, quoting from a full time union official, ‘If you’ve had years and years of something that’s horrible, and something comes along that’s not quite so horrible, you support it. Partnership’s not so horrible because we use it as a code word for recognition. It is an acknowledgement of the legitimacy of the other party’.

Significantly, while the DTI gave £50,000 as part of partnership fund to SWW, a UNISON Official stated, that partnership is ‘just another tool to try and get the company to move towards recognition and to get ourselves accepted within the company as a legitimate organisation that had a role to play’.

6.7 Discussion and review

From this research, two types of strategies can be identified that were applied by unions at HP Bulmers, Ciba Specialty Chemicals, Eurotunnel, News International and SWW. Unions at HP Bulmers, Ciba Specialty Chemicals, News International and SWW used a strategy of ‘colonisation’ towards NER voice arrangements as opposed to the ‘marginalisation’ of NER arrangements adopted by the T&GWU at Eurotunnel.

Significantly at Eurotunnel, although their expectations were high, employees were not totally convinced that unions alone would resolve their concerns⁷⁴. Only when management was perceived as unresponsive did the union become more of a catalyst for collective action. However, in many ways it could be argued that the partnership agreement between Eurotunnel and the T&GWU protected the *status quo* rather than extracted increased gains for employees, resulting in dissatisfaction, disenchantment and frustration. This was reinforced by management recognising the T&GWU without consulting employees. This was in the context of the recognition of the T&GWU and a strategy of marginalising the CC from negotiations and bargaining with management, against the wishes of many employees. This resulted in many employees unconvinced of the merits of trade union representation alone and a significant group of employees not becoming members of the T&GWU.

At HP Bulmers, the T&GWU had a long standing presence in the organisation as part of a ‘coherent representation’ approach which recognised the union for collective bargaining while the Employee Council (which included union representatives) would discuss all other matters not subject to formal negotiation or bargaining. Ciba Specialty

⁷⁴ At Eurotunnel, the first survey provided strong support for trade unions in all sections of Eurotunnel with the majority of respondents suggesting that a trade union would improve their position over pay and benefits, work conditions, health and safety and employee grievances. However, the second survey revealed the lack of progress the union had made on these issues with many employees suggesting that the trade union had not met their expectations.

Chemicals established a similar approach to dual channel representation when the GMB was granted sole union recognition in 1999. The Company Council actively encouraged union membership resulting in a dramatic increase in union membership after one year. In particular, the GMB agreed 'to work in tandem with the Company Council in improving two-way communications and understanding of common objectives'. In turn, the GMB was granted sole representation for collective bargaining purposes.

While no union has been recognised at News International since 1988, an important tactic adopted by the unions was a colonisation strategy of NISA. For example, the Father of the Chapel for the NUJ was elected unopposed to the NISA. He argued, 'Why am I joining a body which actually uses the words 'staff association'? Because I have been asked to by colleagues who agree with me it is important for the chapel to maintain a way of being allowed to talk to management and take up staff issues' (*Journalist*, June/July, 1999:11).

Thus, the creation of NISA raises a number of questions for representatives who are trade union members. In particular, three main issues can be highlighted – role conflict, reconciliation of differing interests, and the role of playing to different audiences. For the proponents of trade unions, such employer-sponsored structures are fatally flawed as an instrument of true workplace democracy because they are usually created and controlled by management and they have little or no independent power to protect workers' rights (Kaufman and Kleiner, 1993). It could also be argued that union representatives on such structures could confer legitimacy on management action by the visible processes of consultation with accredited representatives (Terry, 1999). In addition, even if such representatives can influence the agenda – but not the outcomes – there is a risk that representation on such structures could be seen as pseudo-participation, thereby reducing the perceived influence and power of employee voice (Kaufman and Kleiner, 1993; Hyman, 2001). As Kelly (1996) suggests, workers require effective voice based on the right of workers to exercise collective power through independent organisations that they regard as legitimate.

For unions, while having no guarantee of continuing recognition, maintaining high membership density creates an environment of strong union organisation and representation at workplace level. This was especially so at News International where there was a long history of anti-unionism and little prospect of union recognition by management. The experience at SWW has also shown that where unions have been excluded from the workplace, maintaining a presence through the representation of individual employee interests and through colonisation of NER structures has been shown to pay dividends in the long run. However, a recognition agreement is not enough on its own to secure new members and unions need to be effective and relevant to the workforce.

Overall the findings of this study suggest that a 'marginalisation' approach by a union to NER arrangements (as adopted by the T&GWU at Eurotunnel) could present challenges and have serious limitations. The implications of not recognising these limitations could lead to reduced union influence on workplace issues and potentially less desirable outcomes. The 'colonisation' approach as adopted by unions at HP Bulmer, Ciba Specialty Chemicals, News International and South West Water would seem to yield benefits by securing increased union presence in the decision-making process.

CHAPTER SEVEN

THE INTERPLAY BETWEEN NON-UNION AND UNION REPRESENTATION ARRANGEMENTS – AN EMPLOYEE RESPONSE

7.1 Introduction

This chapter examines the interplay between non-union and union representative arrangements at Eurotunnel (UK) and assesses their effectiveness in representing the needs of employees over a five-year period. In particular, this chapter seeks to explore whether NER arrangements are a complement to union representation or whether NER arrangements act as a substitute for union-based arrangements. Furthermore, perceptions of workplace outcomes of both NER and union-based voice arrangements will be assessed. The findings show that the effectiveness of non-union structures as bodies representing the interests of employees in filling the representation gap is questionable. However, union recognition through an employer-union partnership agreement has also raised important issues regarding the effectiveness, impact and legitimacy of unions at Eurotunnel. The main implication of this research is that the existence of a mechanism – union or non-union – for consultation between management and employees at the workplace may not be a sufficient condition for representation of employee interests. Effective employee voice over workplace issues may be essential for achieving and maintaining employee satisfaction.

The issues raised in this chapter have several consequences for the research outcomes. It is envisaged that this will provide a framework for examining the operation of NER forms, how they impact on employee trust in management, perceptions of their influence, and employees' sense of grievance. In addition, what all means for unionism

is explored by studying the collective nature of NER and its impact on employees' views before and after union recognition at Eurotunnel. The research also examines the views of union and non-union respondents towards union and non-union channels of representation after trade union recognition and the signing of the partnership agreement. The effectiveness of union and non-union voice arrangements in delivering benefits for employees by using research based on employees' perceptions of management, and of union and CC representatives are examined. Importantly, voice is deemed 'effective' for employees when it is associated with more positive employee perceptions of influence and being able to be heard.

7.2 Research findings from the longitudinal comparison of respondents' views.

The evidence presented here assesses the views of employees at Eurotunnel based on two surveys – one undertaken between December 1999 and January 2000, and the second survey conducted in December 2002 after union recognition (see Chapter Four for further details).

7.2.1 Perceptions of representative effectiveness

On the question of who would best represent staff on dealing with management over major workplace issues, the strongest support for a trade union was on pay increases. This was reflected in both surveys. However, the proportion of respondents who felt the union could best represent them in getting pay rises dropped significantly from over 70 per cent in the first survey to under 50 per cent in the second survey. This downward trend over the period was also apparent in relation to other workplace issues. For example, employees who thought that the union would be best at making a complaint about an issue at work fell from 55 per cent to 35 per cent, representing employees in disciplinary procedures declined from over 62 per cent to 42 per cent and representing individuals about changes to their immediate workplace decreased from 46 per cent to

29 per cent. Interestingly, support for the CC on these issues stayed relatively consistent between the two surveys.

A respondent argued:

The union reps seem only interested in their own little empires and inspire no confidence whatsoever. The CC reps seem to have at best a minor consultation role but at least make themselves available. We do need ways of influencing all aspects of how we operate. The vast majority of people care about the company, our customers and the future. We seem to have inappropriate people in management who don't realise the staff are an important part of the jigsaw that can make Eurotunnel a success.

Table 7.1 Who would best represent employees in dealing with managers at Eurotunnel? (percentage)⁷⁵

	Company Council		Union		Individual	
	1999 Survey	2002 Survey	1999 Survey	2002 Survey	1999 Survey	2002 Survey
Getting increases in pay ($\chi^2 = 28.56$; $p = 0.000$)	22	25	71	48	7	27
Making a complaint ($\chi^2 = 23.47$; $p = 0.000$)	31	28	55	35	14	37
If a manager wanted to discipline me ($\chi^2 = 20.02$; $p = 0.000$)	29	31	62	42	9	27
Changes to my immediate workplace ($\chi^2 = 20.43$; $p = 0.000$)	29	23	46	29	25	48

(Source: 1999 Eurotunnel Consultation, Information and Representation Survey, $N=123$; 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$)

The proportion of respondents who stated that they themselves were best placed to deal individually with the issues mentioned above increased significantly between the two surveys ($\chi^2 = 28.56$; $p = 0.000$). For example, 27 per cent stated they individually were best placed to obtain pay increases, 37 per cent of respondents said they were best

⁷⁵ Figures in the following tables may not add up to 100 due to rounding.

placed to make a complaint (up from 14 per cent in the first survey), 27 per cent felt they were best placed to deal with disciplinary action from managers (up from 9 per cent in the first survey), and 48 per cent stated they were best placed to individually deal with changes to their immediate workplace (up from 25 per cent in the first survey).

Importantly, it would seem that the lowered perceptions among employees of the union's effectiveness resulted in increased perceptions of individuals being able to deal more effectively with management. The following comments illustrate the views of employees (who are evidently not supportive of unions):

One respondent suggested:

I have a distrust for unions in general given that they cannot represent an individual's concerns. A poor experience in the past with them probably influences my judgement. The CC however, comes across as a more independent, unbiased option with a friendlier perception. After all, they also manage the Eurotunnel recreational kitty which a union cannot. The CC are already one step towards being company employees, whereas union members tend to have a label of "trouble maker", irrespective of their (CC or trade union) "clout" so to speak. I would prefer to deal with my employer directly, they did so when employing me.

Another responded stated:

The trade union is only here on a "power trip". They contribute nothing – in fact have made matters worse. The CC were perfectly adequate at representing employee issues without being confrontational – union H&S reps are totally unnecessary as we have very good elected H&S reps which are voted on by the entire workforce not just union members.

In the first survey the majority of respondents suggested that if trade unions were recognised at Eurotunnel, the CC should retain a role. As one respondent argued:

In an ideal world, the CC should have a role – other than offering treats like cheap panto tickets and holiday deals. In reality the CC representatives are all paid employees – their power and inclination is limited. It was hoped the union coming in would change all that, not the case I'm afraid. The T&G seem to be more compliant than the CC. I feel this must be poor leadership on their part, as certainly their employee representatives would like to make it work. Eurotunnel has fallen far behind in the pay stakes, and the touch feely "this is a nice place to work so don't mind the money" stakes. Eurotunnel is heavy on top – many well fed chiefs run committed but sorely tired and poorly paid Indians!

However, some 80 per cent of respondents in the first survey wanted management to recognise a trade union. Notwithstanding this, evidence suggests that around one in ten union and around a third of non-union respondents would favour the CC to represent their interests in relation to pay rises, making a complaint, discipline and changes to the workplace at Eurotunnel.

Table 7.2 below indicates that most employees after union recognition envisaged a role for the CC. On all major issues, few employees thought that the CC should play no role at all. In fact on all these issues, respondents regarded the CC as an important agent for consultation with management and as a source of information.

Interestingly, the second survey indicated that unionists were divided over the role of the CC regarding pay and benefit issues after union recognition, with 32 per cent indicating the CC should have a consultation role, 29 per cent suggesting an information role, and 27 per cent stating no role at all. Non-union respondents were more decisive with 59 per

cent opting for the CC to have a consultation role and 16 per cent an information role. Only seven per cent of non-union respondents suggested no role for the CC.

In relation to issues concerning the introduction of new technology, trade union members were again fairly evenly split with 31 per cent stating that the CC should have a consultation role. This compared to 39 per cent of non-union respondents indicating that the CC should have a consultation role, 28 per cent supporting an information role and 10 per cent stating no role. Again there was division among trade union respondents over changes to working practices as to whether the CC should have a consultation role (38 per cent), an information role (30 per cent) and no role (22 per cent). However, there was overwhelming support among non-union respondents for the CC to have a consultation role, with 58 per cent stating this. The views in relation to staffing issues and employee grievances were similar to these findings.

Table 7.2 Role for the company council given trade union recognition (percentage)

		Given trade union recognition at Eurotunnel, what role should the CC have? (percentage)			
		No role	Information role	Consultation role	Don't know
Pay and benefits ($\chi^2 = 65.66$; $p = 0.000$)	Unionised employees	27	29	32	12
	Non-union employees	7	16	59	19
Introduction of new technology ($\chi^2 = 23.69$; $p = 0.000$)	Unionised employees	26	27	31	17
	Non-union employees	10	28	39	23
Changes to working practices ($\chi^2 = 38.69$; $p = 0.000$)	Unionised employees	22	30	38	10
	Non-union employees	8	19	58	16
Staffing issues, including recruitment and redundancies ($\chi^2 = 35.71$; $p = 0.000$)	Unionised employees	23	27	39	11
	Non-union employees	9	17	58	16
Employee grievances ($\chi^2 = 42.52$; $p = 0.000$)	Unionised employees	26	20	42	11
	Non-union employees	7	15	62	16

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, N=551)

Company Council

Only six per cent of respondents indicated that they were frequently in contact with their CC representatives. This was down from 20 per cent in the previous survey. 45 per cent of respondents said they were occasionally in contact with their representatives, again down from 57 per cent in the previous survey. More worrying was the 20 per cent who did not even know who their worker representatives were. This was an increase from the previous survey when only three per cent said they did not know their representative. One respondent commented, 'CC representatives simply do as they are told by the

company – no power, no backbone. The union is far more effective but would be better if Eurotunnel followed the rules of the agreement it signed and dealt with the issues raised (Pay and Conditions)’.

Regarding the importance of the CC communicating on workplace issues, respondents to the second survey generally rated communication from the CC as less important than respondents in the first survey. The most statistically significant issues regarding communication from the CC in both surveys were pay and benefits ($\chi^2 = 11.42$; $p = 0.010$) and employee grievances ($\chi^2 = 12.39$; $p = 0.015$), staffing issues ($\chi^2 = 7.71$; $p = 0.052$)⁷⁶ and changes to working practices ($\chi^2 = 14.39$; $p = 0.002$), with around half to two-thirds of respondents suggesting they were ‘important’ or ‘very important’. Significantly, there was a fall in respondents indicating that it was ‘important’ or ‘very important’ for the CC to be communicating on pay and benefit issues in the second survey, which highlights the influence of trade union recognition and presence.

⁷⁶ This could be considered as marginally significant.

Table 7.3 Importance of the company council (percentage)

Issue	How important is the CC in communicating on the issues below?				
		Very important	Important	Not so important	Not important at all
Pay and benefits ($\chi^2 = 11.42$; $p = 0.010$)	1999 Survey	30	37	21	12
	2002 Survey	22	30	24	24
Introduction of new technology ($\chi^2 = 5.99$; $p = 0.112$)	1999 Survey	6	30	39	25
	2002 Survey	7	20	41	32
Changes to working practices ($\chi^2 = 14.39$; $p = 0.002$)	1999 Survey	29	25	32	15
	2002 Survey	17	33	26	25
Staffing issues, including recruitment and redundancies ($\chi^2 = 7.71$; $p = 0.052$)	1999 Survey	30	24	27	20
	2002 Survey	20	30	25	26
Employee grievances ($\chi^2 = 12.39$; $p = 0.015$)	1999 Survey	37	29	23	12
	2002 Survey	23	38	22	17
Career ladder ⁷⁷	1999 Survey	-	-	-	-
	2002 Survey	12	24	34	31

(Source: 1999 Eurotunnel Consultation, Information and Representation Survey, N=123; 2002 Eurotunnel Consultation, Information and Representation Survey, N=551)

One respondent from a focus group held before union recognition argued:

The CC does a reasonable job considering the difficulties they have with conditions and unapproachable management. The social side is well organised. However, the lack of communication and changes in procedures of work which are very contradictory are a great problem. Management seem unaware that we all have a life outside Eurotunnel, what a pity!

⁷⁷ Career question was not included in the 1999 survey.

Before union recognition a CC representative also explained:

'I see the CC as a guardian body to ensure the communication is passed on correctly. It could be a lot more effective but the company would have to give it a lot more power than now. We [CC] are not a negotiating body but a consultation body. Although we could organise in a similar form to a union, the problem is the legal framework in that the CC is a 'trust' under regulations. We are a consultation and welfare and social body for employees only.'

Highly significant differences were found between non-union and union respondents in the second survey regarding the importance of the CC communicating on workplace issues. The majority (59 per cent) of non-union respondents indicated that it was 'important' or 'very important' that the CC communicated on pay and benefit issues compared to 38 per cent of union members ($\chi^2 = 21.85$; $p = 0.000$). These figures would seem to suggest that the CC has a degree of support among non-union respondents regarding its involvement in pay and benefits even though they are excluded from such discussions due to the partnership agreement between Eurotunnel and the T&GWU. A small amount of support for the CC was evident in relation to communications on the introduction of new technology.

Much greater support for the CC was evident in communicating issues relating to changes in working practices with some 56 per cent of non-union respondents indicating that it was important or very important for the CC to communicate such issues. This was in contrast to only 38 per cent of union members ($\chi^2 = 17.80$; $p = 0.000$). Similarly, 55 per cent of non-union respondents indicated that it was important or very important for the CC to communicate over staffing issues, such as recruitment and redundancies, compared to 36 per cent of union respondents ($\chi^2 = 22.69$; $p = 0.000$). Interestingly, what could be considered as a traditional union activity, there was a high level of support for

the CC to communicate on employee grievance issues with 67 per cent of non-union respondents suggesting this was important or very important. However, significantly there was lower support from union respondents with 48 per cent indicating it was important or very important for the CC to communicate on such issues ($\chi^2 = 23.80$; $p = 0.000$). Over twice as many non-union respondents compared to union members indicated that it was important or very important for the CC to communicate on career ladder and promotion issues (44 per cent compared to 19 per cent) ($\chi^2 = 36.70$; $p = 0.000$).

Table 7.4 The importance of company council communication (percentage)

Issue	How important is the CC in communicating on the issues below? (percentage)				
		Very important	Important	Not so important	Not important at all
Pay and benefits ($\chi^2 = 21.85$; $p = 0.052$)	Unionised employees	17	21	30	32
	Non-union employees	24	35	20	21
Introduction of new technology ($\chi^2 = 8.10$; $p = 0.044$)	Unionised employees	6	16	37	40
	Non-union employees	7	22	43	28
Changes to working practices ($\chi^2 = 17.80$; $p = 0.000$)	Unionised employees	15	23	29	33
	Non-union employees	18	38	24	20
Staffing issues, including recruitment and redundancies ($\chi^2 = 22.69$; $p = 0.000$)	Unionised employees	13	23	26	38
	Non-union employees	22	33	24	20
Employee grievances ($\chi^2 = 23.80$; $p = 0.000$)	Unionised employees	20	28	27	25
	Non-union employees	24	43	20	13
Career ladder and promotion ($\chi^2 = 36.70$; $p = 0.000$)	Unionised employees	8	11	37	43
	Non-union employees	14	30	32	25

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$)

After union recognition one respondent insisted:

I would like to see the CC have a stronger voice especially in pay and conditions. The CC does very good work on social events and benefits but since the introduction of the T&G has no power over negotiation on pay, Eurotunnel have put a lot of time and effort into the "union deal" (I have the senior union representative and freight representative in my group and they spend a lot of time at meetings). The numbers of staff in the union is very small therefore the CC should represent the staff on pay and benefits.

Two-thirds of all respondents stated in the first survey that the CC was not effective in representing general employee interests or the interests of employees in the section or area where they worked. The view of one respondent from the first survey (before union recognition) was that the 'CC does well regarding social activities but is unable, through no fault of their own, to influence management decisions'.

Another respondent stated before union recognition:

The CC has failed to deliver independent and worker orientated programmes and policies. This organisation must have information and not a consultation role due to an obvious lack of objectivity and independence. We must structure the CC free from management influence and career orientated representatives. The CC has lost its credibility, influence and focus and must be replaced by new structures (trade unions, independent focus groups etc)

The views of respondents in the second survey towards the CC broadly reflect those from the first survey. Many respondents (around 50 per cent) in the second survey

suggested that the CC should retain a consultation role in relation to pay and benefits, changes to working practices, staffing issues and employee grievances. Few respondents believed that the CC should have no role. One respondent suggested, 'The idea of the CC is a good one. They want the same benefits as anyone else, but they don't have the power to achieve a great deal. They need to evolve with the company and be given more power on certain issues. Management need to accept them and inform them more than they do now. Work with them not against them'.

Table 7.5 What role should the company council have at Eurotunnel?
(percentage)

	No role		Information role		Consultation role		Don't know	
	1999 Survey	2002 Survey	1999 Survey	2002 Survey	1999 Survey	2002 Survey	1999 Survey	2002 Survey
Pay and benefits ($\chi^2 = 7.70; p = 0.053$)	18	13	22	21	54	50	6	17
Introduction to new technology ($\chi^2 = 9.44; p = 0.024$)	12	15	33	28	36	36	9	21
Changes to working practices ($\chi^2 = 5.76; p = 0.124$)	15	12	25	22	55	51	5	14
Staffing issues, including recruitment and redundancies ($\chi^2 = 8.49; p = 0.037$)	18	13	27	20	50	52	5	15
Employee grievances ($\chi^2 = 9.60; p = 0.022$)	21	13	21	17	53	56	5	15

(Source: 1999 Eurotunnel Consultation, Information and Representation Survey, N=123; 2002 Eurotunnel Consultation, Information and Representation Survey, N=551)

Statistically significant differences were found between non-union and union respondents regarding the effectiveness of the CC. Some 42 per cent of non-union respondents from the second survey thought the CC was effective or very effective in representing employees' interests compared to 24 per cent of union respondents ($\chi^2 = 42.55; p = 0.000$).

Trade Unions

At the time of the first survey, 12 per cent of respondents were union members. Only six per cent of respondents indicated that there was any active union presence and nine per cent had contact with other union members or representatives. However, over 75 per cent of the respondents indicated that management should recognise a trade union.

Support for trade union recognition was also reflected in the *Eurotunnel Company Council Recognition Survey*, which found that 52 per cent of the respondents were in favour of trade union representation. In terms of employees' willingness to join a trade union, half of the respondents in the recognition survey stated they would. However, at the time one of the CC representatives was cautious of the impact of trade union recognition. He argued:

I do not think management should recognise trade unions because I think it would be quite harmful for the company due to the different unions with different agendas and interests. The fear is that you will get a lot of outside conflicts with unions because unions also represent people outside Eurotunnel. Internalising industrial relations here is more effective because such outside influence would divide views and we would be divided. The best option would be to give the CC more power rather than bringing in outside conflicts. We see what happens over in France where they have a number of unions and how this affects things like bonuses. Also greater union influence would reduce CC influence. We also need to represent those that do not belong to a union. I would rather have a combined CC with the same power as a union. There must be cooperation and a partnership between employees and management.

Findings from the first survey (prior to trade union recognition) suggested that many employees believed that trade unions would improve their position on certain issues. Significantly, in relation to pay and benefits some 72 per cent of respondents from the first survey thought that trade unions would improve their position ($\chi^2 = 22.23$; $p = 0.000$).

There were similar findings regarding work conditions ($\chi^2 = 24.71$; $p = 0.000$) and employee grievances ($\chi^2 = 24.71$; $p = 0.000$), with 73 per cent of employees suggesting that trade unions would improve their position.

Table 7.6 Believe trade unions would improve your position (percentage)

Issue	Do you believe trade unions would improve your position over the following issues? (1999 survey)	
	Yes	No
Pay and benefits ($\chi^2 = 22.23$; $p = 0.000$)	72	28
Work conditions ($\chi^2 = 24.71$; $p = 0.000$)	73	27
Health and safety ($\chi^2 = 3.39$; $p = 0.066$)	59	41
Training ($\chi^2 = 1.66$; $p = 0.197$)	44	56
Employee grievances ($\chi^2 = 24.71$; $p = 0.000$)	73	27
Job security ($\chi^2 = 0.034$; $p = 0.853$)	51	49

(Source: 1999 Eurotunnel Consultation, Information and Representation Survey, $N = 123$)

The findings from the second survey (after union recognition) indicated that the T&GWU had some success in recruiting members and increasing its presence. Some 35 per cent of employees in the second survey said they were a trade union member compared to only 12 per cent in the first survey⁷⁸. Union presence had increased greatly with 55 per cent of respondents suggesting there was an active union presence in their workplace compared to only six per cent of respondents from the first survey. However,

⁷⁸ In July 2002, the T&GWU Regional Industrial Organiser indicated that union membership was around 400 members, representing around 35 per cent of the Eurotunnel (UK) workforce. Management estimated this figure to be lower at between 20 to 25 per cent. According to the chief T&GWU representative at Eurotunnel, at the time of the second survey it was expected that over 60 per cent of employees would become trade union members.

in contrast to employees' perceptions from the first survey, the second survey revealed the lack of progress the union had made on some important issues. Many employees suggested that the trade union had not met their expectations. When asked how effective the trade union had been in representing general employee interests, only 29 per cent suggested that they were effective or very effective. Some 27 per cent felt they were not effective at all with remaining respondents suggesting that the trade union was only moderately effective.

Significantly, when asked if the trade union had improved their position on pay and benefits, only 12 per cent of respondents agreed. This view was also apparent in relation to other issues, such as work conditions (11 per cent), health and safety (14 per cent), training (five per cent), individual grievances (16 per cent) and job security (10 per cent)⁷⁹.

Table 7.7 Improvement from trade union recognition (percentage)

Issue	Since trade union recognition, do you believe the trade unions have improved your position over the following issues? (2002 survey)	
	Yes	No
Pay and benefits ($\chi^2 = 1088.22$; $p = 0.000$)	12	88
Work conditions ($\chi^2 = 298.94$; $p = 0.000$)	11	89
Health and safety ($\chi^2 = 256.33$; $p = 0.000$)	14	86
Training ($\chi^2 = 862.64$; $p = 0.000$)	5	95
Employee grievances ($\chi^2 = 227.61$; $p = 0.000$)	16	84
Job security ($\chi^2 = 313.93$; $p = 0.000$)	10	90

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$)

There were highly significant differences between union and non-union respondents regarding union representatives. While union respondents were overwhelming in their endorsement of unions with 61 per cent stating that representatives were 'helpful' or 'very helpful' in keeping them up-to-date with issues at Eurotunnel, only 18 per cent of

⁷⁹ All of these responses were highly significant at $p=0.000$.

non-union respondents indicated this ($\chi^2 = 115.15$; $p = 0.000$). Most significantly, 82 per cent of non-union respondents saw union representatives as 'not so helpful' or 'not helpful at all'. This would seem to present serious challenges for increased trade union presence and support at Eurotunnel.

Another challenge for the trade union and partnership at Eurotunnel is the lack of information on union issues received by union members. Over half of union members in the survey indicated that they received no or only a little information on union issues with only 13 per cent stating they received a great deal of information. Despite management support for the union, of concern is the 85 per cent of non-union respondents indicating they received no or only a little information on union issues. Potentially, this lack of information could pose serious questions regarding the effectiveness of communication by the T&GWU and the success of the union-employer partnership at Eurotunnel.

However, it would seem that trade unions respondents have been serviced by union representatives with 72 per cent indicating an active union presence in their area (frequent or occasional contact with union representatives). Non-union respondents were significantly much less likely to be in an area or section with an active union presence (25 per cent) (frequent or occasional contact with union representatives) ($\chi^2 = 117.34$; $p = 0.000$). While nearly three quarters of union members in the survey were likely to be in frequent or occasional contact with other trade union representatives, some 76 per cent of non-union respondents were never in contact with or did not even know a trade union representative.

Table 7.8 Contact with union representatives (percentage)

Issue	How much contact do you have with your trade union representatives?	
	Unionised employee	Non-union employee
I am frequently in contact	24	4
I am occasionally in contact	48	21
I am never in contact	17	33
I do not know my worker representation	12	43

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$) ($\chi^2 = 117.34$; $p=0.000$)

Regarding the importance of trade unions, significantly 82 per cent of trade unionists in the survey saw trade unions as important or very important in communicating over pay and benefits issues. Less than half (46 per cent) of non-union respondents indicated this ($\chi^2 = 89.56$; $p=0.000$). Again, only 21 per cent of non-union respondents indicated that unions were important or very important in communicating over new technology issues, compared to 39 per cent of union members in the survey ($\chi^2 = 34.81$; $p=0.000$). Nearly twice as many trade unionists (75 per cent) compared to non-union respondents (40 per cent) indicated that the trade union was important or very important in communicating issues concerning changes to working practices ($\chi^2 = 88.50$; $p=0.000$). Nearly three quarters of unionists thought that trade unions were important or very important in communicating over staffing issues compared to 43 per cent of non-union respondents ($\chi^2 = 57.50$; $p=0.000$). There were also significant differences between respondents regarding communications over employee grievances with eight in ten union respondents compared to just half of non-union respondents stating that the trade union was important or very important ($\chi^2 = 78.63$; $p=0.000$). The majority of all respondents did not see the trade union communicating on career ladder or promotions as important or very important, although there was significantly greater support for a union role by unionists (38 per cent) compared to non-union respondents (26 per cent) ($\chi^2 = 16.85$; $p=0.000$).

Table 7.9 The importance of trade union communication (percentage)

Issue	How important is the trade union in communicating on the issues below? (percentage)				
		Very important	Important	Not so important	Not important at all
Pay and benefits ($\chi^2 = 89.56$; $p = 0.000$)	Unionised employees	51	31	12	7
	Non-union employees	15	31	30	25
Introduction of new technology ($\chi^2 = 34.81$; $p = 0.000$)	Unionised employees	13	26	45	16
	Non-union employees	5	16	40	39
Changes to working practices ($\chi^2 = 88.50$; $p = 0.000$)	Unionised employees	39	36	16	8
	Non-union employees	8	32	32	28
Staffing issues, including recruitment and redundancies ($\chi^2 = 57.50$; $p = 0.000$)	Unionised employees	38	35	16	10
	Non-union employees	13	30	28	29
Employee grievances ($\chi^2 = 78.63$; $p = 0.000$)	Unionised employees	53	29	12	7
	Non-union employees	17	34	24	25
Career ladder and promotion ($\chi^2 = 16.85$; $p = 0.001$)	Unionised employees	16	22	41	21
	Non-union employees	7	19	39	36

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$)

It could be argued that perceptions of its effectiveness would be important for the T&GWU's future success in recruiting new members and exerting influence over management decision-making. There were highly significant differences between union and non-union respondents regarding trade union effectiveness. Importantly for the T&GWU, around half of union members (49 per cent) regarded the trade union as effective or very effective. This compared to nearly 80 per cent of non-union respondents (78 per cent) who saw the trade union as ineffective at representing general employee interests at Eurotunnel ($\chi^2 = 65.01$; $p = 0.000$).

The perceived ineffectiveness of the union was summed up by one respondent from the second survey:

The trade unions are ineffective because they are inexperienced, unused to [the] legal side of work practices and gullible. The Human Resources Director can run rings around them. The management will always protect themselves and despite procedures put in place i.e. suggestion scheme, etc they appear to protect their own corners and pay lip service to the employees.

There were significant differences between union and non-union respondents on a number of workplace issues. Since union recognition, only 22 per cent of union members in the survey and just six per cent of non-union respondents indicated that the T&GWU had improved pay and benefits ($\chi^2 = 27.43$; $p = 0.000$). Similar findings were evident regarding: the improvement of work conditions (23 per cent of unionists and six per cent of non-union respondents; $\chi^2 = 31.23$; $p = 0.000$); improvement of health and safety (28 per cent of unionists and seven per cent of non-union respondents; $\chi^2 = 37.66$; $p = 0.000$); individual grievances (34 per cent of unionists compared to seven per cent of non-union respondents; $\chi^2 = 56.43$; $p = 0.000$); and improvements in job security (22 per cent of unionists compared to four per cent of non-union respondents; $\chi^2 = 38.15$; $p = 0.000$). Significantly, very few respondents (union and non-union) thought that trade unions had improved the provision of training at Eurotunnel.

Table 7.10 Perceived trade union effectiveness (percentage)

Issue		Since trade union recognition, do you believe the trade union has improved your position? (percentage)	
		Yes	No
Pay and benefits ($\chi^2 = 27.43$; $p = 0.000$)	Unionised employees	22	78
	Non-union employees	6	93
Working conditions ($\chi^2 = 31.23$; $p = 0.000$)	Unionised employees	23	77
	Non-union employees	6	94
Health & safety ($\chi^2 = 37.66$; $p = 0.000$)	Unionised employees	28	72
	Non-union employees	7	93
Training ($\chi^2 = 10.10$; $p = 0.006$)	Unionised employees	8	92
	Non-union employees	3	97
Individual grievances ($\chi^2 = 56.43$; $p = 0.000$)	Unionised employees	34	66
	Non-union employees	7	93
Job security ($\chi^2 = 38.15$; $p = 0.000$)	Unionised employees	22	78
	Non-union employees	4	96

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$)

These findings would suggest that many non-union respondents in the second survey (after union recognition) were disenchanted with the impact of the T&GWU. As one respondent suggested, 'I think the trade union have been unable to improve the staff's work conditions. Representatives have been given good jobs in order to be placed on the management's side and therefore have not been able to raise the staff's problems or issues'. Another respondent stated, 'I haven't seen any benefit of trade unions in my workplace [call centre]. The CC do try, but I haven't noticed any benefit from any actions by them'. While another argued, 'The union haggled a worse pay deal for 2002 than the previous year when there was no union presence! Nuff said!'.

Perhaps this disenchantment was best summed up by one supervisor who stated:

Neither the CC or T&GWU have proved particularly effective in representing employees' interests. In fact, my union representative communicates more information on his fantasy football league than union related matters. Staff in my department are constantly unable to get leave. This desperately needs addressing, especially as some staff are able to

secure the time-off by working on secondment to other departments. Management need to educate employees as to the role of management within Eurotunnel. The cynical view that many staff have about management can only stem from ignorance.

Type of representation

Regarding what type of arrangement would be best to represent staff on major workplace issues, the overwhelming majority of respondents in the first survey indicated a trade union. The strongest support for a trade union was on pay increases. However, the second survey, conducted after union recognition, revealed some interesting differences between the views of union members and non-union employees.

As expected, after 18 months of union recognition and the signing of the T&GWU and Eurotunnel partnership agreement, 82 per cent of union members indicated that the union would be best in dealing with managers about increases in pay. However, there were significant differences compared with non-union respondents who were equally divided between the union (31 per cent), the CC (34 per cent) or acting individually (35 per cent) regarding dealing with pay issues ($\chi^2 = 123.33$; $p = 0.000$). Overall, there was less support from all employees for union representation over making a complaint to managers, with 66 per cent of union members opting for union representation. However, only 20 per cent of non-union respondents held this view ($\chi^2 = 109.21$; $p = 0.000$). The remaining union members were divided between the CC and acting individually.

Significantly, 80 per cent of union respondents indicated that the union should represent them over discipline issues, although only 24 per cent of non-union respondents suggested this ($\chi^2 = 154.26$; $p = 0.000$). In addition, some 41 per cent of non-union respondents stated that the CC should represent them over discipline issues while 36 per cent would rather act individually. There was less support for union representation regarding changes to the workplace (59 per cent of union respondents). There were

highly significant differences compared to non-union respondents with only 15 per cent preferring union representation on these issues. In addition, over 29 per cent of union and 58 per cent of non-union respondents would prefer to represent themselves regarding changes to their immediate workplace ($\chi^2 = 110.66$; $p = 0.000$). In addition, 27 per cent of non-union respondents would like the CC to represent their interests on such workplace issues.

Table 7.11 The type of employee representation (percentage)

Issue		Ideally, who do you think would best represent you in dealing with managers here at Eurotunnel about the following issues? (percentage)		
		Company council	Union	Individually
Increases in pay ($\chi^2 = 123.33$; $p = 0.000$)	Unionised employees	6	82	12
	Non-union employees	34	31	35
Making a complaint ($\chi^2 = 109.21$; $p = 0.000$)	Unionised employees	14	66	20
	Non-union employees	35	20	45
If a manager wanted to discipline me ($\chi^2 = 154.26$; $p = 0.000$)	Unionised employees	10	80	10
	Non-union employees	41	24	36
Changes to my immediate workplace ($\chi^2 = 110.66$; $p = 0.000$)	Unionised employees	13	59	29
	Non-union employees	27	15	58

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, N=551)

The frustration felt over these issues was highlighted by one respondent:

The CC has become too weak to defend employees' standards and conditions. Although I am in favour of a trade union, the T&G has not stood up strongly enough for me to become a member, and the ethos at Eurotunnel is to consult with its employees and after that do what they want to do regardless of what discussions have gone on with the union or CC.

7.2.2 Perceptions of management

In the first survey, between 70 and 80 per cent of respondents did not think that managers were good at keeping employees up-to-date about proposed workplace changes, providing a chance to comment on such changes, responding to suggestions from employees, and dealing with work problems. The second survey revealed no improvement with a similar percentage of respondents also expressing these views.

There was also virtually no change in the second survey in response to the question 'In general, how would you describe relations between managers and employees at Eurotunnel?'

Four per cent of respondents indicated 'very good' (compared to just three per cent of respondents from the first survey), 30 per cent stated 'good' (compared to 29 per cent from the first survey), and 68 per cent stated either 'not so good' or 'not good at all' in the first survey (compared to 67 per cent in the second survey). Some 55 per cent of respondents in the first survey and 60 per cent of respondents in the second survey stated that managers were 'not so good' or 'not good at all' at treating employees fairly.

However, the second survey revealed significant differences of opinion between union and non-union respondents. Some 35 per cent of non-union respondents stated that managers were 'very good' or 'good' at treating employees fairly compared to 23 per cent of union respondents ($\chi^2 = 15.07$; $p = 0.000$).

These findings reflected the views of a number of respondents in the second survey. Employees' frustration with management was voiced by one call centre respondent:

The fact that I have taken the time to complete this questionnaire should prove that I am willing to help this company, but due to management and

generally anyone in a higher role being so deaf to suggestions or comments made by employees, I rather wonder why I bothered. Nothing recorded in this survey is likely to make a blind bit of difference. The nepotism in the company is such that an outsider hasn't got a chance and any relevant input from employees is usually disregarded due to usually not enough money.

Another respondent suggested:

Disciplinary procedures are meted out all too readily at Eurotunnel, ... with the result that employees have little respect for middle management. Those in positions of higher management frequently abuse their privileges, so that morale is generally lacking in the workplace.

Information from management

A slightly higher proportion of non-union respondents thought they were well very informed or fairly well informed about workplace issues at Eurotunnel compared to unionised respondents (63 per cent of non-union respondents compared to 54 per cent of unionised respondents), although this was not statistically significant ($\chi^2 = 6.28$; $p = 0.099$).

Union respondents were less satisfied with the amount of information from management. 40 per cent of union respondents indicated they were 'satisfied' or 'very satisfied' with the amount of information from management compared with 53 per cent of non-union employees ($\chi^2 = 12.70$; $p = 0.005$). Again, non-union respondents were slightly more likely to indicate they were 'satisfied' or 'very satisfied' with the type of information (48 per cent) compared to union members (40 per cent), although this was only statistically marginally significant ($\chi^2 = 7.46$; $p = 0.058$). While the majority of all respondents were largely dissatisfied with the timing of information from management, there were some very significant differences between non-union and union respondents.

37 per cent of non-union respondents said they were 'satisfied' or 'very satisfied' with the timing of information compared to only 21 per cent of unionised respondents ($\chi^2 = 19.86$; $p = 0.000$).

Table 7.12 Satisfaction with information from management (percentage)

		How satisfied are you with the information management gives you?			
		Very satisfied	Satisfied	Not so satisfied	Not satisfied at all
Amount of information ($\chi^2 = 12.70$; $p = 0.005$)	Union respondents	1	39	41	18
	Non-union respondents	4	49	38	9
Type of information ($\chi^2 = 7.46$; $p = 0.058$)	Union Respondents	1	39	43	16
	Non-union respondents	2	46	43	9
Timing of information ($\chi^2 = 19.86$; $p = 0.000$)	Union Respondents	1	20	53	27
	Non-union respondents	2	35	48	15

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$)

Trust in management

Importantly for management at Eurotunnel, significant differences over the issue of 'trust' were apparent between union respondents and non-union respondents. Nearly three times as many non-union respondents said they believed 'a lot' or 'a great deal' of the information received from management (26 per cent compared to 9 per cent) ($\chi^2 = 26.44$; $p = 0.000$). Conversely, union members in the survey were significantly more likely to indicate they did not believe any at all or only a little of the information from management (46 per cent) compared to 30 per cent of non-union respondents. It could be argued that this would confirm previous findings that union members are generally more distrusting of management than non-members.

This attitude was reflected in an interview with one of the CC representatives, who argued, workers 'take it [information] with a pinch of salt. They [Managers] bend the truth a little, but we also do the same. The problem is that managers normally have more

information than the CC. The amount of information is not adequate nor the timing of the information. I think it has to do with the structure of the company’.

Another respondent suggested:

I personally feel Eurotunnel management treat the staff poorly. Wage negotiations are a joke. It’s a case of take it or leave it. Having spoken to quite a few members of staff, there is a distinct lack of trust of the management. The morale of the workforce is rock bottom. If other employment became available in the area (drivers) a lot of people would leave. We have been sold down the river on the wages we were promised when we first started.

Influence on management decision-making

An overwhelming majority of respondents in the second survey felt they had no or only little opportunity to influence management in its decision-making processes, with union members significantly more likely than non-union respondents to indicate this (84 per cent compared to 76 per cent). These figures were similar as those in the previous survey ($\chi^2 = 10.29$; $p = 0.000$). According to one respondent from the second survey, ‘Eurotunnel managers might listen to employees, but disregard their opinions and suggestions, unless it makes management shine. Management are arrogant and condescending’.

While the vast majority of all respondents indicated that they had little opportunity to influence management on pay and benefits, there were significant differences between non-union and union respondents on other issues. Around nine out of ten employees indicated that they had no opportunity to influence management decisions on the introduction of new technology. Interestingly, nearly twice as many non-union respondents compared to unionised respondents in the survey said they were given an

opportunity to influence management on this issue (20 per cent compared to 11 per cent; $\chi^2 = 7.31$; $p = 0.007$). A significantly higher proportion of non-union respondents compared to union respondents indicated they were able to influence management on issues concerning changes to working practices (35 per cent compared to 20 per cent; $\chi^2 = 12.97$; $p = 0.000$), although the majority of all employees said they had no opportunity to influence such decisions.

More than nine-in-ten employees overall indicated that they had no influence on staffing issues, such as recruitment and redundancies, with little difference between unionised employees and non-union employees. Again, the majority of all respondents indicated that they could not influence management on decisions relating to employee grievances, although non-union respondents were slightly more positive with 17 per cent suggesting they could compared to 13 per cent of union members (although this was not statistically significant; $\chi^2 = 1.91$; $p = 0.386$). Additionally, there was little difference between unionised and non-union employees regarding their ability to influence management over pay and benefits. This could be important, given that these issues could be seen as part of the traditional role of trade unions and may point to unrealised employee expectations of the T&GWU on core and substantive issues at Eurotunnel.

Table 7.13 Opportunity to influence management decision-making (percentage)

Issue		Personally, do you feel you have an opportunity to influence management decision-making on? (percentage)	
		Yes	No
Pay and benefits ($\chi^2 = 2.01$; $p = 0.156$)	Unionised employees	3	97
	Non-union employees	6	94
Introduction of new technology ($\chi^2 = 7.31$; $p = 0.007$)	Unionised employees	11	89
	Non-union employees	20	80
Changes to working practices ($\chi^2 = 12.97$; $p = 0.000$)	Unionised employees	20	80
	Non-union employees	35	65
Staffing issues (including recruitment & redundancies) ($\chi^2 = 5.74$; $p = 0.017$)	Unionised employees	3	97
	Non-union employees	8	92
Employee grievances ($\chi^2 = 1.91$; $p = 0.386$)	Unionised employees	13	87
	Non-union employees	17	83

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, N=551)

Relations between managers and employees

Importantly, the union effect is evident here with union respondents more likely to have negative attitudes towards managers. In the second survey, there were significant differences between union and non-union respondents. Only 23 per cent of unionists compared to 38 per cent of non-union respondents viewed relations between managers and employees at Eurotunnel as good or very good ($\chi^2 = 15.07$; $p = 0.002$).

There were significant differences between union and non-union respondents in regard to: managers keeping people up-to-date ($\chi^2 = 8.07$; $p = 0.045$); giving people a chance to comment on workplace and organisational changes ($\chi^2 = 11.79$; $p = 0.008$); responding to suggestions ($\chi^2 = 16.90$; $p = 0.001$); dealing with personal problems ($\chi^2 = 18.55$; $p = 0.000$); and treating employees fairly, with non-union respondents significantly more likely to see managers as good or very good (see Table 7.14). There were also significant differences regarding perceptions of treating employees fairly. Some 69 per cent of unionists and 56 per cent of non-union respondents indicated that management were not good at treating employees fairly ($\chi^2 = 11.60$; $p = 0.009$).

Table 7.14 How good are the managers at Eurotunnel? (percentage)

Issue		How good are the managers at Eurotunnel at the following: (percentage)			
		Very good	Good	Not so good	Not good at all
Keeping everybody up-to-date about proposed workplace & organisational changes ($\chi^2 = 8.07$; $p = 0.045$)	Unionised employees	2	23	55	20
	Non-union employees	5	30	47	18
Providing everyone with a chance to comment on proposed workplace & organisational changes ($\chi^2 = 11.79$; $p = 0.008$)	Unionised employees	1	15	47	37
	Non-union employees	5	23	44	29
Responding to suggestions from employees ($\chi^2 = 16.90$; $p = 0.001$)	Unionised employees	1	13	47	39
	Non-union employees	4	22	49	26
Dealing with work problems you or others may have ($\chi^2 = 18.55$; $p = 0.001$)	Unionised employees	2	18	47	32
	Non-union employees	5	31	46	19
Treating employees fairly ($\chi^2 = 11.60$; $p = 0.009$)	Unionised employees	3	28	34	35
	Non-union employees	7	37	31	25

(Source: 2002 Eurotunnel Consultation, Information and Representation Survey, $N=551$)

7.3 Discussion

The research at Eurotunnel provides an opportunity to explore the impact of consultative structures on certain processes and to assess employees' attitudes towards the CC, as

well as their views on the role a trade union might play, both prior to union recognition and in the period following the new arrangements. In particular, this chapter has examined the effectiveness of the CC and the T&GWU for Eurotunnel employees in terms of management relations, employee participation and the quality of consultation. Importantly, the research also addresses the question of whether NER, in the form of the CC at Eurotunnel, is a 'substitute' for unions, thus suppressing union activity, or is in some way a 'complement' to unions. It also endeavours to highlight potential limitations to such arrangements and to assess the future of employer and union partnership arrangements.

Even with the existence of both NER and union arrangements, a significant proportion of employees said they were not satisfied with the amount, type and timing of the information they received from management. Employees were also less likely to believe the information they were given by management, with trade unionists significantly more likely to express such views.

In addition, the vast majority of all respondents indicated they had little influence over management decisions. Although union respondents were more likely to report that they had no or little opportunity to influence management decision-making on any workplace issues, the vast majority of all respondents expressed dissatisfaction. The evidence would also suggest that despite dissatisfaction with the level of information and consultation from management, both the CC and the T&GWU failed to make a significant difference to this perception and fill the gap between expectation and achievement.

Importantly, on the issue of 'trusting' management (ie believing the information they were given by management), the findings would seem to indicate that many employees did not believe management regarding the information they were given. This may have profound implications for management's ability in implementing further initiatives as part of an organisational change agenda.

Regarding the effectiveness of NER arrangements and union representation, the views of survey respondents and employees in interviews would suggest that the CC (before recognition) had been essentially ineffective as a vehicle for voice, due to the very limited role it played in the decision-making processes. From the author's observations, it would seem that the CC's prime focus was based on a management agenda to provide information on performance or 'business' issues (improving quality, productivity, customer service and/or sales), to communicate the benefits of change and to persuade employees of the need for such change rather than to address employees' concerns and meet their expectations.

This is particularly important given that until union recognition the CC was the sole body representing employee interests at Eurotunnel. It could also be argued that, given it is supposed to represent employees' interests, then those interests should be taken into account in the management decision-making process. Thus, the CC is not necessarily a body to challenge management prerogative or management decisions *per se* but a means to have some input into and influence on outcomes from a process that does not involve collective bargaining. Thus, the main issue seems to be a lack of consultation resulting in too little CC and employee involvement and influence in the decision-making process.

While it could be argued that the purpose of NER arrangements essentially is not to bargain collectively on behalf of employees, at the very least this would suggest that the CC at Eurotunnel was ineffective as a vehicle for two-way voice for employee concerns, which subsequently led to increased frustration and created an environment for greater trade union activity. Significantly, it would seem that an acknowledgement of different interests and an ability to have some involvement in the decision-making process was important to Eurotunnel employees.

Interestingly, the majority of all employees at Eurotunnel suggested that the CC should retain a consultation role even with union recognition. This view gained more support in

the second survey. However, while over two-thirds of union respondents stated that the CC was not effective at representing general employee interests, non-union respondents were less likely to hold this view.

In the first survey, there was strong support for a trade union in all sections of Eurotunnel with the majority of respondents suggesting that a trade union would improve their position over pay and benefits, work conditions, health and safety and employee grievances. However, the second survey revealed the lack of progress the union had made on these issues with many employees suggesting that the trade union had not met their expectations and had failed to address these issues. While employees' expectations of the impact of trade unions may have been somewhat unrealistic, their disappointment could nevertheless potentially undermine the impact and legitimacy of unions at Eurotunnel and highlights the possible dangers for trade unions in general.

Interestingly, the research findings from the second employee survey after union recognition also seem to indicate that while the majority of employees were in favour of union recognition at Eurotunnel, they were not yet convinced that union representation by the T&GWU alone would achieve greater benefits for employees. Moreover, some employees at Eurotunnel remained convinced that the CC should continue to represent the workforce, with its role ranging from an information channel on some issues to a genuine negotiation body with greater power than existing arrangements on others. These results would seem to confirm previous research by Millward, Bryson and Forth (2000) based on WERS98 that, from an employee viewpoint, the complementary presence of a trade union and NER arrangements potentially offers more positive outcomes than a single channel form of representation.

Overall, this research highlighted considerable frustration among employees revealing two underlying causes of discontent. First, was management's preoccupation with cost-cutting due to share market demands, high continuing debt, pressure on market share and the highly centralised nature of the decision-making process, which was incompatible

with the norms and expectations of the CC developed through the growth phase of Eurotunnel's operations. This resulted in a loss of faith in the CC and a loss of trust in management.

The second source of discontent was the incompatibility of an autocratic management culture and style within Eurotunnel and the perceived lack of effective voice on the part of the CC. These findings would suggest that such perceptions further undermined employees' trust in management. Interestingly, even with higher than expected pay rises, unilateral management announcements such as union recognition and the partnership agreement with the T&GWU were not considered to be positive gains by many employees. Judging from the survey responses and interviews, many employees and representatives felt it showed a further erosion of employee voice and influence and was often greeted with cynicism.

Significantly, although their expectations were high, employees were not totally convinced that unions alone would solve these issues. Only when management was perceived as unresponsive did the union become more of a catalyst for collective action. Before union recognition, union representation was seen more as a means to protect existing wages and conditions in a period of cost-cutting and spending controls. However, in many ways it could be argued that the partnership agreement between Eurotunnel and the T&GWU protected the *status quo* rather than extracted improved wages and conditions, resulting in dissatisfaction, disenchantment and frustration. This was in the context of the recognition of the T&GWU against the wishes of many employees, with many unconvinced of the merits of trade union representation alone. This resulted in a significant group of employees not becoming members of the T&GWU.

Of more concern for the T&GWU at Eurotunnel is the lack of support for the trade union regarding its ability to achieve traditional trade union objectives of increases in pay, fairness and protection in disciplinary action, making a complaint against

management, and changes in employees' immediate workplace – in fact, many respondents felt they were as individuals best able to deal with such issues. This is important, given that these issues would be regarded by many as traditional and core trade union activities. The risk for the T&GWU is that employees' perception of a lack of effective union voice could potentially impact negatively on the influence that unions could have on management decisions and undermine their legitimacy at the workplace. These issues could be seen as the challenge for the employer and union partnership at Eurotunnel, and more generally for employer and union partnership in the future.

The experience of Eurotunnel would also suggest that some employees are reluctant to abandon NER arrangements altogether, providing management with more diverse and complex representation arrangements. This could be seen as a failure of management and the T&GWU to convince employees of the merits of a single channel of trade union representation. For management, this dual representation arrangement could raise concerns regarding employees' acceptance of management decisions and undermine the effectiveness of organisational change initiatives due to the increased complexity of dealing with a number of representation arrangements. For the T&GWU, failure to persuade the majority of employees at Eurotunnel of the merits of unionisation has potentially undermined the legitimacy and authority of the union in representing all employees at Eurotunnel.

Overall, these results would suggest that employees were satisfied with neither the NER nor union voice arrangements. Furthermore, neither arrangement appeared to address employees' expectations in providing effective employee voice. There may be a number of reasons for – and potential implications from – this important finding. One possible explanation could be that the external environment (Eurotunnel's financial situation, cost-cutting, competition etc) has restricted management's ability to address the concerns of employees no matter how capable, motivated or willing management are in developing good employee relations. This could be seen as a basic pluralist industrial relations critique of human relations that voice lacks effectiveness if the external

environment is negative. The second explanation is that management lacked the capability and experience to address and deal with the complexity of employees' concerns through either the NER or union arrangements. Third, employees had high expectations which could not be met under the prevailing financial conditions by either the CC or the trade union due to their limited influence over the organisational decision-making process. And finally, employees' perception of a lack of independent voice in the CC as well as in the T&GWU due to the union-management partnership arrangements, and a failure by both to act on employees' concerns, has further undermined the legitimacy, authority and trust in both arrangements.

The Eurotunnel findings are particularly significant given the provisions of the European Directive on Information and Consultation (European Parliament and Council, 2002). In the context of the UK ICE Regulations based on the European Directive, the potential exists for Eurotunnel employees to use the CC arrangement to challenge both management's decision-making authority and the union's legitimacy in representing employees' interests. While the ICE Regulations encourage a more formalised approach, expanding on existing information and consultation rights within enterprises, the experiences at Eurotunnel may signal difficulties for unions and employers in satisfying the requirements of the legislation.

In particular, it could be argued that while the existing CC satisfies the legal requirements and spirit of the ICE Regulations in terms of structure and function, T&GWU recognition alone would be unlikely to meet these requirements given that any structure must represent all employees at an enterprise on those issues contained in the ICE Regulations, rather than representing one section of the workforce. Thus the CC at Eurotunnel may provide an alternative employee voice mechanism to union representation and potentially challenge union authority, since it is more likely to be in a position to satisfy these particular requirements of the ICE Regulations.

An important conclusion from the research is that the Eurotunnel arrangements have failed in two major respects. In terms of communication both the union and the CC have failed to meet employee expectations, and in terms of providing an effective voice and involvement mechanism they have also failed to address issues of concern to employees. Perhaps an important conclusion to be drawn from the case study is that constraints such as low profits and the trauma of cost-cutting in difficult market conditions can poison employer-employee relations. As a result, employees may become more dissatisfied with existing representation arrangements and may look for alternatives that will provide the strongest possible defence, further undermining consensus-based partnership arrangements.

To reinforce this point, it could be argued that one possible reason that employees rate the information and consultation functions of both the union and CC so poorly is that the information the company is providing is almost uniformly unwelcome (the necessity for cost-cutting and restructuring etc). It could be argued that in 'good times' when economic and market conditions are positive with information provided on large profits and consequently prospects of high wage increases, perceptions of information and effective voice would rise. This argument is underpinned from research by Taras (2000) into Imperial Oil and Kaufman (2003) into Delta Airlines, which posits that NER is largely a unitarist and integrative approach and functions less successfully during more difficult times when financial outlays are restricted and reduced. Importantly, the Kaufman and Taras studies also suggest that NER arrangements only work well when distributive issues are taken off the agenda. However, at Eurotunnel it was found that, even with union recognition and distributive issues over pay limited to employer and union collective bargaining, many non-union employees felt disenfranchised from the process.

CHAPTER EIGHT

DISCUSSION AND CONCLUSIONS: RE-SHAPING WORKPLACE REPRESENTATION

8.1 Introduction

This thesis has examined the development of NER approaches along with management strategies towards representation, and the processes at play in situations where firms attempt to restructure workplace industrial relations. It has also explored the outcomes when managers in organisations working with NER voice arrangements seek to change their approach to more traditional collective bargaining through trade union representation, and the union responses to such approaches.

As stated in Chapter One, more specifically this research has attempted to address a number of research questions:

- First, what are the management strategies towards and objectives of NER arrangements?
- Second, are NER arrangements a complement to union representation or do they act as a substitute for union-based voice arrangements?
- Third, how effective are NER and union arrangements perceived to be at representing the interests of and providing voice for employees?
- Fourth, what are the perceived workplace outcomes of both NER and union-based voice arrangements?
- Fifth, what are the union responses and approaches towards NER arrangements?
- Sixth, what are the potential implications for employers, unions and NER-based voice arrangements in the future?

These issues have provided several research outcomes. In particular, these questions provided a framework for examining the operation of NER forms in terms of their independence, autonomy, resources and capability, and the impact of these on employee trust in management, perceptions of their influence and power, and employees' sense of representative legitimacy. These questions have also allowed an analysis of the different employment relationships, such as those between employees and management, those between employees and their representatives, and those between the representatives and senior management.

Importantly, this research has appraised the perceived effectiveness of non-union and union representation arrangements and has assessed the satisfaction of employee needs by NER voice arrangements and trade unions. The questions also highlight another issue: whether NER voice arrangements lead to more positive employee attitudes towards management, and more harmonious industrial relations for union and non-members in terms of organisational commitment, union and NER commitment, job satisfaction and the perceived industrial relations climate. These questions also raise the issue of the 'want' and 'have' gap between expectation and satisfaction based on three dimensions – distributive issues, employee advocacy issues and mutual interest issues.

Empirically, the effectiveness of union and non-union voice arrangements in delivering benefits for employees has also been examined by using research based on employees' perceptions of management, union and NER representatives. Importantly, voice in this research is deemed 'effective' for employees when it is associated with more positive employee perceptions.

This final chapter highlights the major issues surrounding NER arrangements and the implications for public policy. In particular, it explores the impact of consultative structures on certain processes and assesses employer strategies and union responses

towards NER voice arrangements in organisations and the outcomes of such arrangements.

8.2 Management strategies towards and objectives of NER

Central to management strategies in the implementation of NER is the rationale for establishing such structures, given that managers initiate and are the architects for such arrangements. In this study, the case studies highlight six principal reasons why employers established NER arrangements. First, they were a means to improve information flows and communication between employees and managers in organisations. Second, such arrangements were regarded as a ‘safety valve’ especially in the absence of an active union presence. Some companies with a long history of formal consultation structures (eg John Lewis Partnership and HP Bulmer) see this as a primary reason for low levels of industrial conflict. Third, an NER structure may help to facilitate the process of organisational and workplace change by enabling management and employees to highlight issues of concern at an early stage, thus reducing potential conflict at the implementation stage. Fourth, NER could potentially increase organisational performance in terms of productivity and quality by providing a forum for new ideas and employee input, thus increasing employees’ understanding of business behaviour and producing greater levels of satisfaction and commitment. Fifth, an important reason has been management’s response to legislative initiatives over trade union recognition and information and consultation arrangements. Finally, NER arrangements may be used as an alternative for negotiations in situations where there is little active union or collective bargaining or as an attempt to undermine the union’s position⁸⁰.

From the cases in this study, it could be argued that the objectives stated by these organisations for establishing NER structures reinforce Willman, Bryson and Gomez’s (2003) thesis, which provides a rationale for an employer’s demand for non-union voice

⁸⁰ See Table 5.1 for further details.

in terms of transaction cost economics and the beneficial effects on firm performance. In this approach, the decision to make (own voice by establishing NER) or buy (contract voice by recognising a union) is based on the type of employees, the amount of consultation and bargaining, the level of permanency of the need for voice, and its value and effectiveness in providing organisational outcomes.

Importantly, both internal and external conditions influence the decision-making process. Changes can be driven by internal influences such as a change in organisational culture and the desire to forge a more direct relationship with employees. However, external forces, in particular legal developments, and potential outside union intervention have also emerged as significant factors in focusing employers' attention on increased employee consultation and involvement.

Internal influences

One of the most important internal influences on the establishment of NER arrangements in the cases studied in this thesis was the development of an organisational culture. Two organisations (John Lewis and HP Bulmer) have long-established NER structures that were created around and aimed at maintaining a strong paternalistic approach and consultative culture. Another three organisations (Eurotunnel, Ciba Specialty Chemicals and South West Water) had established their existing arrangements within the last ten years as a means to develop a new organisational culture. From the experiences of John Lewis and HP Bulmer, it could be argued that longer-established arrangements are more embedded in the organisational culture, which encourages the development of shared values and a participative culture along management lines. This can also be facilitated by NER arrangements having responsibility for managing social and welfare budgets.

Bacon and Storey (2000: 423) have argued in their review of employer strategies towards union and employer partnership, 'those organisations acting as if they would

prefer unions to “wither on the vine” discovered that the insecurity felt by employees was a potential future problem’. As a means to address this, some organisations in this study established a non-union representation structure to fill the void or ‘representation gap’ in the absence of unions, and to assist in management initiatives such as encouraging organisational change initiatives, and to develop a forum for new ideas and improving organisational commitment.

External influences

In this study the legal environment emerges as one of the most significant external drivers. Importantly, the staged development of the original Information and Consultation Directive leading eventually to the ICE Regulations, and the introduction of UK legislation on union recognition (eg the ‘Fairness at Work’ initiatives as part of the *Employment Relations Act*) were catalysts for change in a number of organisations in the study.

Interestingly, while HP Bulmers had a long history of paternalistic partnership practices dating back to the 1950s, the ‘Fairness at Work’ initiatives under the *Employment Relations Act* legislation provided a further rationale to develop the Employee Council as part of the company’s participative culture.

At Panasonic (Matsushita), the Personnel Manager indicated that European legislation was one of the main drivers for establishing the PUCC along with other drivers such as the adoption of an EWC at the UK European Headquarters and the strong push from other European companies in the group to improve communication in non-union areas of the company. In addition, it was also suggested that the Japanese parent company philosophy based on group decision-making was another influential factor in the process to improve communications.

Importantly, a major factor driving the establishment of the Staff Council at Sainsbury's at the time was the introduction of the European Works Council Directive in September 1996 and the Directive's influence on internal collective consultation within European companies. As the Manager of HR Policy commented: 'Synergy did exist between the demands of the EWC Directive and the needs of our company'.

The external threat of union intervention was also considered an important influence on management strategies towards NER arrangements. For the majority of companies in this study, the primary reason for establishing NER arrangements was that it should be the sole means of company-based representation without the mediating forces of a 'third party' to avoid increased trade union presence and to achieve a more direct relationship with employees. Taras and Copping (1998) argue that in the absence of a serious union threat, management's preoccupation with NER diminishes. However, when confronted by a union threat management awakens to pay greater attention to workplace issues that address the needs of employees.

For example, the Director of Human Resources at News International, argued that while it could be seen as a union avoidance strategy, 'We would prefer to keep our dirty washing inside rather than going external'. At Panasonic (Matsushita), in addition to the legislative developments, the Personnel Manager indicated that there were: 'some people thinking about joining a union because they saw their rights were not being represented, and this [PUCC] would discourage them from doing so'.

As noted in Chapter Three, these cases would seem to reflect transaction cost economics theory, which states that firms with higher levels of product market or service delivery risk are likely to act in a risk-averse manner, based on 'potential' threat rather than actual cost. Notably for employers, the legislative environment and union strategies towards voice arrangements will influence risk-averse activity by firms.

This would lend support to Flood and Toner's (1997) research, which suggested that non-union arrangements may reduce an adversarial climate associated with unions, and enable management to gain greater cooperation from employees in making unpopular changes and economies without the threat of industrial action, demarcation or other forms of retribution.

8.3 NER arrangements as a complement to or a substitute for union based voice arrangements

A central theme in this study has been whether NER forms may approximate 'voice' as identified by traditional union structures. An essential part of the debate centres on whether NER forms make trade unions unnecessary by acting as a 'substitute' or 'union avoidance' through a single channel of representation, or whether NER forms have a different but complementary role to that of unions at the workplace.

In adopting a 'substitute' or 'union avoidance' strategy employers may take two options. First, they may exclude a union by establishing a single channel NER structure to take the union's place in the absence of union presence, thus preventing union activity. Second, they may establish NER arrangements to act as a dual channel of representation as a means to transform the employment relationship from a traditional adversarial approach based on conflictual interest to one of an alignment of interests, undermining the very reason for a union thus suppressing union activity.

While employers' motivations may be driven by the desire to reduce outside trade union involvement, the findings in this study suggest that a 'substitute' or union avoidance strategy as used at Ciba Specialty Chemicals, Eurotunnel, News International Newspapers and SWW could have serious limitations and may have the capacity to assist unionism.

This phenomenon was evident at Eurotunnel where the maintenance of NER arrangements was very much dependent on the threat of greater unionisation due to the presence of Aslef in the train crew section of the workforce. Interviews conducted post-union recognition would seem to support this argument, with Eurotunnel management paying far greater attention to management-employee relations in an attempt to facilitate a more positive employment relations climate (for example, the introduction of the new team initiative at Eurotunnel). However, Eurotunnel's union substitution approach failed to stop the forces for greater unionisation with the eventual recognition of the T&GWU.

As previously suggested, although expectations were high at Eurotunnel prior to union recognition, many non-union employees were not totally convinced that unions alone would be desirable. Importantly, these findings indicate that simple single channel arrangements either through union recognition or through an NER structure may not be possible or, in the view of some, even desirable. Instead implementing a hybrid employee representation structure or 'complement' structure could allow union recognition and potentially enable union members to become employee representatives on the NER body. In this study, HP Bulmers and Ciba Specialty Chemicals have adopted this approach whereby dual voice channels were established as a means to separate collective bargaining issues from more workplace integrative bargaining issues.

On the other hand, based on the experience of Eurotunnel one could argue that the failure of management and the T&GWU to convince employees of the merits of a single channel of trade union representation not only increased the complexity of dealing with a number of representation arrangements, but also that these dual arrangements undermined the effectiveness of management decision-making processes and union authority.

Firms with little or no union experience may establish NER arrangements as an alternative to union-based arrangements. Thus, it is not a question of NER weakening unions but whether they prevent unions from developing a strong workplace presence.

This was the case at Sainsbury's, John Lewis, Panasonic (Matsushita) and Grosvenor Casinos where single channel representation arrangements were established to deal with all issues. This non-union (or unitary) model is based on the premise that NER arrangements are established to not only prevent the development of an independent trade union but to act as a 'safety valve' for employee opinion in the absence of union activity. The objective of such a model is to be educative by informing employee representatives of management activities and to persuade representatives to support management decisions and thinking. Importantly, information on both 'hard' (business-oriented) issues and the 'soft' (welfare and social) issues are given to representatives to discuss. This is the only representative channel through which employees can voice their concerns.

NER structures can either be viewed primarily as communication devices and mechanisms for employee involvement or, as discussed previously, as a substitute for unions in the collective bargaining process. Drawing on the case study evidence, the findings would suggest that NER structures have been essentially ineffective as substitutes for union representation, due to the very limited role they play in the bargaining and decision-making processes. However, this is not to say they were not useful in providing greater access to information and a high level of consultation that would not otherwise exist if such structures had not been established⁸¹.

Overall the evidence presented in these studies questions the legitimacy of NER arrangements as true alternatives to unions in effectively representing the interests of employees and filling the lack of representation. Moreover, without legislative support underpinning such structures combined with a healthy union presence, the effectiveness of NER structures to provide voice can be seriously questioned.

⁸¹ This point was raised by Haynes (2005) in his review of NER arrangements in the New Zealand hotel industry.

However, as discussed above while a significant proportion of employees were in favour of union recognition at Eurotunnel, News International, and SWW, employees were not convinced that union representation alone would achieve greater benefits for employees, nor that sole union representation is desirable. Overall the findings would suggest that the implications of not recognising the limitations of single channel NER arrangements could result in greater union influence on workplace issues and greater employee dissatisfaction at the workplace.

These results would reconfirm research by Kim (2004) that NER and unions represent different employee interests and that NER aligns employees with management goals. Kim's findings support the 'separate domain' perspective with unions and NER voice mechanisms satisfying different types of employee needs thus performing different functions. In the complementarity/substitution debate, these findings would seem to support the complementary perspective with these channels not directly substitutable, situated in separated domains and NER arrangements insufficient as a substitute for unions due to a lack of influence on primary distributive and employee advocacy issues.

8.4 Perceived effectiveness and outcomes of representative arrangements

As mentioned in Chapter Three, this thesis draws a distinction between the concepts of 'effectiveness' and 'outcomes'. Perceived effectiveness relates to the processes in satisfying and furthering employees' interests, while outcomes are the actual impact of representative arrangements.

Perceived effectiveness

While NER structures can be used as mechanisms for more effective means of communication and consultation, the evidence from this thesis suggests that their

effectiveness as bodies representing the interests of employees in filling the 'representation gap' (Freeman and Rogers, 1993; Towers, 1997) is questionable.

The findings from the case studies also suggest that there was widespread dissatisfaction with management, especially regarding its unwillingness to involve employees in decision-making and the lack of consideration given to employees and concerns, highlighting the perceived lack of effective voice in the decision-making processes. However, it must be acknowledged that establishing a causal relationship between NER arrangements and employment relations can be problematic and open to many influences that may impact on such a relationship. Notwithstanding these limitations, it could be argued that it is useful to assess the perceptions of the effectiveness of NER arrangements, since the viability and continued operation of such arrangements is dependent on such assessments.

The Eurotunnel case provided an opportunity to assess the interplay between NER and union voice arrangements and perceptions of effectiveness of NER arrangements. The case allowed an examination of the impact of consultative structures on certain processes as well as an assessment of employees' attitudes towards the CC and their views on the role a trade union might play, both prior to union recognition and in the period following the new arrangements. In particular, this research has examined the effectiveness of the CC and the trade union in providing a more effective means of representation and consultation at Eurotunnel in terms of management relations, employee participation and the quality of communication and consultation.

Regarding the effectiveness of NER arrangements, the views of survey respondents and employees in interviews would suggest that the previous CC (before recognition) had been essentially ineffective as a vehicle for voice, due to the very limited role it played in the decision-making processes.

While it could be argued that the purpose of NER arrangements is not necessarily to bargain collectively on behalf of employees, it nevertheless highlights potential risks for employers in not recognising these employees' interests that are different to those of management. At the very least, this would suggest that the CC at Eurotunnel was ineffective as a vehicle for two-way voice for employee concerns, which subsequently lead to increased frustration and created an environment for greater trade union activity. Significantly, it would seem that an acknowledgement of different interests and an ability to have some involvement in the decision-making process was important to Eurotunnel employees.

The other case studies also highlighted important issues regarding the perceived effectiveness of NER arrangements from the perspective of management and employee representatives. At Sainsbury's, the Senior Manager for HR Policy indicated that the introduction of consultative staff councils had been a positive move. She stated that the councils were achieving their objectives of filling a communication gap and reflecting the views of employees. In addition, she maintained that the local councils which focused on grassroots issues such as store performance and new technology '...give us a better view about what's going on and issues are getting put right at a local level' (Interview, 17-11-98).

The Personnel Manager at Panasonic was circumspect regarding the effectiveness of their NER arrangements. She thought that since the PUCC had been established, feedback from the staff had generally been good. She also believed that the PUCC was seen by most employees as a way for them to have a voice and as a means of access to senior management. However, she did acknowledge that while the PUCC was 'fairly influential', 'it could not be said that it was as effective as a trade union'.

The Union Convenor and Council Representative at HP Bulmer indicated that its Council was 'reasonably effective' although it could be 'more effective'. Management and representatives both suggested that one of the benefits of the Council process was

that the Councillors have a direct voice and the 'ear' of senior management, including members of the Board. They also thought that the Council represented all employees in the business (union and non-union), 'carried less baggage' than more traditional representation and negotiation structures, was less confrontational and acted as a 'stabilising influence' between employees and management creating an interface and foundation for the discussion and ownership of key issues.

According to the Employee Council Coordinator at Grosvenor Casinos, an internal employee survey indicated that while there was a high degree of awareness of the Council's existence and role, only around half of the respondents indicated that the Employee Council was having a positive effect. He also suggested that the relationship between management and employees generally had also improved due to greater communication through the employee council process. However, it was recognised that this relationship still needed improvement. In terms of information flows, he thought that the amount of information had greatly improved and that employee influence was slowly improving but still very dependent on local line managers, many of whom lacked skills in managing change. He also said that while he would describe representatives as 'fairly' influential over management decisions, there were still some issues blocked by management at meetings, such as proposals for new shift patterns for London-based staff and the request for financial information and performance figures.

From a management perspective, the Head of Personnel for the Pennon Group (part of South West Water) thought that its Council was very effective and important for the implementation and process of achieving certain outcomes, 'Compared with the later stages with Nalgo (now part of Unison), it is now twice as effective in terms of the kinds of issues raised and the approach on both sides, and in terms of the outcomes of those discussions. The Staff Council is more open. With Nalgo some information would be given to the press for their own purposes'.

Overall, given the devolution of decision-making in many organisations and the greater focus on employee commitment and effective organisational change, these findings are of particular interest. They suggest that if employers wish to encourage an alignment of interests between employee behaviour and organisational goals, they need to place greater emphasis on giving employees a real voice and input into decision-making processes.

It would also be misleading to suggest that non-union workplaces are ‘non-represented’, and that unionisation is employees’ first exposure to collective representation given the variety of non-union forms. However, whether such forms promote employee voice and have the legitimacy in the workplace is another question.

Overall the cases highlight a number of issues relating to the effectiveness of NER arrangements. First, internal contextual institutional variables within the company (cost-cutting and centralisation) can be a pivotal condition. Second, idiosyncrasies of the potential bargaining unit (management style mismatch combined with dictatorial management culture) can undermine perceptions of NER effectiveness. Third, attributes generated by NER structures (legitimacy of elected non-union representatives, level of skills due to training, the level of expectations regarding NER arrangements) can impact on the perceived effectiveness of NER arrangements and representatives in the decision-making process.

Outcomes

As mentioned previously, although one of the major reasons for employers to establish NER arrangements is a desire to have a more direct relationship with employees without the mediating forces of a ‘third party’ through union representation, in a number of cases this proved to be unsuccessful. At Eurotunnel, South West Water and to a degree at News International, management’s original substitution approach failed to prevent the forces for unionisation.

At Eurotunnel, the CC's lack of 'clout' and impact on vital issues was of concern. The employee survey revealed that the CC lacked muscle, that management lacked understanding and did not listen to employees, and CC representatives had no or little training to negotiate with management.

An important issue to emerge from the Eurotunnel research is that both representative voice arrangements at Eurotunnel have failed in two respects. In terms of communication, both the union and CC have failed to meet employee expectations, and in terms of providing an effective voice and involvement mechanism they have also failed to address issues of concern to employees. Perhaps an important conclusion to be drawn from the case study is that constraints such as profit pressures and the trauma of cost-cutting in difficult market conditions can poison employer-employee relations. As a result, employees may become more dissatisfied with existing representation arrangements and may look for alternatives that will provide the strongest possible defence, further undermining consensus-based partnership arrangements.

To reinforce this point, one possible reason why employees rated the information and consultation function of the CC so poorly is that the information the company was providing was almost uniformly unwelcome (the necessity for cost-cutting and restructuring etc). It could be argued that in 'good times', when economic and market conditions are positive and information is provided on large profits and subsequent prospects of wage increases, perceptions of information and effective voice would rise.

This would support other research by Taras (2000) into Imperial Oil and Kaufman's (2003) research into Delta Airlines, concluding that NER arrangements are largely a unitarist and integrative approach and function less successfully during more difficult times when financial outlays are restricted and reduced. Importantly, the Kaufman and Taras studies also suggest that NER arrangements only work well when distributive issues are taken off the agenda, or as Taras and Copping (1998: 41) argue, NER voice

arrangements are most powerful and effective when there is the 'threat' of unionisation, and in the absence of a serious union threat management's preoccupation with the health of such voice arrangements diminish.

At Eurotunnel there was strong support for a greater union presence before union recognition with the majority of respondents suggesting that a trade union would improve their position over pay and benefits, work conditions, health and safety and employee grievances. However, the second survey revealed the lack of progress the union had made on these issues with many employees suggesting that the trade union had not met their expectations and had failed to address these issues. While employees' expectations of the impact of trade unions may have been high, their disappointment could nevertheless potentially undermine the impact and legitimacy of unions at Eurotunnel and highlights the possible dangers for trade unions in general.

Interestingly, the research findings from the second employee survey after union recognition also seem to indicate that while the majority of employees were in favour of union recognition at Eurotunnel, they were not yet convinced that union representation by the T&GWU alone would achieve greater benefits for employees. Moreover, some employees at Eurotunnel remained convinced that the CC should continue to represent the workforce, with its role ranging from an information channel on some issues to a genuine negotiation body with greater power than existing arrangements on others. These results would seem to confirm previous research by Millward, Bryson and Forth (2000) based on WERS98 that from an employee viewpoint the complementary presence of a trade union and NER arrangements potentially offer more positive outcomes than a single channel form of representation.

The research would suggest that it is not the formal existence of NER structures that is associated with greater effectiveness and positive performance outcomes. Rather, the nature of the relationship, management style and culture, and trust developed in NER structures, and the degree to which influence over managerial decisions is ceded through

such forums, are the most important factors. In particular, the evidence presented in this research indicates that employer objectives, aims and approaches towards NER differ in many important aspects and that these approaches may have a significant impact on employees' perceptions. This would seem to support Freeman and Lazear's (1995) model on rent distribution, in which the maintenance of NER arrangements is dependent on positive outcomes from such arrangements in terms of greater efficiency driven by better quality decision-making, or by reducing third party intervention into the decision-making process which could potentially reduce employer profits due to the redistribution of such profits to income.

The research in this thesis also highlights a range of outcomes regarding the potential limitations of NER structures raised by both management and employee representatives. The two main concerns identified were the lack of interest from employees and the availability of information. Other concerns mentioned were: council meetings being too bureaucratic and rigid; difficulties in keeping people informed of the latest developments; lack of leadership and senior management support; lack of clearly defined roles and responsibilities; insufficient training of representatives and provision of resources; a perception by employees of a 'talking shop' without appropriate management actions on issues raised; management setting the items on the agenda; lack of muscle on vital issues or as suggested 'voice without power'; lack of line management support; turnover rate of staff in the firm; and the time taken to resolve issues raised by employee representatives.

At South West Water, the Personnel and Services Manager felt that the main concern was maintaining employees' interest in the Staff Council. He suggested that many employees had little interest in the issues raised at Council meetings and thus pressure was placed on representatives to give the views of all workers. Another problem was the 24-hour operations and the fact that many employees work away from their base for much of the time. In such an environment, there can be difficulties in keeping people informed of the latest developments. He went on to say that while the Staff Council was

increasingly successful, it had had little success in the early years for a number of reasons including, the lack of leadership and support from higher management, and lack of trust among Council representatives based on their experience with previous consultative committees and management structures and the previous two-tier committee process. This had created a culture which encouraged issues to be handled higher up the management structures rather than to be resolved lower down the line, resulting in a lack of clearly defined roles and responsibilities.

A negative outcome from the cases was the limited capacity and resources of representatives to participate in the consultation process. For example, the lack of time for representatives to conduct council duties was an inhibiting factor at Grosvenor Casinos. The Employee Council Co-ordinator thought that the shift arrangements were a major concern because they restricted the time available for council business, with few people willing to use their limited free time for this. In addition, staff shortages and shift arrangements meant that council representatives had little time to prepare for meetings⁸².

At HP Bulmer, a number of concerns were highlighted by the Deputy Chair of the Employee Council. First was the perception among Council representatives that management sets the agenda (in reality Personnel sets the agenda then asks the Deputy Chair for comments). Second, under the profit-sharing scheme large bonuses were paid to senior executives, calling the credibility of the Council into question. Third, the minutes which were traditionally written by Personnel were too dense. Fourth, there was too little training for Council representatives. Fifth, some representatives were reluctant to raise issues of concern at Council meetings so that employees' concerns were not addressed. Sixth, the role of the council was not adequately defined, in terms of union responsibilities. Finally, many decisions were still perceived to be top-down with

⁸² As such, only three hours a month per representative were assigned to Council business including meetings. According to the Employee Council Co-ordinator, ideally representatives should have at least three to four hours to prepare for a meeting (as emphasised in the training programme). In addition, certain specific issues may require site representatives to identify problems and come up with solutions, needing four to five hours per month to prepare. Moreover, regional and national representatives require far in excess of that.

management making the decisions and informing the Council for comment only afterwards.

In addition, the research highlighted that having established NER structures – with or without a union presence – to improve employee management relations and produce more effective decision-making procedures, managing the complexities of NER arrangements proved to be more difficult. The cases in this study would seem to reflect other literature that would suggest that NER arrangements work well when the times are good, but fail to weather economic storms or downturns when times are bad (Taras and Copping, 1998; Terry, 1999).

The results of this study would also suggest that while a dual channel or, in terms of transaction cost economics, a ‘hedging’ approach to representation is the highest cost option, the model suggests this approach is also associated with the lowest risk, since management can direct information and consultation flows either through union or NER voice channels depending on the perceived outcomes involved. As can be seen in the Eurotunnel, SWW, HP Bulmers and Ciba Specialty Chemicals cases, management often ‘experimented’ for a period with both existing and newly created channels of representation as a means to assess outcomes during the ‘transition’ phase in representation arrangements. The experimentation of NER arrangements in these organisations highlighted that such a choice is influenced by the level of the perceived opportunism from trade union behaviour, thus posing a risk in terms of the redistribution of rents (or profits) or the risk associated with inhibiting the flow of production through industrial action.

8.5 Union responses and approaches towards NER arrangements

An important theme explored in this research has been union responses and approaches towards NER arrangements. Five cases were reviewed as a means to explore union responses towards NER. At Eurotunnel (UK) representation arrangements before and

after union recognition were assessed. Instances of the union working alongside pre-existing non-union arrangements at HP Bulmers and Ciba Specialty Chemicals were reviewed, and increased union influence on the News International NISA and the SWW Staff Council was also examined. The research provided an opportunity to review union strategies and approaches towards NER and, in particular whether they employed tactics of 'colonisation' in terms of union members and representatives being actively involved in such arrangements, or a 'marginalisation' approach where union members and representatives actively avoided any involvement in NER arrangements. The research would suggest that these strategies are particularly important in organisations that have established NER arrangements for the purposes of union avoidance. Equally important are employees' attitudes towards unions and their potential impact in providing the conditions for unionisation.

Taras and Copping's (1998: 36) study of Imperial Oil in Canada suggests that in developing a unionisation process model for application in non-union workplaces, it is clear that an element of dissatisfaction is a necessary precondition to the unionisation process. The findings from the cases presented in this thesis would seem to reinforce this view. Importantly, dissatisfaction over certain issues considered by employees as important and the notion of 'trust' (or lack of) between management and employees were even more critical to the unionisation process.

Kim's (2004) research in Korea suggests that promoting NER may not prevent union organising and mobilisation completely, since union and NER channels may satisfy different needs and outcomes. Given that many employers have previously pursued NER to avoid unionisation, these differences may have significant policy implications⁸³. In addition, their research suggests that a lack of enthusiasm among employees for NER arrangements may reflect perceptions of employees that representatives in NER voice

⁸³ Alternatively, NER may substitute for unionism if NER voice arrangements are given a negotiating function similar to that of unions to enhance employment conditions.

arrangements are *de facto* subordinates of employers and thus lack the capacity to represent employee interests effectively, providing fertile ground for union mobilisation.

The situation at HP Bulmers would appear to reinforced Kim's research in that two channels (one non-union through the EC and the other union through T&GWU) were created as part of a collective response to decision-making. One of the EC aims was to be a platform from which to discuss issues which affect all employees and which were not subject to negotiation with the union (predominantly collective bargaining over pay and basic working conditions).

At Ciba Specialty Chemicals, unions were recognised for bargaining proposes at the time of the introduction of the *Employment Relations Act*. Since then, union members gradually 'colonised' the pre-existing CC, potentially increasing their decision-making presence and the scope of negotiation and consultation. While the union agrees to work with the CC to improve two-way communications and understanding of common objectives, the union is the sole representative body for collective bargaining. According to the union, its aim is to have all CC representatives as union members.

At Eurotunnel, the survey and interview responses would seem to suggest a high degree of emotion regarding the conduct and behaviour of management. Interestingly, employees were not totally convinced that unions alone would solve these problems. Only when management was perceived as unresponsive did the union option become more of a catalyst for collective action and an instrument for retribution as seen in Aslef's industrial action against Eurotunnel management.

Applying the frustration and disenchantment path from Figure 3.3, the peaceful pursuit of outcomes through consultation with the employer is first used to resolve issues and differences. This period is associated with discussion over possible unionisation and time to resolve issues and assess management responses.

However, level and influence of unionisation may be dependent on the success of union strategies towards organising potential members. Terry (2003: 498) has argued, 'The clear lesson ...is that trade unions to retain credibility and legitimacy at all levels, may from time to time need to demonstrate their continued capacity for the exercise of economic sanctions against employers, in particular with regard to the classic, distributional issues of pay and conditions'. He goes on to suggest, '...paradoxically perhaps, the continued availability of such sanctions is one demonstration of the continuing strength of the partnership approach. (Controlled) conflict at the sectional level, usually over pay and conditions; cooperation at the workplace is the consistent formula; the one reinforcing and complementing the other'.

To reinforce this point, in many ways the partnership agreement at Eurotunnel (UK) protected the vagaries of management style rather than extracted increased wages and conditions with the subsequent unrealised expectations resulting in dissatisfaction, disenchantment and frustration. Employees' perceptions that they were unable to influence management decision-making and the subsequent feelings of powerlessness, lack of trust in management and ineffective voice through the CC in the face of cost-cutting, changes to working hours practices, shift patterns, pay and benefits, staffing issues (including recruitment and redundancies) and level of centralisation of decision-making were facilitating variables of great importance in the unionisation process. Another important element in the unionisation process was that over the years perceptions of worker power and influence were developed with elected delegates on the CC over-estimating their capacity to halt company level initiatives resulting in unrealised expectations on the part of employees.

Other factors highlighted by the other cases in this thesis and the literature would seem in the Eurotunnel (UK) case to have had little impact on the process of unionisation. The site was relatively remote and, as such, the evidence would suggest that micro-level factors such as attitudes towards unions, demographics, and job satisfaction seemed to have had little influence.

Regarding unionisation, the principal inhibiting conditions at Eurotunnel would seem to be reluctance among a significant number of employees to not belong to a trade union, and a willingness to allow management an opportunity to address issues raised by employees. It would seem that from the start of operations at Eurotunnel (UK) many employees were willing to allow management time to address these issues until a point was reached where a widening of the expectation-achievement gap developed and produced negative outcomes. However, while some employees were frustrated with the CC, many employees were not persuaded of the merits of trade union representation and not yet convinced that union representation alone would achieve greater benefits for employees. These views were also evident after union recognition with many employees reluctant to join the union and calling on management to give greater powers to the CC (especially over collective bargaining). However, the events at Eurotunnel would suggest that the triggers for unionisation were stronger than the inhibitors, and some employees acted accordingly.

The Eurotunnel experience would also suggest that many employees felt they were as individuals best able to deal with certain traditional trade union issues. The risk for the T&GWU is that the Eurotunnel employees' perception of a lack of effective union voice could potentially impact negatively on the influence that unions have on management decisions and undermine its legitimacy at the workplace. Deakin *et al.*'s. (2002: 349) research suggests that effective union voice through employer-union partnership arrangements is dependent on its perceived strength and sophistication. However, they also caution that the sustainability of partnership arrangements will be dependent on how employers and unions manage the 'exogenous shocks' in the form of economic downturns and changes in systems of employment regulations (Deakin, *et al.*, 2002: 351).

In addition union approaches in terms of a union's drive to curb management prerogatives may be due to the union's unwillingness to accommodate changes in

periods of rapidly changing markets and technologies. It could be argued that when firms are in financial difficulty, this inability to adapt to the external environment hurts the 'image' of unions not only to employers but also current and potential members further widening trade union legitimacy and authority at the workplace.

The challenge for the T&GWU at Eurotunnel is that certain achievements under the employer-management partnership agreement such as increased trade union membership and presence have not been accompanied by more positive attitudes towards trade unions by a majority of Eurotunnel employees. In addition, the marginalisation approach adopted by the T&GWU towards the CC has resulted in a lack of confidence in the trade union among non-union employees. In particular, its ability to achieve traditional trade union objectives of increases in pay, fairness and protection in disciplinary action, making a complaint against management, and changes in employees' immediate workplace was questioned. In fact, many non-union respondents felt they were as individuals best able to deal with such issues. The risk for the T&GWU is that employees' perception of a lack of effective union voice could potentially impact negatively on the influence that unions could have on management decisions and undermine their legitimacy at the workplace.

These issues could also be seen as the challenge for not only employer and union partnership at Eurotunnel, but could more generally have implications for employer and union partnership in the future. As Brown (2000) has stated, workplace partnership can be said to be a reflection of union weakness and to an extent reflects a decline in influence and power. Terry (2003: 498) highlights a degree of caution for trade unions under partnerships. In particular, thought should be given to the handling of distributive issues within partnership agreements in light of the rhetoric of cooperation and shared objectives, which can undermine the degree of union independence and restrict the level of force that can be brought to bear on management.

For unions, while having no guarantee of continuing recognition, maintaining high membership density creates an environment of strong union organisation and representation at workplace level. This was especially so at News International where there was a long history of anti-unionism and little prospect of union recognition by management. While no union had been recognised at News International since 1988, an important tactic adopted by the unions was a colonisation strategy of NISA through the appointment of senior union representatives to NISA, including the Father of the Chapel.

The findings at SWW have also raised a number of important issues in relation to the unionisation process. It would seem that an important underlying driver in the unionisation process was a change in leadership within both SWW and UNISON that created a new environment of trust and mutual respect. In addition, the prospect of legislation through the introduction of union recognition legislation as part of the *Employment Relations Act 1999* required a pragmatic response to representation issues. Another important driver for union recognition was UNISON's presence at the workplace through representing employees in individual grievances. This activity provided a means for union activists to colonise the NER arrangements and campaign for union recognition. It also demonstrated to employees the potential advantages of union membership.

The experience at SWW has also shown that where unions have been excluded from the workplace, maintaining a presence through the representation of individual employee interests and through colonisation of NER structures has been shown to pay dividends in the long run. An important factor in the re-recognition process was the leadership of the UNISON representatives at SWW who actively engaged with senior management to restore and rebuild the union-management relationship.

These case studies highlight the importance of union strategies towards NER arrangements in achieving union outcomes. Overall, the findings from the cases would suggest that the marginalisation over bargaining of the CC as adopted by the T&GWU at

Eurotunnel may be problematic, given heightened employee expectations. Compared to the colonisation responses of the unions towards NISA at News International and at SWW, the marginalisation tactic used by the T&GWU would appear to have been an inappropriate response to management substitution and union avoidance strategies. These results would indicate while trade unions may provide greater voice than non-union arrangements, the strength of union voice is dependent on the legitimacy and effectiveness of trade unions in representing employees' interests at the workplace.

8.6 Influences on employee representation and voice

The case studies have identified three main influences, which together can determine the level and perceived effectiveness of representative voice: influence and power, independence and autonomy, and trust.

Influence and power

The findings from this thesis highlight that many employees felt their respective representation structures lacked the necessary power to effectively represent their interests. The implications for organisations of not recognising such limitations is that this could result in greater union influence on workplace issues as at News International or, as in the case of Eurotunnel and SWW, result in forces for union recognition and greater employee dissatisfaction.

While it could be argued that some NER arrangements in this study had some formal negotiating responsibilities, in reality NER arrangements had limited power and were incapable of addressing managerial prerogative in traditional collective bargaining issues, such as wage determination. It could be argued that their limited influence and power was caused by a lack of employee mobilisation by representatives and a lack of autonomy in terms of resources or rights. As Butler (2005: 284) suggests, NER voice arrangements are 'very much a forum for the communication of management's

interpretation of events, ideology and values – components of a wider ideological armoury’. A major issue identified in the research was the inability of NER arrangements to influence the decision-making process through utilisation of resources to form a power base.

Butler (2005) goes on to say that, instead of viewing power and independence as separate entities, they should be seen as part of a complex web or set of relationships. As such, the lack of power is in effect caused by the absence of latent power resources and the lack of visible mobilising leadership on the part of worker representatives. He suggests that leadership behaviour fails to materialise due to the lack of autonomy, which allows corporate culture and attitudes to be reinforced and to be instilled into worker representatives by the use of ‘mental resources’ (Poole, 1978: 19). This in turn reduces and mediates the potential for such leadership to emerge as a means to mobilise the workforce and challenge the unitary behaviour of management.

The lack of power and independence of NER arrangements was evident in the cases studied in this thesis. One of the early problems for the Staff Council at South West Water was that no training was provided for representatives and management denied the representatives the facility to hold pre-meetings to discuss the meeting agendas (this was later changed). Critically the Staff Council has no direct negotiation or bargaining powers. As the Head of Personnel stated, ‘At the end of the day the Chief Executive has to make the key decisions. He uses the Staff Council to be better informed to make those decisions and to understand the impact of those decisions from the people on the sharp end, on the ground that deal with the consequences in getting it wrong’.

While in some cases there are signs of ‘manifest power’, in reality such power is limited. At John Lewis Partnership, while all issues including pay and conditions can be negotiated and bargained at Central Council, in practice agreement must be obtained from senior management before a decision is made. In addition, the Chair can veto

proposed capital expenditure if he/she regards it as 'too dangerous' to the Partnership's business interests.

Power may also be muted by other means. Butler (2005) has suggested that the lack of leadership behaviour among worker representatives potentially allows 'incorporatisation' to take place, potentially limiting any effective power. At Eurotunnel, management endeavoured to incorporate CC representatives into a corporate culture with success defined in terms of company achievement rather than worker gains. This was reinforced by strong pressure on CC representatives to recognise the vulnerability of Eurotunnel operations, and the emphasis on common interests between workers and management in terms of company success. It could be argued that this effectively reduced the probability of leadership behaviour on the part of CC representatives.

It could also be argued that this form of incorporation not only exists in the non-union sector but also can be found in union settings, such as the partnership arrangement between the T&GWU and Eurotunnel management. However, as Butler (2005: 285) suggests, 'what is distinct about non-union settings is the existence of these structures as atomised islets of employee voice' and rendering them, citing Cressey *et al's* (1985: 72) terms, 'naked and isolated'. For example, the lack of negotiating and bargaining power of the Employee Council at Grosvenor Casinos was a major concern. The senior Employee Council Co-ordinator suggested that 'the council has very little influence over basic salary'. The PUCC at Panasonic (Matsushita) also has no formal negotiation or bargaining powers. As an example, in relation to general pay and conditions of employment (including performance appraisal, systems of payment and staff planning) and organisational restructuring proposals, the PUCC is informed but has no input through negotiation into the final outcome.

As Butler (2005: 285) suggests it would be 'naive to assume that non-union employers will necessarily be willing to cede their traditional prerogative to decide the future strategic direction of their businesses, or their right to unilaterally determine key issues'.

This study has identified ways in which management has sought to either suppress union mobilisation or alternatively, through tactics of incorporation, used tools and strategies to reduce the likelihood of reigniting a worker power base through independent voice. For example, a number of issues were problematic for management at News International. While management's stated aim was a union avoidance strategy which sought to expand the ECC into what can be described as an 'in-house union', giving the newly established NISA bargaining power and rights akin to those of a trade union, management failed to stop the forces of unionisation, as could be seen in the election of a number of key trade union members to the NISA executive. As Butler (2005: 285) and Greenfield and Pleasure (1993: 192) note, mandating employee voice might be one thing, but mandating effective employee voice is quite another.

Independence and autonomy

The Eurotunnel CC and the News International ECC/NISA arrangements highlight the importance of 'independence' in workplace representation. It could be argued that the perception of a lack of true independence from management, and the lack of effective sanctions such as the ability to use industrial action against management and 'other forms of concerted activity to put muscle behind its collective voice' (Kaufman and Kleiner, 1993) may have further undermined the legitimacy and independence of such bodies in the eyes of employees.

For some commentators, independence is critical given that the collective voice of trade unions has its origins as a vehicle of protest against injustice, or as some have argued a focus on various forms of mobilisation theory (Kelly, 1998). As such, an ability to exert influence over terms and conditions of work is dependent on a sense of collective capacity and identity (Hyman, 2001). Kelly (1996) argues that cooperation at workplace level may lead representatives (including union members) to identify their interests ever more closely with those of their employers, and as such underline the fear that such non-

union structures may provide employees with ‘voice’, but on the employer’s terms (Kelly, 1996).

Such concerns over independence were highlighted by the CO’s refusal to recognise the NISA as an independent trade union, especially regarding NISA’s history, lack of voluntary membership, its structure and its dependence on management for financial resources. The CO’s reasons for refusing the status of independence flags up an important issue in employee representation.

A quote from the NUJ encapsulates this point: ‘Rupert Murdoch’s shenanigans are famously devious and he has a team of tough managers to carry them out. They appear to be insensitive to the obvious paradox of this one: that they are making the NISA “independent” while constantly warning of the dangers of independent unions to News International’s prosperity. That is the proof that it is not, because if it really was they couldn’t allow it’ (*Journalist*, November, 2000: 15).

The findings at Eurotunnel would also suggest that there was a perception of a lack of independent voice by employees that undermined the legitimacy, authority and trust in both management and the CC. This was reinforced by one survey respondent who stated, ‘The CC has failed to deliver independent and worker orientated programmes and policies. This organisation must have information and not a consultation role due to an obvious lack of objectivity and independence. We must have a structure free from management influence and career orientated representatives. The CC has lost its credibility, influence and focus and must be replaced by new structures (trade unions, independent focus groups etc)’.

As a consequence, while the ICE Regulations might provide a level of independence or ‘institutional distance’ due to the access to legislative protections and to a degree of autonomy, it could be argued that the potential for effective influence and power for NER voice arrangements under such a unitary context is questionable.

Trust

The evidence presented in this research would suggest that the level of trust within organisations is an important factor in the success and effectiveness of representation structures. While trust has not been a central theme in this thesis, it nevertheless has been an important influence on the effectiveness and outcomes of NER arrangements.

Trust has been defined as ‘a belief comprising the deliberate intention to render oneself vulnerable to another based on confident positive expectations’ (Dietz, 2004: 6) (also see Lewicki *et al.*, 1998; Rousseau *et al.*, 1998). The issue of trust has been raised by Beaumont and Hunter (2005: 36) in their research into the processes of workplace representation and consultation arrangements. They suggest that the term trust ‘is all too often used in a rather vague and general way’. In particular, they argue that too little attention has been paid to the focus of the trust relationship in terms of the trust between whom, and identification of the key determinants of trust, and the extent to which trust exists with representatives directly involved in the consultation processes.

Beaumont and Hunter’s (2005: 37) research in the UK highlights three overlapping but distinct influences on and drivers of the trust relationship, which highlight the ‘fragile nature of the joint consultation process’ by being ‘shaped or disrupted at levels beyond the reach of the consulters’. These three influences include:

- The nature of the broader, historical relationship between employees (as individuals or collectively through unions and/or NER forms) and management (what they term ‘historical baggage’), in particular how ‘contemporary perceptions and expectations will be strongly shaped by historical experience’.
- The degree of shared expectations and understanding between the employees (including NER and union structures) and management representatives across the table (‘the ground rules’) ‘about how the process will, and should be, conducted’.

- The degree of confidence employee representatives have in organisational strategies, especially in the context of complex environmental and market changes.

On the other hand, Beaumont and Hunter (2005: 38) state that reputations from historical experience along with interpersonal experience over time are an important input into the level of trust between employees and management. They cite Lewicki and Wiethoff (2000) to suggest that creating trust in a relationship is, 'initially a matter of building *calculus-based* trust (ensuring consistency of behaviour, with people doing what they say they will), and second, 'moving on to build up *identification-based* trust where there is an increasingly shared identification with the "other side's" aims and objectives' (Beaumont and Hunter, 2005: 38).

From the cases presented in this research, the loss of trust can have a substantial impact on the perceived effectiveness of subsequent representative structures. Notwithstanding the change of climate in industrial relations policy and practice, there are clearly a number of lessons that can be learnt from the SWW experience over the last decade. The evidence indicates that adopting a strategy of substituting unions at the workplace by individualising the employment relationship and derecognising the union in a period of large-scale redundancies will not produce positive industrial relations outcomes. The loss of trust associated with these policies takes considerable time to rebuild. An important factor in the re-recognition was the leadership of the UNISON representatives at SWW. Management suggested that the personality of the full-time officer was extremely important, especially a person that the company can trust.

As the SWW experience indicates, representative structures within firms need to have the full support of the majority of employees and be seen as organic to the workplace rather than as an imposed arrangement by management. Without such a bottom-up

approach, the legitimacy and respect for such arrangements will diminish, creating obstacles for developing meaningful dialogue and trust between management, staff and unions. This was evident from the difficulty in finding sufficient employee representatives on the SC due to perceptions of a lack of independence, voice and ownership of the process. At SWW dissatisfaction over issues of importance to employees and the lack of trust between management and employees appear to have created a fertile environment for unionisation.

As Beaumont and Hunter (2005) suggest, trust is a function of individuals that deal across the table, is inherently fragile in nature and is often shaped or disrupted at levels beyond the control of the consulters, potentially damaging the shared expectations and understandings between employees and management. Findings from the employee surveys at Eurotunnel would indicate that the issue of trust was an important driver and factor in the process of unionisation at Eurotunnel.

More specifically, at Eurotunnel the management response to employees' views was union recognition and the establishment of a partnership agreement between Eurotunnel and the T&GWU. However, despite this the move to union recognition did not alleviate considerable frustration among employees. In particular, there were two underlying sources of discontent. First, management preoccupation with cost-cutting due to share market demands, high continuing debt, pressure on market share and the highly centralised nature of the decision-making process was incompatible with the norms and expectations developed through the growth phase of Eurotunnel's operations. This resulted in a loss of faith in the CC and the T&GWU, and a loss of trust in management.

The second cause of discontent was the incompatibility of an autocratic management culture and style within Eurotunnel and the perceived lack of effective voice. These findings would suggest that such perceptions further undermined employees' trust in management. Interestingly, unilateral management announcements such as union recognition and the partnership agreement with the T&GWU were not considered to be

positive employee gains by many employees. Judging from the survey responses, many employees and representatives felt it showed a further erosion of employee voice and influence, and was often greeted with cynicism.

Maintaining trust was also important in those organisations with a long-established union presence. Given the long standing union recognition at HP Bulmers, it was interesting that the T&GWU Convenor at the Bulmers site suggested that the partnership deal was based on: 'Trust – You can take them to the brink but don't shove them over. When you have to take industrial action, you have failed' (Interview, 29-07-99).

Management scepticism of unions at Grosvenor Casinos was also significant. According to the Employee Council Co-ordinator, 'Management wanted a body that knew about the business and that they could trust rather than a third body, which could have its own agenda' (Interview, 13-05-99).

8.7 Research limitations and strengths

Limitations

The strategy applied in this thesis has certain limitations, which should be acknowledged. Firstly, while the case study method can provide richness and details of processes and outcomes within a particular enterprise, generalising to other non-union workplaces and firms can be problematic for a number of reasons.

Dietz (2004: 11) has noted, 'familiar problems surrounding subjectivity with the key players' testimonies especially, of interviewees projecting their experiences on to the organisation as a whole, and *post hoc* reflections being subject to error and bias especially those that present the interviewee in a favourable light'. While acknowledging the potential limitations of the method, this research has attempted to triangulate the data from various sources and to 'corroborate testimonies' from different actors within key

events. In addition, where possible minutes from CC meetings and company documents were used to reconfirm events and issues highlighted in testimonies and stated as fact. However, as with all case study research, the findings and analysis based on interview data should be seen 'as extrapolated inferences based on carefully corroborated testimonies, rather than "facts" as such' (Dietz, 2004: 11).

Second, this thesis has not directed attention to the relationship between direct and representative forms of employee participation, thus potentially overstating or understating the influences and processes this interaction may involve.

Third at Eurotunnel, while an acceptable response rate of 40 per cent was achieved in the second Eurotunnel survey, the validity of the first Eurotunnel survey due to its relatively lower response rate could be questioned. This potentially could undermine claims to the representativeness of the sample. To counter this, comparisons were made with internal company-based survey results, and findings were reinforced by focus groups and interview data to reduce the non-response bias in the data analysis.

Strengths

Methodologically, the research strategy employed in this thesis has a number of unique strengths. First, the use of both qualitative (interviews and focus groups) and quantitative methods (employee questionnaires) in the case study approach have produced rich and detailed information on the processes and outcomes of representative arrangements. Second, in three cases (Eurotunnel, SWW and News International) internal validity was underpinned by highlighting trends and building an explanation through a time series longitudinal analysis. In the Eurotunnel case, in addition to interviews and focus groups two questionnaires were administered before union recognition and after union recognition (full details in Chapter Four). Importantly, this approach assessed how attitudes, expectations and intentions of employees had changed over this time period. Overall, the multi-variant nature of the research and the

longitudinal perspective allowed an assessment not only of the management strategies and union approaches to NER, but also provided a unique opportunity to explore the relationship and interplay between NER and union-based voice arrangements.

Conceptually, this research adds to existing literature by shedding light on the processes and interplay between union and non-union representation channels of voice.

Importantly the findings would suggest that workplace representation is more than a simple polarised extreme of union and non-union channels, and should be seen more as a mosaic of substance and processes which are influenced by a changing organisational and institutional context.

The research has also highlighted the limitations for unions in adopting a marginalisation strategy towards existing NER arrangements as a means to consolidate its presence through increased membership. For example, the Eurotunnel case demonstrates that such a strategy poses serious challenges to a union's influence and effectiveness in satisfying employee expectations over time. In contrast, the experiences at SWW and News International have also shown that where unions have been excluded from the workplace, maintaining a presence through the representation of individual employee interests (union and non-union) through the colonisation of NER structures has provided the seeds of union activity and increased union membership.

8.8 The future of workplace representation under the ICE Regulations

In assessing the future of workplace representation in the UK, a discussion of the implications of the introduction of the ICE Regulations is required. It has been argued that the ICE Regulations are likely to lead to a proliferation of employee representation structures for different purposes. Bercusson (2002: 234) further states, 'From a tradition of single channel employee representation, British labour law moving in the opposite direction from the American "trade union representational monopoly" has skipped over

continental dual channel systems into multi-channel employee representation systems'. He goes on to suggest that while the Directive requires European Member States to implement regulations that will require the establishment of new organs of worker representation in those enterprises that are covered by the ICE Regulations and supported by employees, it also raises the question of the criteria for determining who the workers representatives are, and who can establish and participate in these bodies. Bercusson (2002: 234) also questions whether UK industrial relations is best served 'by further multiplying the channels of employee representation with different functions'.

Butler's (2005) research in the UK examined the utility of NER with findings broadly supporting the existing literature in exposing key deficiencies with respect to this mode of voice, namely power and autonomy. He suggests that these findings potentially have important policy implications for the ICE Regulations based on the Information and Consultation Directive, invoking a formal element of 'institutional distance' (Butler, 2005). He argues that set within an often pervasive unitary culture, the potential for truly independent scrutiny must be severely diminished and states that on the basis of the findings there remains cause for circumspection with regard to the health and long-term prognosis surrounding the machinery of non-union consultation.

Some commentators have suggested that the effectiveness of the Directive is questionable given the UK Government's less than enthusiastic response to and support for the original proposal in November 1998. The UK Government has persisted in its reservations by blocking and weakening the Directive during its drafting. It is argued that this has resulted in a watered down and potentially ineffective piece of legislation. Bercusson (2002: 237) argues; '... The Blair Government's trench warfare had been successful in gutting much of what was innovative in the proposal'. This point was reinforced by Scott (2002) when he suggested, 'the ferocity with which the UK Government represented employers in the four-year negotiation process ... indicates a special, systemic fear amongst UK employers' ... with significant material and symbolic investment in UK's low cost industrial relations regime'. As such, Bercusson suggests

that the UK will continue along the path of what he has termed 'British industrial relations exceptionalism' in the European Union (Bercusson, 2002: 209).

While some may accept the view that a 'seismic' improvement in employee voice may result from the ICE Regulations, it is unlikely to increase employee voice substantially in many workplaces. It could be argued that the Directive could easily result in 'weak' employer-dominated partnerships and non-union firms using direct communications and information (allowable under the UK ICE Regulations⁸⁴), while marginalising collective consultation. Managers may provide information and insist on employee involvement but employees have no guarantee of effective consultation in return.

It could also be argued that if the ICE Regulations are regarded by employers as purely a vehicle for communication and information, employees may perceive such arrangements as failing to address their concerns and interests and therefore as impotent and ineffective. Therefore, by implication the ICE Regulations could in this scenario be regarded by employees as accomplishing very little in terms of true consultation and thus fail in the Information and Consultation Directive's objective of ensuring 'effective and balanced involvement of employees' and providing 'an essential step in completing the EU social dimension and in achieving the creation of an adaptable, high-skilled and motivated workforce' (European Commission, 1998).

Notwithstanding these concerns and reservations, the ICE Regulations will require more extensive voice arrangements for employees if the establishment is covered by the legislation, and either entered into through a voluntary arrangement with employees, or is triggered by the workforce. Thus it is important that an assessment is made of the appropriateness of the existing NER and union arrangements in organisations in order to satisfy these requirements.

⁸⁴ However it could be argued that this could contravene the requirements of the Information and Consultation Directive and may be subject to a European Court of Justice challenge in the future).

Other commentators are more optimistic about achieving the objectives of the European Directive by suggesting that the European Union concept of social dialogue through partnership between employers and representative voice arrangements based on more 'enlightened' consensual relations, and cooperation between unions and NER arrangements, is not new in the UK, and draws from a long history of modernisation in British industrial relations (Coupar and Stevens, 1998; Martinez-Lucio and Stuart, 2002; Marchington and Wilkinson, 2005).

The evidence from this research suggests that without external support, NER structures are limited in their capacity and have limited resources to fully mobilise an independent power base, further encouraging management accommodation. This insular approach is reinforced by few external resources and little assistance in terms of expertise, experience, advice and guidance. In this respect, the Information and Consultation Directive and the UK ICE Regulations will be fundamental in providing the means to influence management decision-making processes. These will grant universalistic information and consultation rights over a range of workplace and firm issues not previously given in the UK voluntarist context. While some have suggested that this may provide an opportunity for greater trade union involvement in the non-union sector, this research has raised a number of issues for trade unions in achieving that endeavour.

Implications for unions

The ICE Regulations presents some significant implications for unions. As Terry (2003) has argued, traditionally unions have bargained over the restricted issues of pay and conditions, where the essential union demand was uncomplicated, thus the interests of the membership were relatively easy to define. The issue under partnership arrangements seems less clear, with employee interests becoming more broadly defined, as can be seen by the importance of Eurotunnel employees' attachment to more micro-issues such as working practices, promotion ladders, shift patterns, and work and life balance. Thus for unions, without considerable additional resources it is very 'difficult to

see how “consultative” workplace unionism along these lines could be anything more than an acceptance of management proposals’ (Terry, 2003: 494). In addition, the ICE Regulations do not provide any automatic participatory rights to union representatives who must stand for election alongside other non-union representatives. Potentially such arrangements may operate with, against, or in the absence of union structures, threatening the traditional role of unions in collective bargaining.

It is said that this weakening of the Directive could significantly reduce its impact in the majority of UK workplaces. Scott argues that it may turn out to be a strategic plan, whereby UK unions could find a non-union system of employee representation embedded by clever employers who have learnt a lot in recent years about industrial relations without unions. He argues that ‘after many valuable years of fairly straightforward gains from EU social legislation, despite the loss of closed shops and sometimes exhausting legal battles, it now looks as though UK unions have reached a difficult set of crossroads’ (Scott, 2002: 1).

Scott (2002: 2) concludes that, ‘the UK could find itself in a few years without either much in the way of trade union progress on consultation rights, or anything in the way of employee representation that would be recognised as such in mainland Europe. In short, the wide corridors of interpretation and the specific structuring of the Directive may leave the UK with the worst of both worlds, neither decent works councils, nor strengthened unions.’ While this is arguably an overly pessimistic view, nevertheless the Directive does pose a number of challenges for representation in the UK.

The Eurotunnel findings are particularly significant given the introduction of the ICE Regulations. In the context of these ICE Regulations, the potential exists for Eurotunnel employees to use the CC arrangement to challenge both management’s decision-making authority and the union’s legitimacy in representing employees’ interests. While the ICE Regulations encourage a more formalised approach, expanding on existing information

and consultation rights within enterprises, the experiences at Eurotunnel may signal difficulties for unions and employers in satisfying the requirements of the legislation.

In particular, it could be argued that while the existing CC satisfies the legal requirements and spirit of the ICE Regulations in terms of structure and function, T&GWU recognition alone would be unlikely to meet these requirements given that any structure must represent all employees at an enterprise on those issues contained in the information and consultation regulations, rather than representing one section of the workforce. Thus the CC at Eurotunnel could conceivably constitute an alternative employee voice to union representation and could potentially legally challenge union authority, since it is more likely to be in a position to satisfy these particular requirements of the Information and Consultation regulations.

The Eurotunnel experience suggests that any representative structures within firms need to have full support of the majority of employees and been seen as organic to the workplace rather than an imposed recognition and partnership arrangement between management and a trade union. Hyman (2003) argues, 'Partnership, the evidence suggests, may be the framework for a two-level management game, involving a sweetheart deal with a favoured union, together with some form of manipulative "employee involvement" with the workforce'. He goes to suggest that 'if partnership is understood as replacing negotiation pressure by consultation and consensus, the result may be not a recovery but a further decline in trade union capacity. Ironically, this may make unions increasingly unattractive as partners for management' (Hyman, 2003). As the Eurotunnel case suggests, without a bottom-up approach, the legitimacy and respect for such arrangements could diminish, creating obstacles for developing meaningful dialogue and trust between management, staff and unions.

In light of the introduction of the ICE Regulations, Sarah Veale (Veale, 2005), Head of Equality and Employee Rights at the Trade Union Congress, indicated at the 2005 'Voice and Value' conference that representatives for workplace information and

consultation arrangements were likely to want to start putting items on meeting agendas that might in the past have been regarded as a collective grievance and, while these issues were distinct from collective bargaining, they could well be morphed into it by using systems that are in place. She indicated that from a pragmatic viewpoint this presented opportunities and could offer unions ‘a chance to be influential in newer workplaces’ with collective bargaining as an ideal for the future, ‘but in reality information and consultation arrangements may be as good as it gets’.

8.9 Reshaping workplace representation

While the cases in this research are not representative of all firms, they do highlight some critical issues for employers, unions and government policy regarding the structures needed for effective workplace consultation and representation. The evidence would suggest that there were two main drivers for the development of more effective voice arrangements – regulatory change regarding representation and consultation arrangements and employee pressure for greater voice. However, the evidence presented in this research questions the legitimacy of NER arrangements as true alternatives to unions in effectively representing the interests of employees. Three important conditions can be identified that have influenced the effectiveness of the voice arrangements – managerial attitudes, employee expectations and wider business pressures.

Significantly, the research in this thesis highlights the potential limitations and dangers for employers and unions of not addressing the needs and expectations of workers. Given the devolution of decision-making in many organisations and the greater focus on employee commitment and effective organisational change, these findings are of particular interest.

As outlined in Chapter Three and drawing on the framework in Figure 3.3, this thesis has also explored and highlighted influences on the interplay between NER and union voice arrangements. In particular, this framework outlines a number of processes that are

involved in the mobilisation of union representation and its interaction with employer strategies, and the interplay with NER voice arrangements. It starts from the premise that certain internal and external contextual variables create an expectation and achievement/satisfaction gap, which management tries to fill by creating a voice arrangement, either through a single representation channel by buying in a union or by making a non-union voice mechanism.

It is suggested that when employer initiated voice arrangements are established they create certain employee expectations about outcomes. If these expectations are not realised, a widening of the gap between expectation and achievement leads to greater frustration, lack of trust and disenchantment in management leading to instrumental collectivism. This could manifest itself in either the peaceful pursuit of desired outcomes through mutual gains in the form of union recognition by the employer and/or employer-employee partnership, or through union readiness for action against an employer based on a conflict of interests and a 'win' or 'lose' strategy. This will be mediated by union responses, in particular union strategies to colonise or to marginalise NER voice arrangements.

As a result of these strategies, certain conditions and influences may impact on the type and level of interplay between union and NER arrangements. As a consequence, this interplay may lead to particular partnership and collective bargaining outcomes influencing employee responses and perceptions, and in so doing have implications for unions, the employer and NER arrangements.

Importantly, the findings in this thesis could have implications for employers, unions and government policy regarding the structures specified in the new European Directive on information and consultation for providing effective consultation and representation, and in satisfying the requirements under the Directive and the UK ICE regulations. It is suggested that if employers wish to encourage an alignment of interests between employees and organisational goals, they need to place greater emphasis on giving

employees a greater say in the decision-making process and some influence over workplace issues, address the expectations of employees, and acknowledge their differing interests.

If British unions are to be stakeholders in and not supplanted by other information and consultation arrangements established under the ICE Regulations, they will need to demonstrate that they are representative conduits of the views of ordinary members. Importantly this will depend on their ability to maintain accountability of union representatives and officers to the union membership thus reinforcing the linkage between democracy and participation. (Flynn *et al.*, 2004).

Flynn *et al.* (2004) argue that a key to such participation will be an active involvement of employees in democratic decision-making in order to articulate their views. Flynn *et al.* (2004) also highlight the need for leadership to effectively channel and inform such views for effective impact. However, it could be argued that even after union recognition at Eurotunnel the T&GWU failed to achieve significantly higher levels of support, with the partnership arrangement restricting the union's ability to either gain significant wage rises or increase their influence on the decision-making processes at Eurotunnel.

Another explanation for the perceived impotence of the T&GWU may lie in Eurotunnel's long-term management strategy. By recognising the trade union it showed the workforce its willingness to accept an independent form of employee representation. However, given its lack of support for the trade union by ignoring employee and union demands for higher pay and greater input into the decision-making process, it could be argued that management have effectively undermined the T&GWU's effectiveness and position at Eurotunnel, resulting in lower than expected membership and reduced authority.

While it could be argued that the threat of other unions, such as Aslef, rekindling activism at Eurotunnel could be a possibility, this could be mitigated by the apparent

loss of support for trade unions more generally among employees, and the financial predicament of Eurotunnel, which provided little prospect of increased wages and improved conditions. Thus, in light of the requirement under the ICE Regulations that a representative body cover all employees (union and non-union) in workplaces covered by the union, a lack of trade union presence and authority could provide management with an opportunity to further undermine the T&GWU's powerbase resulting in potential derecognition. This would leave a single dependent CC structure with little effective consultation or bargaining power. This scenario could potentially present serious challenges for trade unions in general.

The findings also highlight that unions not only have to fear employer hostility but also employee apathy and questions concerning union efficacy at workplace level. While management may support and sponsor the union arrangements to bolster partnership, if employee support is not forthcoming and ebbs away, substitution by an NER voice arrangement could be seen as a legitimate alternative strategy.

However, as the Eurotunnel case has demonstrated, while management may go to considerable lengths to keep independent union voice out of the workplace, the case also raises important issues of the risk for employers in such a strategy and the potential negative impact and unproductive consequences that may result. Likewise for trade unions in partnership arrangements similar to those at Eurotunnel, the language and rhetoric of partnership emphasise consensual business-driven outcomes, but whether such arrangements are compatible with the longer-term dynamic of collective bargaining and pay determination is questionable.

While such partnership arrangements are often based on complex pay formulae linked to productivity and inflation indices, in the absence of traditional conflictual behaviour within a largely unitarist arrangement, the success of such arrangements is yet to be seen. It could be argued that a necessary condition of effective partnership is the overt expression of disagreement, 'reinforcing the legitimacy and credibility of unions as

independent bearers of employee interest. Supine trade unions serve neither the interest of their members nor ironically, of employers' (Terry, 2003: 500). As Martin *et al.* (2003: 610) have suggested 'there is a danger for unions following and promoting partnership strategies ... [they] risk endangering their independence and alienating sections of the membership who have joined them to provide representation and opposition rather than because they were a business partner'.

While the current UK ICE Regulations may also provide the possibility of more individualist arrangements, the underlying objective of the European Information and Consultation Directive is to broadly provide enhanced employee rights and increase employee involvement over a range of enterprise issues. As such, this may provide the necessary framework to sustain collectivist representation arrangements in the future. This would support Appelbaum and Batt (1994) institutional theory approach. The cases explored in this thesis highlight the importance of the legislative underpinning of NER arrangements and help explain the trigger of events leading to representative adaptations.

In a climate of falling union density, to suggest that there will be an inexorable shift away from more collectivist employee relations would be to underestimate the complexity of the world of work. The cases presented in this research would lend support to the argument that there is an important and enduring role for effective and independent collective representation at the workplace.

Importantly the research suggests that the old dichotomy of a union versus non-union channels of voice is likely to prove inadequate in shaping future representation arrangements. Instead the focus could be more fruitfully directed towards the quality of employee representation and resultant climate of employment relations, manifested in a mosaic of substance and process⁸⁵. Embracing this alternative orientation has important

⁸⁵ I would like to thank Professor David Marsden for this point.

consequences for management strategies and union responses to NER voice arrangements.

In summary, the evidence demonstrates that only by establishing mechanisms that enable employees to have legitimate voice and allow differences to emerge will managers be able to channel such differences into more productive outcomes. Pivotal to this is the effectiveness and power of NER and union arrangements. Processes that underpin the representation of employees' interests and rights are at the core of effectiveness of such bodies. Voice, the right to be heard and having influence over workplace issues and at times an acknowledgement of differing interests may be essential conditions for a more effective decision-making process. The findings in this thesis would suggest that incorporating a degree of collective bargaining as a complement to or as part of an NER process could provide more productive outcomes for employers and more just outcomes for employees.

The findings from the research in this thesis and the future legislative requirements on information and consultation indicate that the existence of a mechanism – union or non-union – for communication or consultation between management and employees at the workplace may not be a sufficient condition for representation of employee interests. This study highlights the importance of the interplay between NER and union voice arrangements for effective employee voice over workplace issues. This understanding of the interplay between non-union and union representative voice arrangements may be essential for achieving and maintaining employee satisfaction. Finally, while trade unions may provide greater voice than non-union arrangements (thus the reluctance of management to provide such voice arrangements), the strength of voice is dependent on the legitimacy and effectiveness of trade unions in representing employees' interests at the workplace. And that in turn depends on the union being perceived by the workforce as both representative and able to act effectively. If the union cannot achieve these, it will not meet the needs of either employees or management – and in the UK could run the risk of being supplanted under the provisions of the ICE Regulations.

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Appendix 1 - Key Interviewees

Sainsbury's - Carolyn Gray (Senior Manager for HR Policy) 15-10-98
Sainsbury's - Sarah Dormer (HR Policy Manager) 17-11-98
John Lewis Partnership - Ken Temble (Chief Registrar - Responsible for HR) 12-11-98
HP Bulmer Limited - Bob Hardwick (T&GWU Convenor and Employee Councillor) 29-07-99
HP Bulmer Limited - Mike Court (Deputy Chair of the Employee Council) 16-06-99
Grosvenor Casinos - Andy Harris (Employee Council Co-ordinator) 13-05-99
Ciba Specialty Chemicals (UK) - Eric Moorhouse (Company Council Leader and Union Site Representative) 18-06-99
Ciba Specialty Chemicals (UK) - Bill Chard (GMB Regional Organiser) 18-06-99
Panasonic (Matsushita) (UK) - Sue Grant (Personnel Manager) 10-05-99
South West Water - John Ostle (Head of Personnel Pennon Group) 27-03-00
South West Water - Roger Randall (Personal and Services Manager SWW) 27-03-00
South West Water - Carole Bonner (Former UNISON Representative SWW) 18-04-02
South West Water - Erica Hornsby (UNISON Representative SWW) 02-04-00
South West Water - Stuart Roden (Former Manager of Personnel SWW) 20-04-00
News International - Andy Kemp (Director of Human Resources) 04-03-99 & 04-09-99
(and other informal discussions)
Eurotunnel (UK) - Al Hardy (Director of Human Resources) 06-12-98
Eurotunnel (UK) - Mark O'Connell (Director of Human Resources) 29-04-99 (and other informal discussions)
Eurotunnel (UK) - Terry Robinson (Director of Human Resources) 15-04-02 & 18-07-02 (and other informal discussions)
Eurotunnel (UK) - Mark Cornwall (Company Council Representatives - Technical Railway Division) 18-02-99
Eurotunnel (UK) - Paul Edmondson (Company Council Representatives - Technical Railway Division) 18-02-99
Eurotunnel (UK) - Grace Hinder (Company Council Representative & Treasurer - Administration) 21-07-99
Eurotunnel (UK) - Andy White (Chief Company Council Representative) 22-05-02
Eurotunnel (UK) - Milton Marsh (Chief & Technical Engineering Company Council Representative) 18-02-98 (and other informal discussions)
Eurotunnel (UK) - Mark Swaine (Company Council Representative and T&GWU Representative) 22-05-02
Eurotunnel (UK) - Tim Gough (Company Council Representative - Train Crew) 18-02-99
Eurotunnel (UK) - Volker Meissner (Company Council Representative - Call Centre) 11-11-99
Eurotunnel (UK) - Michelle Norton (Company Council Representative - Call Centre) 11-11-99
T&GWU - Andrew Dodgshon (Media Liaison Spokesperson) 17-07-00
T&GWU - Graham Murfet (Regional Industrial Organiser - South East and East Anglia) 27-06-02

Appendix 2 – Interview Questions

GENERAL EMPLOYEE REPRESENTATIVE ISSUES

(Remember to point out that all answers are treated in the strictest of confidence)

A - PERSONAL INVOLVEMENT

1. How regularly do you attend Council meetings?
2. How often do you (as their rep) talk to your constituents about Council matters?
3. How important is it to you that management informs you fully about workplace/ company issues?
4. Which issues do you believe are the most important issues in your area or section?
5. Which issues do you believe are the most important issues for firm as a whole?

B - ACTUAL INFORMATION RECEIVED

1. To what extent do you feel that you are kept well informed about these issues?
2. How important is the Council in this communication process?
3. To what extent do you feel 'employees' in your section see the Council process as relevant and effective?
4. Typically when management communicates on these issues, to what extent do you believe the information you are given?
5. Are you satisfied with the amount of information management gives you?
6. Are you satisfied with the timing of the information given to you by management?
7. Normally, when management communicates with you either through the Council and/or directly, to what extent is there any opportunity for you to personally gain further information?

C - EXTENT OF VOICE AND INFLUENCE

1. To what extent do you think employees at ('the firm') have a chance to put their views forward and influence management?
2. As a Council representative, do you have sufficient opportunity to express your views at Council meetings?
3. How much communication do you receive regarding the following?
 - a - Pay and benefits
 - b - Introduction to new technology
 - c - Changes to working practices
 - d - Staffing issues, including recruitment and redundancies
 - e - Employee grievances
 - f - Any other issues
4. Do you have an opportunity to influence management decision-making on these particular issues?

D - TRAINING AND SKILLS

1. How many hours a week do you spend on Council business?
2. Do you do this in work time or own time? Percentage/Ratio?
3. How long have you been a Council representative?
4. What training have you received?
5. Would you continue to stand for re-election? Why?

E - UNION RELATIONS

1. Are you a member of a trade union?
2. Approximately how many employees are trade union members in your section/area?
3. Do you have regular contacts with other union members and/or union representatives?
4. Do you believe management should recognise a trade union? Why?
5. Do you think union recognition would increase Council influence?

6. Would you be a union representative if trade unions were recognised by management?

F - COUNCIL MEETINGS

1. How prepared do you believe you are at Council meetings?
2. How prepared do you believe other representatives are at Council meetings?
3. How prepared do you believe manager representatives are at Council meetings?
4. How important and effective are the 'Agenda' meetings? Why?
5. Overall, how effective do you believe the Council is in representing general employee interests?
6. Do you believe the Council is effective in representing the interests of employees in your area?

G - MANAGEMENT

1. How good would you say managers here are in the following:
 - a - Keeping everybody up to date about proposed workplace/organisational changes
 - b - Providing everyone with a chance to comment on proposed workplace/organisational changes
 - c - Responding to suggestions from employees
 - d - Dealing with work problems you or others may have
 - e - Treating employees fairly
2. In general, how would you describe relations between managers and employees at ('the firm')?
3. In general, how would you describe relations between managers and Council representatives at ('the firm')?

Appendix 3

Summary of strategy, structure and processes of workplace employee representation⁸⁶

	Sainsbury's	John Lewis Partnership	Panasonic (Matsushita) UK	HP Bulmers Ltd	Grosvenor Casinos
Industry	Retail (Grocery)	Retail (Department Store)	Sales (Electrical appliances)	Food and Drink (Alcoholic – cider)	Entertainment (Casinos and Clubs)
Drivers for implementation and continued operation	Three main factors drove the establishment of the staff councils at Sainsbury's. The first occurred in late 1996; when in response to a company-wide employee attitude survey conducted in February that year, managers began to explore the possibility of establishing a company-wide representative structure. The first survey to cover all 115,000 of Sainsbury's staff it achieved a high response rate of 80 per cent. The 'Talkback' survey indicated that many employees were dissatisfied with the level and quality of communication and consultation in Sainsbury's and suggested that they lacked 'effective' voice in the workplace. At the same time as the Talkback survey, a review was underway of the existing JCC for the 2,500 head office staff. This review was the second major driver in the establishment of the staff council. The review found that the JCC	The company was founded in 1864 when John Lewis established a draper's shop in Oxford Street, London. In 1905 a full department store was established in Chelsea. At that time Spedan Lewis was put in charge of the store and experimented with the partnership model (a model based on all permanent employees owning a share of the business), first establishing a staff council, a Committee for Communication and a house journal. These were introduced as a means to attract good workers and encourage them to work well. From the 1920s, Spedan Lewis started to implement an inclusive participation model (later known as the Partnership) by sharing the profits with employees. In 1950 Spedan Lewis established a written constitution for the business and transferred his rights of ownership to trustees.	The Personnel Manager indicated that while European legislation provided one of the main drivers, other drivers were the adoption of an EWC at the UK European Headquarters and the strong push from other European companies in the group to improve communication in non-union areas of the company. She also indicated that there were: 'some people thinking about joining a union because they saw their rights were not being represented, and this would discourage them from doing so'. It was also suggested that the Japanese parent company philosophy based on group decision-making has also been a factor in the process to improve communications.	Long history of paternalistic partnership practices and to diminish 'class distinction' or as Fred Bulmer stated 'Leadership is not a Bowler Hat' the company set-up a works advisory committee in the late 1950s. The 'Fairness at Work' initiatives under the Employment Relations Act 1999 legislation has provided a further rationale for the Employee Council.	According to management, previously the company introduced staff forums with limited success. Management recognised there was a need to replace them with a more effective and open form of staff representation. This was supported by a new leadership team, which saw other sister companies introducing works councils. Concerns over the existing culture at the company were also identified by the results of a company employee survey.

⁸⁶ All information in this table is at the time of the research in 2001.

	meetings focused on minor matters and were too limited, concentrating on 'tea, towels and toilets' issues rather than on more substantive issues which employees required. The third major driver was the introduction of the European Works Council Directive in September 1996 and the Directive's influence on internal collective consultation within European companies. As the Manager of HR Policy suggested 'Synergy did exist between the demands of the EWC Directive and the needs of our company'				
Stated objectives and aims	Staff Councils – 'are a communication tool for employees to communicate upwards to the Chairman, and also a process for the business to communicate information to all employees. The Group Council 'enables representatives from all areas of the business to hear from the Chair on key issues and changes that affect them. It also provides an opportunity for ideas from employees to be communicated to Directors'	'The Partnership's democracy aims to resolve differences by keeping the general body of the Partnership fully and properly informed on what is being done and why, by consultation and by sharing in decisions to the greatest extent that seems practicable' In addition, an internal document states, 'Every member of staff who works for John Lewis is one of the owners, with a say in how the company is run and a share in the profits'. In addition one of the core beliefs was to recognise the importance of participation in community life.	As stated in the Panasonic UK Consultative Committee (PUCC) Constitution, 'The objective of the PUCC is to provide a means of communication and consultation between the Management and the Staff of Panasonic UK on all matters of mutual interest including: company performance and efficiency; physical conditions of work, health and safety; training and further education; and plans for technological or organisational change; and other matters which management or employee representatives may wish to raise which cannot be covered elsewhere' (PUCC	The rationale for establishing the Employee Council is stated in the first paragraph of its constitution: 'The company understands and welcomes the desire of employees to become more deeply involved in decisions which affect their future as it recognises and encourages the important part which employees play in ensuring the continuing success of Bulmers for the ultimate benefit of customers, employees and shareholders'. The constitution of the Employee Council also states: the 'objective of the Employee Council is to provide a	A briefing paper states their aim and purpose of the Employee Council is 'To work in partnership to improve the working environment and morale of all staff in Grosvenor Casinos through Employee Councils by effective open communication and problem solving to enhance future prospects and employability'. In addition, it states 'The model has a clear structure and purpose, and identifiable roles. Accountability is built into the structure, along with an ethos of working on a team basis, with open two-way communication in

			Constitution, 1996). The constitution also states that 'consultation' means the exchange of views and establishment of dialogue between employee representative and senior management. Management also stated, 'The Pucc is used as a means of communication between management and staff and acts as a sounding board for new ideas. It is also used to monitor suggestions or management ideas'	platform where discussions can take place on those matters which affect all employees and hence, their future and the success of the company; these matters would not include particular areas which are subject to negotiations with the recognised trade union'	order to solve issues.
Coverage	All 140,000 employees	All permanent employees (Partners)	The Pucc covers mainly the non-unionised part of the company (sales and administration and in theory also managers).	All 800 employees at the Hereford plants.	All permanent employees (95 per cent of all staff).
Level of operation	Two-tier model (Organisational and local) - a 30-member company-wide Group Council - 400 local councils based on a local area/store or function	Three-tier model (Organisational, Branch and local) - 135 member Central Council - Branch Council (a form of local government) - Local committees (informal forum to express views)	One-tier model covering all nationally-based administration and sales sections and in theory also managers of Panasonic (UK). The company has a European Works Council at European level.	One-tier model of non-union employee representation through the Employee Council. However, there is a second tier representation through the T&GWU.	Three-tier model of the employee council structure consisting of the Casino Council, Regional Council, and National Council.
Constituency size	Between 50 and 100 employees at store level	Between 50 and 100 employees at store/branch level.	Between 80 to 100 employees at each division or location.	Between 30-50 employees based on teams at a functional or departmental area.	Varies considerably depending on size of casino and club which can be between 120 to 500 employees.
Composition and representative ness	Seats on group council divided by six UK regions, plus two union representative's. The Group Council is made up of board members, 26 elected employee representative's and two union appointees, and group chair (also chairs council) and group	Elected employee representatives, regularly brief on progress of company (all employees are shareholders). The 135 member Central Council provides the electoral college to appoint five directors to the Partnership's Central Board of 12 representatives. 80 per cent are elected from Branches and	The Pucc consists of 10 employee representatives drawn from the different internal divisions and locations of Panasonic UK. The Managing Director and two other senior management representatives also attend. Meetings are held every two months and last for approximately three	The Employee Council is the only representative channel for the higher grades 1 to 5. It is chaired by the Group Chief Executive (or Managing Director), and consists of four shop stewards (ex-officio) and 17 elected representatives	Every casino has an elected representative from each department of their business who meet with the general manager and manager each month. An agenda is then produced and action notes taken. A departmental representative will chair the meeting

<p>personnel director. Local Council – maximum of 15 people (excluding the chair – relevant store/depot manager, and secretary – local personnel manager)</p>	<p>20 per cent appointed by management. Chairman cannot reject a Central Council recommendation without consulting the Central Board. Branch Councils local government. Local committees all employees in open discussion.</p>	<p>to four hours. At it first meeting in early 1996, employee representatives to the Panasonic European Congress (PEC) were elected. There are no union appointed positions on PUCC although representatives are free to join a union if they wish. The Personnel Manager acts as secretary to the PUCC. The election of employee representatives is by a 'free ballot' (field technical staff are also eligible to vote) and all candidates must be permanent employees with a minimum of one year's service. Initially, employee representatives served three-year terms, although all subsequent employee representatives will serve two-year terms. The PUCC also has the power and authority to appoint an independent chair to facilitate the smooth running of the meetings, although s/he does not have the authority to contribute to discussions. All agenda items are forwarded to the Chair at least seven days before the meeting and the full agenda is circulated three days before the meeting. To assist in drawing up the agenda, the Chair convenes a previously nominated group comprising one management (normally the HR manager) and one employee</p>	<p>from across the group's UK operations. The elected representatives are voted in for a four-year period. The four union representatives are appointed for an indefinite period. In addition to these 22 voting members, there are three ex-officio, non-voting members. These ex-officio members are the Holdings Board Director, the District Official of the T&GWU, and the Personnel Director, who acts as Secretary to the Council. The Council elects an employee representative as the Deputy Chair for a two-year period, who acts as Chair in the absence of the Group Chief Executive. At least once a year, the Deputy Chair addresses the Board of Directors to communicate employees' views. Since restructuring, the Council constituencies are now based on teams based in a functional or departmental area, rather than on a tradition craft or professional basis. The Council has considerable autonomy in organising elections and the voting and nomination procedures.</p>	<p>by rotation. These meetings normally last two hours. There are a minimum of three and a maximum of 10 representatives, depending on the size of the casino. Regional Council - Every region also has an elected representative from each Casino site who meet with the regional manager, regional human resources adviser, and one general manager from the region, once every three months. There are three regions in the company: London/Essex with three sites; South East with seven sites; and North and South West, which have 13 sites between them. An elected casino representative collates and agrees the agenda with the regional manager and chairs the meeting. National Council - A national meeting is held twice a year attended by regional representatives (one from gaming, one from another department) from each region (a total of six), the national operations director, director of human resources, and one regional manager (on a revolving basis). The meetings are chaired by the national operations director.</p>
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			representative (this rotates between all employee representatives) to produce the final agenda from the items submitted.		
Resources and training	<p>Where deficiencies are identified, training is given by local HR staff. Some managers have also been given training in chairing meetings and on the latest statutory requirements. Most elected and union representatives undertake a three-day induction programme consisting of communication, interviewing, time management skills and business awareness. All local council representatives are given time off for briefings (one or half a day a month) with employees and also to carry out any other duties associated with council business. For group council representatives, as well as time off they are paid full travelling expenses for the twice yearly group council meetings. They are also paid for at least one day following each council meeting to communicate with their constituents, and given time off on other occasions to fulfil their council duties following agreement with their departmental director.</p>	<p>The Central Council has its own income, amounting to at least 1 per cent of the payroll (including the Partners' bonus). It also funds leisure activities and makes charitable donations. Training is provided to all representatives.</p>	<p>Employee representatives are given reasonable time-off to attend meetings (this is not stated formally in the PUCC constitution but is an accepted practice) and where necessary, pre-meetings or any other task required by PUCC, as well as time-off to discuss and report back to colleagues on issues discussed. The company also provides access to ACAS training programmes and equipment (for example email and meeting rooms etc).</p>	<p>Training for representatives consists of issues, such as operation of the business, financial matters, long-term business strategy, marketing etc. Each half year when the latest financial results are announced, an external trainer facilitates a discussion on financial issues. In addition, twice a year there is a development programme focusing on the operation of the City, how it works and the importance of maintaining shareholder value. However, one Councillor did indicate that a key challenge for representatives to is overturn the perception that it is a taking shop. This is due to employees having little understanding of the time and resources required when Councillors are not attending meetings.</p>	<p>The employee council representatives have access to basic facilities including telephone, fax, e-mail, computers, photocopiers and meeting rooms. They also attend a one-day training course (normally taken over two half-days) focusing on how to run meetings, making a point and presenting an argument, body language, how to prepare a meeting, and note taking. In addition, National Council representatives have access to health and safety issues and employment law training. Such training is not given to local representatives.</p>

	Local and group council representatives are given time off to brief their constituents and to carry out any other work associated with council, plus paid any travelling time.				
Negotiation and Bargaining	None	All issues including pay and conditions, redundancy. In practice agreement must be obtained. Chair can veto capital expenditure proposed if he/she regards as 'too dangerous' to Partnership's business interests. Local 'Branch Council' may deal with local grievances and issues.	PUCC does not have formal negotiation or bargaining powers. As an example, in relation to general pay and conditions of employment (including performance appraisal, systems of payment and staff planning) and organisational restructuring proposals, the PUCC is informed but has no input through negotiation into the final outcome.	None.	None. The senior Employee Council Co-ordinator suggested that 'the council has very little influence over basic salary'.
Union involvement	Group Council - two union appointees Local Council - decided on a local site basis (open ballot)	No formal representation although can contest open elections as Council Representatives.	There are no union appointed positions on PUCC although representatives are free to join a union if they wish. Management emphasised strongly that the company would rather deal directly with employees rather than unions or the PUCC. The AEEU has a single union agreement with Panasonic (UK) covering the six UK manufacturing plants.	Currently the T&GWU represents employees through the Joint Working Party arrangement involving management and union representatives on the lower grades 6 to 9 (around 340 employees). According to the trade union organiser, about 96 per cent of the shopfloor are union members (although office staff membership is very low at around 5 per cent). As well as the four ex-officio shop stewards on the Council, many of the representatives are also T&GWU	Management does not recognise any union. However, the T&GWU does have union members (mainly in the London region). T&GWU membership between 5 to 10 per cent of the workforce. According to the senior Employee Council Co-ordinator 'Management wanted the councils to be an alternative to unions. Management wanted a body that knew about the business and that they could trust rather than a third body, which could have its own agenda. The T&GWU action had little effect

				shop stewards, and thus involved in the negotiating forum (union representatives only). However, most issues discussed in union negotiations have been previously discussed in the Council.	outside London'.
Issues for consultation	Discuss matters relating to the structure, activities and performance of the group where these affect staff including, financial results and general trading and operational issues. Does not discuss individual issues such as pay, promotion or grievances.	All issues including financial information and performance, investment and company strategy.	The matters discussed at meetings include: company performance information; sales figures; health and safety issues (although there is a H&S committee, many issues are also discussed at the PUCC); canteen and sports facilities; technological and structural changes; employment issues (including staffing issues); government legislation (including new employment legislation); future company strategy; the salary review process (not to negotiate actual salaries but to discuss the methods and processes); and training and education. Individual grievances are not discussed unless it is considered by the PUCC as a company issue.	The constitution specifies that 'The Council is empowered to discuss matters connected with company policy and decisions that affect the employees' future, but not the day-to-day management of the business. The latter area is the responsibility of managers who must retain the fullest authority to achieve group objectives – subject to the already established routines of consultation'. There is no provision in the Constitution for employee only meetings to discuss agenda items or issues. The constitution further states that 'The Council, being concerned with policy, will be consulted and discuss matters at an early stage relating to: company objectives; company productivity; rules of conduct and discipline; amenities; training and development of the individual; recruitment; the company's investment policy; company	Any matter. The Regional Council meeting provides the opportunity to discuss issues arising at the Casino Council meetings, wider regional issues and to share information. The National Council meeting discusses company strategy and major issues in the business, and invites input from the regional representatives. It also provides the chairperson with the opportunity to float some of the issues that have arisen from the Casino meetings, review their progress and to examine whether changes are required. Recent issues have included: wages, job security, health and safety issues, matters concerning performance improvement, roster systems and hours of work, the company bonus scheme, working time requirements, multi-skilling, and performance appraisals.

				communications; human relations; trading activities; and company financial position'. Pay negotiations, other matters involving union negotiations or matters which may affect share price are specifically ruled out.	
Frequency of meetings	Group council meets twice-yearly; Local council meets once a quarter.	Central Council meets six times a year. Branch Councils meet six times a year. Local committees meet at store level five or six times a year.	Meetings are held every two months and last for approximately three to four hours.	The Council meets five times a year, with additional meetings as necessary (originally this was four times a year). In addition, the Board meets the Council on an informal basis, normally once a year for lunch and once prior to the Employees' Annual General Meeting which is held on the same day as the Shareholders' AGM. This gives Directors (and non-executive Directors) the opportunity to clarify and reconfirm issues raised by the management and allows a direct line of communication to representatives.	The Casino Council meets every month. The Regional Council meets once every three months and the National Council meeting is held twice a year.
Dispute and Conflict resolution	Outstanding matters are resolved within four weeks either by chair of committee or district/senior manager.	None specified.	None specified. However, PUCC representatives can represent individuals on grievance and discipline reviews.	None specified. However, in a recent restructuring exercise it was decided to establish a sub-committee to monitor and resolve disputes resulting from the subsequent compulsory redundancy programme. Individual representatives	None specified. Although council representatives can represent employees in disciplinary cases and grievance issues, this is not one of their specified duties.

				may represent employees on individual issues or grievances.	
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Appendix 3 (continued)

Summary of strategy, structure and processes of workplace employee representation

	Ciba Specialty Chemicals (UK)	South West Water – Pennon Group	News International	Eurotunnel (UK)
Industry	Chemicals	Water utility (Water & sewerage)	Media and Entertainment (Newspapers, Television and Motion Pictures)	Transport
Drivers for implementation and continued operation	The site has had a company council since May 1973. At that time, in the absence of any recognised trade union, its role was to act as the sole communications and representation channel for employees and managers. According to its early constitution, the company recognised that its success depended on 'teamwork, the co-operation of people, both individually and collectively by departments, to achieve the collaboration necessary to translate ideas through to sales'.	The main driver for the establishment of the Staff Council was the introduction of a company-based performance-related pay system in the 1990s. The former Nalco union (now part of Unison) did not participate in the performance-related pay process, thus SWW needed to introduce a mechanism of representation that could deal with such local issues. In addition, the previous Chief Executive (pre-1993) had a more conflictual style based on traditional notions of an 'us' and 'them' approach. It was suggested by current senior management he saw the rationale of setting up the Staff Council as a defence strategy and necessary due to union opposition.	In 1998, News International sought to expand its Employee Consultative Council (ECC) (which had been established in 1994 to provide representation for News International employees) into what can be described as an 'in-house union'. All unions had been derecognised in the late 1980s. Management indicated that this was an initiative that had come from its employees on the council and had staff support, quoting a staff survey carried out for it by Pricewaterhouse Coopers in November 1998. The forthcoming union recognition legislation was also considered by the Director of Human Resources as an important factor.	As part of an early policy choice to integrate its two workforces, the company council for UK-contracted employees was established in December 1992 which is broadly similar to the enterprise committee (or comité d'entreprise) under French legislation. According to management, the company's human resource policy systematically takes into consideration its bi-national balance, whether regarding staff allocation or the fixing of salaries and benefits. In addition, management would not recognise a union for employee representation. Before union recognition in 2001, the Company Council is the only representation at Eurotunnel.. After which the T&GWU was sole channel of representation over collective bargaining issues.
Stated objectives and aims	The company council constitution states: 'The company council acts as a forum for discussion of matters of common interest to the employees of the company. The council acts as a means of communicating ideas and opinions to the board, and allows the	As a means to consult (but not negotiate) with white-collar staff. As stated in the SC constitution, 'The Staff Council is the primary focus for our consultation arrangements and provides the opportunity for all employees through their	The Staff Association Charter states: 'The Staff Associations shall each have as a principal purpose the regulation of relations between workers and News International. The Staff Associations, through the Joint Executive Committee, shall accordingly conduct	Company's only communications forum. Three main aims: - to give information and consult on matters of common concern to employees - to be the only form of official employee representation (including bargaining and negotiation over

	<p>board to meet and consult with the employee representatives. The council aims to increase the understanding of the company's affairs by all employees. All sections of the company's employees should be represented on the council'</p> <p>The company council mission statement states that 'the role of the company council is to ensure all employees are treated fairly and that matters are dealt with appropriately. Our goals are to: promote effective two-way consultation between the workforce and management; support employees by providing a confidential service for those who request our assistance; improve working conditions in line with the chemical manufacturing sector; and promote a culture of harmonious teamwork throughout the Company that improves production and safeguards jobs'</p>	<p>representatives to influence and be involved in decisions which are likely to affect their interests. Specific objectives are to: encourage employee understanding, interest and involvement in business issues; improve the quality and timeliness of solutions to problems; improve communication; forum for employees to voice their opinions; enable employees to understand and make a contribution to company policies and decisions that affect them; and provide a forum for further development of shared values, with the view to improving understanding, motivation, commitment and performance within the company.</p>	<p>collective bargaining with Company representatives The Joint Executive Committee will be the representative body at national level to receive information and consultation on the evolution of work organisation, training of employees, major operational issues, development and promulgation of Company's legal obligations on subjects such as appropriate with the Joint Executive Committee and the relevant Staff Association where ten or more employees are proposed to be made redundant or when any department comprising less than ten employees is affected by proposed redundancies or restructuring'.</p> <p>In addition the Charter states, 'The Staff Associations shall also be a forum where staff ideas, concerns and issues are fully debated. They shall be the bodies through which Company decisions on major investment in plant and equipment will be communicated and shall be a primary means of communicating with employees on all matters relating to the status and conduct of the business. The Company takes its employees' ideas and suggestions seriously. The Staff Associations will be the bodies through which employees at every level can propose ways to help the business foster job creation and job security. The Staff Associations will be the bodies through which the Company works with employee representatives in a partnership designed to ensure the employees are treated fairly'.</p>	<p>pay and conditions) - and to manage the social and welfare budget equal to one per cent of payroll (approx. £250,000-£350,000 per year</p>
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Coverage	All non-management employees (including union members)	All white-collar employees (1,000 employees).	All employees at New International three UK sites (Knowsley, Kinning Park, and Wapping). While all employees are eligible and deemed to be members of the Staff Association electing body in the constituency in which they are employed, they have the right to opt out of this status if they wish to do so.	All non-management employees
Level of operation	One-tier model covering all sections at Ciba.	One-tier model. The original structure consisted of four consultative committees (one for each of the operational divisions and one for head office) with a percentage of the members from those committees being elected to the SC. However are a ballot, the SC it was considered to modify the structure to represent only white collar employees (1,000).	Two-tier model. Each plant (Knowsley, Kinning Park, and Wapping) has its own NISA. These three NISA are represented at national level by the News International Staff Associations Joint Executive Committee (JEC).	One-tier model covering all sections at Eurotunnel. In addition, it has European Works Council covering all Eurotunnel employees in Europe.
Constituency size	Each representative covers on average 70 to 80 employees.	Varies considerably depending on region and area.	Between 80 to 100 employees	Representatives and deputies represent between 75 and 150 employees in each area, which is geographically or functionally based.
Composition and representativeness	At present, there are a total of 32 employee representatives and an additional twelve deputies to provide assistance to the representative and to represent the constituency when the representative is unavailable for meetings. In production areas there are usually two representatives to cover all shifts. The representatives elect a full-time council leader from among the members on council for a period of three years. In addition there are three to four management appointments including the managing director, safety manager and one or two senior managers and directors. The chairperson is	14 elected members representing constituents from the various functions or from 'natural' communication groups within the company. There is only one elected representative per constituency. The chairperson is the Chief Executive or a nominated deputy, and the secretary is normally the Personnel and Services Manager. Other members of staff or managers who have a specialist contribution may also be invited. Representatives must be permanent employees of SWW and are elected for a three-year period.	The Kinning Park and Knowsley Staff Associations have eight representatives each, and the Wapping Staff Association has 17 representatives. The number of representatives to be elected to each Staff Association reflects the size and composition of the workforce. Elections for representatives are held every two years and only employees with at least one year's continuous service may stand for election. Representatives must also work (wholly or mainly) within the constituency for which they are standing. Management staff can also put themselves up for election. There are no limits on the number of terms an elected	One representative and one deputy are elected from each of eight constituencies on a joint ticket. Election is by secret ballot for a two-year period. All representatives and deputies should be permanent employees with at least one year service. They may, however, be full-time or part-time employees. There is a mix of employee representatives and deputies from each of the areas (total of 16 employee representatives) and senior management (Chief Executive or Chief Operating Officer and Director of Human Resources)

	<p>nominated from among the management representatives and holds office for a period of one year. Elections are held every March. Half of the representatives are re-elected each year for a two-year term. Constituencies are based on working units defined primarily by location and function. All representatives must have been employed by the company for at least 12 months. Elections are by secret paper ballot and are counted by the personnel manager, council leader and the company secretary. Turnout is normally low, between 25 and 35 per cent. Previously, elections were contested only half of the time. Management suggested that the difficulty in attracting volunteers could have been contributed to the perception that the Company Council lacked influence and was ineffective because it was excluded from pay negotiations.</p>		<p>representative may serve. All elections are by secret ballot. The election of chairperson and deputy chairperson is by secret ballot of all the representatives at each site. The chairperson at each of the three sites acts in a similar capacity to a general secretary in a union. They are also elected for two years and are eligible for re-election. The chairperson and deputy chairperson cannot be employed in the same constituency or area. The Joint Executive Committee (JEC) comprises the chairpersons and deputy chairpersons of the three sites plus three additional members elected from representatives at the Wapping Staff Association. The chair of the JEC is rotated every six months among the chairpersons of the NISA. No other members may become chairpersons. Each chairperson of the JEC is entitled to one day off a month and may if required liaise with either the General Manager, Operations or the Director of Human Resources to agree on additional time-off.</p>	
Resources and training	<p>Company Council leader is provided with an office, secretary and computer. The company also pays his yearly salary equal to his previous position in the company. Representatives are paid for their time if they are shift workers and if a meeting is taking place on their time off, although no additional travel costs are paid. In these circumstances, a minimum of six hour's overtime pay will be</p>	<p>The Staff Council representatives are provided with full email facilities and access. One of the early problems for the Staff Council was that no training was provided for representatives and management denied the facility to hold pre-meetings to discuss the agenda. This was later changed.</p>	<p>All representatives have up to one hour a day paid time-off when acting on Staff Association business or when representing a fellow employee in a disciplinary or grievance matter. Such time-off should be taken with the approval of the representative's immediate supervisor. In addition, if representatives are required to perform duties outside their normal working hours compensatory time-off</p>	<p>The CC is allocated a social and welfare budget equal to one per cent of payroll (approximately £250,000-£350,000 per year). This may include welfare support for needy families, money for trips away, nights out etc. It must be noted that the company council are trustees only. This money also provides for two employees and office and meeting accommodation and</p>

	<p>paid (which includes any travelling expenses). At present there is no provision for representatives to spend further time on council business, although most council business is done in normal company time. According to the Company Council Leader, for most representatives this can be up to six hours a week. Agenda meetings for employee representatives alone are held every two months in between the full company council meetings.</p> <p>All representatives have access to e-mail and, when required, secretarial assistance through the human resources department and function.</p>		<p>is given. There is also a right for reimbursement of reasonable travel expenses when required to travel to locations outside their normal place of work.</p> <p>Each chairperson of the JEC is entitled to one day off a month and may if required liaise with either the General Manager, Operations or the Director of Human Resources to agree on additional time-off.</p> <p>All Staff Association representatives are also required to participate in a minimum of two days' specialised training a year in addition to other training provided by the company.</p> <p>All representatives are given access to e-mail facilities on request and where representatives are not normally office-based, a work station is made available. Other vehicles for communication include: are notice boards, the Intranet, management briefings of employees, and the NISA page in the company newspaper.</p>	<p>facilities on site. Rules allow around 20 hours a month to be spent on council business by representatives and deputies, although this is not strictly enforced and is flexible according to issues. Minutes are publicised through noticeboards, newsletters and the company's internal computer mail system (including its intranet). In 1995, the company council was granted membership of the Industrial Society, and was the first works council ever to gain such recognition. It was stated in the council's 1995 information leaflet, 'What this means is our representatives can go on courses and get access to the most up to date advice about working practices, dismissal procedures, contracts of employment, maternity, paternity, health and safety'.</p>
Negotiation and Bargaining	<p>None. The GMB has sole representation on collective bargaining issues (ie pay and basic employment conditions).</p>	<p>There is no direct negotiation or bargaining powers. As the Head of Personnel stated, 'At the end of the day the Chief Executive has to make the key decisions. He uses the Staff Council to be better informed to make those decisions and to understand the impact of those decisions from the people on the sharp end, on the ground that deal with the consequences in getting it wrong'</p>	<p>Charter states that the NISA has collective bargaining rights over hours of work; rates of pay; benefits; and other terms and conditions of employment; To have training provided to them in their role as representatives of the employees; To have access to competent legal assistance; To have a procedure for final arbitration of collective disputes; To enjoy rights equivalent to those conferred by law upon an independent trade union in respect of all rights to information and consultation; To agree procedures generally for making the representative body fully effective in respect</p>	<p>Pay and conditions</p>

			of all the above matters and any other matter it is agreed with News International.	
Union involvement	<p>Since 1999, the GMB has had sole union recognition, and a partnership agreement at the Bradford plant. Before recognition was granted, the GMB had approximately 500 members; at the time of the study there were to be 800 members at the site.</p> <p>The partnership agreement signed in March 1999 highlights a number of issues. For example: both parties 'work together for the mutual benefit of the business and all those that it employs'; 'the company recognises the right of the GMB to recruit, organise and give guidance and assistance to its members at the Bradford site and agrees to give reasonable facilities for that purpose; the 'GMB agrees to work in tandem with the company council in improving two way communications and understanding of common objectives'; the company recognises the GMB as the sole trade union for collective bargaining and the GMB promises to train all its site representatives with the company giving 'reasonable time off with pay for the purpose'; the company encourages membership of the GMB and for 'new employees the company will arrange for the company council leader to meet with them and advise of the benefits of GMB membership'; union contributions will be deducted from salaries for those employees</p>	<p>In effect, initially the Staff Council replicated the consultative committee structure that existed before derecognition of the Nalco union (now part of Unison) but without any negotiation. Employees in SWW elect representatives from all levels to the Staff Council, which deals with matters of concern to all staff employees - both trade union and non-trade union members. While representatives are free to be union members, they are not union representatives. In practice the Staff Council covers mostly traditional white-collar employees comprising of around 1,000 employees. The 600 other employees (including road and street maintenance personnel, water treatment works and waste treatment works, mobile inspection personnel, and craftsman and electricians) are represented by as a single table bargaining unit of craft and industrial trade unions (consisting of the AEEU, T&GWU and GMB - see below for details). At present, there is no formal linkage between the Staff Council and the craft and industrial trade unions unit.</p> <p>It is management's intention that the Staff Council will be used as the mechanism for representation with union members as representatives. It is estimated by management that around 15 to 20 per cent of employees are union</p>	<p>There has been no recognised union at News International since 1988 after the long-running Wapping dispute which began in 1986. In that dispute, Rupert Murdoch (News Corporation Chairman) sacked around 5,800 print workers and derecognised trade unions when he moved production from Fleet Street in central London to Wapping in east London and to Kinning Park in Glasgow. This event was regarded as a turning point in British industrial relations. Management has estimated that there are currently 500 union members out of 750 production workers at Wapping. Out of the 1,000 journalists at Wapping, a significant majority are National Union of Journalist (NUJ) (previously to get a press card you needed to be a union member), Amalgamated Engineering and Electrical Union (AEEU) and Graphical Paper and Media Union members (GPMU), although management questions how many are active union members. However management concedes that membership is slightly higher than national trends.</p> <p>The Staff Association charter does not preclude membership of any other trade union. However, while a person may belong to another trade union they can not represent them for bargaining purposes.</p>	<p>No formal union involvement. Some informal union involvement through wage negotiations (T&G and ASLEF)</p>

	<p>requiring this to be done; and that the company and GMB have 'a common objective in using the process of negotiation to achieve results beneficial to the company and the employee'. Notably, the agreement does not have a 'no strike' clause.</p> <p>The majority of the representatives on the company council are union representatives, including the Company Council Leader.</p>	members.		
Issues for consultation	<p>With the exception of annual pay adjustments and individual grievances, at company council meetings the company discusses and consults over a wide range of issues which concern all employees or a large number of employees. These matters include: company financial results and other items from the board; health and safety; the performance-related pay system, holiday entitlements; transport to and from the site; car parking; and medical services etc⁸⁷. Annual pay adjustments (ie wages, salaries and other financial benefits) are negotiated in a separate committee drawn from six company council representatives (including the company council leader and union site representative), six managers, and the GMB Regional Organiser.</p>	<p>Under the constitution the Council is 'encouraged to discuss any appropriate subject' with the exception of issues relating to an individual's salary, and grievance or disciplinary matters. While not an exhaustive list, other issues may include: company performance, objectives and strategy; productivity and quality issues; human resource policies and procedures; systems for assessing individual performance; training and development; health and safety; terms and conditions of employment; formulation of staff rules and procedures; communication and participation methods; and special events.</p>	Any matter.	<p>As stated in the company council constitution, the company consults on all matters and issues of concern to employees. These issues include: all terms of employment; operational changes; shift rosters; workplace change; investment strategy; terms of employment; and financial and performance data, including but not limited to profits. In general, personnel issues and grievances are excluded from discussion, unless they raise issues which have implications for the workforce as a whole.</p>
Frequency of meetings	<p>Council meetings take place once every two months in work time and normally last two to three hours.</p>	<p>Meetings normally take place four times a year, although other special meetings may be called to discuss extraordinary matters affecting the</p>	<p>NISA normally meets monthly, although in the event of major issues it, may convene additional meetings every month. The chairpersons also</p>	Once a month

⁸⁷ Matters involving one or a small number of employees and departmental matters not previously brought to the attention of the management are not considered Company Council business.

				<p>thereafter they alternate between the Company and the JEC. However, the JEC/NISA may also call for a ballot for industrial action as stated in the Employee Relations Act. Individual council representatives can provide personal representation on individual issues such as individual grievances and disputes.</p>
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