



# Unions, Collective Bargaining and Employment Relations Project

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**This is the first bulletin of the TUC's *Unions, Collective Bargaining and Employment Relations* research project, an initiative supported by the Economic and Social Research Council. The TUC hopes to use the project to highlight the economic and social benefits of collective bargaining, and identify ways that collective bargaining can be promoted. This first bulletin provides some context for the project, and outlines the various studies and related activities that will take place over the coming months.**

## The purpose of the project

There has been a surge in public interest around 'employee engagement' over the past few years, particularly in government and business circles. By giving workers – via their trade unions – a formal say in the decisions that directly affect their working lives, collective bargaining was the pre-eminent form of employee engagement until relatively recently. Collective bargaining is perhaps still more effective than other forms of employee engagement, because as well as providing a line of communication between workers and managers, it is a procedurally fair way of setting the terms and conditions of employment and leads to greater transparency in managerial decision-making, which are important factors for workplace morale. But collective bargaining has not featured much in contemporary discussions around employee engagement in Whitehall, business schools and on the opinion pages, which have instead focused more on forms of engagement that do not necessarily involve unions. This partly reflects the long-term decline in the proportion of workers covered both by unions and collective bargaining, and unions in Britain and elsewhere have struggled to reverse this trend. The main aim of this project is to identify ways that unions can gain leverage to extend collective bargaining

coverage, and to show how this can potentially lead to better social, economic and employment relations outcomes.

## The decline of collective bargaining

A study looking at collective bargaining in Britain today needs to first acknowledge its declining influence. Collective bargaining was the main way of regulating employment relations and pay and conditions across the British workforce from the 1940s to the 1980s. This is still the case today in much of the public sector and in many European countries. But the number of workers covered by a collective agreement has fallen by more than half over the past 25 years. Around 70% of all workers had their pay and conditions covered by collective agreements in 1984, but this has fallen to 33%, and 18% in the private sector. National-level bargaining still exists among some large private firms, but multi-employer collective agreements in the private sector have all but disappeared. A large and growing proportion of workers have their pay and conditions determined by management at the workplace, with little if any input from unions. As the tables below show, the proportion of workers whose pay was affected by a collective agreement in 2009 was highest in the more 'protected' or profitable industries, and lowest in highly-competitive and low-profit

industries. Workers in smaller workplaces were less than half as likely to be covered by a collective agreement as those in larger workplaces.

**Employees covered by a collective agreement by industry (%), 2009**

Industry	%
Public administration and defence	69
Education	59
Electricity, gas and water supply	57
Transport, storage and communication	46
Health & social work	45
Financial intermediation	28
Manufacturing	24
Other services	22
Mining and quarrying	21
Construction	19
Wholesale, retail and motor trade	17
Real estate and business services	14
Agriculture, forestry and fishing	12
Hotels and restaurants	6
<b>All employees</b>	<b>32</b>

Source: Department for Business, Innovation and Skills, Trade Union Membership Statistics, www.bis.gov.uk

**Collective agreement coverage across various workforce categories (%), 2009**

<b>Male workers</b>	<b>Female workers</b>
31	35
<b>Full-time workers</b>	<b>Part-time workers</b>
34	29
<b>Permanent workers</b>	<b>Temporary workers</b>
33	26
<b>Union members</b>	<b>Non-members</b>
74	16
<b>Private sector</b>	<b>Public sector</b>
18	68
<b>Workplaces of less than 50 workers</b>	<b>Workplaces of 50 or more workers</b>
19	45

Source: Department for Business, Innovation and Skills, Trade Union Membership Statistics, www.bis.gov.uk

There are both political and economic explanations for the decline in collective bargaining. The Thatcher and Major governments encouraged the break-up of industry bargaining in the private sector, decentralised bargaining in public sector, and abolished the Wages Councils

that set minimum rates for workers in low-paid sectors. The Conservatives justified these moves by claiming that it would give managers more freedom to negotiate with individual workers directly, but it also allowed businesses to reduce labour costs. The last Labour government’s introduction of statutory procedures for union recognition may have prevented further haemorrhaging but, in the main, collective bargaining coverage continued on a downward trend after 1997.

Economic change arguably had a more significant impact on collective bargaining than political events. Employment in the industries where union membership and collective bargaining coverage were once among the highest (such as manufacturing and other heavy industries) has declined in recent decades. And unions have found it difficult to organise and collectively bargain in new workplaces and expanding industries, despite a renewed emphasis on organising and recruitment.

**The rise of latent conflict: The result of weakened collective bargaining?**

The decline in union density and collective bargaining has been accompanied by a decline in strikes and industrial action, but this has not necessarily led to better employment relations. As recent reports from the Smith Institute and Acas suggest, the benefits promised by the use of sophisticated human resources practices (which accompanied the shift away from collective bargaining), such as more harmonious workplaces, better communication between workers and managers, and greater workplace productivity, have not eventuated (if anything they have declined). Pay structures and workplace rules have also become less fair. While the number of working days lost to strikes has indeed fallen, employment tribunal applications have risen, and absenteeism and turnover remain relatively high. This suggests that workplace trust has not improved, and conflict and grievance have not declined, but simply become more individualised in their expression. The Acas report claims that new technology adds a potentially explosive ingredient into the mix: “Where there is no collective bargaining agreement, the danger is that

discontent could spill out into unofficial action. Social media ... has made the possibility of collective organising outside the formal trade union structures much more feasible. If there is no formal representation who does HR talk to? And how can they resolve the dispute?"

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## Collective bargaining: The current state of play

A growing gulf has emerged in recent years between people's earnings and their living costs, as average pay levels have not kept pace with inflation or productivity. The proportion of national income going to wages has fallen from 65% in 1975 to 55% today. Workers in many parts of the private sector accepted pay freezes in the wake of the financial crisis as an alternative to redundancy, and the government has imposed a two-year pay freeze in the public sector as part of its deficit reduction measures. The Governor of the Bank of England Mervyn King said in a speech in January that rising inflation and stagnant wage growth have squeezed the value of incomes to such an extent that people's pay is likely to remain around the same level in 2011 as it was in 2005 (in real terms). You have to go back to the 1920s to find a period where incomes have been stagnant for such a long period.

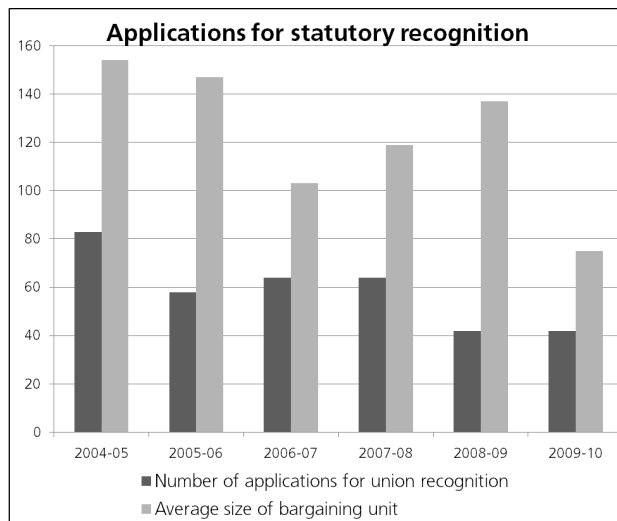
But clearly not everyone is feeling the pinch. In the Hutton Review of Fair Pay's interim report published in December, the decline of unions is cited as a factor contributing to "biggest rise in senior executive pay in modern British economic history", since unions have traditionally been a countervailing force against income inequality. Pay disparities are likely to widen as a result of the Coalition government's efforts to chip away at collective bargaining across the public sector. Recent months have seen the abolition of the School Support Staff Negotiating Body, the Agricultural Wages Board, and the Two-Tier Code. The last measure is likely to seriously erode employment protections for workers transferred from the public service to private contractors when the next wave of privatisation takes place.

The trend away from collective bargaining in the public sector looks set to continue. Local government employers are seeking to break away from their national agreement in order to reduce wages and weaken core conditions. There is evident sympathy within the government for the recent call from the Institute of Directors (which perhaps enjoyed more influence over government policy during the Thatcher and Major years than any other business lobby group) to end national bargaining in the health and education sectors. National collective agreements allow for much more flexibility and local variation than the Institute of Directors and certain Conservative MPs acknowledge, but the attempted break-up of these bargaining structures appears to be a serious prospect. This is likely to disproportionately impact the incomes of women workers, thereby directly undermining the pledge made in the Coalition agreement to "promote equal pay".

## Restoring order to a fragmented labour market: A new agenda for unions?

Market deregulation since the 1980s has placed greater pressure on business to reduce labour costs, which has meant that firms have become more inclined to outsource non-core functions to contractors. Company size has become smaller as a result, with large firms often directly employing only a fraction of those working on their sites. At the same time, restrictions on secondary boycotts and sympathy strikes make it very difficult for unions to mount multi-employer bargaining strategies. In the words of academic Paul Smith, the effect of these legal restrictions is to "confine workers' collective power within [business] units often irrelevant to the locus of decision making, and to prevent action against strategic points in the employer's supply chain or production system". All this has served to weaken unions' bargaining power, leading to growing disparities in pay and conditions across industries and even within worksites. Unions have found it increasingly difficult to establish or maintain collective bargaining arrangements in this environment.

The workplace-oriented, single-employer bargaining model that operates in Britain means that employers operating in competitive, non-unionised sectors effectively have an incentive to resist union organising and bargaining campaigns. This potentially makes union recognition drives counter-productive. Workplace-by-workplace organising and bargaining strategies are resource intensive and yield small – and increasingly diminishing – returns for unions in terms of membership, with the number of statutory recognition applications and the average size of bargaining units both falling by half over the past five years (see table below).



Source: Central Arbitration Committee, Annual Reports 2004/05-2009/10, [www.cac.gov.uk](http://www.cac.gov.uk)

All of these factors have made it particularly difficult for unions to organise and bargain on behalf of the growing number of ‘atypical workers’, i.e. workers employed on temporary, fixed term and casual contracts, or those indirectly employed through labour agencies or on a ‘dependent self-employed’ basis, who have fewer rights than directly engaged workers. The growth of indirect employment has been particularly problematic, as it has removed the clear line of legal responsibility normally present in clearly defined employer-employee relationships.

The last Labour government granted individual workers greater statutory employment rights in an attempt to compensate for weakening of

employment protection that accompanied the decline of collective bargaining coverage. However, for a system of individual employment protection to function effectively, workers must have knowledge of their rights, and the capacity to enforce them. State labour enforcement agencies have also found it difficult to reach workers employed on an atypical or indirect basis, thereby increasing the chances that they will become vulnerable to exploitation. This has been highlighted in a number of recent reports showing that systems of employment relations regulation based primarily on individual rights offer inadequate protection for many workers in what has become an increasingly fragmented labour market.

### Vulnerable work in a fragmented labour market

Vulnerable workers have been particularly affected by collective bargaining decline and labour market fragmentation. A 2010 report by the Equality and Human Rights Commission (EHRC) found that stiff competition and fluctuating demand from supermarket retailers placed significant cost pressures on suppliers, which contributed to a large growth in the use of temporary agency workers in the meat and poultry processing sector. The report argues the existence of a three-way employment relationship between businesses, labour agencies and agency workers diminishes accountability for compliance with labour standards. The EHRC made various recommendations for how problems with agency work could be addressed more effectively:

- Companies at the top of supply chains should be more responsible for improving practices among suppliers
- There should be independent ethical auditing to monitor labour standards down the supply chain
- Greater coordination between employers across the supply chain would allow for greater predictability of market fluctuations
- Labour standards need to be enforced more rigorously in order to dampen the competitive pressures that contribute to bad labour practices
- Stronger collective representation is required to provide greater protection for agency workers

The TUC Commission on Vulnerable Employment's 2007 report, *Hard Work, Hidden Lives*, also highlighted the problems of lax labour standards in low-paid sectors, where employers had little incentive to meet minimum standards because the risks of non-compliance were so low. The Commission found evidence that supply chain pressure were a major cause of bad labour practices: "Many bad employers know that they can build breaking the law into their business plans... Contracting bodies blame the contractors for poor staff conditions, while the contractors say that this is the only way they can win business... Businesses at the top of a supply chain have scope to ensure fair employment practices from their suppliers".

## Supply chains: A mechanism for union leverage?

Research by David Weil in the United States has found that greater consideration needs to be taken into account of the imbalance of power relationships between large firms and their suppliers for the regulation of labour standards to be effective. He suggests that the companies at the top of a supply chain – rather than those at lower tiers where regulatory breaches are more likely to exist – should be a key focus of standards enforcement, and that these companies should be made responsible for the standards of their suppliers. This strategy is likely to be most effective among businesses that are protective of their brand reputation, which have a high incentive to maintain good standards among their suppliers. Pressure from large businesses is commonly a root cause of bad labour practices among their suppliers. But Weil suggests that unions can theoretically promote good practice, by using consumer-focused strategies, or strategically targeting the supply chain, to pressure large firms to improve labour practices.

## Project work strands

The Unions, Collective Bargaining and Employment Relations project is supporting a number of research initiatives around the themes

discussed above to help unions to improve their collective bargaining coverage.

### **TUC/University of Cambridge study on union strategies in supply chains**

Despite the various constraints on extending collective bargaining in the current economic and political climate, there are a number of examples of where unions have used supply chain strategies to mount successful organising and bargaining campaigns in non-unionised sectors. A main focus of this research project will be to undertake a study of various cases where unions have pressured or secured bargaining agreements with large companies, in order to ensure that their suppliers comply with certain labour standards. The study will examine the extent to which such strategies can be replicated across different sectors, try to understand the ingredients for successful strategies, and assess the impact of successful strategies on employment relations, labour market conditions, and business performance. Chris Wright in the TUC's Organisation and Services Department will lead this study, and supporting research and analysis will be conducted by academic researchers and research students at the University of Cambridge.

### **Acas project on the diffusion of good work practices across supply chains**

As part of the Acas Research Partnership programme for 2010/11, researchers at Manchester Business School are conducting a study focusing on the factors influencing the diffusion of good work practices and employment relations between large businesses and their suppliers across the supply chain. The main interest of this study is on the specific role of firms and managers in this process, and the reasons why they may adopt good practice, but it will also examine the role of unions in influencing work practices across supply chains. The TUC is helping to support this study, as it will help to inform understandings of union strategies focused on the supply chain.

### **Guide to improving labour standards across supply chains**

With the support of the Union Modernisation Fund, various TUC departments are looking to

use the research from this project to produce a good practice booklet to assist unions and employers to improve labour conditions for UK workers in supply chains in both the public and private sectors, which will hopefully be published by December 2011.

### **Guide to organising and bargaining with international mechanisms**

Over the past decade or so, various mechanisms have been created or strengthened that give national unions greater opportunity to use international labour institutions to their advantage. These mechanisms (such as the Ethical Trading Initiative, International Framework Agreements, and the OECD Guidelines for Multinational Enterprises) potentially offer unions greater capacity to gain leverage over multinational firms and their suppliers, and also to coordinate their strategies trans-nationally, in order to counterbalance the capacity of firms to undermine labour through the threat of offshore relocation. Researchers at the Cardiff Business School are developing a guide (with the help of various TUC departments) on how UK unions can use these international mechanisms, and work with international actors (such as global union federations and the International Labour Organisation), to strengthen their organising and bargaining efforts both at home and abroad. The TUC is looking to host an event in summer 2011 to launch and promote the guide.

### **Journals round-up**

Each edition of the bulletin will contain a round-up of articles from recent issues of the main academic employment relations journals that union officials may find interesting. This edition focuses on some of the better pieces from last year.

There is an interesting article in the *British Journal of Industrial Relations* on the way that food processing firms in Britain and France use different labour management strategies in response to rising competitive pressure. The nature of food processing work is similar in both countries, in that it is repetitive and mainly low-

skilled. While British firms responded to increased competition by seeking to reduce labour costs, French firms instead aimed to increase production quality. In response to more intense competition in the industry, firms in Britain relied much more extensively on agency work, as a way of lowering costs (because agency workers had fewer rights and could be employed at lower rates than permanent workers). The French firms responded by seeking to raise productivity levels, by rotating workers through a wider variety of tasks to improve their range of skills. These different paths produced better outcomes for the French workers, who had higher pay, superior conditions, and better overall job quality than the British workers.

*Eve Caroli, Jérôme Gautié, Caroline Lloyd, Annie Lamanthe and Susan James, 'Delivering flexibility: Contrasting patterns in the French and the UK food processing industry', British Journal of Industrial Relations, 2010, volume 48, issue 2, pages 284-309*

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In *Work, Employment and Society*, Richard Sullivan questions whether 'membership density' is the most accurate measure of trade union strength and success. He argues that union power can come not only from the workplace, but also from broader society. Density solely measures the labour market power of unions without acknowledging the broader social influence that they can exert, for instance, by organising mass protests, mobilising members to vote in general elections, and campaigning in coalition with other community groups. Since union density levels may be a less appropriate gauge of union power in the context of weak regulatory support for collective bargaining (as is currently the case in Britain and the United States), Sullivan calls for a broader understanding of union power that encompasses the social movement role of unions.

*Richard Sullivan, 'Labour market or labour movement? The union density bias as barrier to labour renewal', Work, Employment and Society, 2010, volume 24, issue 1, pages 145-156*

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The same issue of *Work, Employment and Society* contains an article by Melanie Simms and Jane Holgate in which they claim that the use of different organising strategies across the union movement indicates a lack of consensus about the broader purpose of organising. They argue that British unions see organising as a “toolbox” of practices and tactics that they can pick and choose from to meet any number of short-term goals, even if these practices and tactics are not likely to succeed in certain scenarios. Different unions “have developed strategies that reflect their own particular contexts, histories, backgrounds and politics”. This produced “very different ideas ... about the purpose of that organising investment and activity” that are often removed from the notion of “worker self-organisation”, which the authors claim should be the central purpose of organising if union renewal is to be successful.

*Melanie Simms and Jane Holgate, 'Organising for what? Where is the debate on the politics of organising?' Work, Employment and Society, 2010, volume 24, issue 1, pages 157-168*

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Sonia McKay and Eugenia Markova of the Working Lives Research Institute have an interesting piece in the *Industrial Relations Journal* about the reasons for the use of agency workers based on interviews with employers and labour agencies. While labour agencies claim that firms use their services to engage workers that are more flexible than directly employed workers in the tasks that they perform, the employers themselves say that they use agencies workers to avoid making their staff permanent (in effect, to reduce labour costs), as well to meet fluctuations in their production schedules.

*Sonia McKay and Eugenia Markova, 'The operation and management of agency workers in conditions of vulnerability', Industrial Relations Journal, volume 41, issue 5, 2010, pages 446-460*

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## Project contacts

The members of the Unions, Collective Bargaining and Employment Relations project steering committee are:

- Professor William Brown, Faculty of Economics, University of Cambridge
- Alex Bryson, Senior Research Fellow, National Institute of Economic and Social Research
- Gill Dix, Principal Research Adviser, Acas
- John Forth, Research Fellow, National Institute of Economic and Social Research
- Professor Edmund Heery, Cardiff Business School
- Professor John Kelly, Birkbeck, University of London
- Paul Nowak, Head, Organisation and Services Department, Trades Union Congress
- Carl Roper, National Organiser, Trades Union Congress
- Chris Wright, Fellow, Faculty of Economics, University of Cambridge, and ESRC Placement Fellow, Trades Union Congress

For a fully referenced version of this research bulletin, or for questions relating to the project, please contact:

Chris Wright, ESRC Placement Fellow, Organisation and Services Department, Trades Union Congress, Congress House, Great Russell Street, London WC1B 3LS.

Email: [cwright@tuc.org.uk](mailto:cwright@tuc.org.uk). Phone: 0207-467-1218

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## **Roundtable – The Future of Collective Representation, 23 March**

The TUC is hosting a roundtable at Congress House on Wednesday 23 March from 10.00 to 16.30 as part of its joint research project with the Economic and Social Research Council on Unions, Collective Bargaining and Employment Relations.

The roundtable will bring together union officials, academics, and representatives from organisations such as Acas to discuss the challenges and opportunities for unions and collective employment relations in the current economic and political climate.

If you would like to attend, please contact Zoe Molyneaux at [zmolyneaux@tuc.org.uk](mailto:zmolyneaux@tuc.org.uk) or on 0207-467-1273. Places are strictly limited and will be allocated on a first come, first serve basis.

### **Programme – TUC/ESRC Roundtable, The Future of Collective Representation, Congress House, Wednesday 23 March (subject to change)**

Introduction (10.00-10.15): The TUC/ESRC Unions, Collective Bargaining and Employment Relations project (Chris Wright, TUC and Faculty of Economics, University of Cambridge)

1st session (10.15-11.45): Collective employment relations – Past, present and future

Chair: Kay Carberry, Assistant General Secretary, TUC

- Understanding the reasons for the decline of collectivism (William Brown, University of Cambridge)
- The impact of recession and austerity on collectivism abroad: What are the lessons for the UK? (Lionel Fulton, Labour Research Department)
- The current state of play in collective bargaining (Paul Nowak, Head of Organisation and Services, TUC)
- Looming developments in public sector bargaining (Christina McAnea, National Secretary, UNISON Education and Children's Services)

2nd session (12.00-13.15): The challenges of a fragmented workforce

Chair: Gail Cartmail, Assistant General Secretary, Unite

- The growth of low-paid work and atypical and how to deal with it (Damian Grimshaw, University of Manchester)
- Responding to the rise of unorganised conflict (Peter Harwood, Chief Conciliator, Acas)
- Non-union representation, and what it means for unions (Edmund Heery, Cardiff Business School)

3rd session (14.00-15.30): Innovative union strategies

Chair: Roger McKenzie, Assistant General Secretary, UNISON

- Union responses to self-employment (Steve Murphy, Midlands Regional Secretary, UCATT)
- Unions and the regulation of occupations (Maria Koumenta, Oxford Brookes University)
- The use of corporate codes to influence good labour practices (Annie Watson, Ethical Trading Initiative)
- Opportunities for reforming collective bargaining regulation (Keith Ewing, King's College London)

Final session (15.30-16.30): Panel discussion on the future of collective representation

Chair: Alex Bryson, National Institute for Economic and Social Research

- Frances O'Grady (TUC Deputy General Secretary), John Kelly (Birkbeck, University of London) and Robert Taylor (author and journalist)