

Good Work and Worker Voice: *A Provocation*

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About the Work Foundation

The Work Foundation is the leading think tank for improving work in the UK. We have been an authoritative, independent source of ideas and analysis on the labour market and the wider economy for over a hundred years.

As the pace of economic change continues to disrupt the ways we work and do business, **our mission is to support everyone in the UK to access rewarding and high-quality work and enable businesses to realise the potential of their teams.**

To do this, we engage directly with practitioners, businesses and workers, producing rigorous applied research that allows us to develop practical solutions and policy recommendations to tackle the challenges facing the world of work.

We are part of Lancaster University's Management School, and work with a range of partners and organisations across our research programmes.

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Foreword

This paper represents one in a series forming the Work Foundation's Centenary Provocation Papers. They were developed as part of the Work Foundation's Celebrations to mark 100 years specialising in understanding developments in the world of work. Each were produced during 2019, before the onset of the Covid-19 crisis that has engulfed countries around the globe. At the time of publication, it is still too early to say what the longer-term impacts of the crisis will be, nor how the world of work will change as a result. Nevertheless, each of the papers provide a range of invaluable perspectives on the challenges facing workers, businesses and policymakers in the UK at the end of the second decade of the 21st Century. The papers will also help to shape priorities for the Work Foundation's future work programme in the years to come.

When the Work Foundation became established as the Industrial Welfare Association, at the end of the First World War in 1919, it set out its core purpose and mission. Its goals were to:

- study the most pressing employment challenges of the day
- design schemes to support better employee welfare and working conditions for all, and
- build opportunities to exchange views and share experiences through meetings, conferences and communication activities.

Of course, the world of work has changed dramatically since then. We have more people in work than ever before, lower rates of unemployment and higher earnings. This is in part helped by improvements in labour market regulations and employment standards, such as the introduction of the National Minimum Wage and, more recently, the National Living Wage.¹ But, a focus on enhancing employment conditions for people at work is still as fundamental as it ever was. Furthermore, there are also similarities and common threads from the past that can help offer insights about the future. By drawing on what we have experienced in the labour market, this presents the potential to extract valuable practical lessons about what has or has not worked, from which we can learn.

The Provocation papers have provided a unique opportunity for the Work Foundation to revisit with its partners what progress has been made to restore different aspects of Good Work in a modern economy and how we can continue to demonstrate its value, in challenging inequality and driving more inclusive growth in future. In particular, we have looked at what can be done to resolve the same thorny employment issues that plagued policy-makers, practitioners and business 100 years ago to create more *Good Work for all*. Last year, we commissioned 4 papers exploring topics aligned to the Work Foundation's strategic themes around Good Work. These themes have drawn heavily on the Work Foundation's long track record and existing evidence base, but have also been shaped at the launch event for the Work Foundation's new strategy in 2016 - Shaping the Future of Good Work² and the subsequent evolving work programme³. Consequently, the current debate and hence associated *call to action* has aimed to cover:

- **High performance working:** the importance of better management practices to improve productivity through people and their talents. This means exploring how to create the conditions for continuous improvement through a more empowered workforce with an effective employee voice. Mechanisms to

¹ ONS (2017) *UK Labour Market Statistics*

² <http://www.theworkfoundation.com/events/shape-the-agenda-of-good-work/>

³ <http://www.theworkfoundation.com/wf-reports/>

drive better management practices and workplace innovation across industries and key business communities have been covered by Peter Totterdill in his paper, *"Are we really serious about securing enhanced productivity through our people?"* In turn, David Coats deals specifically with issues around how to achieve a stronger worker voice in a modern economy, in his paper *"Good Work and the Worker Voice"*;

- **Skills and progression:** supporting better skills development and use. Some of the current challenges here have been taken up by Paul Sisson in his paper, *"Making Progress? The challenges and opportunities for increasing wage and career progression"*; and
- **Equality:** action to tackle growing inequality in the labour market and what can be done to encourage opportunities at work for all. Anne Green has embraced some of these issues in her paper, *"Spatial inequalities in Access to Good Work"*.

A closer focus on each paper provides a chance to understand more fully some of the current and future challenges ahead. David Coats' paper aims to assess the nature of the worker voice today and the extent to which people still have a means to communicate their views and influence issues that affect them at work. An effective employee voice matters as much today as it ever did. While its form and methods may change over time, crucially, it ensures that employees are considered in critical workplace developments, covering a range of issues from pay, employee benefits and health and safety to broader concerns of equality of opportunity, working methods and access to learning and progression. If implemented well, employee voice is vital not only to improving people's experience of work, but to enhancing the performance of the wider organisation. The rationale for such an assessment therefore is to review how employee voice has changed over time, with a view to maintaining a strong role in the future. On one reading, there is a perception that the opportunities for employees to have a voice are more restricted than was the case a century ago. This is in a large part due to the changes in the labour market: not least the transition from manufacturing to a service based economy; a reduction in union membership and collective bargaining coverage; increasing diversity of the workforce; and changes in management practices. In the context of increasing divisions in the labour market, growing inequality and more precarious employment, such a trend would be of concern.

That said, in a context of Matthew Taylor's recent review of modern employment practices, and with Good Work now becoming a major part of the national, public policy agenda and discourse, this is a good time to also reflect more closely on developments around the employee voice at work. David's paper considers the core aspects of the debate. Having first considered the meaning of employee voice and changes compared to the past, David reflects on the strength of voice to a modern UK workforce. In the light of important policy attempts nationally, across the UK, to acknowledge Good Work, as seen for example with the Fair Work Convention in Scotland, the Fair Work Commission in Wales and the Good Work Plan in England, David outlines a way forward. His paper concludes with some outline proposals for changes to public policy, employer practice and trade union strategy in an attempt to offer some concrete steps to ensure workers actually do have a voice in practice, and we move beyond theoretical arguments and principles for change.

Lesley Giles and Heather Carey
Associates at the Work Foundation, Spring 2020

1. Discussion

Introduction and purpose

In accepting trade union rights and freedoms, we are doing no more than accepting, in the industrial sphere, the basic principles of our society.

Alan Fox (1966)

The purpose of this paper is to offer an assessment of worker voice today and make some outline proposals for changes to public policy, employer practice and trade union strategy to optimise workers' participation and contribution to a modern economy.

Of course, this terrain is inevitably contested. Objections will be raised to both the case for reform and the measures proposed. Nonetheless, as will become clear when we review the evidence, it should be a matter of consensus that the UK has a problem and that the status quo cannot be sustained.

Matthew Taylor's recent review of modern employment practices, to which the government has responded in their *Good Work Plan*, represents an ostensible opening of the political argument, creating space for constructive engagement between parties, groups and organisations that have, hitherto, offered very different visions of what constitutes a "good" labour market. In recent times the political right has been motivated by hostility to regulation and collective action whereas the political left has sought to redress the balance between capital and labour. It would be premature to judge whether this opening will lead to better outcomes or a modernised workplace settlement. Assuming that there is *some* agreement on the nature of the policy questions to be answered, government, employers and trade unions all bear a heavy responsibility for constructing responses that can stand the test of time. Successfully implementing new arrangements will depend on the enthusiastic support of all parties, a degree of patience and willingness to compromise.

Despite the apparent emergence of an embryonic, post-Taylor, policy consensus, there is some evidence to suggest that events are still in a state of flux. On the one hand, the government is committed to Good Work and the levelling up of economic opportunities in less prosperous parts of the economy. On the other, there remains an ideological commitment to deregulation (yet another red tape challenge has been announced) and a desire to secure a high level of divergence from the European Union (EU) post-Brexit. This is especially important in relation to workers' rights, where most of the statutory provisions currently in force are derived from EU directives. Some of the policy options considered later in this paper demand a high degree of continued regulatory alignment, not least the proposal that the patchwork of universal rights to workplace information and consultation should be consolidated into a coherent body of law.

Arguments for voice: Principled and Pragmatic

A useful starting point for this discussion is to consider why voice in the workplace should matter at all. After all, workers sign contracts of employment in the expectation that they (and their employers) will observe the legal proprieties and most contracts say nothing about the importance of worker voice. Furthermore, there is a widespread view embraced by some employers and government ministers that managers must be able to manage without being deflected or distracted by considerations of industrial democracy.

The best response to this argument is to recognise that *the rights we hold as citizens are just as relevant in the workplace as they are in the wider world*. The ability to associate with people of like mind, to speak up, be heard and receive a reasoned response are all constitutive of what it means to live in a democratic society. That is why the rights to form and join trade unions are reflected in the UN's Universal Declaration of Human Rights, the European Convention on Human Rights, the EU's Charter of Fundamental Rights and the core conventions of the International Labour Organisation.

A more popular justification for *worker voice is pragmatic* rather than principled, suggesting that *employers need to secure the enthusiastic engagement of the workforce to achieve high quality outcomes* and sustainable productivity growth. The difficulty with this stance, however, is that it stands or falls by an empirical test. Does worker voice deliver higher productivity or not? As Richard Freeman and James Medoff argue in their classic *What do Unions do?* (Freeman and Medoff 1984), worker voice can be good for productivity, bad for productivity or have no impact at all on productivity. It all depends on the quality of the relationship between the employer and the workers' representatives. The remainder of this paper rests on the intellectual foundation that the *arguments of principle are more persuasive than the pragmatic or instrumental arguments*. The most important question addressed in this paper is whether rights to voice are adequately respected in the UK and if not, then *what policy measures must be taken to ensure that theoretical rights become a practical reality?*

Worker voice in the UK

Any consideration of the state of worker voice in the UK presents us with a paradox. In formal terms, workers have more rights to be informed and consulted about changes in their workplace than at any time in the past and most of these rights are derived from EU directives (Table 1). Moreover, an enthusiastic trade union campaign persuaded the 1997-2010 Labour government to establish statutory rights for trade unions to secure recognition for collective bargaining, where this is supported by a majority of the workforce. But, very little use has been made of these arrangements and the number of workers affected is tiny. Despite the high level of legislative activism, the opportunities for the practical exercise of worker voice are almost certainly more restricted than was the case a century ago.

Universal rights: The role of the EU

The rights established by the various EU directives are intended to ensure that *workers are participants in the process of workplace change* rather than victims of events beyond their control. These arrangements have been introduced *sotto voce* and with a distinct lack of enthusiasm by governments of all political colours, leaving the majority of workers (and some employers) in ignorance about the opportunities for worker voice. The rights are exclusively reserved for trade unions where there is recognition for collective bargaining, but

in all other cases, which means across most of the private sector, workers can elect representatives to be informed and consulted, often with a view to reaching an agreement with the employer about the appropriate course of action. With the exception of the Information and Consultation Regulations 2004 and the health and safety measures, *these rights are triggered episodically*, where particular events take place (a business transfer, impending redundancies, the desire for more working time flexibility). The UK has no institutions comparable to the works councils found elsewhere in continental Europe, which are able to engage in constructive dialogue with employers on the full range of workplace issues.

Table 1 : Universal rights to worker voice in the UK

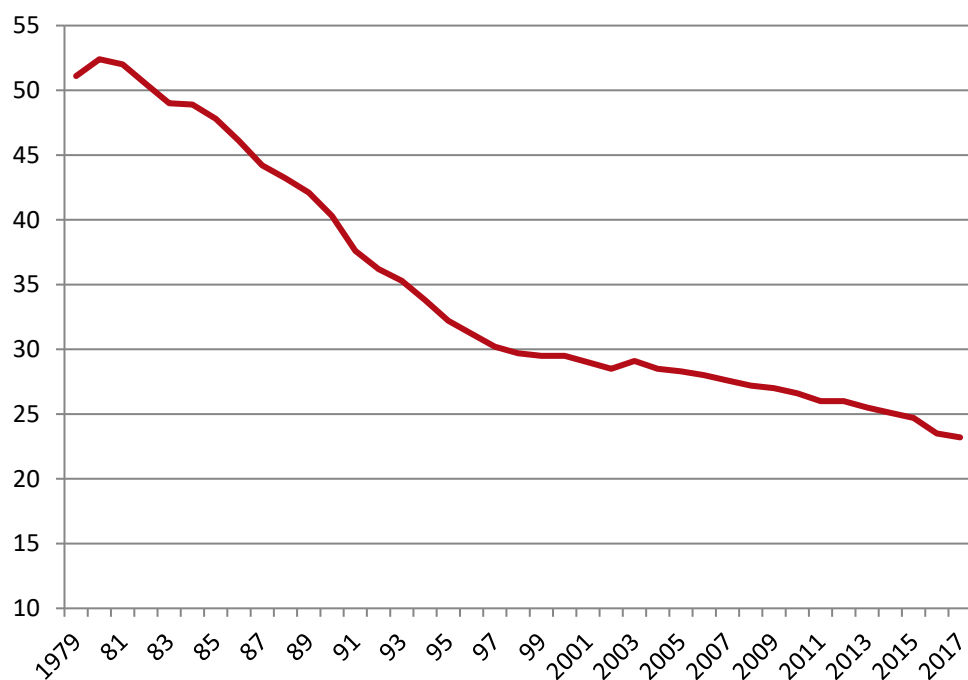
Statutory Provision	Extent of rights
Collective redundancies	Information and consultation with a view to reaching an agreement on: <ul style="list-style-type: none"> - Avoiding the redundancies - Minimising the numbers affected - Mitigating the consequences – including the level of compensation
Transfers of Undertakings (2006 regulations as amended in 2014)	Information and consultation with a view to reaching an agreement on: <ul style="list-style-type: none"> - social economic and legal implications for the affected employees - action that the transferor employer plans to take - action that the transferee employer plans to take
Working Time Regulations 1998	The regulations contain a range of provisions on the length of the working week, night work and shift work. Employers can secure the flexible implementation of these provisions, or “derogations” as they are known, by agreement with workers representatives – or in some cases by agreement with workers individually
Health and Safety at Work	In non-union workplaces, workers can elect “representatives of employee safety” to vindicate the rights and undertake the responsibilities specified in the Health and Safety at Work Act 1974 and associated regulations.
Information and Consultation of Employees Regulations 2004 (ICE)	The regulations contain default provisions, establishing a framework for consultation in non-union workplaces where alternative arrangements have not been agreed, in the following terms: <ul style="list-style-type: none"> - <i>Information</i> about the employer’s strategic plans for the business. - <i>Information and consultation</i> about medium term workforce planning any likely threats to employment and the remedial action to be taken. - <i>Information and consultation with a view to reaching an agreement</i> on significant changes to work organisation or contractual relations.

Trade union voice

The *decline in union membership and collective bargaining coverage* is, arguably, the most momentous change in the British labour market over the last forty years. It is a commonplace to refer to the shift in employment from manufacturing to services, from full-time to part-time work and from a male dominated to a more gender balanced labour market. But, it is at least arguable that the decline of organised labour outstrips all of these other developments in importance.

In 1979 more than half of all employees were union members and more than three in four had their terms and conditions determined by a collective agreement (Figure 1). It is worth noting the distinction between membership and collective bargaining coverage because while the first is obviously important for legitimacy and effectiveness, the second records the reach of trade unions across the economy and is a more accurate indicator of power and influence. By 2017 union membership had fallen to fewer than one in four employees (23%) and collective bargaining coverage had reached a similar level (26%). This represents not just the headlong retreat of the union membership tide, which can be observed in other countries too, but a wider reduction in impact. Indeed, the UK stands out in Northern Europe as the country with the lowest coverage of collective agreements.

Figure 1: Trade union membership density 1979-2017 (% employees)



Source: BEIS, Trade Union Statistical Bulletin

How strong is worker voice in the UK?

In his analysis of the 1990 Workplace Employment Relations Survey (WERS), undertaken at a time when union members still accounted for two in every five employees, Neil Millward made a striking observation.

Britain is approaching the position where few employees have any mechanism through which they can contribute to the operation of their workplace in a broader context than that of their own job. There is no sign that the shrinkage in the extent of trade union representation is being offset by a growth in other methods of representing non-managerial employees' views. There has been no spontaneous emergence of an alternative model of employee representation that could channel and attenuate conflicts between employers and employees

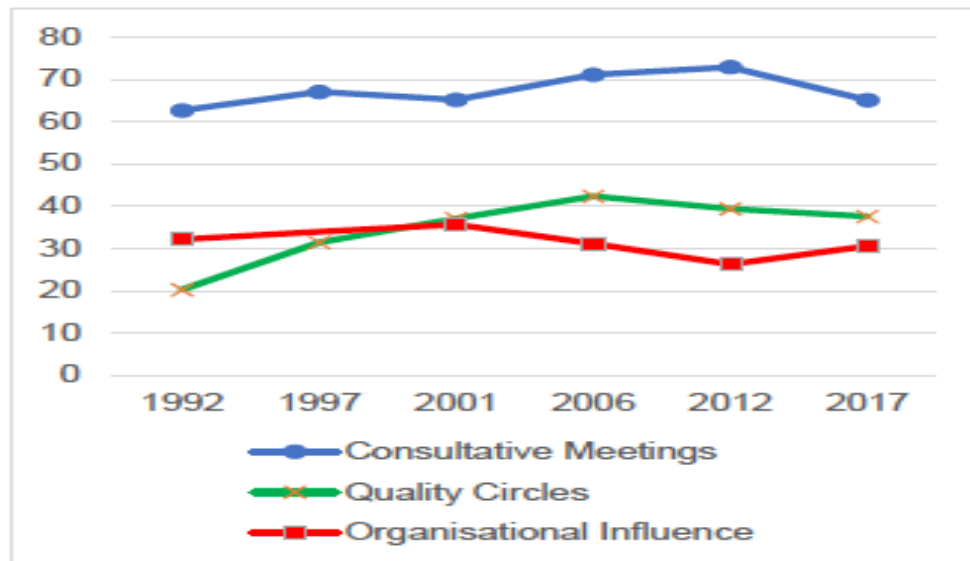
Millward, 1994

Seventeen years later WERS 2011 confirmed Millward's conclusion. Joint consultation through formal mechanisms was a minority pursuit. Indeed, fewer than one in ten workplaces had a joint consultative committee in operation, bringing together workers representatives and managers to discuss the problems of the day. More disturbingly, perhaps, almost two thirds of employees were disappointed by their level of involvement in workplace decision making and half of all employees said that managers could not be trusted to keep their promises (van Wanrooy 2013).

The HR profession has invested much time and energy in promoting employee engagement over the last fifteen years. There has been a government sponsored task force, *Engage for Success*, and a good deal of promotional activity. For a brief period the Chartered Institute of Personnel and Development compiled an employee engagement index, but this initiative was abandoned when it became clear that the level of employee engagement stubbornly refused to rise. The most recent survey, conducted in 2014, showed that barely two in every five employees were engaged, with the majority wholly indifferent to the blandishments of their HR department (CIPD 2014). Around one in twenty employees was actively disengaged, having apparently made industrial sabotage their mission.

One of the critical indicators of engagement is whether employees are willing to offer extensive discretionary effort. In other words, are they willing to "go the extra mile", undertaking tasks with enthusiasm that are above and beyond contractual requirements. A useful source of data is the Skills and Employment Survey 2017 (SES), which is part of a series that began in the early 1990s. The SES records a fall in discretionary effort over time, especially in the private sector (Green et al 2018). Moreover, this fall in discretionary effort has taken place in a context of more extensive employer controls over the organisation of work, falling autonomy and task discretion, and an increase in work intensity (Green et al 2018, Gallie et al 2018).

Figure 2 Trends in organisational influence 1992-2017 (% employees)



Source: SES 2017

Consistent with the findings from the WERS series, the SES found no increase in effective organisational participation over 25 years, despite the emphasis on employee engagement over this period. The researchers examined the extent of quality circles and consultative meetings, both of which have fallen in usage, alongside a composite measure of organisational influence, which again showed no significant change over the period (Figure 2). At first glance, it seems that there was an increase in organisational influence between 2012 and 2017 *despite* the decline in consultative institutions. This is explained, however, by the fact that those organisations valuing organisational participation were making more effective use of these arrangements than was previously the case. While sixty-five per cent of those surveyed reported the use of consultative meetings, only thirty per cent believed they could influence organisational decisions affecting their work – the same result as that found in WERS 2011 (Gallie et al 2018). The conclusion is clear: there had been no significant improvement at all over a six-year period; no more voice overall, but slightly more effective voice in the minority of workplaces where it exists.

The UK's productivity gap with other major economies has been well-documented elsewhere and will, if not addressed affect living standards and overall prosperity (BEIS 2017). Part of the productivity story is about investment, skills, innovation, entrepreneurship and competition. But what happens inside the workplace, especially in the context of mechanisms to support employee engagement and participation also matters too. Much innovation is incremental rather than transformational and depends on suggestions from workers about how to do their jobs more effectively. The SES found a relatively weak level of workplace innovation, with fewer than one in five workers making successful proposals for positive change in their workplace (Felstead 2018). Moreover, the conditions under which workers were encouraged to contribute appeared to be weakening: lower autonomy; less supportive management; more intrusive or less useful systems of performance management and appraisal; and less effective worker voice.

Results from the UK Employer Skills Survey 2017 (ESS) confirm the WERS and SES findings (Winterbotham et al 2018). Only 15% of UK businesses provided a means to consult with employees, and only 11% consulted

with trade unions. Other findings from the ESS endorse more general concerns about the quality of management⁴ and the growing consensus that the productivity problem and poor utilisation of skills is a result of a significant and persistent *management deficit* which then drives *an employee deficit*. For example, only 9% of businesses across the UK have embraced the full range of “high performance” practices that emphasise the importance of employee participation, both individual and collective (Winterbotham et al 2018, UKCES, 2009). Indeed, the consensus today is that employers are far more likely to select *a la carte* from the high performance menu, with piecemeal implementation and disappointing outcomes. Initiatives are adopted and then dropped with almost faddish enthusiasm with effects that are often as much negative as positive (Millward 1994, Godard 2004, IPA 2016, PLG 2016).

Some employers have sought to use a range of financial participation initiatives to boost employee engagement and productivity – share ownership schemes and pay linked to organisational performance are now ubiquitous in the private sector. A major study using data from the USA and the UK suggests that such schemes invariably have an immediate impact on productivity, but sustained effects depend on the integration of these arrangements with effective approaches to worker participation (Kruse, Freeman and Blasi 2010). Once again this highlights the need for complementary policies and highlights the indispensable role of independent worker voice. It also raises important questions about the capability of managers to engage with workers’ representatives and create high trust organisational cultures.

The decline of effective worker voice institutions in the UK has also had a negative effect on the link between wages and productivity. In conventional economic theory, rising wages depend on rising productivity and exemplify the principle that employers will share the fruits of growth with their employees. What we have learned over the last forty years, however, is that the process is not automatic and the balance of power between capital and labour matters (Piketty 2013). The Resolution Foundation, for example, have documented how wage growth for all those on median earnings and below became disconnected from productivity growth in the early 1990s (Pessoa and van Reenen 2012, Commission on Living Standards 2012). Those countries that had preserved the coverage of collective bargaining, despite union membership decline, experienced a much weaker delinking of pay and productivity (Bailey et al 2011). From the workers’ standpoint, or at least for anybody below the middle of the distribution, the sense of unfairness is palpable – a falling back throughout the 1990s and the early 2000s when productivity was growing quite rapidly, followed by stagnant wages or sluggish wage growth in the wake of the global crisis. Any government concerned to ensure that all parts of the community benefit from economic growth must recognise the importance of labour market institutions (like unions and works councils) in securing inclusive prosperity.

⁴ See BEIS’ business productivity review

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/844506/business-productivity-review.pdf

2. Conclusions and Future Options

Good jobs for all: The need for an integrated approach

We observed at the outset that proposals for change will be contested and the conversation about worker voice has borne a closer resemblance to trench warfare than a quest for consensus. Put crudely, the discussion has quickly degenerated into repeated sloganeering: “repeal all the anti-union laws” on the one hand and “deregulate the labour market” (or at least no more regulation) on the other. Exchanges of this nature are obviously disappointing, but they also betray a peculiarly British parochialism and a lack of engagement with international debates about employment relations and labour market policy. The conversation is stuck in an early 1980s groove while the international policy consensus has moved on.

The OECD, for example, in their *Jobs Strategy* published in December 2018, focus on *inclusive prosperity and high quality employment for all*. Their conclusion is clear:

Countries with policies and institutions that promote job quality, job quantity and greater inclusiveness perform better than countries where the focus of policy is predominantly on enhancing (or preserving) market flexibility. In other words, it is necessary to combine policies that encourage economic growth with policies that foster inclusiveness and protect workers. Thus, a whole-of-government approach is needed

OECD 2018

Trade unions are specifically identified as institutions that have a role to play in promoting high quality employment. The importance of an *integrated approach* also represents a welcome change that emphasises the importance of *co-ordinating worker voice*, innovation, industrial, regional and social security policies. These matters are beyond the scope of this paper but the remainder of the discussion should be interpreted in that context. Most importantly, perhaps, for the UK the *Jobs Strategy* directs ministerial attention to the quality of employment beyond the limits of the national conversation to date. It suggests that any effort to secure inclusive prosperity and good work for all demands both ambition and experimentation, qualities that have been largely absent in recent times.

No doubt the UK government would argue that their industrial strategy provides the basis for a strategic, long-term, whole of government approach (BEIS 2017). But we have already observed the tensions in current policy (“levelling up” v. regulatory divergence) and the OECD is clearly aiming at something close to the notion of *flexicurity* developed in the Nordic countries and the Netherlands in the period before the crisis of 2008. What we have seen so far is that the UK has major institutional weaknesses (particularly, in relation to worker voice and skills), can create lots of jobs but leaves many people, including those in mainstream employment, with disappointing experiences and limited opportunities. It is unclear whether an increase in regional infrastructure spending, some bold rhetoric about economic regeneration and some tinkering at the margins of employment law will be sufficient to the task. To date, for example, the government’s most ambitious response to the Taylor review has been to reduce the threshold of support necessary to activate the 2004 ICE regulations from 10% of the workforce to 3% of the workforce (effective from April 2020) In the absence of a determined effort to inform unions and workers of these changes it would be unwise to anticipate an upsurge of ICE activity in immediate future.

Stronger unions?

The OECD make reference to the importance of trade unions as institutions that can, in the right circumstances, promote inclusive prosperity. This may be an uncomfortable conclusion for some employers, but a similar argument is endorsed in the Taylor review. Furthermore, Andy Haldane, chief economist at the Bank of England makes an identical point, noting that income inequality has risen at the same time as trade union membership and collective bargaining coverage have fallen (Haldane 2017). If we take the view that there is a good case for a strong and responsible trade union movement in the UK, what policy measures might be taken to achieve that end?

ACAS and the duty to promote collective bargaining

To begin with, there is one simple change that could make both a practical and symbolic difference. At the time of its establishment, Advisory Conciliation and Arbitration Service (ACAS) had an explicit duty, contained in its terms of reference, to promote collective bargaining. This simply reflected the consensus, exemplified by Alan Fox's observation used in the epigraph to this paper, that collective bargaining was a collective good for employers and trade unions deserving public policy support. ACAS's duty to promote collective bargaining was repealed in 1993 under John Major's Conservative government and has never been reinstated. While the implications of a reform of this kind might seem modest, ACAS would, nonetheless, have the wherewithal to encourage employers to recognise trade unions. Any non-union employer seeking to use ACAS's services, for whatever reason, could be alerted to the advantages of conducting orderly industrial relations by engaging in a constructive dialogue with appropriate trade unions.

Reforming the statutory procedure for trade union recognition

Another possibility, which has not been widely canvassed, is to undertake a review of the statutory procedure for trade union recognition. As we have recorded already, these arrangements were the result of a determined trade union campaign but have since been used sparingly by organised labour. Trade unions are not calling for a review and employers seem largely content with the status quo, but there must be a serious question whether, given the low volume of applications, the original policy intention is being achieved by the legislation in its current form. Possible changes would include giving unions: a statutory right of access to workplaces, before they submit a recognition application to the Central Arbitration Committee (CAC); an immediate grant of recognition, where a majority of the workforce is in membership; and additional measures to ensure that employers cannot engage in unfair practices, where a recognition ballot is taking place⁵.

The scope of collective bargaining following a statutory award is restricted to pay, hours and holidays, supplemented by the rights guaranteed to unions adumbrated in Table 1. There is a case for considering whether a more capacious definition would be appropriate, giving unions rights to negotiate on a wider

⁵ At present a ballot can be ordered even if the union has majority membership where certain "qualifying conditions" are met. Employers (and unions) are already prevented from engaging in unfair practices, but in a small minority of cases employers have sought the assistance of consultants, often based in the USA, to "bust" the union and defeat the claim for recognition.

range of matters affecting the workplace, including the introduction of new systems, processes and technologies, recruitment arrangements, training and skills development.

Moreover, it is at least arguable that the obligations to inform and consult imposed by the ICE regulations are *more* extensive than the rights guaranteed under the statutory recognition regime. An award by the CAC does not give the union any rights to be informed about the employer's medium or long-term plans for the organisation, nor do unions have rights to be informed and consulted about workforce planning or potential threats to employment until the employer has announced that redundancies are in prospect. A reform of this kind, *aligning the ICE rights with the statutory recognition scheme* could be seen as little more than a tidying up measure. After all, why should non-union representatives have more extensive rights than those guaranteed to an independent trade union recognised for collective bargaining?

A return to national bargaining?

Some commentators have suggested the best route to union resurgence is the restoration of a quasi-compulsory form of national sectoral bargaining. This new architecture, operating under the supervision of a revived Ministry of Labour, would allow unions and employers to determine terms and conditions of employment for the sector as a whole, as well as "other matters of mutual interest, such as training, skills and productivity and pensions" (Ewing and Hendy 2013). These proposals have proved influential and were reflected in the Labour Party's 2017 and 2019 general election manifestos, both of which talked about "rolling out sectoral bargaining".

Obviously defeat in a general election invariably leads to a review of the policy prospectus set out in the losing party's manifesto. At the time of writing the Labour's trajectory remains unclear. Nonetheless, it might be useful to set out the problematic features of these proposals, if only to demonstrate that bold initiatives may not necessarily deliver the desired objectives.

Experience tells us that institutions only survive if they are founded on a consensus. So far, no employers have embraced the case for national bargaining, indicating that the necessary support for a settlement of this nature has yet to materialise. Moreover, what one government has granted another government can take away. New Zealand and Australia had quasi-compulsory systems of collective bargaining until the early 1990s. Both membership and bargaining collapsed when the statutory supports were removed (on the Australian case see Peetz 1998).

Put crudely, where trade unions are strong they do not need the support of the law and where they are weak the support of the law will not make them strong – as the experience of the Wages Councils from 1909-1993 has proved⁶. It is worth noting too that those countries in Northern Europe with stronger trade unions than the UK do *not* use the law to establish mandatory bargaining. German unions, for example, jealously guard the notion of *tarifautonomie*, which insulates the collective bargaining system from incursions by the state.

Having said all this, there is a strong case for some national dialogue to establish minimum standards of pay and conditions in low wage industries. A rising National Minimum Wage (NMW), while welcome, is not a

⁶ The Wages Boards, later wages councils, fixed legally enforceable terms and conditions for a sector. They consisted of employer and trade union representatives, with deadlock being broken by a number of independent members. The assumption in 1909 was that collective bargaining would develop as the relationship between the parties matured. This proved to be a false prospectus.

strategy to eliminate low pay. A more sophisticated model is needed, which supplements the NMW with a sectoral approach to pay, employment conditions, productivity, training and skills. It would be desirable, therefore, for government to create *new institutions, whether described as sector forums or modern wages councils*, bringing together employers, unions and independent experts to discharge these standard setting functions.

Automatic trade union membership?

The Institute for Public Policy Research has suggested that the government should adopt an explicit target of doubling the coverage of collective bargaining by 2030 so that half the workforce enjoy the benefits of the protection offered by trade unions (IPPR 2018). This is to be achieved by giving unions guaranteed rights of access to workplaces to undertake organising activities – consistent with the proposal made above – and by giving workers a right to join a union at the time they start a new job, along with a statement of their terms and conditions of employment. These are sensible measures that deserve enthusiastic support.

The IPPR also suggests that a system of auto-enrolment into union membership should be applied to workers in the gig economy. In other words, workers would automatically become trade union members and their employers would deduct subscriptions at source, handing them directly to the appropriate unions – although the IPPR is silent about how appropriateness is to be determined, which could provoke inter-union disputes about spheres of influence⁷. Lying beneath this proposal are some ideas drawn from the discipline of behavioural economics, which suggests workers are less likely to opt-out from membership of a scheme than they are to opt-in, a principle applied to auto-enrolment in workplace pensions, for example.

A major difficulty with this approach, however, is that it will create a population of “MINOs”, people who are union *members in name only* (MINOs). It is difficult to sustain the argument that a group of MINOs can offer a strong foundation for collective bargaining or resilient workplace organisation. Indeed, quasi-compulsory membership absolves trade unions from making any organising effort at all.

Universal rights to worker voice

Perhaps a better approach, building on the EU legislation discussed above, would be for policymakers to consider how they can reform the existing law to create *worthwhile opportunities for workplace participation*. An obvious place to start would be the consolidation and reinforcement of those rights currently on the statute book, which will be adopted as purely domestic law measures if the UK leaves the EU. To avoid disruption to settled collective bargaining arrangements, these rights would only be available in those workplaces where trade unions are not recognised – although, as previously suggested, legal guarantees of information and consultation should also be available to independent trade unions recognised for the purposes of collective bargaining.

⁷ There is another practical question here too, given that many “employers” in the gig economy claim they are not employers at all, but commissioners of services from independent contractors. As a first step those treated as notionally self-employed would need to be reclassified as workers before the IPPR’s proposal could work. But how are workers supposed to establish their real legal status? How would these provisions be enforced?

All workers below a specified point in the management hierarchy would therefore be able to elect workers representatives, through a secret ballot, who would have the right to be informed and consulted about the following:

- The employer's strategic plans for the business (information only)
- The likely trajectory of staffing levels in the medium term, including any threats to employment and remedial action to be taken (information and consultation)
- Significant changes to work organisation or contractual relations (I&C with a view to reaching an agreement)
- Joint management of health and safety in the workplace
- Vocational training policies and workplace learning (I&C with a view to reaching an agreement)
- Consultation on redundancies (with a view to reaching an agreement)
- Consultation on business transfers (changes of ownership covered by the EU's Transfers of Undertakings directive) (with a view to reaching an agreement)
- Consultation on changes to occupational pensions (with a view to reaching an agreement)
- The flexible implementation of the UK's Working Time Regulations 2004 – flexibilities around the length of the working week, breaks, rest periods (with a view to reaching an agreement).

A more radical proposal would be to give unions an opportunity to make a request for the election of workplace representatives, which would ensure that there was at least some organised presence in the workplace and an infrastructure to support the workers' representatives once they are elected. Some unions might find it odd that they are being given the right to initiate a process that will lead potentially to the election of non-union representatives, but if union members are elected and play a constructive role, they can build trust with both workers and the employer, as a route to securing recognition for collective bargaining at some point in the future. In other words, *unions would be organising works councils* rather than organising workers directly, which, paradoxically, might offer a better prospect for union membership growth than any of the proposals described above.

The future of work?

Some readers may be expressing a degree of scepticism at this point, suggesting that the thrust of this paper is about creating a better yesterday on the grounds that no account has been taken of the impending transformation of the world of work brought by the rapid acceleration in the capacity of digital technologies. For instance: Automation is said to put up to 47% of jobs at risk; the emergence of artificial intelligence and machine learning will mean that humans no longer have a monopoly over complex cognitive tasks; many routine forms of labour will simply disappear, and; the mantra for the future is "upgrade your skills continuously or face prolonged unemployment" (Frey and Osborne 2013).

A number of responses might be given to this objection. To begin with, by definition the future is unknowable and it is foolish to believe that accurate predictions can be offered about the likely direction, scale and pace of change. The OECD has washed some of the wilder forecasts in cynical acid and produced a less terrifying scenario, suggesting that around 10% of jobs in the UK might be affected (Arntz et al 2016). A more recent analysis by the Office for National Statistics indicates that around 7.4% of jobs were at risk of automation in 2017 – a figure that had *fallen* since 2011 (ONS 2019). Indeed, according to this analysis the percentage of

jobs with a *low* risk of automation had *risen* between 2011 and 2017. If the robots coming for our then they are not coming tomorrow.

What the OECD and ONS analyses affirm, however, is that technological disruption to settled patterns of work and life is a fundamental characteristic of capitalism – what the economist Joseph Schumpeter described as “creative destruction”. Disruption can be painful, difficult and socially destabilising unless citizens believe they have a voice in the process and a stake in the outcome. This suggests in turn that the *case for voice and industrial democracy is reinforced* rather than undermined by the potential of widespread industrial upheaval. This is, not least, reflected in the growing body of research pointing to the vital role of actual human beings in using technology to boost productivity and develop innovative working methods (O’Mahoney 2019; Tarafdar 2019). It would be quite wrong to abandon the fundamental principles of our societies in the belief that unrestrained technological change will, in the long run make everybody more prosperous. After all, as Keynes suggested, in the long run we are all dead.

Conclusion

The policy proposals outlined in this paper are designed to contribute to an informed discussion. They are intentionally incomplete, provocative and contestable. My case throughout has been that the UK’s settlement in the world of work is unfit for purpose. The old model of industrial relations may have failed, but the same is certainly true for enlightened HRM, the quest for employee engagement and all the other employer sponsored devices intended to secure productivity and performance.

There is no simple off-the-shelf solution available from either political and management gurus or by reference to those countries that apparently secure superior economic and social outcomes. The discussion can certainly be informed by experience in other countries and by the work of the OECD, but a new consensus supporting worker voice can only be secured through a national conversation. Indeed, the development of strategies around Fair Work in Scotland and Wales through their Fair Work Convention and Fair work Commission and the development of a Good Work Plan in England provide illustrations of policy developments on which to build. If agreement can be reached on aims and values then the parties should find it much easier to settle on both the diagnosis of the problem and appropriate responses. Of course, it is absurd to expect a complete or comprehensive understanding between groups with divergent interests. But it should be possible to reach agreement on enough for practical improvements to be secured. The increasing popularity of the notion of good work across the political spectrum tells us that the world can and should be better. Together we can make it so.

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