

Chapter 22

Employer/employee relationships

In the UK, employer/employee relationships are founded on the contract of employment which lays out the roles and responsibilities of both employer and employee. Employment law also makes specific rules that each side are expected to abide by. The relationship is also affected by trade unions who act in the interests of employees. In the past, in many employment sectors, the relationship has been seen as somewhat adversarial (one side against the other) but in recent times much more of a partnership type of relationship has been established, with employers and employees each recognising the others' role in long-term business success. Nonetheless, industrial disputes still occur, but not as frequently as has been the case in the past.

The duties and rights of employers and employees

Under health and safety legislation, employers have a duty to take all reasonable care to ensure the well-being and safety of their employees. Employers have a legal responsibility to ensure that working environments are safe and that employees are trained to deal with the risks involved in their jobs. Employees also have responsibilities, such as taking reasonable care and ensuring that they abide by health and safety rules: e.g. wearing hard hats on building sites.

Workers also have rights with regards to their terms and conditions of employment. Employees must be provided with a written contract of employment within 12 weeks of starting employment. The contract must state levels of pay, holiday entitlement, pension rights, disciplinary procedures and length of notice period. This act also protects employees against unfair dismissal; however, this protection only comes into effect after two years of service (or even longer for some part-time workers).

European legislation also helps protect workers. The UK signing up for the Social Chapter of the Maastricht Treaty has established within UK law further rights for workers, such as a legal limit on the hours in a working week (maximum of 48 hours), and paid maternity and paternity leave. It is also illegal to discriminate on the grounds of sex, race, age or disability. It used to be the normal situation for men and women doing identical jobs or jobs of similar value to have very different pay. Since the mid 1970s this has been illegal. Anti-discrimination laws protect workers from being treated differently because of their race, colour or culture and employers with workforces of over 20 must make efforts to ensure that workplaces, where possible, are suitable for disabled employees.

The minimum wage

The National Minimum Wage, when first introduced in April 1999, was set cautiously low at just £3.60 an hour, so as not to undermine a business's competitiveness by pushing up costs. The change to the minimum wage was expected to benefit about two million people – more than half of them in the service sector. Some wage packets were boosted by up to a third.

Minimum wages for each group of employees in October 2015:

- Main (adult) rate for workers aged 21 and over – £6.70 per hour.
- Development rate for workers aged 18–20 inclusive – £5.30 per hour.
- Rate for under 18 year olds – £3.87 per hour.

Impact of the minimum wage on employment

The introduction of the minimum wage has added only around 0.5% to the national wage bill. In contrast to the views of many pessimists, there was no measurable impact on overall employment following introduction of the minimum wage. In fact, in the areas of the economy where the minimum wage was expected to have the greatest impact on employment levels, we saw the greatest growth in employment. However, it could of course be argued that there would have been even greater growth in jobs without the minimum wage. The first large-scale research into the impact of the minimum wage on employment levels by Income Data Services said that the introduction of the minimum wage had not caused job losses or upset industry pay structures.

Effects of the minimum wage on employees

Firstly, it is worth noting that most employees have not been affected by the introduction of the minimum wage. Only around 7–8% of the workforce were in occupations that paid below the minimum wage, so the mass of employees were not directly affected by its introduction. However, there has been some pressure to maintain differentials, meaning that wage rates of those above the minimum wage have moved up in line with those receiving the minimum wage. The workers who have benefited the most have been younger workers in low-paid industries – these include care services, office services and areas such as cleaning, catering and fast food. For the lowest paid, the minimum wage has allowed a move away from poverty and removed some aspects of the poverty trap.

Employment has continued to grow in low-paying sectors following the introduction of the minimum wage and there have been no signs of a significant minimum wage effect in the unemployment figures between 2000 and 2008. In fact, in the lowest paying sectors of the economy such as the hotel industry, catering and care services, employment levels had grown strongly over the first eight years of the minimum wage. The impact of the recession seems to have been felt across most employment sectors, with those on the minimum wage not seeing any greater increase in unemployment levels. Job creation over the last two years (2013–2015) has also been strong in minimum wage sectors.

Effects of the minimum wage on employers

- It is argued that the minimum wage has made the UK much less attractive to inward investment – discouraging investment in the UK by foreign companies. Also some businesses have moved production and investment to low labour-cost countries in the east of Europe and Asia.
- Small businesses have been most affected, especially those that are labour intensive. The focus for the owners and managers of these businesses, as encouraged by the government and bodies such as the Low Pay Commission, has been to make workers more productive through training and education. When viewed from this perspective, the minimum wage could be argued to increase efficiency.
- Overall wage costs could have increased because of the pressure to keep existing wage differentials in place – as the wage of the lowest paid workers increases, so must the wages of those on the next level up and so on.
- Employers who have felt the worst of the impact are found in the industries mentioned earlier – sectors such as the care home industry, where rising costs have outpaced increases in income. This has led to the closure of many care homes, resulting in shortages of beds for the elderly in some areas of the country.

Equal opportunities

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It is against the law to discriminate against anyone because of:

- age;
- being or becoming a transsexual person;
- being married or in a civil partnership;
- being pregnant or having a child;
- disability;
- race including colour, nationality, ethnic or national origin;
- religion, belief or lack of religion/belief;
- sex;
- sexual orientation.

The above are known as 'protected characteristics'.

Any of the following is regarded as discrimination:

- direct discrimination – treating someone with a protected characteristic less favourably than others;
- indirect discrimination – putting rules or arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage;
- harassment – unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them;
- victimisation – treating someone unfairly because they have complained about discrimination or harassment.

In the workplace the law protects people against discrimination in relation to:

- dismissal;
- imposition of unfair employment terms and conditions;
- pay and benefits;
- promotion and transfer opportunities;
- opportunities for training;
- recruitment;
- redundancy.

The first equal opportunities legislation was passed in the 1970s but there are still issues regarding discrimination in the workplace. Circumstantial evidence is sometimes put forward to indicate discrimination: examples include comparisons between the numbers of black footballers and the numbers of black managers, lack of women running large companies and age discrimination on TV where we see ageing male presenters but few older females.

What are trade unions?

Trade unions were traditionally organisations that represented workers in a particular trade, industry or occupation. More recently we have seen the growth of general trade unions (e.g. Unite), representing a wide range of workers. All sorts of occupations are represented by trade unions, including manual and professional workers. Their purpose is to protect and improve their members' terms and conditions of employment. An individual worker alone has very little power to influence decisions, but by joining together, workers

have more chance of having a voice and influence. This is known as collective bargaining. Trade unions also campaign for laws and policies which will benefit working people.

Trade unions are financed and run by their members. Many were formed over 100 years ago. Almost every working person has the legal right to join or not to join a trade union. The Trades Union Congress (TUC) is made up of representatives of most of the major unions and has a role in national negotiations with employers and the government.

Why do people join unions?

- **Representation.** This means that unions represent members faced with redundancy, a grievance, disciplinary procedures and legal action.
- **Negotiation of pay and conditions with employers.** This is 'collective bargaining', and benefits workers. About half of the UK workforce is covered by collective bargaining arrangements. Negotiation does not have to be done on an individual basis but through a representative of a large section, or even the whole, of the workforce.
- **Help ensure high standards of health and safety.** The provision of a network of health and safety representatives in Britain's workplaces.
- **Union members can benefit from a wide range of services** which are not directly related to the workplace. These include financial, legal and welfare services.
- **Unions support the development of equal opportunities policies.** Most large companies, and many smaller ones, now operate policies which attempt to eliminate discrimination at work. Trade unions have not only supported their members who have been discriminated against but also helped the workforce to understand the policies.

Most employers are happy to have trade unions representing workers because:

- **Collective bargaining assists employers** because it simplifies the process of negotiating with workers. Negotiation does not have to be done on an individual basis, which would be very time consuming and disruptive.
- **Trade unions can also help ensure that agreements are complied with by workers** and can assist with communication between management and workers.
- **Trade unions are able to take a longer term view than individuals** and are therefore able to see why difficult decisions have to be made. Individual workers may be blinded by short-term desires such as improving their pay, when raising costs may make the business uncompetitive.

What is the role of trade unions in industrial disputes?

When disagreements between employers and employees occur they need to be resolved fairly and swiftly. Good industrial relations contribute to the smooth running of business – so disputes between managers and employees should be avoided whenever possible.

Even so, disagreements between employers and employees can occur for a wide range of reasons. These include disputes over wages, hours and conditions of work, the introduction of new machinery, new work rotas, overtime, job losses, redundancies, health and safety issues and equal rights.

If there is a disagreement on any of these issues, it is often the unions' local representative, the shop steward, who will negotiate with the management. When an agreement between management and the local union representatives cannot be reached straight away, the national trade union officials may be consulted and involved in negotiations. On the whole, differences are sorted out without any industrial action being taken. There may even be a national agreement in place which the employer and employees are bound by – this agreement can then be used to resolve issues.

However, there are occasions when the two sides cannot agree. In these cases, a trade union will use a number of strategies before calling a strike. Strikes are often in the news but they are rare in most workplaces. Many more working days are lost through work-related sickness than through strikes.

Types of industrial action

- **An overtime ban** – workers just work basic hours and refuse to do any extra work. This is a useful tactic if the employer has a lot of work on and is trying to meet high levels of demand.
- **A work-to-rule** – workers stick very closely to every rule in the workplace, especially health and safety rules. This slows down production and reduces output.
- **Strikes** – a withdrawal of labour. An all-out strike is called as a very last resort. Both sides have much to lose – the workers' income and the employers' profits. Letting down customers can have a lasting impact on a business as they may seek alternative suppliers and never return.

There is no doubt that the British record on industrial action has improved dramatically over the last 30 years: this new realism by trade unions is probably more the result of trade union legislation, limiting the powers of trade unions, than any other factor.

ACAS

Sometimes an outside body is called in to arbitrate (try to bring the two sides together) during employer/employee negotiations. The Advisory, Conciliation and Arbitration Service (ACAS) is often used to help find a solution which is acceptable to both sides. ACAS plays an important role in settling disputes but only has a role to play when it is invited by both sides to conciliate (offer and suggest solutions) or arbitrate (when ACAS's solution will be accepted by both sides).

The advisory role of ACAS

Employment law is complex. The advisory role is to give employers and employees a point of contact so that issues regarding employment law and procedures can be made clear. Any employer or employee can contact ACAS to gain advice, or to discuss appropriate steps to take to help resolve employment issues.

The conciliation role of ACAS

The conciliation process involves an invited independent ACAS conciliator discussing disputed workplace issues with both parties in order to help them reach a better understanding of each other's position and underlying interest. The impartial conciliator tries to encourage the parties in dispute to come to an agreement between themselves and so avoid the disruption and expense of progressing the dispute through industrial action. With conciliation, the recommendations and advice given is in no way binding on either side.

The arbitration role of ACAS

Arbitration involves an impartial ACAS advisor being asked to make a decision on a dispute. The arbitrator makes a firm decision on a case, based on the evidence presented by the parties. Arbitration is voluntary, so both sides must agree to go to arbitration; they should also agree in advance that they will abide by the arbitrator's decision. Arbitration is often used in collective employment-related disputes. For example, a trade union might be in dispute with an employer over the annual pay rise. The union could agree with the employer to ask ACAS to appoint an independent arbitrator from their panel to hear the two sides' cases and

then make an independent and impartial decision. Arbitration can also be used to settle individual disputes. For example, an individual and an employer might decide to go to arbitration to avoid the stress and expense of an employment tribunal.

Discussion themes

Why are good employer/employee relationships important?

'The introduction of the National Minimum Wage has had more benefits than drawbacks.' Discuss this statement.

'The National Minimum Wage should increase every year.' Discuss this statement.

Why do workers join a trade union?

What is meant by collective bargaining? What workplace issues might be covered in the collective bargaining process?

Explain the roles of ACAS in helping prevent industrial disputes.

Do you think that the action taken in these cases is justified?

Christina McAnea, Head of Health for UNISON, explains why UNISON's members working in the NHS are taking industrial action

https://www.youtube.com/watch?v=bz_nCcKsQeQ

Midwifery strike action

<https://www.youtube.com/watch?v=NIKQyNbOufI>