

Consultation on creating a modern framework for industrial relations (2024): Response from High Pay Centre and academics

December 2024

Trade Union Policy, Employment Rights Directorate
Department for Business and Trade
Old Admiralty Building
Admiralty Place
London
SW1A 2DY

2 December 2024

Dear Sir/Madam

Please find enclosed, the High Pay Centre's response to the consultation on the Modern Industrial Relations Framework.

We are writing to express our support for the response.

We believe the measures set out in the new framework are sensible and proportionate. However, the framework does not cover the issue of worker consultation and voice in business practice and strategy, which could improve decision making and give workers more say in their working lives

This should be an area of concern for policymakers – the UK scores lowly, in comparison to other European countries, for worker participation in business decision-making. Measures such as the Information and Consultation of Employees (ICE) regulations and reforms to the Corporate Governance Code designed to boost worker voice have not had significant uptake, and their application has been varied.

As independent workers' representatives who can speak freely and frankly to management without fear of repercussions, trade unions are an obvious medium for dialogue between business leadership and workers. We therefore endorse the recommendation in the High Pay Centre submission that the new framework should make clear that when a workplace votes to recognise a union, this should guarantee the union's right to input into the decision-making process and consultation on key business practice issues.

While senior management should remain responsible for decisions, the new framework should guarantee that:

- Union representatives are presented with key information about major strategic and business practice issues in a timely manner, in order to solicit and feed in the views of the workforce
- Union representatives have regular access to senior decision-makers, in order to raise views and suggestions of the workforce on business issues
- Employers are accountable to their workforce via unions for explaining how they have considered and acted upon the views communicated to the business leadership by the workforce

We hope that this recommendation will be considered, and would welcome the opportunity for dialogue with civil servants and politicians on this important issue.

Yours faithfully

On behalf of:

- Ödül Bozkurt, Professor of Work and Employment, University of Sussex Business School
- Niall Cullinane, Professor of Employment Relations, Queens University Belfast
- Tony Dobbins, Professor of Work and Employment Relations, University of Birmingham
- Tony Dundon, Professor of HRM and Employment Relations, University of Limerick
- Chris Forde, Professor of Employment Studies, University of Leeds
- Irena Grugulis, Professor of Work and Skills, University of Leeds
- Ed Heery, Emeritus Professor of Employment Relations, Cardiff University
- Jean Jenkins, Professor of Employment Relations, Cardiff University
- Stewart Johnstone, Professor of HRM and Employment Relations, University of Strathclyde
- Sian Moore, Professor of Work and Employment, Anglia Ruskin University
- Chris Rees, Professor of Employment Relations, Royal Holloway, University of London
- Melanie Simms, Professor of Work and Employment, University of Glasgow
- Luke Hildyard, High Pay Centre

Summary

- The measures set out in the framework for industrial relations are sensible and proportionate
- However, the framework does not cover the issue of worker consultation and voice in business practice and strategy, which could improve decision making and give workers more say in their working lives
- This should be an area of concern for policymakers – the UK scores lowly, in comparison to other European countries, for worker participation in business decision-making.
- Measures such as the Information and Consultation of Employees (ICE) regulations and reforms to the Corporate Governance Code designed to boost worker voice have not had significant uptake, and their application has been varied
- As independent workers' representatives who can speak freely and frankly to management without fear of repercussions, unions are an obvious medium for dialogue between business leadership and workers
- We recommend that the section in the framework covering Union recognition should be amended to make clear that when a Union is recognised, this should guarantee their right to consultation on key business practice issues
- While senior management should remain responsible for decisions, guidance should ensure:
 - Union representatives are presented with key information about major strategic and business practice issues in a timely manner, in order to solicit and feed in the views of the workforce
 - Union representatives have regular access to senior decision-makers, in order to raise views and suggestions of the workforce on business issues
 - Employers are accountable to their workforce via unions for explaining how they have considered and acted upon the views expressed by the workforce and communicated to the business leadership

About the High Pay Centre:

The High Pay Centre (HPC) is a think tank focused on economic equality, worker voice and responsible business practice. We publish research and analysis, make policy recommendations, issue good practice guidance and host events. We work with stakeholders from across business, the investment industry, government, academia, trade unions and civil society to identify pathways to a fairer, more democratic, prosperous business and employment culture aligned with the interests of wider society.

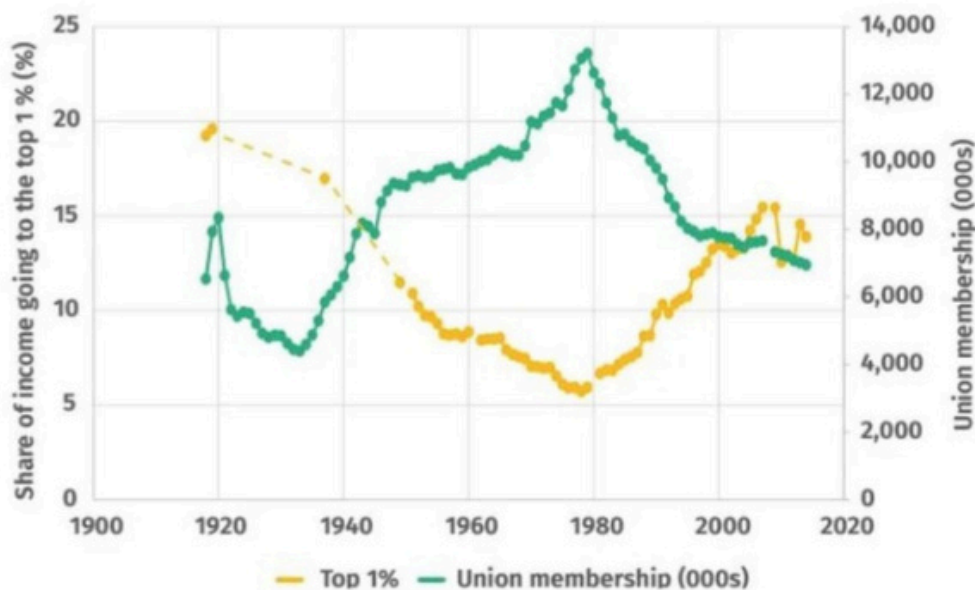
Our recent publication 'A Charter for Fair Pay' setting out a series of policies in relation to employment rights, corporate governance, investment stewardship and pay transparency that would raise pay and reduce pre-tax inequality can be found [here](#).

Further information about our work is available on [our website](#) including our [research publications](#) and our [good practice guidance](#) covering topics including participatory business governance models, corporate reporting and investor stewardship.

Background:

There is overwhelming evidence that trade unions represent a strong safeguard against rising inequality. The share of total incomes in the UK captured by the richest 1 per cent of the population has risen in perfect synchronicity over the past four decades in line with the fall in the proportion of the population represented by a trade union.

Figure 1: Trade Union membership vs share of total income going to the richest 1% [1]



This is recognised by the Department for Business and Trade’s own analysis, which suggests that

“there are potential distributional benefits with workers being better able to negotiate improved terms and conditions – which may benefit lower wage households.”[2]

We are therefore strongly supportive of the ‘Modern framework for Industrial Relations’ and the approach to trade unions more generally. While reforms should be mindful of the potential impact of reforms on employer, the approach taken by the Government generally balances this consideration need with the vital importance of strengthening job security, enabling workers to negotiate fairer pay on a level playing field and respecting rights to freedom of association. The proposed changes do not impose an unreasonable burden on employers, while open-minded businesses will surely appreciate that workers with increased job security and perceived fairer pay will surely make more committed, productive colleagues.

As such, our response to the consultation on the framework does not recommend revisions to any of the specific proposals set out by the Government. The response focuses only on aspects of the issues of worker voice and dialogue between senior leadership and the wider workforce that do not feature in the proposal. We have addressed these issues through a response to the final open-ended question requesting views on other potential modernising trade union reforms.

Question 37 – Are there any wider modernising reforms relating to trade union legislation that you would like to see brought forward by the government?

If yes, please state these and why

The introduction to the consultation states that “this government wants people to have a voice at work and let them exercise control over their working lives.” This is a hugely positive and welcome statement. It should mean a commitment to supporting a more democratic, participatory business culture where workers have a voice, not just over pay and working conditions, but also in higher level decisions that shape the future of the organisations in which they invest their time and careers.

The European Participation Index (EPI) published by the European Trade Union Institute ranks the degree of worker participation in business decision making in selected European countries – the UK is rated 26th out of 28, with lower participation than all countries except Latvia and Estonia.[3] Only five FTSE 350 listed-companies include a worker director on their boards of directors.[4] While many more listed businesses have some form of employee forum, a Financial Reporting Council review in 2021 suggests that these are convened on an ad hoc basis with inconsistent remits, membership processes and access to and accountability from senior leaders, as well as highly varied reporting of the frequency, structure depth and impact of their meetings.[5]

There are good reasons to think that this is holding back the UK economically. A higher EPI ranking is correlated with lower inequality and poverty rates and higher productivity.[6] Research and development (R&D) expenditure is twice as high in European countries with strong worker participation compared to those with weak participation.[7]

Furthermore, there are wider reasons to support enhanced worker voice. The CIPD's 'Good Work Index', an annual mega poll of 5,000 working people, finds evidence of significant minorities of people equivalent to millions of workers expressing worryingly negative sentiment towards their work, with performance against certain measures of job quality having deteriorated significantly since the pandemic:[8]

- 47% of respondents say their work is purely transactional, just for pay (compared to 36% in 2019)
- 51% say they'd work harder than needed to help their employer (compared to 57% in 2019).
- 13% say they feel miserable at work all or most of the time and 28% sometimes.
- 25% say work has an adverse effect on their mental health

Giving people more say over the decisions that affect them would improve workplace wellbeing by making workers feel like their workplace is somewhere they have agency and control, rather than somewhere decisions are made about them without them. Section 172 of the UK Companies Act already accepts that directors should have regard for the interests of workers, amongst other stakeholders, when exercising their responsibilities as directors and mechanisms promoting worker voice at all levels of the company would align business practice with this requirement.

In a far less hierarchical, more connected world where people are less naturally deferential to perceived seniority, and technology enables direct and instant dialogue between people across all walks of life, including the boardroom and frontline of a business, stronger worker voice in business decision-making would also be a modernising move in keeping with the spirit of the times.

Additionally, stronger worker voice at the top of the company should also be good for business performance – incorporating frontline perspectives with a sound operational understanding of the business into decision-making processes is likely to lead to better decisions.

Unions are key to enabling all this, and the modern framework for industrial relations represents a major opportunity to refine policies and regulations so that they can do so.

Currently, the framework for trade unions focuses on rights to access and recognition for trade unions as well as establishing more efficient processes for industrial action. These are very welcome measures that should lead to more workers being able to make a free and informed choice about trade union membership. This in turn should result in more workers with stronger collective bargaining power and representation from a union who can address workplace issues on their behalf.

However, the potential of unions goes beyond pay negotiations and preventing exploitative working practices. As workers' representatives who can speak freely and frankly to management without fear of recrimination, unions are well-placed to deliver all the benefits of worker voice: better organisational decision-making and performance; higher regard for worker interests, from the shopfloor to the boardroom; a greater sense of agency and control for workers.

Currently, the Information and Consultation of Employees regulations are the most substantial mechanism for enabling worker voice in decision-making, giving employees the right to request that a consultation body be established if at least 2% of the workforce, or 15 people at organisations with fewer than 750 employees. However, uptake of this right has been low, with just 14% of workplaces having either a works council or some form of on-site consultation mechanism according to the 2017 Taylor Review of Modern Working Practices.[9] Research suggests that even where consultation mechanisms have been established, their impact has been highly varied. Even though they are not duty bound to accept the recommendations of workers on major decisions, many employers still fail to share key information important business issues. Consultation bodies often lack access to senior decision-makers and accountability over how views expressed during consultation processes have been acted upon.[10]

The low uptake of the consultation rights provided in the ICE regulations demonstrates a need for complementary measures that could help to fulfil the role facilitating worker voice that the regulations are intended to play. This will involve a range of measures, including more detailed clarification of what meaningful implementation of the ICE regulations should entail. However, consultation rights for recognised unions should undoubtedly be one such instrument. Government data suggests that 29% of workers in workplaces with over 50 workers are in unions, while 67% of these workplaces have at least some trade union presence, meaning that unions are not only theoretically able to act as channels for worker voice, they have a practical presence in place that would enable them to do so.[11] When workers choose to join a union or vote to recognise one it is very often out of regard for matters that go beyond pay negotiation and often relate to a desire for greater input into higher level decisions.

Even where unions are recognised, however, many employers do not recognise their potential value for incorporating worker voice and perspectives from the frontline of the company in to strategy and decision-making. Prior qualitative HPC research found highly varied experiences of the receptiveness of employers to input from union representatives offering perspectives from the frontline of the business.[12] The experience of the ICE regulations emphasises the need to define meaningful consultation more clearly, and guarantee the right to it where it is requested. The introduction of the framework for modern industrial relations represents an opportunity to do this by iterating trade unions' right to such consultation. Without doing so, the Government's frequently stated objective of strengthening worker voice and increasing co-operation between employers and workers risks going unfulfilled.

Therefore, we recommend that the framework incorporates further detail about the rights that union recognition entails once a workforce has voted for it, specifying that this includes right to consultation and voice on business practice issues, beyond pay and working conditions. Meaningful consultation might defined in the framework as guaranteeing that:

- Union representatives are presented with key information about key business practice issues in a timely manner, in order to solicit and feed in the views of the workforce
- Union representatives have regular access to senior decision-makers, in order to raise views and suggestions of the workforce on key business issues
- Employers are accountable to their workforce via unions for explaining how they have considered and acted upon the views of the workforce on issues in.

This should not mean that unions have to approve decisions – final say should rest with management - but it is reasonable, good for organisational performance and in the wider socio-economic interest for workers to be informed and their view to be listened to. This won't happen unless unions are empowered to act as a medium for worker voice in the decision-making process. By establishing this principle in the framework for modern industrial relations, the Government can give a major boost to fairness, productivity and wellbeing at work.

Endnotes

[1] Institute for Public Policy Research (2018), Power to the people: How stronger unions can deliver economic justice via <https://www.ippr.org/articles/power-to-the-people>

[2] Department for Business and Trade (2024), Strengthening workers' rights to trade union access, recognition and representation via https://assets.publishing.service.gov.uk/media/67129bcc8a62ffa8df77b3df/Impact_assessment_strengthening_workers_rights_trade_union_access_recognition_representation.pdf

[3][4] High Pay Centre (2024), Forthcoming

[5] Financial Reporting Council (2021), Workforce Engagement and the UK Corporate Governance Code: A Review of Company Reporting and Practice via https://media.frc.org.uk/documents/FRC_Workforce_Engagement_Report_May_2021.pdf

[6] Common Wealth (2023) Stagnant and Unequal: How the UK is an Outlier in Corporate Governance and Why That Matters via <https://www.common-wealth.org/publications/stagnant-and-unequal-how-the-uk-is-an-outlier-in-corporate-governance-and-why-that-matters>

[7] Worker Participation.EU (2020) Why Worker Participation? via <https://www.worker-participation.eu/why-worker-participation>

[8] CIPD (2024), Good Work Index, via <https://www.cipd.org/globalassets/media/knowledge/knowledge-hub/reports/2024-pdfs/8625-good-work-index-2024-survey-report-1-web.pdf>

[9] Department for Business and Trade (2017), Taylor Review of Modern Working Practices, via <https://assets.publishing.service.gov.uk/media/5a82dcdce5274a2e87dc35a4/good-work-taylor-review-modern-working-practices-rg.pdf>

[10] For examples of research finding varied applications of rights to consultation see Hickland, E, Cullinane, N, Dobbins, T, Dundon, T, Donaghey, J. (2020). 'Employer Silencing in a Context of Voice Regulations: Case Studies of Non-Compliance'; Hickland, E, Cullinane, N, Dobbins, T, Dundon, T, Donaghey, J. (2017). Triggering Employee Voice under the European Information and Consultation Directive: A Non-Union Case Study. Economic and Industrial Democracy'

[11] Department for Business and Trade (2024), Trade Union Membership, UK 1995-2023: Statistical Bulletin via https://assets.publishing.service.gov.uk/media/665db15a0c8f88e868d334b8/Trade_Union_Membership_UK_1995_to_2023_Statistical_Bulletin.pdf

[12] High Pay Centre (2022), Worker voice in corporate governance – How to bring perspectives from the workforce into the boardroom via <https://highpaycentre.org/6-in-10-believe-the-main-priority-of-business-should-be-delivering-better-pay-for-their-workers>

The High Pay Centre is an independent, non-partisan think tank focused on fairer pay, worker voice and better business. It runs a programme of research, events and policy analysis involving business, trade unions, regulators and policymakers, investors and civil society focused on achieving an approach to pay, work and business practice that enjoys the confidence of all stakeholders.

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