

Research report
Part 1 – Thematic literature review

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Power dynamics in work
and *employment*
relationships: the capacity
for employee influence



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Foreword

Workers' capacity to influence their jobs is one of the few truly perpetual issues in employment. It has received sustained and explicit attention since the industrial revolution and the formation of the trade union movement. In essence, its roots lie in the human relationships that encapsulate any kind of employment relationship.

Employee influence is important for two reasons. Firstly, it has *instrumental* value, as one of the most significant ways that we can ensure a good quality working life. Historically, this may mainly have been done through collective representation, as a means of wielding greater power, but we also benefit from shaping our working lives at an individual level. This is especially so when one considers that, in many aspects, what constitutes a good quality job can vary from person to person, or for the same person at different stages in their life (part-time versus full-time work being a classic example).

Secondly, if we fundamentally believe in humanity at work, we must recognise the importance of self-determination in the workplace, not in all matters, but where practicable. Thus, separate from any instrumental gain, employee influence has *intrinsic* value to us as humans.

The picture of employee influence is a fragmented one. The most current terminologies have changed over the years, for example from *workplace*

democracy, to employee involvement and participation, to employee voice. And more importantly, the mechanisms and capacity for employee influence differ between countries and sectors, and even between (and within) organisations.

This research report unpacks the complexities of power and influence in the employment relationship. In particular, it explores seven dimensions, highlighting inherent challenges in each and gaps in current knowledge, and proposes a new dynamic framework to describe shifting sands of employee relations. In part two, the authors review existing measures of employee influence, highlighting strengths and gaps.

Together the reports provide a firm basis from which to understand, assess and improve how employees can best shape their working lives. Getting this right stands to benefit not only workers themselves, but also the organisations they work for, the economies they contribute towards and the societies they make up.

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Introduction

As the forms of work and employment relationships continue to change and develop, important questions arise not only about what we mean by good-quality work, but also what are the dimensions shaping work and employment relationships. There is an argument that the balance of power has been shifting towards employers and away from workers, posing important questions around the forces driving change and what channels employees have to influence their working lives.

This report reviews academic and grey research evidence to establish an authoritative account of the shifting power dynamics within the employment relationship (ER); that is, the capacity for employees to leverage influence about the terms of their employment relationship. Our prime focus is on the channels, structures, systems and processes shaping employee influence. The key drivers are identified around seven dimensions and the review considers the implications for employee influence. The focus is predominantly on the UK, but other countries are touched upon where appropriate.

Unpacking employee influence could have involved other interesting paths. For example, personal skill sets of individuals offer valuable insights about power relationships at work (for example, being assertive, exercising leadership, or playing organisational politics). We focus on the channels, structures, systems and processes of employee influence and future research could scrutinise other psychological aspects of influence.

Following a brief review of the meanings and definitions of power in the remainder of this introduction,

the report proceeds as follows. Sections 1 and 2 include a contextual overview of the ER landscape, sketching historical trajectories, the role of market forces, employment flexibility and fragmentation, the character of the state (government), and patterns of management choice. Then in Section 3 an analytical framework is explained as a way to unpack the various channels, structures, systems and processes influencing and constraining employee influence. Section 4 applies the analytical framework to seven relationship dimensions to uncover shifts in the balance of power in terms of its 'scope', 'form', 'depth' and 'level'. Section 5 concludes, suggesting that, overall, employers and management are in the ascendancy with regard to the balance of power and capacity to influence employment relationships.

However, this is far from universal or one-dimensional. There appear pockets of resilience and adaptation (for example some workers in the gig economy are unionising, some external agencies influencing managers, complementarity between union and non-union) that show degrees of creative influence for some employees, while in other areas the core relationship dimensions are disconnected and/or isolated (for example non-union voice or institutional governance mechanisms can undermine union legitimacy and contract status can add to precariousness and employment insecurity for other workers), thereby leaving workers less able to influence. Section 5 also reflects on some implications for the HR profession, pinpointing important areas of focus for employers and their educating bodies.

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Defining the basis and source of power

'Power' and 'influence' are not simple concepts to pin down, with various interpretations dependent upon context, level and resource allocation. Weber (1947, p152) contextualised power as the *'probability that one actor within a social relationship will be in a position to carry out his will despite resistance'*.

In organisational behavioural terms, Huczynski and Buchanan (2010, p694) refer to the *'capacity of individuals to overcome resistance on the part of others, to exert their will and to produce results consistent with their interest and objectives'*.

In work and employment relationships literature, power has been defined as the *'ability of an individual or group to control their physical and social environment; and as part of this process, the ability to influence the decisions which are and are not taken by others'* (Hyman 1975, p26). To this end power may be transmitted through individual and/or collective forms; it may be about

protecting or advancing specific interests and issues; and it directly and indirectly shapes decision-making outcomes of others.

Of importance are the factors that may shape the uses (and abuses) of power over others in work relationships. For this reason, the contexts and political systems affecting the basis of power become crucial.

French and Raven (1959) first distinguished five bases of power that are applicable to social relationships, adding a sixth ('informational') some years later. Power can be manifest as *'coercion'*, that is, the capacity to influence others is leveraged by threat or punishment. Power can also be based on a mix of other sources: on *'rewards'*, *'expertise'* or the *'legitimacy'* of a presumed right to manage. A *'referent'* basis to power may be derived from soliciting respect from others. The *'informational'* power base can be derived from the capacity to influence others by controlling information flows.

Lukes (1974, 2005) also viewed power as having multiple forms; what he called the 'three faces' of power. The 'first face' of power is about observable domination (similar to coercion under French and Raven's model). The 'second face' has roots in Bachrach and Baratz's (1970) 'non decision-making' power. With this certain issues or interests may be withheld from an agenda, or alternative opinions closed off or not fully discussed by all the parties.

Sisson (2012, p186) makes a distinction between 'decision-based' and 'option-based' forms of consultation which illustrates a second level of power. For example, with 'option-based' consultation a series of alternatives are presented to employees (or their representatives) and workforce preferences filtered back to inform management's final decision, say, about implementation plans or restructuring logistics (but not necessarily the restructuring decision itself). In contrast, decision-based consultation offers less opportunity for employees to influence management, as the final decision is taken irrespective of any employee suggestions.

Lukes' (1974) 'third face' of power is about hegemonic influences and is typically unobservable in any concrete form or level. It concerns the capacity to shape and manipulate people's preferences, often without their direct knowledge, and can be part of an ideological form of whose exertion may enable individuals or groups to achieve or maintain their position of dominance.

Figure 1: Bases of power



1 Historical background and context

The historical trajectory of employment shows highly cyclical patterns of influence, with a waxing and waning of power: from agricultural work dependency, cottage industry expansion, industrialisation and the rise of bureaucracy, to contemporary debates about union decline, globalisation, financialisation or the rise of the gig economy (Grimshaw et al 2016, Rubery et al 2016, Thompson 2013, Wilkinson et al 2014). In the UK the relative balance of power has shifted and employee voice has been transformed. Points of debate have been broad and expansive, covering greater individualisation, deregulated rights and employment protections, employer assertiveness and a preoccupation with market agility and performance measures (for example debates about high-performance work systems).

Where employers endeavour to diffuse ‘collectiveness’ amongst employees, the form of collectiveness has increasingly tended to be employer-dominated rather than employee-led, often featuring teamwork and, in some cases, replacing unions with newer and direct management-led communication (McBride and Martinez Lucio 2011: see Garrahan and Stewart 1992, Storey and Bacon 1993 for earlier interventions).

The statistics in various European countries, including the UK, illustrate a decline in trade union representation since the early 1980s (Koch 2006, Van Wanrooy et al 2013). The percentage of employees able to harness

collective agreements as a vehicle to leverage influence has fallen significantly, notably in the private sector, although a substantial minority of the workforce still have the terms and conditions of their employment determined by collective bargaining. There is also increased reliance on minimum wage legislation and greater orientation of low-paid work towards that minimum (Rubery et al 2016). The steep decrease in the use of industrial action as a source of worker power and collective influence exemplifies shifting capacities. However, declining strike action may not in itself signal an absence of conflict, and options for employee influence may be seen in extended absenteeism or other forms of individual dissent (Edwards 1995, van den Broek and Dundon 2012). Alongside diminished collective power and worker mobilisation, in the UK at least, the state increasingly enforces significant restrictions on strike action (for example the 2016 Trade Union Act). Literatures point to other lines of division in terms of age, race, sex or religion (Heery 2016), which constrain employee power dynamics. Working arrangements such as part-time, casualisation, individual payment systems, or different employment contract status also impair employee capacity to influence.

Current work-related studies also emphasise the fundamental shift towards a more flexible and decentralised economy and labour market (Kalleberg 2000, Carter et al 2011). The global-level focus on cost-efficiency, competition and the customer paradigm constitutes

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prominent underlying catalysts of change (Martinez Lucio 2016). Heightening flexibilisation, precarious work (including agency, part-time, subcontracting, temporary) and new forms of technology and ICTs have created greater spatial and labour market dispersion of the workforce and new forms of employers exploiting this dispersion more directly (Weil 2014). Such developments raise debates about the truncated nature of employee influence.

Furthermore, a series of social changes in terms of the composition of the workforce tend to create new challenges for the traditional and more organised forms of employee influence. For example, a growing body of literature exists on the extent of social change, alienation and social distance, within a range of groups within the workforce, for example post-industrial communities, or newer migrant communities. These changes have paralleled the development of a political environment since the 1980s, which weakens the political and economic influence of organised workers (Howell 2005, Streeck 2011). Martinez Lucio (2006, 2016) has sought to capture the overarching shifting influences in Table 1.

The weakening of union power and influence sparked research interests in non-union forms of employment regulation (Guest and Hoque 1994, Dundon and Rollinson 2004, Gollan 2006, Gall and Dundon 2013): for example works councils and non-union employee representative (NER) committees (Dobbins and Dundon 2014). Other forms of capacity and activist influence are also emerging in social and political spaces beyond the workplace. Researchers have identified different forms of civil society organisations (CSOs) representing (albeit indirectly in some cases) various groups with potential capacity to influence employment rights; for example, women’s interest groups, LGBT societies, the Citizens Advice Bureau (CAB) and organisations supporting ethnic minorities in the workplace (Heery et al 2012a, 2012b, Pollert 2008, 2010, Holgate et al 2012b, Perrett et al 2012, Perrett and Martinez Lucio 2008).

1.1 Management choice and frames of reference

The role of management choice and its relationship to power can be traced from some of the historical trajectories noted above. Some early industrialising employers, such as Robert Owen or Quaker-

led enlightened corporations like Cadbury or Unilever, saw value from investing in human welfare, including social benefits and housing. Further, the values of founding owners or charismatic leaders are known to influence the way people are treated and organisations are managed: for example, equity and paternalistic forms of non-union voice in the likes of Hewlett-Packard or Marks & Spencer (see Kaufman and Taras 2000, Dundon and Rollinson 2004). In the US, Kochan et al (1986) posited that management choice has become a key driver of influence over industrial relations strategy: *‘one of the strongest factors impinging choice is management values toward unions’* (Kochan et al 1986, pp13–14).

Of course management values and philosophies concerning trade unions and human talent have not always been enlightened. Management decision-making may include rational, strategic as well as ad hoc and even irrational choices (Child 1997). The employee involvement and participation (EIP) literatures suggest these strategic choices have ranged from ‘garbage-can’ models, where decision-making is random and chaotic, to episodes

Table 1: Shifting forces of influence

Dimensions of activism	Crisis of organised workers
Workplace	Decentralisation in the firm and the workplace through teams, cost centres and outsourcing
Management and worker utilisation	New forms of worker utilisation through the quality and consumer paradigm
Social context of work	Fragmentation and individualisation of the workforce
Work-life balance approach	Working time, including duration, scheduling, flexibility and intensity
State and regulation	Changing state roles and its decentralisation, and the policy of de-regulation and re-regulation
The global dimension	Globalisation gaps and imbalances between employers and employees
The communication sphere	New forms of communication and the decline of public space and collectivism

Source: Martinez Lucio (2016, p19)

of management ‘muddling through’, with missed opportunities to tap into employee ideas to contribute to strategy (Sisson 1995, Marchington et al 2001, Dundon et al 2014a). More recent changes to market capitalism introduce various constraints upon the extent of management choice, such as pressures of financialisation and flexibilisation (Rubery et al 2016), with consequential implications for employment security and/or insecurity (see sections 2.1 and 2.2).

One of the more enduring approaches to capture changing dynamics of management choice related to shifting power dynamics is Fox’s (1966) seminal frames of reference (see Budd and Zagelmeyer 2010, Edwards 2014, Dundon and Dobbins 2015, Heery 2016). First is Fox’s (1974) ‘unitarist’ typology, which would rationalise management choice around a presumed set of shared interests. The assumption is that managers have the ‘right to manage’ without external third party (for example union) intervention and where direct communication between managers and employees is seen as the best way of creating a corporate culture and achieving common goals.

Second, a ‘pluralist’ frame of reference favours choices that might favour joint agreement-making, which dominated as a post-Second World War consensus in the UK until 1980. Under this rationale, diminished collective voice and a weakening of employee power would be unsettling for the balance between ‘voice, equity and performance’ (Kochan and Ostermann 1994, Budd 2004). Pluralists infer that a weakening of worker power may in fact contribute to an economic shift towards low added value and low-quality employment (Nolan and Marginson 1990). These types of choices intersect with a thread

of economic literature canvassing the relationship between declining employment regulations and low-quality jobs and limited economic developments. In addition, a ‘neopluralist’ variant may suggest that declining collective power reflects other choices that realistically position influence not only at the workplace but among community groups and related organisational stakeholders (Johnstone and Ackers 2015, Ackers 2014).

The final frame of reference is a ‘radical’ (or critical) frame of reference, which places less emphasis on shared goals between the parties (unitarist) or the institutional forms for joint regulation (pluralist). Instead, it stresses how the shifts in capitalism along with political values have hollowed out worker and trade union abilities to influence employment. This is through specific forms of negotiation as well as the diminished capacity of workers to threaten and invoke collective action (Kelly 2011, Heery 2016) and the political changes that restrict management choices because of external shareholder economic interests and power resources over management (Hamann et al 2013).

In summary, various perspectives have been and continue to be used to evaluate changes in employment relationships over time and space. The role of different actors and labour market institutions – including the state, unions, and newer CSO agencies – can all affect the capacity of employees to influence their working conditions as well as management’s ability to make certain choices. Importantly, to move the research agenda forward, we must be particularly attuned to historical context affecting not only obvious change but also patterns of continuity.

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2 Contextual forces

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Issues about the balance of power and the channels, structures and processes of employment relationship influence are subject to multiple contextual conditions. The literature points to three broad contextual forces: first are various market conditions and factors; second are consequential changes to the job market, including debates around work fragmentation and employment flexibility; and finally, the impact from the regulatory power of the nation state and its changing characteristics. These are briefly reviewed.

2.1 Changing market factors

Market forces play a prominent role in shaping the balance of power in employment relationships. During the 1990s and up until 2004, UK unemployment decreased significantly to less than 5% (ONS 2017). Neoclassical economic wisdom would suggest that higher demand for workers may correspond to higher wages, and thus increased employee power, while periods of recession would increase unemployment and worker availability, thus curbing employee power. The latter has been relevant since the 2008 global recession, when unemployment increased to over 2 million (ONS 2017), and may have been even worse had some employers not taken a longer-term view by seeking to minimise the scale of redundancies.

Of course such trends can be simplistic views of market transactions, and social dynamics often weave in and out of rational economic choice. Other salient factors affecting the balance of

power may be micro-oriented, say in relation to specific employee skills demanded by an employer during a specific period, such as so-called knowledge workers or certain technological job competencies. While there are incidences of high-skilled or particular talent demands leveraging individual power owing to rare expertise, such generalities are not widespread in the job market and a more realistic evaluation is that most employers can access a relatively large pool of potential workers, including access to foreign markets and migrant workers (Lansley 2011, Holmes and Mayhew 2012).

These market factors affecting the availability of jobs, worker mobility or skills and the leverage of employers and employees are situated within broader shifts in contemporary capitalism, specifically neoliberalism, deregulation, financialisation and growing shareholder influence, which have shaped managerial choice and hold major implications for employment.

One important change affecting workers and management choice is the rise in shareholder capitalism (Lazonick and O’Sullivan 2000) and the subsequent process of financialisation, whereby profits are increasingly created through financial channels and investments rather than productive value-added services or production activities as financial deregulation has enabled more volatile investments. This relates to another CIPD research report by Findlay et al (2017), who discuss how financial products

generate 'value', reflecting on implications for the governance of employment and other aspects.

These financialisation developments have combined with attendant implications for work and employment relationship dynamics (Thompson 2013). The demand for short-term financial results expects flexibility with the possibility that workers are laid off (Lazonick and O'Sullivan 2000). It also informs a preference for individualistic performance-related pay systems, investments in general rather than firm-specific skills, and hostility towards union bargaining (Jacoby 2005). Various strategies to maximise shareholder value, such as private equity buyouts and stock buybacks to manipulate stock price, have further weakened the position of employees (Appelbaum et al 2012, Lazonick 2011). These processes have particularly affected so-called liberal market economies such as the USA and the UK, which are characterised by stronger shareholder pressures. It can be noted that some firms continue to pursue a more long-term perspective.

The impact on employment has not been limited to less qualified or unskilled employees. As we see in section 2.2, shifts to global capitalism have contributed to the fragmentation of employment as more workers no longer have stable employment with a single employer (Marchington et al 2005). A first manifestation of this fragmentation has been the rise in non-regular forms of employment (Rubery 2005). While some of the workers with higher skill or status may be in a relatively stronger position to influence their employment conditions, such a group is likely to be small. Instead, there has often been a substantial rise in precarious employment among higher-skilled or

professional employees (Standing 2011). A second manifestation concerns the strong rise in outsourcing and subcontracting, both nationally and internationally. This can affect employee capacity to influence working conditions because of the short-term nature of many outsourcing contracts, limited investment in training, and low levels of pay where contracts prioritise cost minimisation (Grimshaw et al 2016, pp214–15). The challenges that this fragmentation poses in terms of developing a motivated and productive workforce are obvious, and research shows that employment flexibility negatively interacts with innovation and productivity (Rubery et al 2016).

The changing context of capitalism also affects the balance of power for those in regular employment. Thompson (2003, 2013) introduced the Disconnected Capitalism Thesis to refer to the growing divergence between requirements by firms in terms of work and employment, *'between what capital is seeking from employees ... and what it finds necessary to enforce in the realm of employment relations [employment relationships]'* (Thompson 2003, p264). On the one hand, the demands on employees have increased in terms of effort, commitment and emotional engagement. Some reviews point to high-performance work systems (HPWS) that aim to promote employee engagement through progressive human resource management practices. However, other studies and debates point to the aforementioned changes in corporate governance and processes of financialisation that have informed strategies of delayering, downsizing and divestment. Under this view it means that firms have retreated from investments in human capital and reduced the quality of employment in terms of

security, career development, and pensions. It illustrates how issues of job insecurity and precarious work impact all groups of workers, albeit in various different ways (Rubery et al 2016).

Processes of financialisation are uneven and some positive and shared effects may be found across different types of capitalist regimes. Some countries regulate firms and employment systems by stakeholder systems of corporate governance, whereby control is not exclusive to shareholder power but is shared with others such as banks and workers (Hall and Soskice 2001). At the same time, and as discussed in other parts of this report, the protective capacity of institutions such as unions is also diminishing in such countries with more 'inclusive' job markets in the face of the current pressures. This shows in particular through greater segmentation in job markets and the implications in terms of job market fragmentation, polarisation and flexibilisation, which will be reviewed next.

2.2 Job market fragmentation and flexibilisation

'Flexibilisation' concerns *'how we work, under what forms of employment contract, for how many hours, at what times of day and with what degrees of employment security'* (Rubery 2015, p634).

The concept gained momentum globally in the 1980s, during periods of severe unemployment and intense competition. Today, job market flexibility is an area riven with debate (Grimshaw et al 2016, Rubery et al 2016, Keune and Serrano 2014, Benassi 2013). Proponents of flexibilisation, often influenced by neoclassical economics, deem it crucial for cost-efficiency and eliminating job market blemishes.

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However, desires for ‘flexible firms’ and flexible working practices have informed strong concerns about the growth in non-standard forms of employment (NSFE), insecure and precarious work, and potential inefficiency as they hinder long-term job market incentives for innovation (Kalleberg 2011, Vosko 2010, Standing 2011).

Figures 2 and 3 show the share of NSFE in a number of countries since 2000, while Figure 4 shows the different types of NSFE in the UK. As indicated, NSFE includes temporary employment (fixed-term contracts, seasonal work, casual work), part-time, agency and self-employment. The data show important inter-country differences that illustrate how job markets may have very specific dynamics based on important differences in, for example, regulation and industries. Most countries have seen a rising trend concerning these employment types, although this has been affected by economic fortunes, with many temporary workers laid off after the 2008 crisis.

Figures 2 and 3 also show how the share of temporary and part-time employment in the UK has been fairly stable. This can be partly explained by the relative loose regulation for permanent employment contracts. For example, the right to claim unfair dismissal requires a minimum of two years’ continuous service and this has reduced the perceived need for fixed-term contracts. Indications also show that the data on temporary employment underestimate the rise in NSFE.

For example, most jobs created in the UK during the six-year period after the 2008 crisis involved part-time employment, zero-hours contracts and self-employment (Rubery et al 2016). The adult social care sector in

the UK illustrates both the rise in NSFE and its underestimation in the statistics. The data for 2016 shows that 90% of workers have a permanent contract, confirming the relative low share of temporary employment as presented by the national data. At the same time, however, 24% of jobs constitute zero-hours contracts, with 80% of these workers on a permanent zero-hours contract. If we consider this as temporary employment, something justified by the lack of any guarantees for workers in terms of employment continuity and hours, the percentage rises to 27.9% temporary employment. Moreover, over 85% of all employees are not directly employed by local authorities or the NHS and their employment is thus conditional on a specific contract (Skills for Care 2016).

All these aspects illustrate how employment can be much more precarious than the data on temporary work arrangements may otherwise suggest.

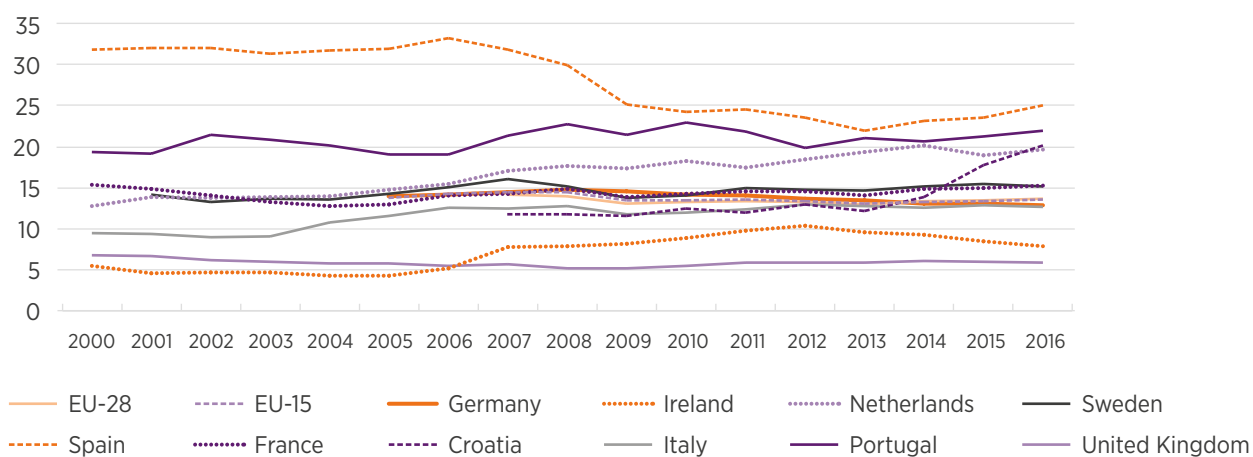
Flexible working practices are increasingly utilised by employers to meet changing market demands (Grimshaw et al 2016). Research also shows that such arrangements can meet worker interests because of specific individual situations (Robinson 1999, CIPD 2013). For example, students may seek a part-time contract when studying, or a casual contract without commitments. Some casual jobs may need highly skilled workers from less accessible worker pools, providing some individuals with certain levels of influence. However, there is also a large body of significant research emphasising how such contracts function to undermine the capacity of employees to influence matters (Grimshaw et al 2016, Fitzgerald et al 2012, Kalleberg 2011, Pollert

and Charlwood 2009, Standing 2011). Casual workers (for example crowdworkers, who are also discussed in section 4.3) may fear losing their job or having reduced hours after voicing concerns. Temporary workers may fear the termination of their contract and part-time workers may predict that voicing grievances could

jeopardise opportunities for full-time employment. Grimshaw et al (2016) discuss how variations in flexible and non-standard-type employment conditions are affected by the effectiveness of four protective gaps: regulation (for example minimum standards), representation (for example access to union membership), the

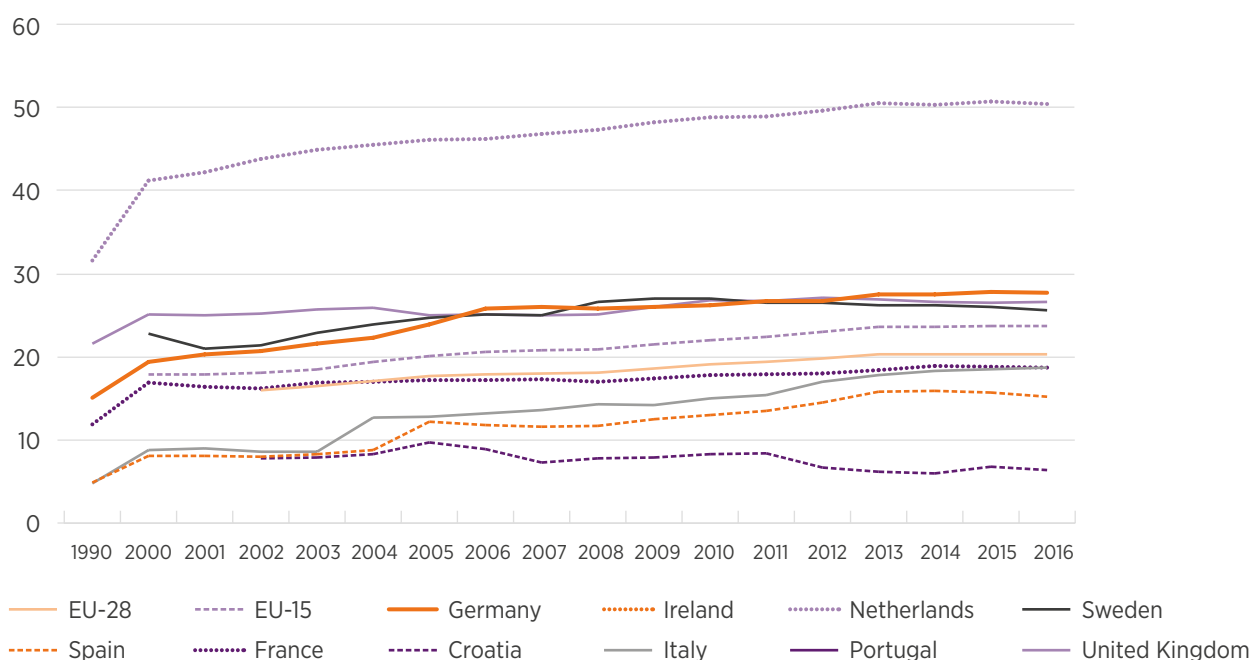
enforcement of existing regulation (for example a lack of resources for monitoring agencies or to cover employment tribunal fees) and social protection (for example access to unemployment benefits and pensions). The scale and change to temporary and part-time-type work are illustrated graphically in Figures 2–4.

Figure 2: Temporary employees as a percentage of total employment (%)



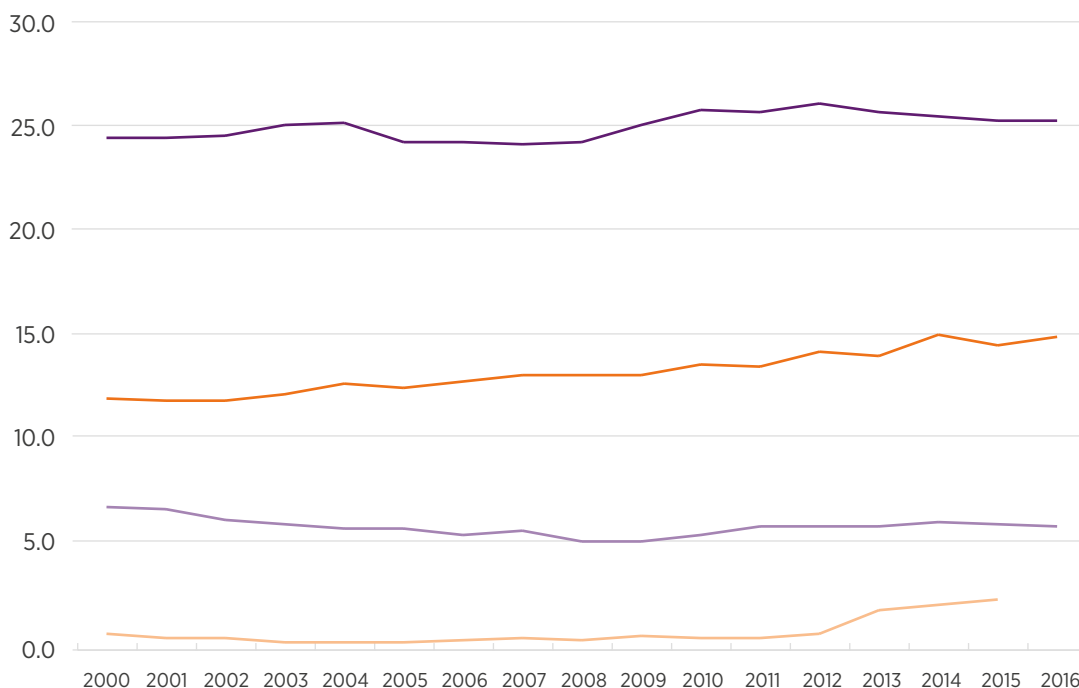
Source: Eurostat lfsq_etpga (26 June 2017)

Figure 3: Part-time employment as a share of total employment (%)



Source: Eurostat lfsq_etpga (26 June 2017)

Figure 4: Non-standard work as a share of total employment (%)



Source: adapted from Eurostat and UK Office for National Statistics (2017).

- Temporary employees as a share of total employment
- Part-time employees as a share of total employment
- Zero-hours contracts as a share of total employment
- Self-employed workers as a share of total employment

The shift towards NSFE shapes the power balance between worker and employer, in various ways and at different levels. Precarious employment often signals a diminishing power balance for many employees. Standing (2011) coined the term ‘precariat’ to refer to a new and diverse class of workers who have non-standard, precarious forms of employment and are disadvantaged in key fields of security: job market, employment, job, work skill reproduction, income and representation. In this regard, the literature points to issues of fragmented working contracts and conditions that exist across differentiated job markets, between ‘good’ standard employment (for example full-time, indefinite work) and ‘bad’

jobs, characterised by employment insecurity and limited voice and influence (for example fixed-term contracts, outsourced employment) (ILO 2015, p1).

Crucially, ‘labour market segmentation theory’ (Craig et al 1982, Rubery 1978) maps how such wider socio-political and economic forces divide the job market into distinct sub-groups, not only based on productivity and skills, but also discriminatorily by sex, race and age. In this regard the ‘insider-outsider’ theory (Lindbeck and Snower 2002, Rueda 2005) argues that established workers (‘insiders’) have bargaining power to protect their employment because of worker replacement costs and strong employment protection legislation. Conversely,

‘outsiders’, such as young and unemployed workers, lack political influence to leverage change, either at their immediate workplace or beyond in terms of social policy and legislation. ‘Insiders’ are assumed to defend this status quo because they are concerned more about their own security than the unemployment of ‘outsiders’. Criticism against unions is that they almost exclusively represent permanent and full-time workers (Standing 2011). The insider-outsider argument and its implications have been criticised, though, especially when it has informed a deregulatory agenda to increase equality in the job market and to further weaken collective rights (for example Emmenegger 2009, Rubery et al 2016).

Tsakalotos (2004) shows how deregulation will change the balance of power favouring employers and strengthen regulatory changes that weaken all workers' power bases. Insider-outsider arguments also tend to ignore how wider changes in contemporary capitalism can put workers on the defensive and how segmentation is *'not a first choice but, at most, a second-best option for unions that do not have the strength ... to protect all workers'* (Pulignano et al 2015, p821). These socio-political forces can be apparent in the changes and shape of the power of the nation state in regulating or deregulating employment rights, which will be discussed next.

2.3 Changing character of the state and new forms of regulatory power

The state is a highly complex and unique employment relationship actor. In addition to being a legislator, the state fulfils several roles affecting the balance of power of the parties: as an enforcer of worker rights, as an economic manager, a social actor directly and indirectly creating jobs and social services, as an employer in its own right, as the actor who can coerce change relating to work and employment relationships policy (Hyman 2008, Martinez Lucio and MacKenzie forthcoming). These broad roles shape employee capabilities to influence their employment experience. Furthermore, relations between the state and employer groups also influence the political space employees have, or feel they have, to shape the form and content of their working conditions. For example, the steady decline of manufacturing employers, who were previously highly unionised historically, means they have a less visible presence in state policy-making

processes. Along with a decline in the trade union involvement in corporate state bodies (although never fully developed in the UK), the changing context and political will of the state means that previous pro-union traditions may be undermined. However, that does not mean that governments and agencies of the state will not intervene at key points or in high-profile cases in relation to manufacturing or key private investment decisions, as seen with the Tata Steel case (for example, see Ruddick 2016).

The changing context, roles, and functions of the state are significantly important when questioning employee influence. First, in the UK the shifts in state orientation away from a collective worker rights-based framework may alter the nature of employee voice and engagement (Williams and Scott 2016). Second, the decreasing economic/social presence of the state and its dwindling ability to limit employer influence through various corrective mechanisms prompts a more fragmented and individualised workforce (Howell 2005). The emergence of a greater politics of deregulation has impacted on certain categories of workers and diminished the degree of their influence – for example among female workers (Karamessini and Rubery 2013). Third, the extent to which the state emphasises being a 'good' or 'model' employer, or using harder managerialist approaches, also impacts the scope for employees to influence their employment condition (Bach and Bordogna 2011).

Importantly, in addition to structural constraints, managers may make irrational decisions because of a lack of knowledge and understanding. Through forms

'The emergence of a greater politics of deregulation has impacted on certain categories of workers and diminished the degree of their influence – for example among female workers.'

of 'consultative' roles, the state (or other external actors, such as the CIPD) can attempt to 'educate' or orientate employers and other actors such as trade unions into adopting specific strategies: for example, the development of social dialogue, partnerships, new forms of teamworking, or flexible working (Martinez Lucio and Stuart 2011). Finally, it has been argued that greater reliance on more direct forms of policing, and ethically problematic forms of control through blacklisting and surveillance, can shift the extent of employee influence within the workplace (Smith and Chamberlain 2015). Such changes place greater emphasis on deregulation at various levels, which may undermine the extent of employee influence.

Importantly, such shifting state dynamics may not be uniform or common across contexts, nor within them. Ultimately, these contextual features of the state have varied and sometimes contradictory outcomes for employee influence, the relative

balance of power and, depending on situational forces, interact with other contextual forces such as financialised capitalism, neoliberal economic doctrines, precarious work experiences among professional as well as non-managerial workers, and outcomes such as flexibility and marginalised voice.

In summary, the preceding two sections have reviewed historical developments in work and organisational structure, pointed to a series of multiple contextual forces within capitalism that can shape employment, followed by diverse and complex roles of the nation state in affecting policy, actor relationships and employment conditions. It is against these broad historical and contextual forces that the extent of specific patterns of employee influence is to be reviewed.

The next section outlines an analytical framework, developed from employee involvement and participation theory, to unpack different dimensions of influence.

3 Analytical framework to unpack employee influence: *form, scope, level, and depth*

The report reviews a number of sources and literatures to identify the channels, structures, systems and processes of employee influence pivoting around seven core elements (or dimensions) of work and employment relationships. Conceptually, each dimension can signal a shift in the power balance between employee and employer on different issues, at specific or multiple levels, and over time and context. As noted, the bases to power shifts are multifaceted (Bourdieu and Thompson 1991, Erchul and Raven 1997, Fleming and Spicer 2014, Lukes 2005, Raven 1992). Importantly, the actualisation (affect) of capacity to influence (power) is contingent on a range of contextual forces and historical legacies and traditions.

The seven dimensions reviewed are:

- legal sources
- contract status
- technology and employment
- institutional governance
- union participation
- non-union voice
- external actors and networks.

Prior studies advocate a multi-dimensional and multi-level approach to capture diversity and dynamics (Ramsay 1977, Budd 2004, Wilkinson et al 2014, Marchington 2015). The analytical framework applied in this review draws on established analytical approaches previously utilised in employee involvement and collective bargaining literatures (Marchington et al 1992, Brown et al 2009, Marchington and Wilkinson 2012, Wilkinson et al 2014).

Our framework also presents a fourfold schema to unpick changing influences in terms of: **‘form’** (for example, different forms of non-union/union voice, technology, legal sources, external actors); **‘scope’** – the range of issues to be influenced (for example, minor tea break issues, or major strategic decisions); the **‘level’** at which influence occurs or is constrained (for example, workplace, division, organisational, national, transnational); and finally, **‘depth’** – the degree or extent of actual or real influence (for example, deep influence by affecting workplace decisions, or shallow influence by being communicated to about a decision management has already taken). The following section defines ‘form’, ‘scope’, ‘level’ and ‘depth’, within the context of the seven dimensions. However, in some dimensions, ‘form’ ‘scope’, ‘level’ and ‘depth’ are not all relevant, so we focus on the most relevant elements.

Dimension 1: Legal sources

Legal mechanisms and rights are often considered the cornerstone of employment regulation. The ‘form’ is evidently legal but comes variously as acts, directives, or codes, and so on. Under ‘scope’, the types of issues that legal sources cover are scrutinised (minor or substantive). The theme also analyses the ‘levels’ at which legal sources and rights exist (workplace, company, industry, country, as well as transnational). ‘Depth’ concerns the degree of influence that legal mechanisms and rights exert on employment relationships, for example are employee rights strictly adhered to, or loosely adhered to, or even undermined?

Dimension 2: Contract status

The second dimension plots different forms of employment contracts (fixed-term contracts, seasonal work, casual work, part-time employment, temporary agency work and self-employment) and uncovers how they mould the scope and depth of employee capacity or constraint to influence. This also involves questioning how employment status shapes employee capacity to secure influence through non-linear paths (that is, trade unions, regulation).

Dimension 3: Technology and employment

This dimension maps how linear paths of influence between employers and employees are shaped by technology. This involves studying particular forms of technology (for example, artificial intelligence and online crowdwork platforms), the scope of elements technology shapes (minor or substantive) and the degree of influence managers/employees wield over employment relationships through technology (depth).

Dimension 4: Institutional governance

The fourth dimension focuses on two forms of institutional governance mechanisms – mandatory arrangements such as works councils (for example in Germany and France), or information and consultation established due to transposition of European employee information and consultation directives (for example the 2004 Information and Consultation of Employees (ICE) Regulations in the UK). We focus on the ‘scope’ of influence permitted by these institutional arrangements, at which levels and to what extent (depth). The ‘depth’ of institutional influence may be witnessed in particular through and the extent to which trade union recognition and other arrangements are mandatory.

Dimension 5: Union participation

Conditioned by an awareness that power moves in different directions, this dimension focuses on non-linear paths of employee influence involving trade unions. Union mechanisms exist in numerous forms, including formal (documented agreements), informal (implicit agreements with managers), internal (dispute resolution protocols), or external (Advisory, Conciliation and Arbitration Service, employment tribunals, Labour Court). Union figures may wield influence over substantive issues, for example organisation strategy or policy details in members’ workplaces. Union influence can occur at different levels of an organisation (department, company, industry, country) and involves various layers of union figures (activist, lay members, representatives, full-time officers, executive members). The ‘depth’ of trade union influence reflects the extent to which union participation steers organisational decision-making outcomes. Once again, the ways in which managers promote or disrupt non-linear paths of influence between trade unions and employees are analysed.

Dimension 6: Non-union employee voice

When focusing on non-union voice, the ‘form’ of influence includes various direct management-led initiatives and indirect forms such as non-union employee representation (NER) channels. Skills-based and interpersonal aspects of employee influence (for example individuals exercising assertion or persuasion) are not within the boundaries of this report. ‘Scope’ refers to the types of topic employees have ability to exert influence over. ‘Narrow’ scope indicates trivial issues and ‘broad’ scope implies substantive issues, such as the capacity to preference working hours. Employee influence may occur at one or more levels (office, department, plant or company). The final dimension, ‘depth’, concerns the degree to which employees have input into managerial decision processes. ‘Deep’ indicates high levels of worker involvement and ‘shallow’ reflects no involvement – workers are purely informed of decisions being made. The theme also examines the role of managers in the operation of non-union employee voice mechanisms.

Dimension 7: External actors and networks

The final dimension unpacks the non-linear paths of employee influence offered by external networks among the likes of civil society organisations (CSOs). Different forms of external actors are identified – external support bodies, interest representation organisations and mobilising social organisations. The scope of issues they cover are reviewed along with the degrees of influence scrutinised (depth). Importantly, we focus specifically on the external actors that represent or support employees to shape their work and employment relationships. Other external actors, including bodies such as the CIPD, which aim to directly influence employer strategies and government policy, are touched on briefly.

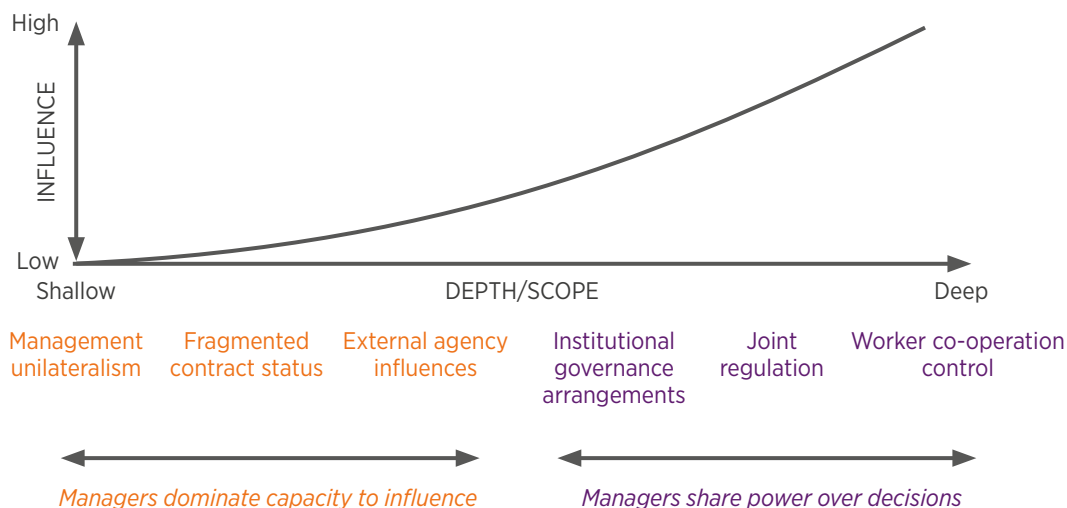
The application of aforementioned analytical schema can be seen in Figure 5. On the vertical axis the balance of power can vary (low or high), while the scope and depth of issues influenced by social actors can be captured along the horizontal axis. For example, no influence and shallow depth may be found in situations where employers impose unilateral change and dominate the agenda for change (to the left in Figure 5). In contrast, a deeper capacity for employees to influence employment matters may be more extensive where there is joint regulation, either through

collective bargaining mechanisms or via some other fora to promote equality and voice, including worker co-ops and other forms of shared ownership with expansive forms of industrial democracy (to the right of Figure 5).

Using the fourfold schema in Figure 5, the seven dimensions are reviewed next in greater detail to tease out how channels, structures, systems and processes of work and employment relationship influence are constrained or capacitated.

‘The “depth” of institutional influence may be witnessed in particular through and the extent to which trade union recognition and other arrangements are mandatory.’

Figure 5: Capacity to influence



4 Influencing dimensions

‘Historically, the development of employment regulation has been and remains “contested terrain” in public policy-making and political debate.’

This section presents a literature review of the seven employment relationship dimensions to unpick the form, scope, level and depth of influence/power, and to identify the channels, structures, systems and processes of employment relationship influence.

4.1 Legal sources

Key concepts and sources explained

Employment law and regulation may best be seen as a product of the balance of power shaped by the interplay between various national (and international/regional), institutional and social actors in specific but constantly changing historical, social, political, legal, cultural and economic contexts (Lewis 1976, Kahn-Freund 1977). In the UK, the relevant actors and institutions currently include the European Union (EU), the state, employers, employers’ associations, employees, trade unions and the judiciary (with the latter having a critical role in developing key areas of the UK common [that is, judge-made] law around, for example, the contract of employment and interpreting and applying parliamentary legislation and regulation). Legal sources can exist in a variety of different forms, including, acts, directives, or codes, and so forth.

Historically, the development of employment regulation has been and remains ‘contested terrain’ in public policy-making and political debate (to take just a small number of recent examples in the UK, the Trade Union Act 2016, employment tribunal (ET) fees, zero-hours

contracts and the position of those in newly developing areas of precarious and/or non-standard forms of employment or work organisation – on the latter see section 4.2).

The scope, purpose and perspectives of legal regulation

To understand these continuing debates, it is necessary to consider perspectives on the ‘essential’ nature of the employment relationship and purposes of legal regulation. A traditional perspective posits that the individual worker has little choice other than to accept the conditions that the employer offers and that:

‘the relationship between an employer and an isolated employee or worker is typically a selection between a bearer of power and one who is not a bearer of power. In its inception it is an act of submission, in its operation it is a condition of subordination, however much the submission and the subordination may be concealed by the indispensable figment of the legal mind that is the contract of employment’ (Kahn-Freund 1977).

Over the last few years there have been echoes of this insight in an increasing number of UK judicial decisions – up to and including the Supreme Court in *Autoclenz v Belcher* (2011) – that have recognised the same inherent inequality in the relative balance of power between employers and an individual worker. In this context (and perhaps because of the absence of collective power and effective collective bargaining structures, see section 4.6), legal

intervention is seen as having a 'regulatory' or protective purpose in countering this power imbalance and restricting the exercise of unfettered managerial prerogative (as suggested originally by the Donovan Commission 1968, and again most recently by the Institute of Employment Rights (IER) (Ewing et al 2016).

An alternative perspective argues that the dominant objective of employment law is to *'improve the competitiveness of businesses so that they may survive and prosper in an increasingly global economic system'* (Collins 2001, p18). However, there are widely divergent views in the literature on the best way to achieve this objective. The view that has largely dominated employment law and policy in the UK for almost four decades is that flexibility and *'competitiveness is best achieved through deregulation of the job market, leaving business free to discover the most efficient solutions to production problems'* (Collins 2001, p18) (see sections 2.1 and 2.2). However, it is equally arguable that 'social dialogue' coupled with state intervention could correct an imbalance of power towards employers and, by doing so, steer business *'towards the most efficient relations of production'* (Collins 2001, p18) (see also section 2.3 on the power of the state).

Despite widespread agreement and acceptance over time that the UK job market remains *'one of the most lightly regulated'* amongst leading economies (DTI 1998, DBIS 2012), much policy-making has been based on the alleged 'reality' that business perceives employment laws to be 'one-sided', favouring employees, and that *'the cost and complexity of employment laws impact on their ability to take on staff and grow'* (DBIS 2012).

However, there is good evidence to suggest that these views have often been misplaced and based largely on employers' anxiety and fear, rather than *'any actual experience and perpetuated by the pervasiveness of the "anti-regulation" discourse occurring in the wider society'* (Kitching 2006, Peck et al 2012, Jordan et al 2013).

This chimes well with evidence from the Department for Business, Innovation and Skills. The DBIS (2013) surveyed employers on employment regulation and found a 'perception-reality gap'. That is to say, employer references to 'burdensome' regulation stemmed more from employer anxiety and perceptions around the complexity of the law, rather than the existence of legal obligations or excessive constraints per se. This raises significant questions around the complexity of regulations: could they be simplified? Are there sufficient support structures in place to enhance employer understanding about their legal obligations and eliminate feelings of uncertainty?

Scope, depth and coverage of legal regulation

There has been a trend towards greater 'juridification' of and legislative intervention in work and employment relationships in terms of scope, content and substance (Clark 1985). In the UK, for example, the scope and content of individual employment protection legislation has expanded over the last 50 years or so to many areas of the employment relationship, including unlawful deductions from pay, the National Minimum Wage, working time and paid holidays, fixed-term employment and agency work discrimination, redundancy payments and unfair dismissal (Deakin and Morris 2012). A number of these developments have been influenced by the UK's membership

of the EU. In relation to the scope of legal rights, however, there remains continuing debate over the categories of workers to which legislation is applied.

The depth of legal content can be observed in the context of what Kahn-Freund (1977) described as 'auxiliary' legislation, governing the regulation of collective employment relationships more broadly. While for a period up until 1979 in the UK such legislation was broadly supportive and/or permissive of the UK's 'voluntary' system for collective bargaining and employment regulation (Flanders 1974, Dickens and Neal 2006), it has subsequently and more recently been aimed at restricting the capacity and ability of trade unions to take industrial action (Ford and Novitz 2016). There is also a growing disconnect between collective rights, which are in decline, and an emphasis on fragmented individual rights (Howell 2005).

Supra-national factors and the potential impact of 'Brexit'

The depth of legal regulation may also be influenced at the level of the nation state by various international/supra-national factors. At the global level, reference must be made to international employment law sources: conventions, standards and principles developed since 1919 by the International Labour Organization (ILO), within a 'tripartite' structure, involving member states, employers and worker representatives (see generally Blanpain 2014). While influential, this 'law' is entirely something that countries voluntarily choose to adopt or not, and it may be viewed as lacking any meaningful depth in terms of formal process or institutional structure for enforcement (Hepple 2005, Weiss 2013, Blanpain 2014),

‘There remain fundamental issues about the effectiveness of employment law and access to justice which affects employee capacity to leverage change over working conditions.’

even where a state is found to be in consistent breach of ratified conventions (in the UK context see, for example, Ewing 1989). To a large extent, therefore, it may be argued that these global standards have been ‘privatised’ (Royle 2010) and are mainly disseminated with varying shallow forms of essentially voluntary, informal and ‘soft law’ mechanisms, including multinational codes of conduct (Alhambra et al 2011) and international framework (collective) agreements (Dehnen and Pries 2014, Mustchin and Martinez Lucio 2017).

In contrast, the body (‘acquis communautaire’) of supra-national EU social and employment legislation (see Appendix 4) is part of the fabric of the law of member states (see generally Barnard 2012). Much of this legislation (especially in areas such as working time) has formed part of the deregulatory debates already discussed, but the critical issue at present in the UK is the potential or likely impact of leaving the EU (for a detailed legal analysis of the potential problems, see Ford 2016). The European Union Repeal Bill 2017 (the EURB) provides simultaneously for the repeal of the 1972 European Communities Act and the incorporation of the full *acquis communautaire* of EU law in UK domestic law, including the decisions of the Court of Justice of the European Union (CJEU), as at the date of leaving. After this date, clause 6(2) of the EURB provides:

A court or tribunal need not have regard to anything done on or after exit day by the CJEU, another EU entity or the EU but may do so if it considers it appropriate to do so.

The final part of this provision has been subject to considerable criticism, particularly regarding

clarity and precision, not least by the outgoing President of the Supreme Court, Lord Neuberger (Rawlinson 2017).

Legal sources: challenges and gaps in knowledge

There remain fundamental issues about the effectiveness of employment law and access to justice which affects employee capacity to leverage change over working conditions. As trade union membership and collective bargaining coverage (especially in the private sector) has declined in the UK (see section 4.5 for density data), the trend towards a more specified juridification of employment relationships has led to a greater ‘individualisation’ of rights. Problematically, this means that the burden of enforcement has to a large extent been placed on individual employees and workers (Dickens 2012, Ewing et al 2016). Unfortunately, this problem will not be solved by the recent and seminal decision of the Supreme Court (2017 UKSC 51) that led to the abolition (at least for the present) of the ‘controversial’ (Walden 2013) ET fees regime. There remain significant and growing problems about the advice and support available for the growing numbers of workers and employees who are not union members, given the massive decline in voluntary or third sector advice agencies such as law centres and the Citizens Advice Bureau (Legal Action Group 2016). Potential gaps are wide and far-reaching in this area, and possible avenues to be explored could include:

- seeking employer views on the advantages and disadvantages of existing EU employment laws and possible changes after Brexit
- research on trade union plans to protect worker rights (individual and collective) post-Brexit

- further research on employer perceptions versus the reality and experience of employment regulation
- research on authoritative sources of information, knowledge and advice that is made available to employees/workers on their legal rights
- an assessment as to whether employers and especially HR professionals should have greater responsibility for apprising employees and workers of their legal rights.

4.2 Contract status

Key concepts explained

Elsewhere, this report reviews literatures addressing market factors, the role of the state, issues of non-standard and precarious forms of employment, together with the potential ‘protective gaps’ to which this may lead (see sections 2.1, 2.2 and 4.3). Our concern here is to review how the UK employment law system recognises, understands and adapts to these changes.

Conceptually, the ‘fundamental institution’ in UK employment law remains the individual ‘contract of employment’ (Wedderburn 1986). But this is a creature of the common law, with essential and required characteristics identified and developed over time by the judiciary, including a sufficient framework of control by the employer, obligations on the putative ‘employee’ to perform work personally and an ongoing ‘irreducible minimum’ of mutuality of obligation on the employer to offer work and the employee to accept it when it is offered. Unfortunately, such characteristics assume a degree of uniformity and consistency that is likely to be found in traditional standard forms of direct and permanent employment. It is also worth

noting that in common law there is a ‘systematic dichotomy’ between the contract of employment (or service) and the similarly unitary ‘contract for services’ (that is, self-employed independent contractors – see Freedland 2003).

Scope and levels of protection

The contract of employment remains the primary vehicle for distributing and attributing statutory employment protection rights, with many core protections, for example against unfair dismissal, (still) limited only to employees.

In parallel, however, UK legislation has in recent decades provided additional definitions of employment status to which a more limited range of statutory rights apply. Most particularly, those defined as ‘workers’ attract the protection of, principally, National Minimum Wage legislation, the Working Time Regulations 1998 (WTR) – including minimum paid annual leave – and the provisions on unlawful deductions from wages. The scope of this contract status extends beyond the core contract of employment to cover any contract under which an individual ‘undertakes to do or perform personally any work or services for another party’ (reg 2(1) of the WTR) and is not carrying out a business vis-à-vis a customer or client.

How far this definition extends the coverage or scope of protection is not always obvious. Literatures informing such issues include legal case law as well as academic analyses. Case law, for example, confirms the intention to create an ‘intermediate’ class of workers who are substantively and economically in a similar position of dependence to that of employees (*Byrne Brothers v Baird* 2002). One key pointer is whether the purported worker actively markets their services as an independent person

to the world in general, or whether they are recruited by the employer to work as an integral part of the employer’s operations (*Cotswold Developments v Williams* 2006). In addition, courts and tribunals have tended to take a holistic approach that understands that the degrees of control and/or mutuality of obligation are substantially less for workers than those required for employees (*Adkins v Lex Autolease* 2017).

Attempts at evasion

Against this backdrop, there have been well-documented attempts by some less scrupulous employers to deny statutory rights by seeking to reframe the written terms of the contract to preclude employee and/or worker status. This has taken various forms, including bogus self-employment with written terms purporting to negate the personal service and/or mutuality of obligation requirements (*Autoclenz v Belcher* 2011) or, in the extreme, representing pairs of employees as being in an independent ‘partnership’ of which the employer was the ‘client’ (*Protectacoat v Sylagyi* 2009). Contract status is not about individual employee preferences for any type of work but rather the scope of mutual and reciprocal employment obligations between two parties. To this end, literature suggests that even zero-hours contracts that do not guarantee any minimum number of hours may be seen in a similar light. It is thus arguable that they cannot amount to a continuing contract of employment and, in one case, it was suggested that ‘it was doubtful whether [a zero-hours contract] amounted to any contract at all’ (*SW Global Resourcing v Docherty* 2012). The most recent high-profile examples of alleged evasion have arisen in the gig economy, in particular in relation to Uber drivers and cycle couriers, among others (see below).

‘The judiciary has stepped into the breach as an unexpected source of solace for workers, with attendant implications for the balance of power.’

‘Reality’ and ‘sham’ contracts – the judicial response

In the face of very limited legislative intervention to address such issues (limited so far pretty much to the prohibition of exclusivity clauses in zero-hours contracts), the judiciary has stepped into the breach as an unexpected source of solace for workers, with attendant implications for the balance of power between the parties. While courts and tribunals have in theory always been required or able to take account of the ‘reality’ of employment relationships and not just the written terms of contracts (*Woods v West* 1980), the former element has increasingly been given prominence in recent years. For example in *Sylagyi*, the Court of Appeal found that the purported partnership arrangement was a ‘sham’ and in no way reflected the reality that the individuals were in fact (and in law) employees. This approach was endorsed by the Supreme Court in *Autoclenz*, based on a recognition of the ‘imbalance in bargaining power between employers and employees’ and the fact the latter often have little or no choice other than to accept the terms offered by the employing organisation (see further Bogg 2012).

The same principles have been applied to judicial interpretation of the statutory ‘worker’ definition. In *Aslam and others v Uber BV and others* (2016), the ET roundly rejected the argument that Uber was not providing a transportation service and was merely a platform for connecting self-employed drivers to clients. It found that drivers were workers when the Uber app was switched on in the territory in which they were authorised to work and when they were willing to accept assignments. Referring to *Autoclenz*, the employment judge condemned Uber’s resort to ‘fictions’, ‘twisted language’

and ‘brand new terminology’ in an attempt to mask reality. Similarly, in *Dewhurst v Citysprint* (2017), the ET found that allegedly self-employed cycle couriers were workers and found that there was ‘a clear inequality of bargaining power and the true situation is very different from that portrayed in the tender, starting with the name of the document itself as there was no tender “process” at all’. The ET case of *Lange and others v Addison Lee* (2017) agreed that ‘the contractual provisions, when analysed objectively, do not properly reflect the true agreement between the parties’ (see also the Court of Appeal in *Pimlico Plumbers v Smith* 2017).

Contract status: challenges and gaps in knowledge

It has been evidenced that some workers may be satisfied and actively choose various forms of non-standard and flexible work arrangements; for example, see the CIPD’s (2015) research on zero-hours contracts. However, policy implications suggest that neither employers nor workers benefit or achieve certainty when the courts determine employment status ex post facto, and largely on a case-by-case basis. Such policy debates led to the key proposal contained in the Taylor Review (July 2017). In essence, it proposes renaming ‘workers’ as ‘dependent contractors’. Extensive analysis or research arising post-Taylor is, at the time of writing this review, limited. Nonetheless, commentary has argued that this seems like ‘reinventing the wheel’ given the approach being taken by the judiciary to the ‘worker’ definition, with calls for greater legislative clarity and other guidance having been reported (Kirton 2017). In other areas, Taylor proposes rights for agency workers to request a ‘direct’ contract of employment,

where they have been placed with the same hirer for 12 months, and for those on zero-hours contracts to request a contract that better reflects the actual hours worked where they have been in post for the same period. The impact of Taylor's overall recommendations on worker influence is yet to be known. But it does not appear to favour the capacity of these workers to alter their employment status in any substantial direction and the UK Government is yet to make a full response. Addressing these uncertainties could include future research in the following areas:

- asking employers and managers whether any change may be required, and if so, what, as a result of a new definition of 'dependent contractor'
- investigating whether firms have any plans for the use of zero-hours contract status to be introduced, amended, or changed in the future, and if so, what motivates the use of zero-hours contracts
- collecting data about the way trade unions may represent 'workers' as distinct and different groups from 'employees'.

4.3 Technology and employment

Key concepts explained

Spanning 50 years or so, ICT developments have enhanced productivity, reduced costs, and centralised and automated processes. ICTs have enabled the creation of new types of job (for example, call centres) and 'lifted and shifted' IT-enabled service work to lower-cost geographies, expanding offshoring and outsourcing (see contract status dimension). More recent developments suggest we are entering a 'fourth industrial revolution' (Rifkin 2014, Mason

2016, Schwab 2016) or 'second machine age' (McAfee and Brynjolfsson 2014), underpinned by robotisation and crowdwork. The former concerns worker displacement, while the latter alters job market functioning. Both of these developments alter the depth, scope and forms of worker influence.

Robots and automation

The decline in the costs of technology (and the related issue of easier access to big data supporting machine learning and artificial intelligence) offer economic incentives for employers to substitute workers with robots in the wider job market. The substitution (job displacement) effect diminishes worker power in work and employment relationships, and can generate unemployment, with sector and context variation. Automation predominates in the strongly unionised automotive industry, for example, but is less prevalent yet also growing in service work (Willcocks and Lacity 2017).

At an aggregate level, literatures have raised concerns about a 'labour-light economy' (McAfee and Brynjolfsson 2014), whereby high-skilled, highly educated workers are ousted by smart machines and robots (Ford 2015, McAfee and Brynjolfsson 2014). Research on the US economy argues that almost half (47%) of total employment is at high risk of automation within the next 10–20 years (Frey and Osborne 2017). As history reveals, job markets respond in different ways to automation: some jobs may be eliminated while others are created.

However, predictions of the end of work are contested in extant literature. For example, even when return on capital is strong, firms can be reluctant to invest in technology when workers

are cheap and the payment of dividends to shareholders takes precedence. Moreover, companies with investments in robotisation, such as Mercedes-Benz, BMW and Audi, are returning to worker-intensive tasks and human skill because robots cannot handle the complexity of certain customisation options driven by customer preferences (Gibbs 2016).

Others studies suggest that technology may also potentially upskill work processes, replacing the lower-skilled with 'knowledge workers', thereby emphasising the importance of education and training (Willcocks and Lacity 2017). However, research shows that increasing education and qualifications often lead to mismatch: workers do not find the most appropriate jobs for their skills (Green and McIntosh 2007). Indeed, some commentators welcome full automation to liberate people from the drudgery of work and call for the provision of universal basic income given the prospect of high unemployment and job displacement from robotic technologies (Srnicek and Williams 2016).

In summary, robotics and automation can be seen to shift power away from employees to employers, either through job displacement or de-skilling. Yet under other contexts, the extent and scope of such reduced power can be uncertain; for example processes of customisation in automotives may leverage some employees a degree of relative bargaining power and influence.

Crowdwork

The second key development has an individual worker focus and concerns the various forms of crowdwork (or gig work), using 'on-demand' workforces and

‘The lack of legal protection raises worker concerns about the risks that agitation may pose to their reputation and income.’

digital platforms. Contemporary sources tend to focus primarily on effects on individual workers in transportation (for example Deliveroo, Parceland, Uber), but this is only one aspect of gig economy employment. Some individuals rely on crowdwork as their main source of income, while others work ‘double shifts’ by combining crowdwork with other jobs (Huws and Joyce 2016). Digital platforms are intentionally positioned as neutral intermediaries that facilitate a digital matching service between end users, eliminating legal responsibilities and social obligations. This tripartite relationship – between platform, worker and the requester of work – raises debates about control, power, legitimacy and author in employment – especially uncertainties as to who exactly constitutes the employer (see sections 4.1 and 4.2 on contract status).

Crowdwork can lessen the demand for continuous (or permanent) workers, offering lower costs and numerical flexibility to employers, by classifying workers as ‘independent contractors’ (Berg 2016). This classification shifts all risks onto workers and diminishes worker ability to utilise legislation as a form of influence. Platform-based working has outpaced regulation, leading to numerous US court cases and UK employment tribunals contesting issues of bogus employment classification. Some platforms deliberately adopt specific procedures to limit employee influence and avoid triggering statutory definitions of employment, for example preventing continuous work with one client (Lehdonvitra 2016). The recent Taylor Review of Modern Working Practices, which has a predominant focus on gig work, recommends changing the legal

definition of workers to ‘dependent contractors’ (see legal sources/ rights dimension).

Moreover, the depth of employee power through crowdworking platforms is weakened owing to the software algorithmic processes that govern the pace and nature of gig economy task allocations (for example directing, supervising) and people management processes (for example evaluating, disciplining, appraising and rewarding workers) (Gillespie 2014). The intensification of monitoring and surveillance significantly undermines worker autonomy, transferring employee discretion to the platform-owner. Workers become functionaries in an ‘*algorithmically-mediated work environment*’ (Ipeirotis 2012) of ‘*ruthless objectification*’ (Ekbia and Nardi 2014) and relentless evaluation. Algorithms are supplemented with the growth of ‘prosumers’ (Toffler 1980): end-service users who supply management with user-generated evaluations, beyond the influence of workers (Zwick 2015).

Crowdworkers also encounter limited opportunity to harness trade union representation (Brabham 2012). They are almost invariably either excluded from collective representation regulatory frameworks or experience difficulties accessing and using them (De Stefano 2016). As workers on digital platforms tend to interact exclusively online, the disparity of workers and absence of organisational infrastructure erodes feelings of institutional connectedness (Fitzgerald et al 2012). Crowdworkers use social media and forums to share information and experience, but evidence of sustained action and critical mass is limited (Salehi et al 2015). The lack of legal protection raises worker concerns about the risks that agitation may pose

to their reputation and income. New workers may join and leave the platform daily, constraining worker capacity to leverage scarcity. Furthermore, when working conditions are akin to a ‘spot auction market’ (Reich 2015) and task completion is based on individualised transactions (many lasting only minutes), expressing discontent is perceived as futile and perilous (Smith 2006).

However, employee capacity to influence work is not absent in crowdsourcing. Attempts to deepen and broaden worker influence through collective agency, representation and bargaining have been reported, albeit in their infancy in terms of advanced counter-mobilising strategies against gig economy providers (Johnston and Land-Kazlauskas 2017). Indeed, the first ever new organic trade union to be formed in over a century in the UK is to represent gig economy workers: the Independent Workers Union of Great Britain (IWGB). Crowdworkers are developing new strategies to cope with changes in employment patterns and incidents of voice and bargaining opportunities to engage are beginning to surface (Salehi et al 2015). Examples include campaigns to promote fair, inclusive and secure job markets for the growing ranks of gig workers.

Another potential dynamic (that is more widely applicable) is through ‘profiling’ platforms that collect information about current and prospective workers, enabling employers to evaluate their fitness for and in the job (McDonald et al 2016). Additional and other related online digital platforms involve employees commenting on their employment experience and the quality of management. These systems function as a form of ‘TripAdvisor’

to rate the employment relationship experience, many for crowdworking jobs where digital forums exist to evaluate and compare employers (also known as requesters). One example is Turkopticon, which is used by Amazon Mechanical Turk workers to share and record information on the employment practices of ‘requesters of work’ (the end customers) (Irani and Silberman 2013). A more recent and expansive example beyond crowdworking is run by the Californian-based company Glassdoor, founded in 2007, providing employees with an opportunity to damage or strengthen a company’s reputation by posting comments about their employment conditions and working experiences (Glassdoor 2017). As an online platform, Glassdoor attracts contributions from a global base of employees working across various sectors, job types, and geographies. It can provide a more indirect way of holding employers accountable, potentially leveraging influence using mischief and coercion against a company, or praising good practice. While Glassdoor publishes ‘Best Places to Work’ or ‘Best Companies for Work-life Balance’ as chosen by workers, it should be noted its primary service is as a recruiting site for employers. It also offers consultancy advice on corporate branding – showcasing examples of how Glassdoor can be a significant asset for employers (Unilever is cited as an example). Moreover, literature and research is scarce on any potential ER influence as a result of initiatives such as Glassdoor or Turkopticon.

Technology and employment: challenges and gaps in knowledge

Robotisation is criticised by many for eliminating jobs and worker influence, but the actual effects

on jobs, worker power and skills are not easily delineated. It is a burgeoning area where further empirical scrutiny is likely to be of policy and practitioner importance. Overall, crowdwork mostly constrains employee capacity to influence, particularly when noting implications from the legal contract status of such workers. There appears minimal worker control over task allocation and people management (for example directing, supervising, evaluating, disciplining and rewarding workers), which can minimise opportunities for employee autonomy. Yet at the same time, the incidences of agency revitalisation are not absent, as attempts have been successful in terms of collective mobilisation of crowdworkers (for example, with the creation of the IWGB). In other areas future research could pivot around how responsive employers are to negative employee reviews using online digital platforms such as Glassdoor. In sum, potential interesting research lacunas exist pertaining to:

- worker experiences and attitudes about the impact of different forms of technology (robots, automation, crowdwork platforms and apps) on their job performance and employment security perceptions
- motivations and reasons for why employees pursue ‘double shift’ work, including crowdworking experiences
- employer/company practices that switch employee-defined jobs to gig economy work platforms (for example related to job displacement effects)
- managerial experiences of online digital platforms such as Glassdoor and their experiences of reputational and/or brand influence from employee participation in such platforms.

4.4 Institutional governance mechanisms

Key concepts explained

This section charts the potential scope, level and depth of influence from job market institutional arrangements which regulate employment, such as mandatory works councils (for example, in Germany, France, Spain), or voluntary consultative committees in the UK. The latter may arise from institutional arrangements transposed from the European Employee Information and Consultation (I&C) Directive into the UK's 2004 Information and Consultation of Employees (ICE) Regulations. Other institutional influences would include statutory trade union recognition or collective consultation rights for employees and their representatives with regard to redundancy. Works councils are institutionalised mandatory bodies at the workplace level in other European countries (Rogers and Streeck 1995), while joint consultative committees (JCCs) in the UK are typically voluntary. All represent the interests of all employees, albeit at different levels and over different ranges (scope) of employment matters.

Mandatory works council arrangements

The form of mandatory works councils constitute various layers. First, in some countries (for example, France) works councils are mandatory, independent of both employer and employee will. In others (for example, Germany), works councils are only mandatory when initiated by employees (Nienhüser 2014). Furthermore, to be eligible, organisations must meet country specifications regarding minimum employee numbers. For example, in Germany, the Czech Republic, Austria and Latvia, five employees is the minimum. The minimum in Hungary, Poland and France is 50 employees and in Belgium it is 100 employees. However, no threshold exists in Sweden (Bryson et al 2012, pp71–2, Toth 1997, Nienhüser 2014).

Works councils are anchored by single- or dual-channel structures. Germany and Sweden fall into the former group. In Germany, works councils are the dominant body of employee representation at the workplace level, whereas in Sweden unions are superior. Conversely, France has a dual-channel structure, whereby works councils and unions have

equal dominance (Nienhüser 2014). Formally, the employee representation bodies in Germany and France are independent, but this is context dependent. In some companies, works councils and unions work together and union members are works councillors (Gumbrell-McCormick and Hyman 2010, Aumayr-Pintar et al 2011). Moreover, institutional arrangements are clearly related to the regulatory power of the nation state (see section 2.3) and statutory instruments (see section 4.2).

The scope of issues permitted for works council discussion varies between countries as summarised in Table 2.

Economic issues include investment decisions. Social issues concern matters relating to health and safety, start/finish times, overtime and general holiday/fringe benefits (amongst others). Austria, Germany and the Netherlands possess co-determination rights (deep influence), but usually only over the social implications of decisions – for example, the societal consequences of closing a company, but not the business rationale or managerial decision to close the company (Nienhüser 2014).

Table 2: Scope of works councils

Rights of works council	Countries
Social rights only	Czech Republic, Spain, Italy, Poland
Economic and social rights – consultation (advice) only	Belgium, Denmark, Finland, France, Hungary, Luxembourg, Norway, Sweden, Slovenia, Slovakia
Economic and social rights, including co-determination rights on some issues	Austria, Germany, Netherlands

Source: Nienhüser (2014, p249)

Numerous studies discuss the economic effects of work councils at establishment level on firm performance (Fitzroy and Kraft 1987, Fairris and Askenazy 2010), value-creation (Frick and Möller 2003) and productivity (Looise et al 2010). However, studies tracing the relationship between works councils and employee influence are extremely thin on the ground, often centring on Germany (Ferge 2002). The German Works Council Survey (2008/09) found that almost one third of works councils have no involvement in planning and implementing workplace innovation: 9% were informed, but the information was late and not detailed enough for employees to leverage change; 12% were informed comprehensively, but did not offer any feedback or proposals; 17% offered proposals which were dropped or ignored. Finally, 33% were categorised as more powerful works councils, with the capacity and scope to influence decision-making outcomes relating to innovation (for example involved in decisions on issues management might otherwise deem to be their prerogative).

UK (voluntary) joint consultative committees (JCC)

In the UK, organisations may establish similar arrangements to works councils, typically known as joint consultative committees, staff/company councils or works/office committees (see Table 3 for UK data on JCC changes). The 2004 ICE Regulations, transposed from the EU Directive, facilitate the creation of such institutions should employees opt in to trigger their statutory rights (and only in establishments with 50 or more employees). The Regulations (Directive) stipulate that employers (member states) must establish permanent mechanisms for managers to: (1) share information with employees/their representatives relating to the organisation's economic situation; (2) share information and consult on issues pertaining to organisational developments; and (3) consult with a view to reaching agreement on employment threats and changes to work contracts (Hall and Purcell 2012). However, information and consultation mechanisms must be initiated by a written request from 10% of an

organisation's workforce. Case study research reports that such an arrangement can disadvantage worker capacity in contrast to company management, by putting undue stress on employees who may be perceived as questioning managerial legitimacy, especially if the request has to be made in a non-union setting without the institutional structures of an independent trade union for support (Cullinane et al 2015).

According to WERS (2011), 7% of UK organisations have a JCC at the workplace level, while 18% have a JCC at a higher organisational level, and in 28% of those union representatives are members of the JCC. Despite the introduction in the UK of the 2004 ICE Regulations, the incidence of consultation committees has remained stable or declined: the number of organisations with a workplace-level JCC in 2011 remained the same as in 2004 (7%), and the number of organisations with a higher-level JCC in 2011 decreased by 8%. Table 3 shows variation in the existence and level of JCCs across industries.

Table 3: UK joint consultative committees (%)

		No JCC	Workplace-level JCC	Higher-level JCC
Private manufacturing	2004	87	11	2
	2011	91	5	4
Private services	2004	69	5	25
	2011	79	6	15
Public sector	2004	29	19	52
	2011	36	15	48
All	2004	66	7	26
	2011	75	7	18

The scope of issues subject to JCC institutional mechanism influence in the UK is summarised in Table 4. The table shows a decrease in the scope of influence between 2004 and 2011, including pay (by 7%), government regulations (by 21%), training (by 14%) and equal opportunities and diversity (by 14%).

The literature review indicates that more knowledge could be provided about specific areas of influence that may be yielded by employees through different UK JCC or works councils. In WERS (2011, p21), 44% of managers said they use JCCs to find solutions to problems, 36% stated JCCs are utilised to receive feedback on various options, and 20% claimed they are employed to receive feedback on their preferred option (12% in 2004). According to 28% of employee representatives (including union/non-union), JCC meeting agendas are typically controlled by the manager and their preferred options for what

issues to discuss, indicating a 20% increase in managerial influence since 2004. These findings relate to the concept of ‘regulatory space theory’, which depicts a range of issues subject to public decision-making or private control (Berg et al 2005, p73, Hancher and Moran 1989). Case study research has reported the consequences of political and tactical lobbying by some employers who actively campaigned and influenced the content of national and transnational regulations for employee information and consultation institutions (Dundon et al 2014b).

In summary, analysis suggests that the scope for employees to voluntarily influence and participate in I&C institutional arrangements has narrowed (Dundon et al 2014b, Hall et al 2011). At the same time, however, regulatory space is a highly contested arena and the potential for influence is in part connected

to voice process (both union and non-union) dimensions, including the role of external bodies and agencies assisting employee capacity to leverage change (see sections 4.5, 4.6 and 4.7).

Institutional governance mechanisms: challenges and gaps in knowledge

On the one hand, the likes of the ICE Regulations (2004) in the UK (transposed from the EU I&C Directive) signal a degree of employee power and potential capacity to leverage change, with access to opportunities for new institutional arrangements at workplace levels. On the other hand, however, research is less clear about impact and outcomes. It has been shown employers can control the agenda about the scope of issues such institutional mechanisms cover, while at higher levels corporations actively lobby governments and state agencies to shape the content of regulations (for example regulatory space). Possible further areas of inquiry may include the following:

- employee experiences about the nature and type of decision-making input and scope of issues addressed by different institutional mechanisms (for example JCCs, works councils, other company committees)
- the reasons why employees do not trigger their rights for works councils, or other information and consultation arrangements
- management responses, attitudes and behaviours when employees do trigger their rights for an institutional I&C forum of some sort
- questions accessing information about the range of resources that different actors (employees, trade unions, management, employer associations) can use/draw upon when considering and/or implementing institutional I&C arrangements.

Table 4: Scope of joint consultative committees (%)

Issue	2004	2011
Production	48	46
Employment	76	74
Financial	63	66
Future plans	75	77
Pay	62	55
Leave and flexible working arrangements	64	52
Welfare services and facilities	57	69
Government regulations	56	35
Work organisation	71	69
Health and safety	79	76
Equal opportunities and diversity	56	42
Training	68	54
Other	5	13

Source: Adam et al (2014, p34)

4.5 Union participation

Key concepts explained

Trade unions are independent collective bodies representing the interests of workers. The potential influence of trade unions over work and employment relationships has occupied attention for some time (for example Royal Commission in 1867, Donovan Commission in 1968, Committee of Inquiry into Industrial Democracy in 1977, known as the Bullock Committee; and as recently as 2015, a Royal Commission on trade union activities in Australia). The British Government continues to legislate to curb the capacity for trade unions to engage in industrial action (for example the Trade Union Act 2016).

The literature on trade unions is extensive. Contemporary debates often look to the work of Freeman and Medoff (1984), who argued

that independent trade unions are the most effective vehicle for employee voice, primarily as a countervailing source of influence to challenge the unilateral power of management control. In this context union voice helps prevent or minimise employee exit (Hirschman 1970). Union participation is generally linked to joint regulation through collective bargaining, although multiple forms exist at different levels: individual, workplace, industry, national or supra-national (Kaine 2014).

Union forms and levels

A global generalisation is the decline in union membership and collective bargaining (see Appendix 1). The reasons for such decline are varied and debatable. Most authors draw attention to a combination of factors (see Section 2), including anti-union laws, shifts in economic demand, a rise in service sector

jobs with flexibilisation and job market fragmentation, a global neoliberal political ideology that eschews the idea of collectivism, with individual HRM policies that seek to persuade workers that unions are unnecessary actors in the employment relationship (Budd and Bhawe 2008, Heery 2016). However, the literature cautions against viewing declining membership as a signal of diminished utility or union usefulness. It may be that declining membership trends may have coloured assumptions about the relevance of unions (Kaine 2014). It is true that trade unions remain the single largest civic society movement with capacity to influence modern employment conditions. Table 5 summarises the wide *form* of union representations, the variable levels at which influence may be leveraged, and possible *outcomes* from such influencing capacity.

Table 5: Union forms, levels and possible outcomes

Forms of union influence	Levels	Possible outcomes
Grievance advocacy	Individual	Resolution and potential adaptation of company policy
Industrial action	Workplace/national	Collective agreements
Moderate action/action short of a strike (overtime bans)	Workplace/national	Collective agreements
Collective bargaining	Workplace/industry	Collective contracts/agreements
Leveraging of commercial pressure and organisational reputation in supply chains	Industry	<ul style="list-style-type: none"> Industry-specific legislation (that is, the Australian <i>Road Safety Remuneration Act 2012</i>) Joint employer-union enforcement mechanisms
Use of law other than employment law	Industry	Environmental regulation
Political lobbying about industry policy	Industry	<ul style="list-style-type: none"> Public investment in the industry, industry-specific job market initiatives Industry-specific job market initiatives
Political affiliations	National	Social pacts
Test cases	National	Changes to employment law
Living Wage campaigns	National	Changes to social wage
Global union federations	Supra-national	International framework agreements
Participation in multilateral forums such as the ILO and EU committees	Supra-national	EU directives ILO conventions

Source: Adapted from Kaine (2014, p176) and Heery (2009)

‘Newer methods of union participation are occurring among community coalitions ... [including] advocacy groups for non-traditional workers (agency, casual and self-employed).’

Crucially, the levels and forms in Table 5 are far from mutually exclusive. Unions often mobilise members to take collective action over individual grievances (Kaine 2014). The transport industry (for example, London Underground) is an example of where such mobilising occurs, extending individual grievance into more expansive collective action of the sector or whole workforce.

What union stewards do to influence work and employment relationships is important. According to WERS (2011, p16), 43% of union stewards spend the majority of their time on collective issues, rather than individual issues, with 21% spending equal time on both. But this varies between and within countries. Comparing the UK and France, Marsden (2013) affirms that strong links between workplace representatives and unions tend to collectivise individual voice in the UK. However, the duality or co-existence of both individual and collective union voice in France is different in that it is anchored on an institutional complementarity between separate bodies: works councils on the one hand, and trade unions on the other.

Further and newer functional roles of unions also show additional influencing capacities. Newer methods of union participation are occurring among community coalitions and CSOs (Wills 2012, Holgate 2009). Some of these actors function as advocacy groups for non-traditional workers (agency, casual and self-employed) or under-researched groups such as LGBT workers (Heery 2009, 2010). Heery (2009) argues that collective bargaining may be limited or ill-equipped to protect precarious workers and it elucidates how difficult it is for some unions to secure recognition with employment agencies, gang-masters or other marginalised worker groups who do not have standard or negotiable model contracts.

Union scope and depth of coverage

The scope of issues and extent of union penetration are further indicators of changing capacities to influence. Table 6 reports that union stewards spend their time dealing with a variety of issues in addition to pay (61%), including health and safety (69%), pensions (55%), and discipline and grievances (78%).

Table 6: Issues union reps spend their time on (%)
(see also Table 10 on non-union reps)

Issue	Union reps
Discipline or grievance	78
Health and safety	69
Rates of pay	61
Pension entitlements	55
Staffing levels	54
Hours of work	54
Holiday entitlements	47
Equal opportunities	44
Training	36
Performance appraisal	39
Recruitment or selection	31

Source: WERS (2011, p17)

Examining the ‘depth’ of union representation (that is, how much influence trade unions have) may require caution. First, relying on quantitative metrics such as membership density rates alone can be at best problematic, or at worst paint an incomplete understanding of the wider influences of change. For example, although union density is less than 8% of the workers in France, the extent of union bargaining agreements covers some 98% of the population – one of the highest of all OECD countries (see Appendix 1). The high coverage is attributed to regulatory mechanisms enabling agreements to cover industries and regions (also in Denmark, Germany, and Portugal) (Kaine 2014). As can be seen in the table in Appendix 1, there is substantial variation in union density levels and the coverage of collective bargaining between OECD countries.

The literatures cover a range of concepts to explain the dichotomy of union influence despite declining membership figures (in some countries). One of the more prominent theories is the varieties of capitalism (VoC) explanation, which charts differences between liberal market economies (LME) on the one hand, and co-ordinated market economies (CME) on the other (Hall and Soskice 2001). The issues relate to the contextual forces and job market changes reported in Section 2 of this report. Since the 1990s, changes such as flexibilisation and market liberalisation have been prominent in some leading countries (for example the UK, US, Australia), while in CME nations legislation has to a greater extent protected skills and representative bodies such as works councils (for example Germany, Sweden). That is, in LMEs flexibilisation tends to be coupled with managerial

freedom to achieve productivity and efficiency goals despite union opposition. Conversely, in CMEs, unions are embedded in national institutions which have the capacity to moderate managerial freedom to some extent (Thelen 2001).

However, despite the attractiveness of VoC explanations (LME vs CME typologies), it is very loose and elides less salient contextual differences at the workplace level and tends to neglect differences within each type of regime (Crouch 2005). Indeed, the initial VoC conceptualisation was dominated by manufacturing industry, often highly unionised, with little consideration for newer and expanding sections of the workforce (Blyth 2003). Furthermore, many countries do not fall into the LME or CME category – for example China, a state-dominated country. Even though some general collective voice mechanisms are accessible to Chinese unions, for example collective bargaining, the depth and scope of voice available to workers through unions is constrained by union obligations to cater for state (aka Communist Party) interests (Cheng et al 2012). The outcomes of union influence in Chinese workplaces are therefore more likely to rest on the contextual setting and the interplay between micro and macro factors.

Appendix 2 charts trade union influence as a function of statutory supports and rights by country. In some countries (that is, Finland, Sweden) trade unions have access to detailed corporate information and rights to be consulted, more so than in the UK. Works councils, reviewed in section 4.4, appear to symbolise the gold standard for influencing capability (for example are mandatory with wide scope of issues covered). Strategically, in

some countries the works council employee representative is a union member and operates as a de facto union steward within the works council, potentially increasing union influence.

It is possible that areas of future enquiry can explore the social relations between unions and other bodies (that is, works councils) in countries where unions do not dominate, which may open up new vistas. Unwrapping the macro external and micro intra-organisational forces shaping this relationship could generate new knowledge.

Union participation: challenges and gaps in knowledge

Trade unions remain highly relevant for millions of workers and have an established longevity as legitimate agents for employee representative interests. To review the capacity of union influence, reliance on crude membership trends alone may not fully capture the nuances about how and over what issues managers and union stewards influence one another at a workplace. The direction of union influence may also be channelled in areas beyond and outside the workplace – for example, among CSOs. Potential areas that may be worthy of future investigation could include:

- the issues, types of worker, and sectors of the economy that are of interest/subject to union-CSO collaboration
- the extent to which employees (as union members) can influence union governance and policy objectives
- the reasons why some employees may decide not to utilise union representative channels
- the opportunities for union stewards to participate in and shape the agenda of other employee representative bodies

- the attitudes of managers towards collective participation and union bargaining (including the potential value of union participation to management decision-making).

4.6 Non-union employee voice

Key concepts explained

The decline in union density noted in section 4.5 may imply that non-union voice mechanisms offer the potential to be distinct from the institutional arrangements, such as works councils or union bargaining reviewed in sections 4.3 and 4.4. Here we focus on mostly management-initiated forms of voice, rather than interpersonal skills utilised by employees. Such non-union forms may include both individual voice and collective non-union employee representation (NER) channels as mechanisms with potential to affect the balance of power between employer and employee. The former may include high-autonomy jobs or semi-autonomous teams with individual opportunities to leverage change and influence employment decisions (Harley 2014). NER includes staff associations, works councils, non-union partnership fora, joint consultative and health and safety committees, quality and productivity

groups, and possible employee board representation (Gollan 2007, Dobbins and Dundon 2014). NER may further include external civil society organisations (considered separately under section 4.7).

Individualised non-union voice

Perspectives and sources on non-union voice vary. Organisational behaviour (OB) and human resource management (HRM) literatures tend to privilege individualised dialogue, primarily through direct communication between employees and their manager. These ideas on voice generally link to high-performance work systems (HPWS) and employee engagement, by augmenting employee commitment and satisfaction (Wilkinson et al 2014, Harley 2014). Evidence suggests, however, that employee influence is constrained or fragmented. In some literatures (especially managerial traditions in OB and HRM), the prospect of utilising voice to express grievances that question or disagree with management tend to be brushed aside (Morrison 2011). Management and employee interests are somehow united by a common goal exclusively geared to enhance organisational performance (Heery 2016), reminiscent of the unitarist frame of reference discussed in

Section 1. Other perspectives advance more pluralist ideas that employee and manager interests do converge in some settings, but can also be opposed on other matters (Edwards 1990), and non-union voice may offer opportunities to leverage influence without making direct comparisons with union participation (Wilkinson et al 2014).

One difficulty is there are few non-union voice studies that specifically ask employees how they value such arrangements in terms of depth, level or scope of influence (Dundon et al 2005). Research tends to paint an either/or picture in which non-union voice can be seen as rosy and upbeat with unitarist overtones, and somehow inherently less extensive than union voice because it lacks independence from company management. It is rare for non-union voice to be examined irrespective of a direct comparison with union participation (Gollan 2007), although ironically there is a rich tradition of studying mechanisms such as teamworking as a voice mechanism but in a disconnected manner.

Some of the evidence that does capture the scope of non-union influence is presented in Table 7. This reports a mixed array of

Table 7: Extent of non-union employee influence (% of employees)

Occupation	Involved in improving work	Consulted before personal objectives are set	Ability to influence important decisions
Manager	81	70	78
Professionals	59	58	57
Technicians	52	49	53
Clerks	43	43	36
Service and sales workers	45	41	41
Agricultural workers	66	51	70
Craft workers	46	44	48
Plant and machine operators	31	32	29
Elementary occupations	31	33	33

Source: Eurofound (2017, p83)

influences, although the general trend (especially for the UK) is one of shallow employee influence. For example, at the European level, 79% of managers indicate they have influence on important decisions, although although less than a third (29%) of machine operatives report the same degree of influence.

Collective non-union employee representation (NER)

Even though individualised forms of non-union voice are more prevalent in the UK (Hall et al 2011), WERS (2011) reports a slight increase in company-specific non-union employee representative

(NER) systems, from 6% in 2004 to 13% in 2011. Eurofound interviewed one employee representative from the main body involved in decision-making within each organisation surveyed. Appendix 3 illustrates variation between countries.

Table 8 indicates that NER systems exist at different ‘levels’ with varying ‘scope’. For example, committees at department level may discuss health and safety issues related to work practices, but more substantive issues (pay) may be dealt with at transnational level by European works councils (Dobbins and Dundon 2014).

‘Non-union voice can be seen as rosy and upbeat with unitarist overtones ... because it lacks independence from company management.’

Table 8: Non-union employee representation – forms, functions, levels and scope

Form	Function	Level	Scope
Grievance panel or committee	Rectify a problem	Work group; team; department; function	Working conditions; employee-manager relationships
Joint health, safety and employee well-being committee	Maintain and review protocols for safe working conditions and standards	Department; function; division; plant	Health, safety, welfare, well-being concerns
Profit-share/gain-share focus group	Distribution of profit or bonus plans/agreements	Cost-centre unit (function or division)	Bonus payments; recognition awards
Quality forum	Employee input to improve product design/service delivery	Team; department	Quality of products/service; standards
Plant production committee	Production scheduling; union avoidance communications	Function; division; plant	Targets; pace of work; supervisor concerns
Equal opportunity dialogue forum	Support and encourage equality and diversity culture	Division; plant, including senior management team	Employee rights; promotion; work attendance issues for women or older employees
Company-wide communication forum/works committee	Engender commitment from employees by avoiding union channels of voice	Plant; division, including HR and/or senior management team	Terms and conditions; pay, potential for distributive bargaining topics
European works council	Legal compliance and/or transnational consultation	Transnational division, including senior managers across countries (if relevant)	Information-sharing and consultation; corporate strategy topics
Employee reps on board of directors	Union substitution	Plant; company-wide; transnational	Information-sharing and consultation; corporate strategy topics

Source: Dobbins and Dundon (2014, p345)

The WERS 2011 survey found that only 7% of UK organisations have stand-alone NER reps. Table 9 shows that non-union reps cover a relatively narrower scope of issues than their union rep counterparts, with 58% of NER reps spending most of their time on training issues. In contrast, 78% of union reps deal with more substantive (deeper) work and employment relationship issues, such as discipline and grievance.

In qualitative case study research, Cullinane et al (2012) report how the depth of influence covered by NER channels can narrow over time. After initial inclusion of higher-order (deeper) issues (redundancy consultation and redundancy terms), minor issues (narrow scope) tended to dominate the NER agenda. Other authors also suggest that shallow NER voice can function as a potential union avoidance strategy engineered by some employers to minimise employee influence (Gall 2004, Gunnigle et al 2009).

International data on this issue paints a similar picture (van den Broek 1997, D'Art and Turner 2005, Logan 2006). However, others

point to multiple rationales for NER (Dundon and Gollan 2007, Butler 2009, Cullinane et al 2012, Kaufman 2013), with evidence of employee capacity to: influence the agenda, widen employee skills and job knowledge, and provide input into managerial decision-making (Gollan 2006).

From this standpoint, NER voice systems may complement, substitute or add value to union structures of voice (Kaufman and Taras 2010, Gollan 2007). A more recent phenomenon in this regard is that of 'double-breasting' voice, whereby management choose to develop non-union employment relationships in one plant, while simultaneously recognising and bargaining with a trade union in another plant (Cullinane et al 2012, Dundon et al 2014a). Double-breasting may represent a tactic for management to play one group of employees off against another, particularly in organisations depending on foreign direct investment (Lavelle et al 2010).

A further issue is that an emphasis on cost-cutting, common in liberal market regimes, results in brittle NER employee voice influence.

However, it is also evident that NER voice arrangements have multiple 'faces', which cannot be shoehorned into any one single or specific 'rationale', such as union avoidance per se (Marchington et al 2001, Kaufman and Taras 2010). The extent of non-union employee voice influence, particularly in liberal market contexts, depends on multiple factors, including national business systems, context, location, product and job market, occupational mix, and whether managerial strategy or ideology is to avoid or resist unionisation in hostile or other ways (Marchington 2015, Donaghey et al 2012).

Non-union voice: challenges and gaps in knowledge

Identifying non-union voice mechanisms and predicting their effects on employee influence is often presented in highly unitarist terms in much HRM and OB literatures. However, other critical studies point out that contextualising employee experiences can be uneven and signal weaker degrees of influence, especially the tendency to contextualise collective NER against the counterpart of unionised participation. Potential future avenues of research include unpicking non-union influences and how they play out in practice in different situations as non-union organisations are not all the same. Examples include:

- the extent to which different non-union voice arrangements permit employee involvement in decision-making and over what issues – for example, differentiating the depth of influence as a form of communication (low), consultation (medium) to negotiating decision-making outcomes (high influence)

Table 9: Issues non-union/union reps spend their time on (% of reps)

Issue	Non-union reps	Union reps
Discipline or grievance	44	78
Health and safety	50	69
Rates of pay	52	61
Pension entitlements	28	55
Staffing levels	46	54
Hours of work	40	54
Holiday entitlements	33	47
Equal opportunities	25	44
Training	58	36
Performance appraisal	49	39
Recruitment or selection	28	31

Source: WERS (2011, p17)

- how the scope of issues dealt with by NER representatives is determined
- the motives and reasons as to why and how managers opt to implement double-breasting voice arrangements.

4.7 External actors and networking

Key concepts explained

As already noted, civil society organisations (CSOs) are newer entities that operate beyond the immediacy of the enterprise location, yet function as an agency with the potential to influence work and employment relationship issues. The focus here is on those organisations related to questions of employee representation and worker rights, rather than external actors seeking to influence employers to adopt progressive practices (for example, the CIPD). External agencies are not themselves a homogenous group and the literature identifies three types, each with a slightly different scope: *'external support'* bodies; *'interest representation'* organisations; and finally, *'mobilising social movements'* (Heery et al 2012a, 2012b). We add a fourth from the literature review, which we label *'community network'* influences, explained below.

External support bodies

External advisory organisations such as the Citizens Advice Bureau provide information to assist employees with workplace relations issues, such as dismissal, pay, discrimination and working hours (Pollert 2008, 2010, Holgate et al 2012b). Legal advice centres provided by local authorities or other CSOs offer advice to employees and assist with employment law matters. Holgate et al's (2012a) study looked at advice from among

Kurdish advice centres with local networks, showing that community knowledge helps build trust and share knowledge within a demographic that might not otherwise have access to traditional or conventional forms of worker representation.

However, many such local advisory centres are under severe financial pressures, limiting their capacity to meet demand from the number and volume of people they can support at any one time (Tailby et al 2011). For other similar agencies, such as the Unemployed Workers' Centres, their remit to support workers has narrowed since the 1980s because of funding and resource constraints. To this end the capacity to influence wider populations of workers may be narrow or confined to small pockets of specific advisory influence. Yet at the same time, the quality of support and influence has been valued as impactful for the groups involved. Studies have uncovered their role in developing basic skills and confidence-building that support marginalised groups of employees to contribute effectively and positively in the job market (Perrett et al 2012, Perrett and Martinez Lucio 2008). Independent and more progressive employment agencies may also develop such roles with greater formal capacity in the future (Forde and MacKenzie 2010).

Interest representation organisations

An increasing number of national organisations are becoming involved in specific areas of work and employment relationship representation. These are normally formal bureaucratic bodies that interact with, but are independent of, traditional employer and worker organisations. They may lobby in their own right or create alliances

with other groups over specific issues and campaigns (Heery et al 2012a, 2012b). Such organisations may also offer focused training programmes for employers on issues such as race awareness. UK examples include: Age UK (dealing with issues relating to older workers); the Fawcett Society (dealing with women's rights, that is, gender pay); Carers UK (providing support and advice to employed/unemployed carers); and Stonewall (dealing with the lobbying and consultation of LGBT rights). There are also many nationally co-ordinated organisations involved with black and minority ethnic issues, for example Voice for Change England (Perrett and Martinez Lucio 2009). In other countries, for example in Ireland, the community and voluntary pillar (CVP) that was part of the former corporatist partnership model with the state advocated the interests of similar groups, providing support for older and young people, women, disabled workers, the unemployed, and other civil society bodies with an interest in employee and citizenship advocacy (Carney et al 2012).

Mobilising oriented social movements

Some organisations add an agitation-based or mobilising element to their lobbying and support activities. London Citizens/Citizens UK have adopted many of the classic mobilising and social features of the worker movement, leading campaigns around the dignity of work and living wages, and working closely with academics and various social groups. These new forms of community-based organisation link traditional worker representation with new forms of social action that reach beyond the worker movement, but may sometimes be in alliance with it (Wills 2012,

‘The extent to which CSOs impact the scope and depth of employee influence depends also on the level of networking and the forms of new organising tactics.’

Holgate 2009). Indeed, new forms of small-scale independent worker representation – increasingly new trade unions and not just loose networks – have emerged from some of these struggles.

Forms of external actor engagement

There is some indication of the way external actor groups engage with companies and how corporations respond may leverage positive influence. For example, Citizens UK launched the Living Wage Campaign in 2001, securing over £210 million in wage increases thus far (Citizens UK 2017). Furthermore, a Just Equal Treatment campaign in 2007 by Age UK guaranteed that workers over 65 cannot be forced out of the job market (Age UK 2017). Public Concern at Work (PCAW) not only supports individuals, but also provides frameworks that enable employees and others to influence employment relationship issues and open debates within companies and unions. PCAW supports whistleblowers and established the First 100 campaign in 2014, encouraging companies to sign up to a statutory code of practice for whistleblowing practices. This code can be utilised by courts and tribunals; 40 organisations have signed up to date (PCAW 2017).

Through other external agencies the idea of rewarding employers for their work is a growing source of potential leverage. Stonewall, for example, works with over 700 companies, classed as Diversity Champions, to emphasise the value that LGBT employees bring to the workplace (Stonewall 2017a). The potential impact of Diversity Champions can be measured by deploying a ‘workplace equality index’. The equality index benchmarks organisations

against others in their sector and underpins an annual report, showcasing the top 100 organisations (Stonewall 2017b).

Similarly, one needs to look at the curious effects of management learning or related bodies as intermediary influences (Marchington 2015). The CIPD holds ‘People Management Awards’, annually rewarding organisations based on their people management and learning and development initiatives (CIPD 2017). Awards are given for multiple categories, including ‘best employee engagement initiative’. While primarily a management body, they may on occasions attempt to shape the debates around representation in relation to public policy. Other organisations, such as the Involvement and Participation Association (IPA), can also shape thinking on employee participation and act as a consulting body leveraging employee interests.

However, important knowledge gaps exist around employer responsiveness to external actor campaigning and employer awards. Further research may highlight various forms of impact that external actors exert on employee power, or may tease out the obstacles curbing external actor influence.

Network influencing

The extent to which CSOs impact the scope and depth of employee influence depends also on the level of networking and the forms of new organising tactics. Many CSOs are formalised, with specific bureaucratic structures and roles, often dependent on various forms of funding from members, employers or the state. Yet networking helps create informal advocacy and support

structures to persuade opinion. New organisational forms and new spaces within work and employment are now a growing part of the policy-making process, with many also evaluating companies and public sector employers. However, funding for such bodies is uneven, and the extent of their influence is a subject for further research. There is also the problem of possible crowding out and competition between such bodies.

The scope of networking opens up new possibilities for sharing, accessing information and resources, and engaging with universities and the learning sector more widely. These organisations and networks create a large learning and research community, as funders and research entities in their own right, contributing to knowledge transfer. However, the lack of co-ordination and the funding crisis in this fragmented institutional framework of representation may effectively undermine this indirect influence on – and support for – widening employee influence.

Research on networking influences has looked at how informal worker networks within companies exchange information, both within and across borders (Whittall et al 2009); how they facilitate broader social and political mobilising strategies within and beyond traditional institutions of job regulation (Darlington 2002); how they counter the marginalisation of employee groups on the fringe of the formal economy; and how they provide new pathways to help change organisational and job market outcomes.

As a relatively new and continuously developing form of networking, social media provides

a major vehicle for representing specific issues and needs (Hodder 2014), particularly in relation to younger people. Studies pinpoint how social media can facilitate collective mobilisation (Greene et al 2003), provide information on workers' rights and sources of support to vulnerable migrant workers (Fitzgerald et al 2012), and even modernise and assist responses to broader patterns of organisational change (Martinez Lucio et al 2009).

External actors and networking: challenges and gaps in knowledge

The body of literature on newer external actors is in its infancy relative to other dimensions reviewed in this report. In the move towards more flexible modes of representation within and beyond the workplace, various intermediary bodies and networks supporting employee interests and company awards have emerged. Their scope and depth of influence is variable. To some extent these bodies both complement and extend traditional modes of employee representation, such as trade unions or other statutory instruments. In other respects, however, they can potentially crowd out one another on certain issues. To this end, valuable further lines of research may include:

- canvassing employee attitudes and perceptions about the purpose, role and impact of CSOs over the issues that are of concern to employees – these may be mapped by sector, occupation, region or other job market segmented factor
- identifying specific wider factors that promote and/or hinder CSOs' capabilities to improve the scope and depth of employee influence

- examining how CSOs use networking, or new organisational forms, to engage in work and employment relationship matters within and beyond their constituency
- several questions could be developed about how employers engage with external actor groups and how such bodies shape employment through, for example, employer branding (for example working with the likes of Stonewall, and so on)
- understanding the links between such CSOs and the way they align their specific interests and demands in relation to other CSOs and traditional organisations (for example, how do age-related organisations link to disability groups?)
- 'survey managers and trade unionists about their awareness, involvement, experience and opinions concerning the role and impact of CSOs' roles over employment and HR policy issues.

5 (Re)framing the shifting dynamics of work and employment relationships

‘...contract status and technology have combined to undermine legal rights for workers in the gig economy...’

This section is an analytical discussion of the dimensions reviewed above. It charts a fragmented and disconnected set of influences, while acknowledging that such influencing factors change over both time and space. It starts with Figure 6, which depicts a ‘static’ set of relationships between the power dimensions reviewed in this report. The graphic presents an ‘idealised’ interpretation of the distributions of power, where some or all such dimensions may be of relevance – a sort of theoretical equilibrium-seeking model promoting a balance of regulation, voice, governance and performance as a preferred outcome.

However, a more distinctive contribution arising from this review is a discernible pattern of unevenness with regard to the inter-relationship between the seven dimensions, leading to the fragmentation, or disconnection, in the capacity of employees to influence their work and employment relationships.

Compared with Figure 6, Figures 7–9 capture more realistic and uneven entropy of dimension relationships, showing different scenarios depicting marginalised, disconnected and evasive forms of fragmented power distributions. Furthermore, while these are illustrative, they are evidenced across multiple sources reviewed in this report to varying degrees.

Figure 6: Theoretical power dynamics of employment relationships

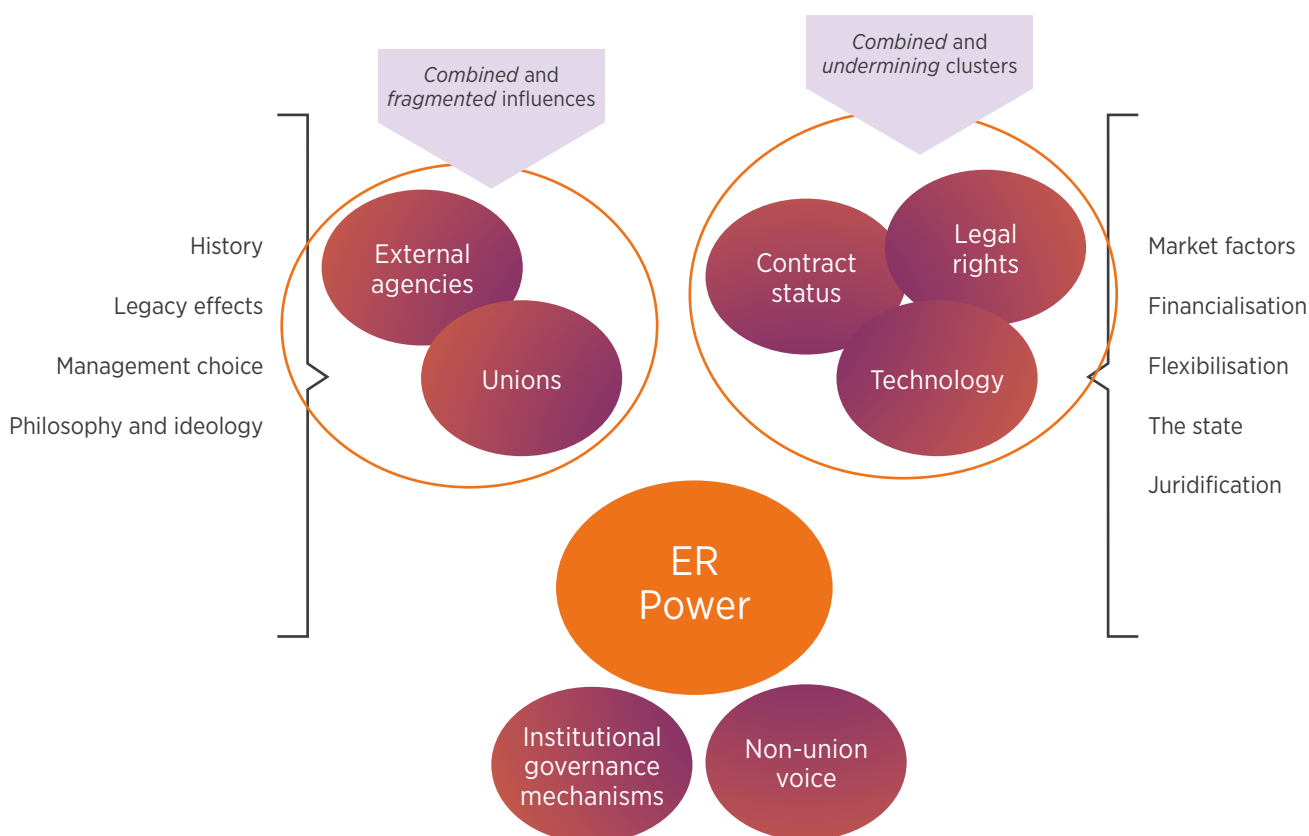


In Figure 7, it can be observed how 'unions' and 'external agencies' may combine to shape employee influence, yet at the same time are somewhat fragmented from other sources of influence (for example depicted in the left top quadrant of Figure 7). Such scenarios have been evidenced when unions and community campaign groups supporting worker interests have found synergies with newer actors and external agencies, as in the examples of Living Wage debates and community coalitions.

In the right top quadrant of Figure 7, 'contract status', 'legal rights' and 'technology' also combine as a set of distinct relationship influences, although the effect may be more *undermining* of employee influence. For example, contract status and technology have combined to undermine legal rights for workers in the gig economy, to make work more precarious, and to decrease employee influence in non-standard job market occupations. Furthermore, challenges affecting

management choices over the uses of new technologies can control and commodify work tasks that constrain employee power, with wider political and public policy considerations about equity and justice. For many organisational managers, the sheer dispersion of the workforce and range of technologies used to monitor work schedules creates new challenges regarding fragmentations between employer and employee as well as job market controls.

Figure 7: Fragmented and combined inter-relationships



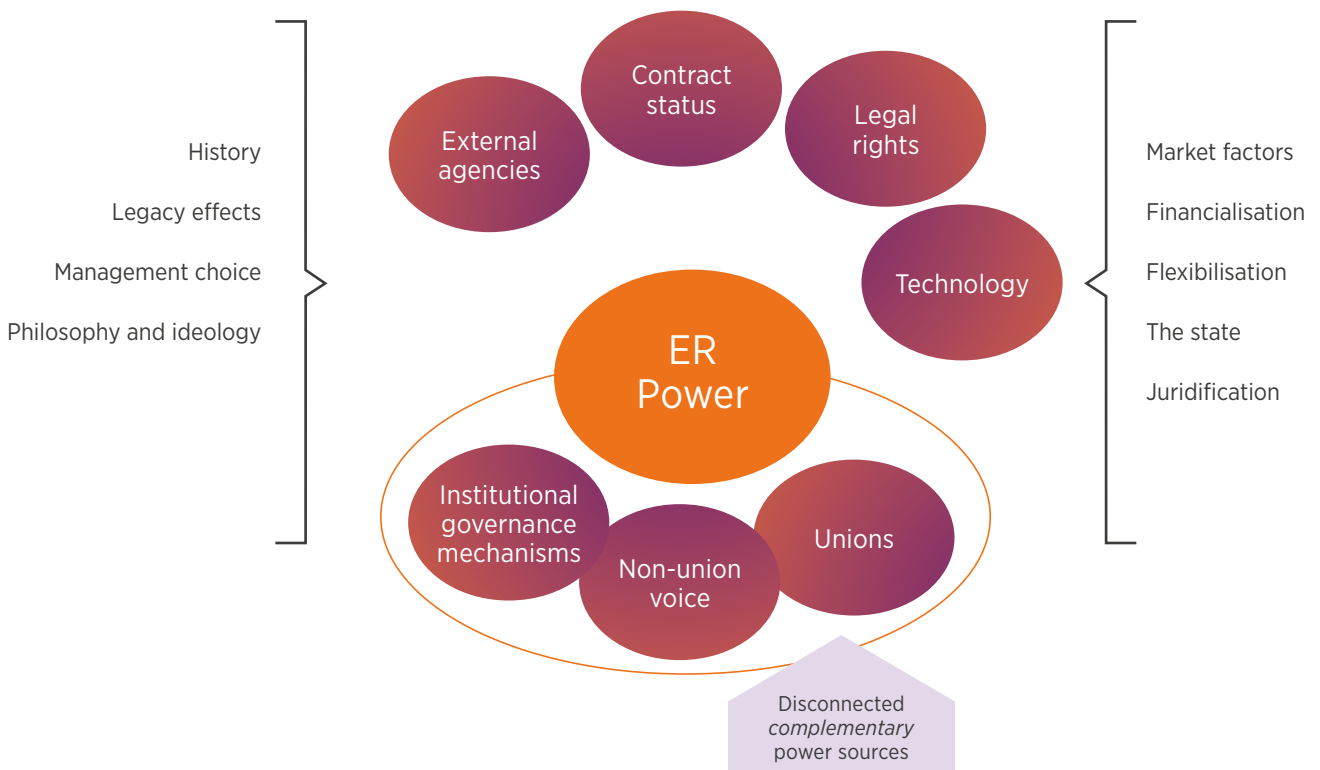
‘There is an evidential decline in formal forms of employee representation and the spaces for influence and voice remain contested.’

The range of uneven relationship influences is further illustrated in Figure 8. In this scenario, non-union voice may combine to offer *complementary synergies* with other institutional governance mechanisms (for example EWCs or JCCs) along with union participation; the latter functioning in terms of deeper power distributions around collective consultation and bargaining, while non-union voice supports integrative problem-solving opportunities for employees to offer suggestions (see the cluster

encircled towards the bottom of Figure 8). Unaided, non-union voice may be shallow or weak relative to union bargaining, yet when combined, under certain conditions and supported by collective voice and framed by it, there may be an entirely different and more integrated complementarity that leverages new degrees of employee influence.

However, the review also showed how the opposite has been evidenced among less enlightened

Figure 8: Disconnected and complementary synergy influences

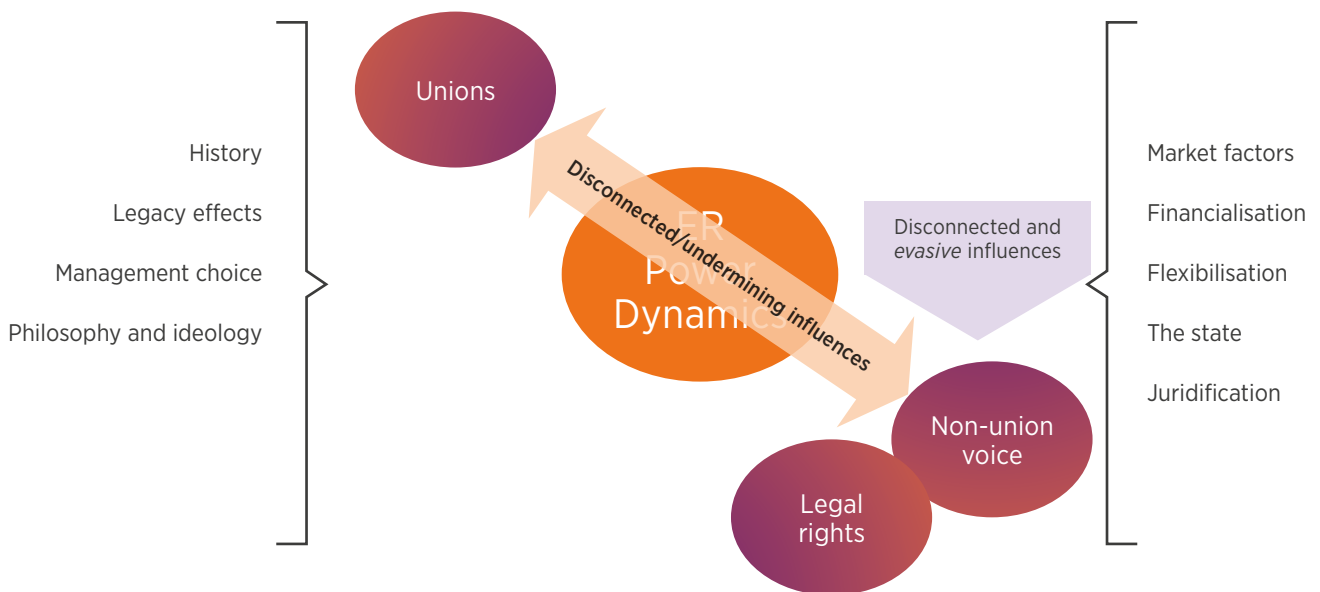


employers or among more hostile work and employment regimes. Thus Figure 9 illustrates *evasive* and *disconnected* relationship power dynamics, where non-union voice is actively used as a substitute to evade or undermine trade union representation – such as when management ideology is hostile to unionisation or the state actively undermines collective forms of engagement with redesigned legal rights (for example, the Trade Union Act 2016 placing additional restrictions on trade union behaviour).

Overall, the concept of ‘disconnected and fragmented power imbalances’ raises debates and questions about the clarity of representation, the forms of corporate governance and HR system strength. It raises questions about who is speaking for whom. The challenges from fragmentation also raise questions about how managers adapt and respond to changing political, legal and operational exigencies and uncertainties. In measuring employee influence, it is essential that a broader approach

across various dimensions of representation and of social and organisational spaces is adopted. There is an evidential decline in formal forms of employee representation and the spaces for influence and voice remain contested.

Figure 9: Evasive and disconnected power structures and processes



Conclusion

The aim of the report was to review academic and grey literatures to evaluate the changing dynamics of work and employment relationship power – that is, the capacity for employees to leverage influence about the terms of their employment relationship. Although other approaches may have also offered fruitful insights (for example, a psychological perspective focusing on workers’ interpersonal skills), the report primarily applied a sociological and economic perspective to unpick the channels, structures, processes and systems shaping work and employment relationship power dynamics.

The review opened by defining power in the context of employment, followed by a discussion of key contextual

factors including historical legacies, market factors, the changing face of capitalism, the role of the nation state, management choice, and job market flexibilisation and fragmentation. In terms of the latter, we note how the job market differentiates between insiders (established workers with more bargaining power) and outsiders (young, unemployed or some gig economy individuals with less access to voice or the ability to influence). Furthermore, we reflected on how employer choice can condition the way employers react to the channels, structures, systems and processes affecting employee power and job quality influences.

The review also aimed to capture the shifting axis to employment relationship power by reviewing

seven core dimensions (Table 10). This is not intended to suggest that these dimensions are exclusive or all-encompassing. Nonetheless, they capture a spread of literatures and related issues and thereby offer a comprehensive overview of the multiple forms, scope, levels and depth of potential influence across the seven dimensions reviewed.

In terms of legal sources, we find that the form is indirect, and while the scope in some emerging areas such as the gig economy may initially appear to favour some employees (for example worker status of previously assumed self-employed), there is limited systematic depth. A lack of a collective legal framework may lead to a greater degree of fragmentation, with a concerted

Table 10: Coverage of ER dimensions in the literature (as per analytical schema)

ER dimensions	Form (for example direct vs indirect methods)	Scope (the range of issues to be influenced)	Level (workplace, organisational, national, transnational)	Depth (the degree of real influence)
Legal rights	✓	~	✓	~
Contract status	✓	~	✗	~
Technology and employment	~	~	✗	~
Institutional governance	✓	✓	✓	✓
Union participation	✓	✓	~	✓
Non-union voice	✓	✓	~	~
External actors	✓	✓	✗	~

Legend:

✓ = strong evidence of coverage of the dimension in the literatures reviewed

~ = partial coverage of the dimension in the literatures reviewed

✗ = absence or no coverage of dimension in the literatures reviewed

push towards individual rights. The manner in which employment agencies and subcontracting obscure the nature of the employer means that there is a level of uncertainty for employers and employees.

Technology has the potential to generate more fractured and distant arm's-length relationships. The use of crowdwork, for example, creates a blurring of boundaries between employer and employee, replacing human and social dialogue with an algorithmic management platform. The experience of work may be more isolated given an increasing dependency on technology: workers are isolated from one another and disconnected from their manager, as social relationships are regulated by the platform rather than by the people interface. In terms of workers affecting employer brand through the likes of Glassdoor, influence on the brand is more perceptual than real.

Trade union forms of representation and non-union voice are both areas of potential influence. Although trade union power has diminished in terms of scope and coverage of membership, they can leverage legitimate and substantive influence to regulate at the workplace level where they are recognised. Compared with other European regimes, union influence at national and corporatist levels appears shallow under the UK voluntarist system. Non-union voice has grown across many organisational settings with wide scope of issues covered. However, relative to union bargaining, it would appear shallow in terms of depth and light on power. Although most schemes are often management-led, employees without union channels may find value when they can offer ideas and suggestions for change.

We focused also on the external actors that represent or support employees to shape their work and employment relationships and show how they offer wide and diverse forms of potential influence. Some CSOs are actively championing specific themes, while others are broader and more generalist. While the scope of issues covered by such bodies is wide, the extent of influence and depth is more complex given the political aspects of lobbying and publicity generated from some high-profile campaigns.

Table 10 summarises the coverage of the seven dimensions in the literature referencing the analytical schema (form, scope, level, depth) and highlights the evidence on coverage.

Taken together the seven dimensions help frame related areas of potential influence over the nature of employment relationships. Aspects of the schema denoted partial coverage (for example ~ in Table 10), which offers areas for future empirical enquiry. Furthermore, elements of the schema were absent (for example 'x' in Table 10) across other dimensions. This may be because the aspect of the analytical schema is not as relevant to the dimension concerned. For example, 'level' in the contract status and technology and employment dimensions are not as relevant as other elements of the schema. Moreover, across the dimensions reviewed, there were evidenced pockets of employee influence, although there are also notable areas of fragmentation and disconnection.

So where we work, with whom, under which market conditions and against which options there are for management choice are all factors shaping the totality of

'Although trade union power has diminished in terms of scope and coverage of membership, they can leverage legitimate and substantive influence to regulate at the workplace level where they are recognised.'

work and employment relationship power. The way these factors combine is important: when voice mechanisms are narrow, legal worker rights constrained, or where the worker status is set as an independent contractor, we may reasonably anticipate a decline in the capacity for these employees to have a say on matters that affect them at work. Despite emancipatory opportunities facilitated by technology (for example homeworking, task or job selection), major problems remain due to the inability of workers to construct stable voice mechanisms and consistent communities of work and social relations. The uneven and at times contradictory effects of these seven dimensions and the range of mediating factors suggest a new disconnection, if not fragmentation, to employment relationships.

Potential future work and employment priorities

From the above several important priority areas emerge for employers, the HR profession and multiple external bodies promoting job quality issues to delve into. How actors respond to, engage with, and evaluate future work and employment relationship priorities will vary. The relevance for some will differ from others, conditioned by unique contextual factors applicable to occupational groups, management priorities and firm-specific issues. Two broad ER priority clusters are suggested from our review that may benefit organisations from a reappraisal relevant to their specific context and situation.

‘Governance and sustainable work futures’

Turning to the first employment relationship priority cluster, there is evidential value from efficient use of a range of institutional governance mechanisms, extending

beyond national boundaries for multinationals. These provide conduits for workforce and line management collaboration and offer new fruitful opportunities to be revised, re-evaluated and enhanced in an uncertain post-Brexit climate, where manager and workforce roles require sustainable productive collaboration. Further, union and non-union voice can be complementary across diverse contexts (for example for large and small firms and for workers to access voice and managers to engage employees).

However, voice is often shallow, and HR professionals, with support from educational bodies such as the CIPD, or arbitration services such as Acas, could enrich and widen knowledge about the implementation of deeper voice mechanisms and their benefits for employers, managers and organisations. Such bodies may also support new learning to highlight the advantages of positive union relations and help mitigate hostile and anti-union employer mindsets. How different union and non-union voices sit together, and underpin other institutional arrangements for social dialogue, continually change and reshape the boundaries of influence.

‘Rights, justice and technology’

The second employment relationship priority area recognises the obstacles facing HR professionals, employers and external agencies when trying to engage with systems supporting equity, justice and engagement. Important issues of suitability and appropriateness of contract variation across the life course are of growing importance, with people living longer and their demands, needs and expectations changing within and across

diverse populations. Crucially, the challenges of contract status extend beyond market value extraction and employers may strengthen brand and reputation by humanising management practices, across standard and non-standard employment contracts, and involving new technology as a tool that is reconfiguring traditional work and employment relationships.

In this area future learning opportunities emerge for HR professionals to better understand the ‘people-technology interface’ and how impersonal relationships are reconfiguring working experiences in different sectors, industries and occupational roles (including emerging gig economy jobs). A further priority focus could uncover how voice and social dialogue among managers and workers, but also workers and customers, is developing and changing through new communication and information technologies (including social media and web-based platforms for social dialogue).

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Appendices

Appendix 1: Trade union density and collective bargaining coverage, by country

Country	Trade union density (%)		Collective bargaining coverage (%)	
	2008	2013	2008	2013
Australia	18.9	17	53.3	60
Austria	29.1	27.4	98	98
Belgium	54.4	55.1	96	96
Brazil	19.3	17.7	58.77	65.03
Canada	27	26.5	29	29
Chile	14	14.4	16.7	18.1
Czech Republic	17.4	12.7	49.8	47.3
Denmark	66.3	66.8	82	84
Estonia	6.9	5.7	24	23
Finland	67.7	64.5	89.5	93
France	10.7	11.4	98	98
Germany	19.1	17.7	61.4	57.6
UK	27.5	24.7	33.6	29.5
Greece	23.5	21.5	83	42
Hungary	14.6	10.7	28.7	23
Iceland	84.7	91.8	88	89
Indonesia	8.7	7	10	14
Ireland	31.8	26.5	40.5	40.5
Israel	30.5	22.8	56.1	26.1
Italy	33.9	37.3	80	80
Japan	18	17.4	17.6	17.1
Latvia	15.1	13.1	20.7	15
Luxemburg	36.5	32.8	59	59
Mexico	15.7	13.1	13.7	12.2
Netherlands	18.8	17.6	78.6	84.8
New Zealand	21.4	18.5	17.8	15.3
Norway	52.6	52.1	68	67
Poland	15.1	12.7	15.7	14.7
Portugal	20.5	18.5	84.6	67
Russian Federation	31.9	27.8	26.4	22.8
Slovak Republic	17.2	13.3	40	24.9
Slovenia	26.6	21.2	92	65
South Africa	28.9	27.2	42.5	32.6
Korea	10.3	10.2	12	11.7
Spain	17.2	16.9	79.3	77.6
Sweden	68.3	67.3	91	89
Switzerland	17.5	16.2	45.1	48.6
Turkey	10.7	6.3	7.2	6.5
USA	11.9	10.6	13.1	11.9

Source: OECD (2017)

Appendix 2: Trade union involvement

	Body with information and consultation rights	Rights of the information and consultation body	Trade union involvement in information and consultation
Austria	Works councils	Information consultation co-determination	Through (high) union membership among works councillors
Belgium	Works councils	Information consultation co-determination (specific issues)	Through (high) union membership among works councillors
Bulgaria	Elected representatives or trade unions	Information consultation	Through (high) union membership among works councillors
Croatia	Works councils	Information consultation co-determination (specific issues)	Through (high) union membership among works councillors
Cyprus	Employee (in practice trade union) representatives	Information consultation co-determination (specific issues)	Information and consultation (mainly) via union
Czech Republic	Trade unions or, where no unions present, employee councils	Information consultation co-determination (specific issues)	Information and consultation (mainly) via union
Denmark	(Union-based) co-operation committees	Information and consultation	Through (high) union membership among works councillors
Estonia	Employee trustees	Information consultation	Unions involved in information and consultation where they exist
Finland	Trade union representatives (shop steward)	Information consultation co-determination (specific issues)	Information and consultation (mainly) through union
France	Works councils	Information consultation co-determination (specific issues)	Union allowed seat on works council. Through union membership among councillors
Germany	Works councils	Information consultation co-determination	Unions establish works councils. High union membership among works councillors
Greece	Trade unions or, where no unions present, employee councils	Information consultation co-determination (specific issues)	Information and consultation (mainly) through union
Hungary	Works councils	Information consultation co-determination (specific issues)	Through (high) union membership among works councillors
Ireland	Company-specific information and consultation arrangements or statutory information and consultation forums	Information consultation	Varies according to organisation-specific arrangements
Italy	Representative trade union bodies at the workplace. Separate information and consultation bodies possible	Information consultation	Information and consultation (mainly) via union
Latvia	Trade union representatives (predominant)	Information consultation	Information and consultation (mainly) via union
Lithuania	Trade unions or works councils	Information consultation co-determination (specific issues)	Information and consultation (mainly) through union
Luxembourg	Staff delegations or joint committees	Information consultation co-determination (specific issues)	Through union membership among works councillors
Malta	Trade union/employee representatives	Information consultation	Information and consultation (mainly) via union
Netherlands	Works councils	Information consultation co-determination (specific issues)	Through union membership among works councillors
Poland	Works councils	Information consultation	Through (high) union membership among works councillors
Portugal	Workers' commissions	Information consultation	Through (high) union membership among works councillors

Appendix 2: Trade union involvement (continued)

Country	Body with information and consultation rights	Rights of the information and consultation body	Trade union involvement in information and consultation
Romania	Trade union representatives or, where no union is present, elected employee representative	Information consultation co-determination (specific issues)	Information and consultation (mainly) through union
Slovakia	Trade unions or works councils	Information consultation co-determination (specific issues)	Information and consultation (mainly) through union
Slovenia	Works councils	Information consultation co-determination (specific issues)	Unions establish works councils, nominate candidates
Spain	Workers' committees (workers' delegates when <50 employees)	Information consultation co-determination (specific issues)	Through (high) union membership among works councillors
Sweden	Trade union representatives	Information consultation co-determination (specific issues)	Information and consultation (mainly) through union
United Kingdom	Company-specific information and consultation arrangements or statutory information and consultation forums	Information consultation	Through (high) union membership among works councillors

Source: Eurofound Company Survey (2015, p10)

Appendix 3: Main representation bodies, by country

Country	(% of employee representatives from each country)
Austria	Works council (98%)
Belgium	Works council (46%) Health and safety committee (43%)
Bulgaria	Employee representatives (38%) Employee representatives for information and consultation (34%)
Croatia	Trade union (87%) Works council (13%)
Cyprus	Trade union (100%)
Czech Republic	Trade union (93%) Works council (7%)
Denmark	Works council (60%) Shop steward (29%)
Estonia	Employee trustee (76%)
Finland	Workers' delegate (50%) Works council (33%)
France	Workers' delegate (51%) Trade union delegate (34%)
Germany	Works council (82%) Employees' delegate (12%)
Greece	Local trade union (64%) Union of persons (20%)
Hungary	Works council (69%) Local trade union (18%)
Ireland	Trade union representative (51%) Statutory employee representation forum (26%)
Italy	Unitary workplace union structure (66%) Plant-level union representation (24%)
Latvia	Authorised employee representatives (46%) Trade union (45%)
Lithuania	Health and safety committee (58%) Trade union (21%)
Luxembourg	Staff delegation (51%) Joint works committee (40%)
Malta	Shop steward (93%)
Netherlands	Works council (74%) Personnel delegation (26%)
Poland	Local trade union (72%) Works council (28%)
Portugal	Shop steward (47%) Workplace union committee (30%)
Romania	Employee representative (95%)
Slovakia	Works council (39%) Trade union (36%)
Slovenia	Works council (44%) Trade union (32%)
Spain	Local trade union (62%) Works council (11%)
Sweden	Trade union (100%)
United Kingdom	Trade union (81%) Joint consultative committee (19%)

Source: Eurofound Company Survey (2015, p10)

Appendix 4: Key EC/EU employment directives

The main directives that have been adopted so far in the employment field (excluding a large number of those on mutual recognition of qualifications and health and safety) are as follows:

No. 75/117/EEC

On the approximation of the law of the Member States relating to the application of the principle of **equal pay** for men and women.

No. 76/207/EEC (now No.2006/54/EC)

On the implementation of the principle of **equal treatment** for men and women as regards access to employment, vocational training and promotion, and working conditions.

No. 79/7/EEC

On the progressive implementation of the principle of **equal treatment** for men and women **in matters of social security**.

No. 80/987/EEC (now No. 2008/94/EC)

On the approximation of the laws of the Member States relating to the protection of employees in the event of the **insolvency** of their employer.

No. 86/378/EEC

On the implementation of the principle of **equal treatment** for men and women **in occupational social security schemes** (as amended by No. 96/97EC).

No. 86/613/EEC

On the application of the principle of **equal treatment** between men and women engaged in an activity, including agriculture, in a **self-employed** capacity, and on the protection of self-employed women during pregnancy and motherhood.

No. 89/391/EEC

On introduction of measures **to encourage improvements in health and safety**.

No. 91/533/EEC

On an employer's obligation to inform employees of the **conditions applicable to the contract or employment relationship**.

No. 92/85/EEC

On the introduction of measures to encourage improvements in the safety and health at work of **pregnant workers** and workers who have recently given birth or are breastfeeding.

No. 93/104/EC (now No.2003/88/EC)

Concerning certain aspects of the organisation of **working time**.

No. 94/33/EC

On the protection of **young people** at work.

No. 97/71/EC (and see No. 104/67/EU on enforcement of main directive)

On the **posting of workers** in the framework of the provision of services.

No. 94/45/EC (now No.2009/38/EC)

On the establishment of a **European Works Council** or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (extended to the UK via Directive 97/74/EC).

No. 96/34/EC

On the framework agreement on **parental leave** (extended to the UK via Directive 97/75/EC).

No. 97/81/EC

Concerning the framework agreement on **part-time work**.

No. 97/80/EC

On the **burden of proof in cases of discrimination based on sex** (extended to the UK via Directive 98/52/EC).

No. 98/59/EC

On the approximation of the laws of the Member States relating to **collective redundancies** (consolidating earlier Directives of 1975 and 1992).

No. 99/70/EC

Concerning the framework agreement on **fixed-term work**.

No. 2000/43/EC

On implementing the principle of equal treatment between persons irrespective of **racial or ethnic origin**.

No. 2000/78/EC

Establishing a **general framework for equal treatment** in employment and occupation.

No. 2000/79/EC

Concerning the European Agreement on the organisation of **working time of mobile staff in civil aviation**.

No. 2001/23/EC

On the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of **transfers of undertakings**, businesses or parts of businesses. (This now incorporates the original directive on this subject – No.77/187/EEC as amended by No.98/50/EC.)

No. 2001/86/EC

Supplementing the Statute for a **European company with regard to the involvement of employees**.

No. 2002/14/EC

Establishing a general framework for **informing and consulting employees** in the European Community.

No. 2002/15/EC

On the organisation of **working time of persons performing mobile road transport activities**.

No. 2008/104/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on temporary agency work.

Appendix 5: Employment law cases

Adkins and Others v Lex Autolease Limited. (2017) *Employment Tribunal*. 1 March 2017.

Aslam and Ors v Uber BV and Ors. (2016) *Employment Tribunal*. 28 October 2016.

Autoclenz Ltd v Belcher and Others. (2011) *IRLR*. 820.

Byrne Brothers (Formwork) Ltd v Baird. (2002) *IRLR*. 96.

Cotswold Developments Construction Ltd v Williams. (2006). *IRLR*. 181.

Dewhurst v Citysprint UK Ltd. (2017) *Employment Tribunal*. 1 May 2017.

Lange and Others v Addison Lee Limited. (2017) *Employment Tribunal*.

Pimlico Plumbers Limited and Another v Smith. (2017) *EWCA*. 51.

Protectacoat Firthglow Ltd v Szilagyi. (2009) *IRLR*. 365.

R (on the Application of UNISON) v Lord Chancellor. (2017) *UKSC*. 51.

SW Global Resourcing Ltd v Docherty and Another. (2012) *IRLR*. 727. EAT and (2013) CSIH 72 (Inner House of Court of Session in Scotland).

Young and Woods Ltd v West. (1980) *IRLR*. 201.



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