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# **Information and consultation at work: from challenges to good practice**

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## **EXECUTIVE SUMMARY**

In 2002, the Department of Trade and Industry issued a discussion paper on the principles of introducing the European Union (EU) Information and Consultation Directive (*High Performance Workplaces: The Role of Employee Involvement in a Modern Economy, DTI, 2002*). A subsequent consultation document issued in 2003 has addressed questions relating to the Directive's implementation, which will take place from 2005 to 2008 (*High Performance Workplaces: Informing and Consulting Employees, DTI, 2003*). In response, the Advisory, Conciliation and Arbitration Service (Acas) has carried out a research exercise to capture its experience in helping workplaces establish arrangements for informing and consulting employees at work. The aim of the study was to identify general principles of good practice and the challenges associated with introducing information and consultation arrangements into workplaces.

Good communication and effective employee involvement are both central to Acas activities. Through publications, seminars, training and facilitative workplace projects Acas provides guidance and support to organisations seeking to develop communication or consultation arrangements or meet the requirements of consultative regulations. The research draws on the experiences of advisors who conduct detailed workplace projects.

Information and consultation are separate, though interrelated, processes. The first is management sharing information with employees. Consultation, in Acas' view, involves managers and employees (or their representatives) jointly examining and discussing issues of mutual concern, and seeking acceptable solutions to problems through a genuine exchange of views and information. Advisors within Acas assist in the introduction of new arrangements for communicating and consulting with employees as well as helping to revise existing structures. Acas' ethos, and much of its practical experience, places emphasis on joint working (involving employee and management representatives) as key to good employment relations. This experience means that Acas is ideally placed to give guidance on means of enhancing employee involvement and trust through information and consultation.

Based on their experience in "good practice" organisations, Acas advisors described a number of benefits arising from effective information and consultation which were consistent with those identified in the research literature on "high performance work organisations". They highlighted the links between information and consultation and organisational performance, innovation, efficiency and workforce productivity. Other benefits include better quality decisions, effective change management, improved understanding of organisational priorities by employees, and innovation in practices and procedures. In essence, employee involvement can be a vital tool for improving products and services, effectiveness, productivity and competitiveness, and for building a positive climate of employment relations and trust.

### **The Core Principles of Effective Information and Consultation**

No two workplaces have identical features. Each is shaped by historical, sectoral and environmental influences. It follows, then, that no single, static model of information and consultation will apply. Information and consultation arrangements must be attuned to the characteristics and needs of individual workplaces, and in many instances workplaces will need a combination of arrangements to communicate and consult effectively with the workforce. Nonetheless, the research identified a set of core principles which are prerequisites for the effective functioning of arrangements:

- Effective communication and consultation arrangements are most likely to develop where there is demonstrable, sustained commitment to genuine information-sharing and consultation from both employers and employees. "Genuine" consultation implies a commitment to joint working, two-way communication and jointly exploring options. Managers must be committed to consulting early in the decision-making process, listening to contributions and explaining final decisions.
- Training in a range of skills - for example, joint working methods, behaviours and protocols for effective meetings, communication and presentation skills, and interpreting financial and performance data - is central in ensuring the effective operation of both information and consultation arrangements, from which benefits will accrue to the organisation. Both managers and employee representatives have training needs, and often joint training will provide particular benefits in breaking down barriers.
- The subjects addressed in the process of informing and consulting must be central to the needs of the organisation and meaningful and relevant to the needs of employees. They include legal obligations, business strategy or organisational goals, and everyday developments that have implications for change at organisational, establishment and employee (terms and conditions) levels.
- Information needs to be clear, timely and provided on a regular basis. When providing information on significant issues, management should allow the opportunity for feedback and response to questions. The benefits of providing extensive information should be balanced against the dangers of overburdening employees with too much information.
- Consultative arrangements should be tailored to organisational needs, cultures and structural features, and so will vary. However, a degree of "formality" is necessary so that participants are clear about their roles and responsibilities. Temporary or permanent arrangements may be appropriate, depending on the issues to be addressed. The benefit of permanent arrangements are persuasive, as they allow time for all parties to build trust and mutual respect, and develop expertise. Permanent arrangements also provide a vehicle for dealing with issues as and when they arise, including all aspects of statutory consultation.
- The need for regular reviews and a willingness to modify arrangements are crucial to ensuring the sustainability of arrangements. This involves appraising the strengths and weaknesses of arrangements and modifying them to ensure that they, and decision-making processes within them, remain effective and relevant to the workforce as a whole.

### **Good Practice in Joint Consultative Committees**

The mechanisms for consultation are many. However it is in the establishment of joint consultative committees or other named consultative groups that Acas has developed specialist knowledge. Acas' experience in helping organisations set up and oversee effective consultative committees has enabled the distillation of certain "good practice" principles and practices.

- In the first instance, it is important to develop a framework or constitution that sets out the objectives, scope, membership and functioning of the committee. This provides detail of the rules and processes by which the committee will operate; who will be involved in it;

their roles and responsibilities; mechanisms for achieving sound representation; the conduct of meetings; and communicating information from meetings to the wider workforce. While providing both clarity - and a means of managing the expectations of the committee - a constitution is not set in stone, and should provide sufficient flexibility to respond to changing circumstances.

- Committees should involve senior management representatives who have decision-making authority, as their involvement signals the organisation's commitment to consultation.
- Employee representatives must be willing, must reflect workforce composition and must be representative of specific workforce groups and constituencies, provided that the number of representatives does not result in a committee of an unmanageable size. Organisations should seek appropriate strategies for selecting employee representatives. These should be fair and transparent and may include nominations and elections.
- In many instances, information provision (or communication) and consultation activities may overlap. It is important to delineate which issues are to be the subject of information, consultation, or negotiation, so as to prevent confusion about the scope of the committee's powers.
- Efficient communication flows into and out of consultative committee meetings are important. All parties require sufficient information upon which to make sound judgements. In addition, it is important to keep a record of the issues discussed at meetings, and employee representatives must be given sufficient time to communicate information and decisions from meetings, to the workforce. Especially important is the establishment of protocols covering the disclosure of confidential information and the handling of confidential information by employee representatives.
- Meetings should be regular to maintain continuity. Their frequency should reflect the volume of issues to cover and the timetable for decision-making. Employers and employee representatives should take joint responsibility for developing agenda. These should be prepared in advance and adhered to so that discussion remains focused and issues are resolved.
- Regular reviews of the committee and decision-making processes help to ensure that they are working to the satisfaction of all stakeholders and the benefit of the organisation. Committees may request that Acas advisors attend occasional meetings to assist in the improvement of meeting processes. Advisors can identify behaviours that lead to difference and dispute, and provide guidance on effective meeting behaviours.

### **Effective Information and Consultation - the Challenges and Strategies for Success**

A range of challenges face the successful implementation of information and consultation arrangements at the workplace.

- First, managerial styles may present a barrier. If managers have little experience of information-sharing, have a "paternalistic" style, operate within a rigid hierarchical structure, or have concerns about sharing knowledge and decision-making, they may be averse to the notion and benefits of communication and consultation. In contrast, information and consultation is likely to be more effective in workplaces where the culture

is based on an "open" management style, with an emphasis on inclusiveness in decision-making, or where managers believe that employees have an intrinsic and fundamental need for "voice".

- The history of employment relations behaviours in a workplace can act as an inhibitor or an enabler to effective information and consultation. Workplaces with a history of adversarial relations, and those where there has been no tradition of employee involvement, face the greatest barriers to shifting to a culture of employee involvement. Where positive relations have been built - possibly with a trade union presence or through partnership working - employers may be more open to the opportunities presented by the Directive to review or bolster consultation arrangements.
- In certain workplaces, creating mixed constituency committees - combining trade union and non-union employee representatives - may pose practical difficulties. Factors which may present a challenge might relate to an imbalance of legal rights, support and expertise between the two groups.
- Specific factors must be taken into consideration when introducing arrangements tailored to geographically dispersed workforces and those in small workplaces. The information and consultation needs are the same in these workplaces as in larger or single site organisations. For dispersed workforces, the key question is whether arrangements should be at the organisational or establishment level, or both. In some instances multi-tiered structures may provide the most effective vehicle for addressing the interests of all levels of the organisation and the workforce as a whole. The challenges in smaller workplaces revolve around the need to achieve the correct balance between formality and informality in communication. Informality may be the norm in many small workplaces and work to the advantage of managers and employees, but it can also be beneficial to develop formal communication structures which can deliver information on issues of strategic significance.

### **The Role for Acas**

Acas has always had a principled commitment to joint working and this is proven in its vast experience of working with employers and employees to develop and review communication and consultation arrangements. This work will continue and expand as Acas assists more organisations to prepare and respond to the legislation that will be phased in from March 2005 in the UK and will surround information and consultation at work. Especially important will be the guidance that Acas will provide through its national telephone helpline and through written material, delivered through publications and electronically. Seminars and workshops, with bespoke training events within workplaces, will provide vehicles for addressing aspects of the law as well as best practice. In addition, the specialised, in-depth, facilitated work - of the kind explored throughout the report - will continue to be of use in guiding employers and employees jointly to address the challenges and opportunities presented by the new legislation. Acas' expertise in this field will assist workplaces in developing the most appropriate and sustainable arrangements for informing and consulting employees.

## **Acknowledgements**

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# 1 INTRODUCTION

## 1.1 Background

Good communication and effective employee involvement in the workplace lie at the heart of the good practice promoted by the Advisory, Conciliation and Arbitration Service (Acas). Across the spectrum of Acas' activities - from calls to the Acas national telephone helpline, to Acas' involvement in collective disputes and problem solving initiatives - the benefits and challenges of informing and involving employees are consistently high on the agenda.

This wide exposure to workplace dynamics allows Acas to make a unique contribution to the current debates surrounding the implementation of the EU Information and Consultation Directive in the UK. The broad purpose of the Directive is to establish, "a general framework for informing and consulting employees in the European Community"<sup>1</sup>, although member states are given considerable discretion in determining the particular arrangements for implementation.

Aside from the detail of regulations, important debates surround the practicalities of introducing arrangements for informing and consulting in the workplace. In 2002, the Department of Trade and Industry (DTI) issued a discussion paper *High Performance Workplaces: The role of employee involvement in a modern economy* inviting comment on a series of high level principles associated with information and consultative arrangements, with evidence sought on what works well at work. A subsequent consultation document issued in 2003 has addressed questions relating to the Directive's implementation (*High Performance Workplaces: Informing and Consulting Employees, DTI, 2003*). The latter document describes Acas' role in assisting organisations in creating or revising structures for communication and consultation (pp 24-25). This report will set out Acas' functions in the area of information and consultation in greater detail in the process of addressing the implementation issues raised in the DTI documents.

## 1.2 The European Information and Consultation Directive

The Directive came into force in March 2002 with a phased implementation in the UK, beginning in March 2005 applying to undertakings with at least 150 employees. From March 2007 it will be extended to undertakings with at least 100 employees, and from March 2008, to undertakings with at least 50 employees. The Directive itself provides limited guidance regarding practical arrangements (set out in Article 4, a full version of which is attached as Annex 1) emphasising simply that the "basic requirements" of the Directive state that information and consultation should cover:

- Information on the recent and probable developments of the undertaking's activities and economic situation;
- Information and consultation on the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged in particular where there is a threat to employment;

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<sup>1</sup> The Directive 2002/14/EC of the European Parliament of the Council of 11 March 2002, establishing a general framework for informing and consulting employees in the European Community.

- Information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations including those covered by legislation concerning collective redundancies or transfer of undertakings;
- Information should be “given at such time, in such fashion and with such content as appropriate to enable ... employee representatives to conduct an adequate study and where necessary prepare for consultation”;
- The “timing, method and content’ of consultation should be ‘appropriate”, and “at the relevant level of management and representation”.

Alongside this guidance, Article 5 of the Directive deems acceptable existing, voluntary agreements within workplaces, though in some instances these will differ from those referred to in Article 4. The new draft of the UK Regulations, as set out in the DTI’s July 2003 Consultation Document, sets the context for practical implementation. Nonetheless, employers, trade unions and employees will almost certainly be left with considerable scope for deciding on what arrangements for informing and consulting best suit their workplace.

### **1.3 Acas Advisory Projects**

Acas is well placed to make a contribution to this debate on workplace employee involvement. Since its creation over a quarter century ago, Acas has developed a range of services aimed at improving employment relations through “good practice” training and advisory work, and through the resolution of disputes of a collective and individual nature. All of this work places an explicit or implicit emphasis on the benefits of employees being informed and involved at work. Perhaps most relevant of all the services provided are those that fall under the umbrella of Acas “advisory work”.

This work has a number of main strands relevant to information and consultation arrangements. A comprehensive programme of seminar and training events is run for employee representatives, employers, human resource managers, lawyers and others involved in managing the employment relationship. The programme covers interpretation of the law as well as broader messages of good practice in policy and procedures. Some sessions focus specifically on mechanisms for informing and consulting; others will touch on these dimensions as core features of good practice at work.

Beyond the seminars and training, over the last decade Acas has carried out around 5,000 detailed advisory projects in and 20,000 advisory visits to workplaces across Great Britain. The visits involve face to face discussions with either (or both) managers and employee representatives, to discuss concerns and develop strategies for improving workplace policies, procedures and practices. Detailed project work, which may or may not stem from these visits, is often of a longer-term nature with Acas officials assisting both parties involved in the employment relationship to work together to resolve problems, build better relationships and improve organisational effectiveness.

The actual working methods used by Acas will be adapted to suit the demands of a particular workplace, but include facilitative and problem-solving techniques in group settings, as well as wider staff consultative exercises (including surveys). Advisors may equally move to a more proactive role, drawing on their expertise and introducing “best practice” case studies to assist parties reach solutions.

A range of workplace problems are tackled during advisory projects<sup>2</sup>. In some instances the *explicit* objective will be to establish or review communication and consultation arrangements. In other instances the focus may be on working to improve policies or practices within a workplace. In these cases there is invariably an *implicit* need to ensure that mechanisms are in place for ensuring sound consultation and involvement. Most importantly, Acas advisory projects place considerable emphasis on joint working and joint problem solving. An overarching objective of the work is to lay a sound foundation for parties to develop good relationships built on trust and commitment.

This objective places Acas' advisory work at the centre of the broader high performance workplace debate described in the DTI's discussion and consultation papers (DTI 2002, 2003). At the juncture of the relationship between workplace practices and business performance lays workforce commitment, the prerequisite of which is good employment relations built on high levels of trust and cooperation (see for example Ashton & Sung, 2001).

Acas advisory projects take place across workplaces of all sizes and sectors; unionised and non-unionised; those with a tradition of consultation or collective bargaining, as well as sites at which systems for communication or involvement are largely absent. Acas advisors generally only engage workplaces where both parties to the employment relationship - employers and employees (or their representatives) - agree to Acas involvement. This joint "commissioning" of Acas is the cornerstone of the ensuing relationship in which Acas plays a third party, impartial, advisory and facilitative role.

#### **1.4 The Research Project**

How can Acas best contribute to the debate? An important source of data can be found in Acas' collective knowledge and experience of good practice concerning information and consultation at work. In order to capture this knowledge, interviews were conducted with senior advisors (the officials responsible for carrying out detailed advisory work within workplaces, hereafter referred to as "advisors"), focusing on their experiences of advising on, developing and reviewing information and consultation arrangements in workplaces. The interviews were unstructured in nature, allowing participants to identify and prioritise key relevant issues and concepts. Qualitative work of this kind is especially valuable in generating concepts and principles, and in unpacking the factors that shape phenomena - in this case the introduction of meaningful and effective consultative arrangements.

In particular, the interviews focused on:

- Identifying the key benefits of information and consultation;
- Seeking evidence of good practice in implementing information and consultation arrangements;
- Developing an understanding of the barriers and challenges of introducing consultative mechanisms;

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<sup>2</sup> For a full description of the historical development of advisory projects see Purcell J. (2000), 'After collective bargaining: ACAS in the age of human resource management'. In Towers, B. and Brown, W. (eds) *Employment Relations in Britain: 25 years of the Advisory, Conciliation and Arbitration Service*. London: Blackwell

- Considering the current and future role of Acas in introducing information and consultation arrangements including the strategies and working methods used by Acas advisors.

Full detail of the methodology and analytical approach and a copy of the topic guide can be found in Annex 2 of this report. It is envisaged that the data will be of value to policy makers in central government, those involved in advisory and good practice work, and managers and employee representatives faced with the challenges of introducing communication and consultative arrangements against a legislative background.

## 1.5 Understanding the Acas Frame of Reference

During the research interviews advisors drew on their experiences, their training, and their tacit knowledge. While their individual viewpoints differ, taken together they demonstrate a unique frame of reference which has evolved over years. Understanding the components of this particular frame of reference is important to make sense of the world and the priorities they describe. The following are its key features:

- A high level of commitment to information and consultation: to people talking to one another at work; dialogue involving a sound cross section of employees or their representatives; and where appropriate, to employee involvement in workplace decision-making.
- An emphasis on the need for mechanisms for information and consultation to be both effective and meaningful; not “consultation for consultation’s sake”.
- An approach to information and consultation which is sensitive to, and fashioned by, the cultural and structural characteristics of the individual workplace or establishment.
- A role for Acas which is facilitative, impartial and emphasises the value of joint problem solving, consensus-building and the importance of building the commitment and mutual trust of the parties.

One of the most vexed issues raised in debates on the Directive concerns the definition of the terms “information” and “consultation” and the boundaries between the two. This issue is explored in detail in the report (see Chapter 4), but from the outset it is important to clarify how Acas interprets the two terms. The Acas advisory booklet *Employee Communications and Consultation* predates the Information and Consultation Directive, but defines “communication” as “the provision and exchange of information and instructions which enable an organisation to function efficiently and employees to be properly informed about developments”. “Consultation” on the other hand is “the process by which management and employees or their representatives jointly examine and discuss issues of mutual concern. It involves seeking acceptable solutions to problems through a genuine exchange of views and information”.

Perhaps most important, information and consultation are not one and the same. The first is essentially “top down” and involves the disclosure of information by management. Consultation on the other hand assumes employees will be in possession of information, but also that managers are actively involved in seeking opinions and “taking account of the views of employees before making decisions”.

## 1.6 The Report

The report is divided into a number of Chapters. Chapter 2 considers the sectoral and cultural context of the workplaces in which Acas is involved in establishing information and consultation arrangements. This is important in explaining the circumstances in which Acas advisors work, but the data also provides some indication of the landscape in which the Directive will be implemented. Chapter 3 assesses the benefits of information and consultation, drawing on Acas advisors' experiences. Chapter 4 discusses the overarching principles involved in establishing effective information and consultation arrangements at work, while the following chapter looks specifically at good practice involved in setting up joint consultative arrangements. Chapter 6 addresses some of the main challenges involved in developing and sustaining effective information and consultation. The final chapter provides a summary of the themes discussed in the report and reflects on Acas' role for the future in the context of the Directive.

Throughout the report, quotations extracted from the taped interviews with advisors are interspersed with the text in order to illustrate and illuminate the experiences recounted. In addition, several previously published case studies are used to illustrate particular points. These all report on workplaces where Acas has been involved in detailed advisory work and appear in the Acas publication, *Towards Better Employment Relations: Using the Acas Advisory Service*.

## 2 ACAS WORK IN THE INFORMATION AND CONSULTATION ARENA

The enactment of the Information and Consultation Directive will take place against a backdrop of distinct economic and cultural factors and employment relations traditions. Acas advisors are exposed to the nuances of these contextual factors through their work. Accordingly, they were able to provide instructive insights into the environment in which the Directive will be instituted, and the issues for information and consultation that are likely to emerge. The chapter briefly examines specific changes taking place in the economic, sectoral and employment relations spheres which were highlighted by advisors. It then considers the impact such changes have had in shaping the role played by Acas when providing advice on information and consultation.

### 2.1 The Broader Context in which Acas Works

To understand the nature of Acas' work in the area of information and consultation it is important to understand the kinds of pressures that lead to workplaces seeking assistance. The following economic, legislative and sectoral trends were described by Acas advisors as having a significant impact on the nature of their advisory work<sup>3</sup>.

*Competitive and legislative change is driving strategic change in British workplaces:*

Competition from overseas low-cost manufacturers, the decentralisation and privatisation of public sector functions, an ever-evolving and dynamic private services sector, and a raft of new EU-influenced employment legislation were all cited as key factors requiring employers to engage in constant re-evaluation of corporate and employment relations strategies. Some managers are responding to external challenges by examining strategies for improving production processes and customer service practices. These and other changes have also generated internal pressures for *organisational restructuring*. Increased merger and acquisition activity in the private sector, for example, often results in complex organisational structures and may require managers to engage in large-scale transfers of employees and harmonisation programmes. It is often the role of the Acas advisor to provide them with the tools - including consultative structures - to effect what may be large-scale organisational change programmes.

*Sectoral change:* In many areas of the manufacturing sector in particular, the past few decades have seen managers engulfed in issues surrounding the "management of decline". Large-scale redundancies have occurred in the heavy engineering, textile, automotive and electronics manufacturing sectors as parent companies have shifted production to countries where production costs are substantially lower - most commonly Eastern Europe and the Far East. Firms implementing redundancies are obliged to comply with legislative requirements. Again, Acas advisors are called upon for help and this help often involves the establishment of consultative devices to manage the redundancy process.

The decline of some sectors of manufacturing has been offset by the growth of new, often largely non-unionised sectors. For example, those sectors supplying the food retail industry, such as logistics and food processing, are experiencing growth. Additionally, the last two decades have seen the rise of the microelectronics sector in Britain. This is largely a result of inward investment by foreign companies in regional areas such as the North East, North West and Midlands. Many of these establishments were set up to supply what are now increasingly beleaguered sectors, including automotive and information technology hardware

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<sup>3</sup> We recognise that many changes are taking place in the world of work, however a broader analysis of these issues is beyond the scope of this research.

manufacturing. They present a challenge for Acas advisors as they often have distinct organisational cultures and management styles, and use “high-tech” automated production processes, all of which may diverge from the cultures and manufacturing traditions of their regional locations.

*The growth of the non-union sector:* The growth of new industries in the private services sectors, increasing privatisation of public sector functions, and the decline of large swathes of the production sector, have all meant that trade union membership is becoming increasingly confined to the public and production sectors. New non-unionised industries and firms have gained increasing ground within the economy, and it is these firms which present perhaps the greatest challenge for Acas advisors in the information and consultation sphere. These new organisations may have no tradition of workplace consultative or representative structures and are increasingly seeking help in establishing mechanisms that enable managers to talk to their employees.

A further challenge is the *growth of the small business sector*. Within this, advisors are increasingly assisting small firms that have sprung up within the “Business Services” sector (a growing number of which supply the high-tech sector), as well as small voluntary or charity organisations which, in some cases, have been spun off from the NHS.

Small organisations have distinct cultures and needs that differ markedly from those of their larger counterparts. Acas advisors are often asked to assist them in developing information and consultative solutions tailored to their unique circumstances.

This ever-shifting business and organisational climate has resulted in a complex work environment for advisors, into which the Information and Consultation Directive will be introduced. The structures and processes currently in place for information and consultation are hugely diverse and are often in a state of flux themselves, while a large proportion of workplaces have no tradition of arrangements. The challenges posed by these environments are explored further in Chapter 6.

## **2.2 Acas Experience of Information and Consultation Arrangements**

One way or another, much of Acas’ work revolves around communications. Advisors may visit an employer, or become involved in an advisory project or a collective conciliation case which is ostensibly around one issue, only to find that poor communication lies at the heart of the problem. Often issues around communication will be the “root cause” of difficulties in relations. As one advisor put it, “Better communication is always an element of making existing relationships work more effectively”. Advisors may discuss a range of mechanisms for informing employees including team briefings, electronic delivery of information, newsletters or summary action points from meetings. They will also work with managers to ensure that whatever mechanism is put in place is effective and meaningful to employees. Chapter 4 reflects further on the principles of good practice in information provision at work.

Beyond advising on communication arrangements, Acas advisors assist workplaces to create formal mechanisms for consultation. In many instances this will involve establishing new mechanisms for consultation where none were in place, or the review and improvement of mechanisms where they already exist. What follows is a description of the variety of work undertaken.

### **2.2.1 Setting up New Structures for Consultation**

Most Acas advisory work that is focused on setting up new structures (in most cases, consultative committees or other named consultative groups) tends to take place in newer, non-union establishments. The process used by advisors in establishing committees is outlined in Chapter 5. The reasons why committees are established are manifold and were described by advisors as follows:

- Establishment of a temporary structure to comply with redundancy or Transfer of Undertakings Protection of Employment (TUPE) legislation, or to tackle a short-term project;
- As a consequence of the statutory trade union recognition provisions of the Employment Relations Act 1999;
- In response to the European Directive on Information and Consultation or other legislation, such as the Working Time Regulations;
- To deal with workplace issues or to remedy problems relating to labour turnover, attendance, productivity or health and safety;
- As a result of pressure from employees;
- Due to a change of company management, a merger, or takeover;
- As a function of growth in small firms;
- Where organisations seek mechanisms to communicate and consult with their increasingly dispersed workforce.

Each of these factors is examined in detail below.

#### **Temporary structures**

Temporary vehicles for workforce consultation are often established by organisations to comply with legislative requirements for consultation over redundancies, or transfers of employees under TUPE legislation. Other time-limited initiatives, such as job evaluations or reviews of shift systems may necessitate the creation of a consultation forum. In some cases employers may discontinue the arrangements once the issue is dealt with. In others they may observe the benefits of having a vehicle for consultation and decide to retain it as a standing committee or other named consultative body. Employers may also establish temporary or permanent committees to deal with issues arising from changes in ownership or organisational structures; for example, the need to harmonise disparate terms and conditions across the workforce or to implement consistent human resource policies across a number of sites.

#### **Trade union recognition and partnership**

In recent years, advisors have been contacted to an increasing degree by employers who have been approached by trade unions seeking recognition in particular workplaces. Where

unions have successfully gained recognition, advisors have worked with the union and management to develop new arrangements for consultation and negotiation. Related to this is the growth in employer-trade union partnership agreements or relationships. The increased popularity of these arrangements has provided the momentum for organisations to develop new, or restructure existing, information and consultation arrangements to reflect and support the new relationship.

Management-employee dealings in partnership organisations are often characterised as being more “open” in terms of proactive information provision to the workforce. Pay-setting in partnership organisations, for example, is more likely to involve extensive provision of financial information to employee representatives during the process. Partnership working, at its best, entails a high degree of consultation with the workforce, often in relation to strategic issues, and involvement of employee representatives at the earliest stages of the decision-making process. As a consequence Acas advisors might assist the parties in establishing more extensive, detailed consultative committees and processes where they are involved in helping them to develop a partnership relationship or agreement.

### **Legislative impact**

Over the last few years, the Information and Consultation Directive has also provided an impetus for non-union organisations to establish structures. While employers have been made aware of the forthcoming legislation through personnel groups, media coverage and other means, many advisors are also actively alerting managers to the forthcoming legislation through the programme of workshops and seminars run by Acas. As a direct result of these efforts, “more far-sighted” and “informed” employers are planning for the Directive ahead of its phased implementation, and are seeking Acas’ help in setting up structures.

As noted in the discussion on temporary structures above, it is not only the forthcoming legislation that is impelling employers to establish arrangements for consultation. Increasingly, information and consultation arrangements are viewed by employers as “convenient” means of dealing with other legislative requirements. With new regulations enacted relating, for example, to working time and parental leave, not to mention increasing numbers of redundancies in certain industries, more employers are concluding that it is useful to have a standing committee for consultation.

### **Employee pressure for consultation**

Advisors are involved in setting up structures in some organisations as a result of employee pressure for a consultative mechanism. This pressure may be channelled through managers or a local full-time trade union official who may then contact Acas advisors seeking information. Employee pressure for structures may be particularly common in non-unionised firms, where workers may seek a structure that will enable them to improve pay or conditions in the absence of trade union representative structures.

### **Changes in management or ownership**

A further impetus for information and consultation mechanisms, and Acas involvement, comes from new human resource or senior managers who have experience of working within, or operating, information and consultation arrangements in other organisations. Once appointed within new workplaces that lack information and consultation structures, they may

seek to establish arrangements anew, and approach Acas for assistance. In some cases this reflects a desire to change the organisation's culture. Company mergers and takeovers may have the same effect, whereby a new management team seeks to transfer the parent company's culture of consultation to the newly-acquired organisation. Or, where a company has existing consultative mechanisms in all its sites, it may endeavour to standardise this practice at a new site. It was not uncommon for large companies to split into smaller units which then had to establish site-based structures.

### **Growth in small firms**

As described in Chapter 6, it is common for advisors to be asked to assist in setting up structures in small firms which have grown rapidly, where managers realise that they need a more formal approach to informing or consulting employees. In the company's smaller incarnation, managers were usually able to talk to employees on a one-to-one basis. Once a company expands, managers may experience problems disseminating information and capturing feedback. Others may seek advice from Acas directly in response to the need to consult on issues associated with expansion.

### **Communicating with and consulting dispersed workforces**

Many "new" sectors of employment are characterised by high levels of dispersion or fragmentation among an increasingly mobile or home-based workforce. Examples include organisations in the charity, voluntary and "knowledge economy" sectors which have sought Acas' help because they face difficulties communicating with their workforce. In the knowledge sector, organisations with "virtual" teams of home workers and tele-workers have had to look at new means of consulting using video-conferencing, web cameras and intranets. Likewise, charity and voluntary sector organisations - where the workforce comprises mobile field and care workers, or small numbers of employees spread across a great number of sites - have sought help from Acas in setting up communication and consultation devices. In some of these organisations, the culture may not be attuned to traditional methods of consultation, such as committee structures, and they may need to consider alternative mechanisms more suited to their organisational context and operational factors.

### 2.2.2 Modifying Existing Structures

As it is common for unionised workplaces to have information and consultation structures in one form or another, the bulk of Acas' work concerning *revising* structures is in unionised organisations. The text box below provides an overview of the practices used by Acas in reviewing consultative structures.

#### **The Acas method of reviewing consultative committees**

When advisors are called in to review committees they usually follow a process which starts with meeting managers and employees, either separately or together, depending on the nature of the relationship. They carry out a diagnosis of the existing structure based on their discussions, addressing where the current problems lie, and the consultative needs of managers and/or employees. The next step is to work with the parties to redesign a committee that meets their needs and addresses their problems. This might involve, for example, clarifying the difference between consultation and communication; discussing what other similar organisations do in terms of good practice; and giving advice on how those involved in the consultative committee might periodically evaluate its effectiveness.

Sometimes the diagnosis might result in a decision to make improvements to an existing committee. In other cases, the best solution might be to abandon an existing consultative body, which was originally designed for one purpose or set of needs, and set up a new one, more attuned to current requirements. Advisors may assist in reviewing the constitution (or terms of reference) of a consultative committee making it more relevant to changes in the competitive environment or production processes. In some cases employees may be required to elect representatives to meet specific legislative requirements. Once it is decided whether the existing committee will be modified, or a new committee developed, training may be the next priority.

Advisors may also offer to attend initial meetings, to observe whether the committee is working, and may revisit the organisation after a period of time to assist the participants in reviewing progress.

Where in the past a committee's terms of reference has centred exclusively on negotiating terms and conditions, Acas' assistance may be sought to *extend its scope to encompass consultation over a broader range of issues*. An example was given of a public sector organisation that had negotiated a partnership agreement with a trade union. The agreement was perceived as heralding a new culture in which managers were committed to consulting the union over issues as early as possible, allowing the parties to jointly identify problems and shape solutions. The parties sought Acas' help in developing a new code of practice for consultation and negotiation as part of the agreement. Similarly, in other public sector bodies with functioning negotiating committees, advisors have assisted in establishing separate consultative committees that run alongside existing committees.

Consultative committees may also require reviewing because *they have become defunct or static* due to a lack of interest, or the deterioration of relationships between committee members. Meetings may have lapsed and become irregular or non-existent, or when meetings are held, trivial "tea and toilets" issues may dominate the agenda. Committee members, and the workforce, may become frustrated if the committee is not achieving its

original objectives. In such cases, advisors will assist in reviewing terms of reference, bolstering procedures, or “re-jigging” the forum by helping the parties to do things in a different way.

In other circumstances, a committee may not be equipped to deal with challenges that occur because *representatives have not been elected for that specific purpose*. Advisors provided examples of cases where companies faced redundancies, or wished to set up a workforce agreement under the Working Time Directive, but where committees (again, of the “tea and toilets” variety) were not “fit for purpose”. This may be because representatives are ill-equipped to tackle such issues, or because the manner in which they were selected to the committee does not comply with legislative requirements for consultation. Alternatively, the committee itself may not meet requirements because it is currently being used by managers to inform the workforce, rather than consult them.

The inverse may occur, where a structure has been set up for a specific purpose - again, for example, dealing with redundancies - and representatives have been elected for that purpose. However, once the issue has been addressed, the structure may continue to be associated with these negative (redundancy) circumstances. In such circumstances the best strategy may be to retrain representatives, and reconfigure the committee to sever the link with previous events.

### **2.2.3 Unionised, Non-union, and Mixed Constituency Structures**

Broader shifts in the employment relations landscape (as described in 2.1) have resulted in a complicated variety of consultative arrangements coming to the fore. Some of the most complex are those that combine trade union representatives with representatives of non-unionised employees. As trade union membership has declined or stabilised at low levels in some organisations, recent years have seen a trend towards organisations modifying existing union-only consultative mechanisms to accommodate non-union employees. Some have pursued this route due to concerns that non-union employees - who may constitute the majority of the workforce - are not represented in consultative committees. Mixed constituency committees, in which union and non-union representatives sit alongside each other, have also come about due to mergers or transfers of employees, where non-union employees are transferred into a unionised organisation or vice versa.

Another scenario which advisors are commonly faced with is where the majority of shop-floor employees are unionised and represented in a consultative committee, while non-union clerical or salaried employees are not. Where managers wish to consult with the latter groups they have several options. They may, for example, review the existing committee and alter it to incorporate representatives of non-union employees; or develop a separate consultative arrangement for these employees which operates alongside the existing committee.

In other circumstances, organisations may have long-established divisions or sites with high union membership, along with newer sites or divisions which have few, if any, trade union members. In such cases, managers may seek Acas help in developing a single body comprising representatives from unionised sites, and non-union representatives from the newer non-unionised sites.

Such events present a challenge for advisors who are required to work with organisations to revise the constitutions of existing committees to reflect the changes in composition. Alternatively, they may be called in to organisations where mixed structures have become so

complex and confusing as to be inoperable. This is particularly the case where recognition agreements exist and confusion surrounds whether the employer is obliged to negotiate over pay with the whole committee, or just with the trade union representatives on it.

### **2.3 Summary**

This chapter has reviewed the broad context in which Acas operates, highlighting those sectoral, economic and employment relations challenges especially relevant to the introduction of information and consultation arrangements. It has also highlighted the complexity of circumstances in workplaces that give rise to the employers and employee representatives seeking assistance from Acas. The motivations and requirements of workplaces with respect to employee communication and involvement arrangements differ dramatically, depending – among other factors - on the pre-existing traditions and arrangements for employee voice.

These issues, and the Acas response to them, are discussed in detail in Chapter 6, along with the Acas response to other challenges relating to organisational culture and structure. The following chapter evaluates the benefits flowing from informing and consulting the workforce, as observed by Acas advisors. It also provides the foundation for successive chapters examining the core principles for effective information and consultation arrangements and, equally, the challenges attached to their development.

### 3 BENEFITS FROM EFFECTIVE INFORMATION AND CONSULTATION

The release of the Department of Trade and Industry's Discussion and Consultation Documents on the forthcoming Information and Consultation Directive has signalled the importance placed on consultation by the Government as a key ingredient of a modern, successful workplace. The paper provides an overview of current thinking in this area, for instance identifying that consultation can lead to better decisions and smooth the implementation of decisions and proposals, in turn providing a means of boosting productivity. More specifically it also focuses on the benefits of informing and consulting around management of change processes. A summary of key academic literature below develops these arguments and provides a foundation for profiling the main benefits of information and consultation observed by advisors in their day to day work. Many of the benefits observed by advisors confirm benefits identified in the literature and are described in the following section.

#### 3.1 The High Performance Work Systems Debate

The material cited in the first of the DTI's papers is drawn from a growing body of literature addressing the issue of High Performance Work Systems (HPWS), the practices that comprise it, and how it relates to productivity. Ashton and Sung (2002:11) summarise the central thrust of the literature: "What runs through all this literature is the concern on the part of employers with developing their labour force and making use of practices such as team working, job redesign, employee involvement in decision making, extensive communication and performance-related pay to enhance organisational performance".

An especially important aspect of the debate, in the context of information and consultation, relates to so-called "high involvement" practices. In reviewing the literature, Ramsay *et al* (2000:503) conclude that most authors agree that a link exists between HPWS and organisational performance measures, and that this link "*flows from practices, through people, to performance*". It is argued that because HPWS practices empower employees, their needs are met by the opportunities and benefits these practices provide, and employees are therefore more likely to take initiative on production decisions without instruction.

These linkages are entwined with "trustworthy information flows", and are dependent on employers investing in training that gives employees the capability to contribute. Essentially, it is argued that HPWS practices improve management-employee relations and employees' discretion, loyalty and enthusiasm for their employer, which leads to improved organisational performance. The issue of trust as a mediating factor is paramount. Ashton and Sung (2002:164), for example, emphasise that an organisational culture that embeds trust should be treated as a precondition for high performance working.

The results of particular studies have supported these arguments. McNabb and Whitfield (1998), for example, analysed data from the Workplace Industrial Relations Survey (WIRS) 1990, and found that the use of downward communication to employees through the management chain is associated uniformly with improved financial performance. Likewise, Fernie and Metcalf (1995) also used WERS 1990 data to show how the presence of communication channels, and efforts to enhance employee involvement, led to improved productivity levels and growth. They also found that the presence of Joint Consultative Committees (JCCs) had favourable outcomes for economic and industrial relations performance.

Addison and Belfield (2001) subsequently replicated Fernie and Metcalf's study, using data from WERS98. Their results showed some degree of uniformity with those of Fernie and Metcalf. Like the latter authors, Addison and Belfield found that efforts to increase employee involvement had beneficial effects on changes in productivity. They measured employee involvement with reference to the use of any five methods of communicating with employees at the workplace (problem-solving groups, briefing groups, meetings between top management and the entire workforce, downward communication through the management chain and other methods such as suggestion schemes). They also found that efforts to increase employee involvement, and the presence of a JCC, leads to better management-employee relations.

With regard to productivity levels and changes in productivity, only the presence of briefing groups was found to have a consistently positive effect across the two surveys. With regard to industrial relations outcomes, meetings with top management are associated with a more harmonious climate of industrial relations at the workplace in both surveys. Finally, Addison and Belfield also found that direct communication tends to be correlated with lower absenteeism and that problem-solving groups led to reduced employee "quit rates" (turnover).

### **3.2 Benefits of Information and Consultation Identified by Acas Advisors**

Certain themes run through the literature that are particularly salient to the work of Acas advisors concerning information and consultation. In turn, the study of advisors provides qualitative insight into the relationships proposed in the HPWS debate. These areas of common experience relate to issues surrounding the benefits and impacts of information and consultation arrangements, and the relationships between effective information and consultation, workforce commitment and trust, and organisational performance. In other words, the findings provide a means of fleshing out those of quantitative studies, such as those profiled above.

From their perspective as practitioners involved in assisting change, Acas advisors acknowledged inherent difficulties in *measuring* the impact of information and consultation on the "bottom line". There was still a great deal of consistency across the research interviews in terms of the types of beneficial outcomes of effective information and consultation identified, and advisors' accounts are highly resonant with key themes raised in the HPWS debate. The benefits they reported were based on several sources: their observations in workplaces; the benefits they had identified when working closely with managers and employees; and those reported to them by managers during reviews.

From their own experience in "best practice" organisations, and empirical research, advisors highlighted the links between information and consultation, and business performance indicators relating to innovation, efficiency and workforce productivity. Consistent with the results of the quantitative studies profiled earlier, they argued that if employees perceive they have a "voice", and are more involved in decision-making through joint problem-solving, they will be more satisfied and motivated at work. This leads to greater organisational effectiveness and efficiency, reflected in outcomes such as a greater number of staff suggestions, better ideas for improving business performance, improved customer satisfaction and more productive employees. Where, for example, an organisation has a consultative structure that draws employee representatives from a number of sites, this encourages best practice sharing and learning rather than each division or site constantly "re-inventing the wheel". Employee "buy-in" to decisions was positioned as a crucial component

link; one advisor described how, “The full support of a mediocre proposal can have a greater effect on productivity than half-hearted support of a first class plan”.

Other related benefits reported by advisors have been distilled into three categories. There are obvious linkages between each, and the notion of employee “buy-in” or “ownership” of decisions is a vital precondition for all three elements. Moreover, each of the benefits impacts upon productivity outcomes, a point that is reinforced in the case examples provided. In advisors’ experience, the development of structures for information and consultation can lead to:

- Better quality and more enduring decisions;
- Better employment relations: less resistance and conflict; fewer disputes; better morale;
- More effective change management.

Each of these beneficial outcomes is described in more detail below.

### **3.2.1 Better Decision-Making**

Structures for informing and consulting employees, when effective, can result in the development of decisions that are: better attuned to the needs of the organisation; technically superior; and, through early contribution of workforce expertise, can provide both cost and time savings. This has a flow-on effect of enhanced productivity. In essence, “better quality” decisions are made because employees are often highly knowledgeable about the mechanisms and realities of the business, and possess expert technical knowledge. Consultative structures enable managers to tap into this specialist knowledge.

Additionally, where employees are involved in the decision-making process through consultation, there is more ownership of the resolution. This is important, as the workforce is usually charged with implementing decisions. If, on the other hand, employers impose management decisions on employees without informing or explaining to them why a decision has been taken, or why change must occur, they are more likely to resist and be uncooperative. This may result in decisions taking much longer to implement, or just not succeeding, than if managers had initially sought “buy-in” through consultation.

Linked to this are further benefits that derive from tapping into employees’ technical knowledge through consultation. Early consultation with the workforce on options, prior to making decisions, may generate a wealth of information not known or recognised by management. This means that technical difficulties or problems may be pre-empted, leading to better decisions and improved implementation. Examples cited by advisors were of employee input influencing reduction in wastage and more efficient utilisation of plant, resulting in cost savings.

Several advisors described how quality consultation can ensure that things are “done right, first time”, and cited cases where managers had invested heavily in new production machinery without first consulting the workforce. It transpired that managers had made unwise choices or were unable to operate the plant once it was installed in the factory, thus wasting money.

As one advisor explained:

*“If I’m going to spend two million pounds on a new packaging machine in the food industry, it’s a lot of money, and to get the best out of it, who knows best how to make use of it? The people who are going to use it. They’ll know where to site it; they’ll know how it should be geared; they’ll know about maintenance; and they’ll know what they need to know in order to make this thing work. So it would be nonsense to pay two million and install a machine like that without consulting the people who are going to use it, wouldn’t it?... We go to places and the workforce say: ‘See that machine over there? Five million pounds. Been there three years, it’s never been used.’”*

Perhaps as important, early consultation can help secure a degree of employee ownership of decisions. In contrast, if management decisions are imposed without early consultation, problems may emerge during implementation, leading to conflict and resistance from staff. An advisor described why it was important to consult early in the process:

*“The purpose of the consultation is, from the management’s perspective, to make sure that they make the best decision that they can. And that’s about asking the people who are going to be affected by it ... try and get problems out of the way early ... raised and discussed early so they don’t jump up and bite you later on ... It’s about better quality decisions ... why impose something on somebody, then have the problems rear their heads ... when you could have thrashed it out in advance if you’d have put enough time into it?”*

When talking to managers, advisors position early consultation as “an investment”. They explain that if managers invest time in one part of the equation (consultation at the early stages of decision-making), they save it in another (having to spend time defending, or attempting to implement, a decision made without consultation).

As one noted, of consultation over large-scale change processes:

*“If organisations want to go down this route, we would point out to them at the very early stages, when we’re seeking commitment, that this isn’t a quick answer; (we say) ‘What we would hope is that it will save you time in the long run. It might take you six months to come to an agreed solution, but hopefully that’s one that’s accepted by the workforce. On the other hand you could just say ‘Right, we’re doing this as from next month and this is the way that it will be’. But then you’ve got months and months of arguments and disputes, and either individual grievances or collective grievances that will equally take up your time. So the quick solution may not in the long run be a faster solution’.”*

### **3.2.2 Improved Employment Relations**

The need for employee “buy-in” to decisions, and the lack of co-operation that may occur if this is not achieved, have been discussed above. But what of the relationship between information and consultation, and other indicators of workplace employment relations? Most advisors described how consultation can lead to a reduction in workplace conflict as it allows the early resolution of collective and individual concerns. This can lead to a reduction in Employment Tribunal cases. Additionally, where employers inform and consult with the workforce about business issues, and particularly financial information, on an on-going, regular basis, this has the effect of reducing the amount of time spent negotiating annual pay increases, and results in less adversarial, more

consensus-driven negotiating behaviours. This has the obvious effect of reducing the need for Acas services in the area of collective conciliation.

Although advisors recommended to organisations that consultative structures should not be used for airing or resolving *individual* grievances or disputes, they did point out that consultation allowed for early identification and resolution of “collective” problems; for example when many grievances of a similar nature are building up. This has flow-on effects in terms of advisors’ roles in dealing with collective conciliation disputes:

*“In a lot of disputes, you can trace (the problems) back to communication and consultation. If people understood the thinking behind decisions that were made, you wouldn’t get into a dispute, or it wouldn’t be as heated as it is by the time they (the organisation) come to talk to us. It’s often the case that the employees simply don’t understand what’s led the company to take the action that it’s taken because they haven’t been told about it properly.”*

Other advisors made similar observations, describing how provision of financial and business-related information and effective on-going consultation can lead to employees having a greater understanding of the rationale behind business decisions, such as those relating to pay settlements. This results in quicker, more harmonious pay negotiation processes. Regular, incremental information provision throughout the year can lead, over time, to more informed and realistic expectations of pay increases when negotiations take place.

One advisor described this process:

*“... that’s part of good consultation, that throughout the course of the year, (employers and employees discussing) business trends, ‘How are we doing, what are orders like?’. So it’s all informing that end of year (process) ‘Well, you’ve had all that information, so now you shouldn’t be surprised that the percentage increase this year is only two per cent and not the three and a half we hoped it would be’.”*

Further, one advisor spelt out the substantial time-savings that can occur in cases where consultative structures address a range of issues on an incremental basis:

*“... when it comes to the wage round - and we’ve found clear evidence of this - that where in the past ... they call us in to conciliate on the annual pay bargaining round, and you’ve got pay at the top of the list, and 25 other items, the next year you go in, and you’ve got just two items or one item, and it’s just pay.”*

**Case example: Plaxtons, Wigan***Improved communication and consultation leads to improved performance*

Poor relations between line management and the workforce had led to high employee turnover. Management and union representatives felt that poor communications were at the heart of the problem. Acas held employee workshops which identified problems and developed solutions. Solutions focused on providing the workforce with a much fuller awareness of the company's trading position by supplying information on company performance. The company began producing staff newsletters and established a dedicated resource area containing information about customers, competitors, suppliers and developments at group level. Shopfloor workers are now given access to the full customer specification for each vehicle, and cell meetings with feedback are held daily. These innovations provided a foundation for the company to introduce continuous improvement processes. This transformation in the culture of communications, and increased involvement of the workforce, has increased productivity and output, improved product quality, and reduced waste.

*Source: **Towards Better Employment Relations: Using the Acas Advisory Service***

Effective information and consultation can lead to greater employee satisfaction, commitment and trust. This results in a more beneficial employment relations environment, as described above, and improved indicators of workplace health. These include: reductions in employee absence and turnover levels; improved employer-employee relations and trust; employees feeling that they have a greater degree of involvement in the organisation and a "stake" in the business; a greater feeling of employee ownership and control over their work; and fewer rumours and hearsay circulating.

An advisor described how, "If people feel their views have been listened to ... they will feel more valued and ... they'll be more committed. And there are tangible knock-on effects of reduced absence levels". In a number of cases, trust between managers and the workforce had improved dramatically - often from a very low base - because managers had given the workforce information relating to business plans, or because the parties had jointly worked through employment relations or business-related challenges together. Moreover, the personal competencies of individual employee representatives may be improved through involvement in consultative mechanisms, with many learning new skills and becoming more confident.

**3.2.3 More Effective Change Management**

The most commonly-cited benefit deriving from information and consultation mechanisms was that of more effective organisational change management. This was for a number of reasons. First, as noted above, consultation means that better, more informed decisions are made about the organisation's future direction. Second, where restructuring has taken place, information and consultation can lead to better management or fewer numbers of, workforce redundancies. Third, better workforce understanding of the business and financial pressures for change leads to improved management-employee trust, and decreased resistance to

change; and a workforce that is more adaptable, flexible and better able to adopt new working practices quickly.

An example was given of a company where managers provided employee representatives with financial information that demonstrated the need for large-scale rationalisation of functions. As a result, representatives were able to work with management over a 12-month period to effect cost savings. Consequently, many workers were redeployed rather than made redundant, and ultimately the company made only two redundancies instead of the 450 originally planned. As employers had provided the information well in advance, consultation enabled the parties to work through alternative options ahead of planned change. Indeed, advisors consistently highlighted the importance of giving information ahead of proposed change. One advisor described how *not* doing so can be detrimental in terms of workforce morale:

*"I think any individual in an organisation would like to know 'Well, what are the plans for the business, on a very general basis, and how will they affect where I might be in my job in six months/twelve months/two years time?'. And that is often overlooked. And organisations will say 'We can't get people on board, morale is low, and motivation is really poor'. 'Well, do you talk to your people?', 'Well, we give them an annual briefing', ... 'When do they find out about plans for change?', 'Well, at the eleventh hour', you know. And there's no involvement, there's no consultation."*

Examples of companies where managers had informed and educated employee representatives about the business, its finances and operations, were provided to highlight the chain of benefits flowing from informing and consulting employees. The more representatives understand the business, the better questions they ask, and the better answers they receive from management. In turn, management receives more useful information from representatives, better decisions are made, and because representatives have been involved in decision-making and have a much clearer view of the organisation's mission, they are able to promote change among the workforce more effectively.

Managing the communication process around change is difficult. When managers promote the need for change, employees may, for example, immediately assume that they will have to work harder. Where consultative structures are working effectively, news of change should come jointly from management and employee representatives, as this tends to lessen workforce resistance to change.

An example was provided of this "virtuous circle" of consultation and workforce "buy-in" in one unionised organisation:

*"What tends to happen is ... because trust builds up, each side starts giving more information. ... the more companies have put into educating the shop stewards, the more stewards understand the business and finances, the better questions they can ask. So the better questions they ask, the better information you get. ... Managers then get better information back from the stewards, which then means you can make better decisions. The other thing is, it means that the stewards can sell the change much better. Because in many of these companies there's a long history, so if management say, 'This is going to be good', people automatically assume, 'Well we'll have to work harder'. Whereas if a shop steward says it's good as well, then it has a better chance. And the third thing is that they're (employees) much more receptive to change, and that's probably the biggest thing I've found."*

The benefits of information-sharing and consulting representatives at an early stage in the decision-making process were couched in terms of promoting joint and simultaneous understanding of key issues, which again has the effect of leading to faster change management. This compares with traditional change management modes, in which a “lag of understanding” between employees and management would often occur.

This is how one advisor described it:

*“I suppose in (some instances), where management has a problem, they get together and think of a solution and then try to convince the (employee representatives) it’s the right solution. And at some point even further down the line you’ve got to convince the workforce. So if the workforce is so far behind management in terms of understanding it and accepting the solution, then you end up with managers who have bought in, trying to convince people who don’t even understand the problem”.*

Consultation on critical, change-related issues can heighten levels of trust between managers and employees. As one advisor put it, “If you trust the person who’s telling you you need to change, you therefore trust their reasons”. Hence - consistent with research by the likes of Ashton and Sung (2002) - advisors stated that where trust is built up and managers provide information about business conditions, employee representatives and the workforce tend to be much more open to change, and the company is able to change direction quickly. Advisors gave examples of companies where this transformation had occurred and where dramatic changes in operations had been effected through changes to shift systems, job design or rapid development of new product markets. Consultation also results in employees being more cognisant of the pressures behind short-term changes in operations.

Consultation can lead to improved morale, and other flow-on effects:

*“... if morale and motivation are higher, then folks will go the extra mile, ... and when the pressure is on to deliver on contracts or deliver services, hopefully individuals will respond accordingly, because they feel that they’ve got a stake in the business. I suppose the ‘stakeholder’ term is bandied about an awful lot, but if there’s an understanding of the business goals, where the business is going and the direction it’s going in, which comes out of the consultation process, ... then employees will be prepared for change, prepared to pull that extra weight when it’s needed, and can understand”*

**Case example: Thermax, Bishop Auckland**

*Joint consultation can lead to successful change management*

With a history of adversarial relations and pay disputes, Thermax sought Acas involvement to help develop a new pay structure. A joint working party was established, with management and stewards coached in consensus decision-making techniques. The group developed proposals for a new pay system and changes to shift patterns and premia which introduced greater flexibility into working arrangements. The success of the joint working approach convinced the parties that it should be retained. It was subsequently used to agree revisions to the company-union agreement and to introduce, in an extremely short period of time, continuous production arrangements. A key benefit is that the group is able to address change issues as they arise, rather than storing them up to be tabled during annual pay negotiations. As a result of changes, productivity has increased, and quality and profitability have improved. As the general manager noted, “The impact on company performance is indisputable”.

One related benefit of involving consultative committees in the change process is that they can help to manage the *outcomes* of change management programmes. The committee, may, for example, expedite the transfer of groups of employees into the organisation as a result of mergers, acquisitions, or winning contracts. Workplace committees can proactively provide information and guidance to transferred employees, enabling organisations to smooth the transition process. An advisor put forward her view, stating:

*“Giving information, and more information than people almost can bear, is the biggest single facilitator to reducing resistance to change. ... If I were being transferred into a company I’d want to know really niggly, irritating little things like, ‘Will I be able to get a car parking space?’ and ‘Where’s the nearest sandwich shop?’. If you had a team of advocates from your works committee who were singled out as being, ‘We can go and meet the people coming in’, they can deal with those soft issues for people as well as all those nuts and bolts about the terms and conditions being enshrined and job description and all that - the human factors.”*

### **3.3 Summary**

In detailing their observations of the outcomes of effective information and consultation, advisors corroborated much of the academic literature on the beneficial effects of employee involvement in decision-making processes. The benefits they identified included: enhanced employee commitment, trust and morale; a more harmonious employment relations climate; better quality decisions; and improved change management processes. All of these outcomes had a subsequent flow-on effect to improved organisational effectiveness and productivity. It is important to note that these benefits will only be realised if information and consultation is effective, meaningful and timely. Advisors identified a range of good practice principles necessary for effective, meaningful information and consultation to occur. They are outlined in the following two chapters.

## 4 ELEMENTS OF EFFECTIVE INFORMATION AND CONSULTATION

No two workplaces have identical features. Each is shaped by historical, sectoral and environmental influences, as well as employment relations traditions. In considering the scope and opportunities for introducing information and consultation arrangements, it is clear that no single model will apply - no "one size fits all". The interviews with Acas advisors, in which they drew on their experiences of working in organisations across Britain, confirm this view. Nonetheless, in seeking strategies to introduce effective information and consultation mechanisms, it is clear that certain core principles apply whatever mechanism for delivery is finally adopted. This chapter is devoted to exploring these core features. In doing so, it sets out the principles for establishing a solid foundation for effective information and consultation at work. This chapter addresses each of these principles in turn.

These core features are summarised as follows:

- The foundation of successful information and consultation at work is a strong, demonstrable *commitment* to informing and consulting employees from management and employee representatives.
- To ensure management and employee "buy-in", it is critical to build *agreement around the objectives of information and consultation arrangements*. This includes an acceptance that "genuine" consultation involves management listening to and taking account of employees' views; and a joint understanding of the scope of rights to information, consultation, and where appropriate, negotiation.
- The *issues* addressed by information and consultation mechanisms must be central to the needs of the organisation, and relevant to the needs of employees. The specifics will vary from workplace to workplace and over time.
- *A variety of mechanisms for information and consultation exist*. Choosing the most effective arrangements will involve a critical review of historical practices, and the needs of managers and employees.
- *Information needs to be clear, timely and provided on a regular basis*, wherever possible allowing for structured feedback. To be effective, representatives need time to devote to the dissemination of information and collation of employee views.
- *Effective consultation* is built around joint working, involving managers and employee representatives. This can be achieved through temporary and permanent arrangements. Both require a degree of formality and clarity of purpose so that the participants have a good understanding of their roles and responsibilities.
- The long-term effectiveness of information and, particularly, consultation arrangements may be secured through regular *review* of their coverage, scope of issues and processes.
- An appropriate level of *training* is required to equip managers and representatives with the skill-sets necessary for effective information and consultation.

#### 4.1 The Centrality of Commitment

The Government, in its initial Discussion Paper concerning the implementation of the Directive, has set out its belief that one of the objectives of the forthcoming legislation will be to “enhance the contribution of all employees, to the benefit of the company and the employees” (Department of Trade and Industry 2002:6). This emphasis on a joint contribution from management and employees presents challenges to UK workplaces as it interfaces with features of workplace culture including management styles and perceived roles. This is explored in Chapter 6 in more detail. Importantly, it also has implications for working relations, especially levels of trust between managers and employees.

The need to address these dynamics was central to advisors’ thinking, with commitment and trust forming the foundation of effective consultation at work. No single point was given such consistent and high priority by Acas advisors as the need for strong and inherent commitment by managers to the objectives and process of employee consultation. High levels of commitment to informing employees and, where appropriate, involving them in decision-making, was paramount. Advisors perceived commitment as a prerequisite of effective communication and consultation at work.

The presence of *visible* commitment is critical to ensuring meaningful, productive and sustainable consultative arrangements. In Acas’ experience, the difficulties workplaces face in maintaining effective consultative structures often stem from low commitment, or tokenism, by managers in their approach to consultation. Advisors stressed the importance of both sides viewing consultation “as an integral part of the business, not a sort of add-on”, and of “top” management being fully committed to the consultative process from the start.

For example, when discussing the factors that contributed to the success of a consultative forum in one organisation, an advisor stated:

*“They’re very committed, and I think a key reason ... is because the managing director is genuinely committed. I mean you couldn’t doubt ... you snap her in half, and she’d say consultation in the middle ... So it’s worked because the commitment from the top is unequivocal.”*

High levels of commitment from both sides of the workplace cannot be imposed, but must be encouraged to develop over time. In some workplaces, trust and commitment develop by employers and employee representatives working through problems together and seeing the rewards that such an approach brings. This is when respect can begin to grow and joint working becomes an active goal worth pursuing.

#### 4.2 The Need for Clear Objectives

Commitment is perhaps most likely to be secured when managers and employee representatives clearly understand the goals and objectives of information and consultation. Advisors felt that an important starting point was establishing the distinction between information and consultation, and where appropriate, negotiation. This was perceived as an area where there was much confusion. Employees, their representatives and managers should seek to reach a joint understanding of the objectives and dynamics of information,

consultation and negotiation. In the opening chapter of this report, the definitions used by Acas are described<sup>4</sup>. Advisors also provided definitions of each:

*“Information, I would say, is when you are purely giving information and just answering questions. So, ‘This is our position. We have decided to do X, and I am going to brief you about it’. Consultation is where you say, ‘This is something we are planning. We’ll tell you about it, and we are going to ask for your views about it, so you can actually make a difference to what the plan is’.”*

*“Consultation is having a chance to contribute your views before a final decision has been made about something that affects you ... Information is ‘Here’s what we’ve decided to do and if you’ve got any questions we’ll answer them’.”*

Failure to reach an accepted definition of these two concepts, in advisors’ experience, led to a mismatch of expectations which often resulted in damaged trust and cynicism among employees. Advisors frequently dealt with difficulties in workplaces where managers believed they were consulting, but where in fact they were simply conveying information, or passing on decisions that were beyond the consultative stage. This pattern may arise from a lack of understanding on management’s part of what consultation is. It may also be traced back to a particular management or organisational culture, for example where there has been no tradition of information-sharing or employee involvement. Or, it may simply reflect a lack of commitment to genuinely involving employees.

Clarifying the objectives of consultation will often involve a dialogue around the boundaries between consultation and *negotiation*. The blurring of these boundaries was often an issue in workplaces where the employer/employee discussions had focused exclusively on pay bargaining involving the trade union. Adapting to a broader consultative remit could be challenging.

Where the focus has been solely on negotiation in the past, there may be a tendency among the workforce simply to assume that the very process of electing representatives to consultative forum implied that the individuals would have negotiating rights. A second scenario is where a consultative arrangement proves effective and the parties grow in confidence. Some representatives may then tend to “drift” towards negotiating behaviours and the purpose of consultation becomes lost. This can lead to confusion and a breakdown in trust as the parties move further from their initial terms of agreement. Ensuring that these distinctions were fully understood within the forum, and across the workforce as a whole, was found to be especially important.

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<sup>4</sup> Acas operational practices are heavily informed by the approach set out in the Acas advisory booklet series. As noted in Chapter 1, the booklet *Employee Communication and Consultation* includes a definition of the parameters and goals of consultation and (communication of) information.

### ***What role is played by Acas in Clarifying the Objectives of Information and Consultation Arrangements?***

That managers and employee representatives fully understand the objectives and limits of consultation was considered essential. It was an area that advisors considered worth investing time in from the outset with a newly formed group. Advisors often conceptualise information, consultation and negotiation as part of a spectrum: “the consultation scale”. In working with employee representatives and managers, some advisors used exercises in consensus-building to reach a joint understanding of each dimension, asking where managers and employees believed their workplace should lie on the consultation scale - from information provision to bargaining. This approach is particularly apt in working to improve existing or establishing new, consultative fora as it involves agreeing roles and responsibilities, and encourages the parties to focus on the goals and the limits of consultation. Embedding these distinctions has important practical implications for training, as discussed at the end of this chapter.

Advisors described their approach:

*“It’s a key session (on clarifying the boundaries). ... We know they have got different views. At the end of the day, what’s important is that both parties agree what they mean by information, consultation and negotiation. It might not necessarily be exactly what we think it is, but that they agree. ... As long as you’re both doing the same thing and playing the game by the same rules.”*

*“We have an OHP slide that runs from briefing to negotiation, and we ask organisations to pull out where they believe communication/consultation sits on that particular slide, and it’s about seven or eight statements. It’s just a starting point to say ‘This is the whole spectrum, where do you believe consultation sits?’.”*

*“I use a simple consultation scale on a flipchart: ‘Where do you think you are as a company at this moment in time, or where do you want to be?’. And you can spend an hour talking about what that means for them. With different issues, as well, you’ll be in different places on it, in terms of your own experience and competence with the consultation process.”*

#### **4.2.1 Defining “Genuine Consultation”**

The *level* of employee involvement in decision-making was another area of confusion. The concept of “genuine consultation” was often referred to in the research. To an extent, unpacking the notion of “genuine” consultation requires analysis of managers’ philosophical stance towards consultation and their views of what consultation is, or should be. Genuine consultation is firstly dependent on managers providing sufficient, timely information to enable employees to make a contribution. Second, and perhaps more importantly, genuine consultation involves listening to employees, engaging with their observations and suggestions, and genuinely considering their views when reaching a final decision. Next, employee representatives need sufficient time to engage with the workforce as a whole, and to reflect and report on their observations. Where the outcome of management decisions does not match input from employees, managers must explain their rationale for making the decision. Genuine consultation is underpinned by a belief that employees have information to

share that is of value, and in advisors' view, consultative arrangements are most effective where this belief is transparent.

This was noted by an advisor and in an extract from a workplace newsletter developed during an Acas initiative (respectively):

*"I still think there is a reluctance on (the part of some) managers to see it as the role of the employee to make a contribution in the decision-making process on matters that affect them on a day to day basis, in terms of how the work is organised, how the work is undertaken ... I think it's a challenge for Acas, for anybody that's involved in putting some meat behind the Information and Consultation Directive."*

*"What does consultation mean? It means the employees have the opportunity to influence the decision-making process. It does not mean just managers passing information to employees. We want to know your thoughts and views. ... True consultation is not just a 'talking shop', but an active dialogue which will allow your ideas and opinions to influence decisions." (Extract from Newsletter)*

The *timing* of consultation is also important. Again, there is no standard point at which employee representatives should be consulted or scenarios brought to the workforce. Nonetheless, if an exercise in consultation is to be 'genuine', it is important to involve employees early. Often there was widespread support among advisors for taking problems to representative bodies for a full discussion of the options, "at the stage that it's a gleam in your eye".

There was also an acknowledgement of the problems arising when managers engaged in consultation *too* early, before the full facts of the argument were known (with the danger of causing unnecessary concern among the workforce), or, where there was no opportunity for consultation before an event occurred. Much depends on the issue and the situation.

On the reverse side, genuine consultation did *not* involve: approaching parties when decisions have already been taken; discussing information, but showing no willingness to collate feedback; seeking feedback, but giving no consideration to suggestions in the final decision-making process; or, displaying an attitude of, "The answer is 'No'. Now, what was the question?".

One approach to encouraging meaningful consultation was described by an advisor:

*"I actually encourage managers ... 'Think about what you want to consult on, and if you're going to consult on it, don't wait until you're three-quarters of the way through the process and then consult. As soon as you decide, 'Right, this is the next issue I've got to tackle. Is it for a decision on my behalf, is it for information, or are we going to consult?'"*

A second advisor contrasted her experiences of working in two workplaces with existing consultative committees. Despite earlier training, managers in the first organisation's works council were operating on a "top-down" model, simply communicating data to employee representatives:

*"The works council there wasn't operating effectively at all. They were still using their meetings to communicate performance figures and the state of the budget. It was all top-down. And whenever anybody from the workforce went to say anything from the workforce, management were still very dominant and weren't listening."*

She contrasted this with a small market research organisation she had visited, which opted for a consultative forum:

*“It was a non-unionised organisation and we worked to train representatives to communicate and consult. They took it on board and embraced it and it worked properly. They genuinely listened to what people had to say, what people’s concerns were. The meetings were well-minuted and distributed with a proper agenda. It was working effectively.”*

As noted above, the consultative process does not always result in a consensus decision. Advisors placed emphasis on *managers’ prerogative in reaching the final decision* as integral to the consultative process. There was some support among advisors for consultation mechanisms providing a vehicle for reaching joint agreement, but it was recognised that this was not always appropriate (depending on the issues). Failing to agree did not imply that consultation had not been “genuine” or that it had been poorly handled.

Whatever the result, consultation should always be accompanied by a transparent decision with an explanation for the particular outcome. As one advisor stressed, “If the decision doesn’t coincide or correspond, then management will explain their reasons ... (there must always be an) explanation to follow”. It was considered especially important that managers and employee representatives understood that it was not imperative to reach agreement “at all costs”.

Two advisors commented (emphasis added):

*“I think there has got to be clear acceptance of what consultation is; that employee representatives are actively engaged in the decision process, not to make decisions, but in shaping the decisions.”*

*“Consultation is not about reaching agreement at all costs. It’s about consulting before you make the final decision that you have the responsibility to make, as a manager. A lot of the people involved in these processes believe that consultation somehow means there’s a need to reach agreement. (A manager might say) ... ‘So, I’m consulting with you about this issue, and I’m interested to know what you make of it, what your constituents might feel about it. And ultimately, when I’ve taken on board what you’ve said, I have a decision to make. Now, if that decision doesn’t correspond to what you’d like, that’s not a bad decision, and it’s not poor consultation’. But a lot of groups tend to the view that consultation is about reaching agreement.”*

## **4.3 Issues for Consultation and Information Provision**

### **4.3.1 Key Considerations**

One dimension of the commitment shown by managers to effective information provision and genuine consultation was a consideration of the issues for discussion. As stated in the introduction to this report, while the Directive identifies some basic requirements concerning issues for information and consultation, there is little detail about which issues must be addressed.

This is a challenging area. There are sensitivities involved in balancing the need to ensure that a comprehensive array of issues are addressed, while recognising the dangers of an overly prescriptive approach. In practice, since the goals of the business and service priorities are subject to change, in any one workplace there is unlikely to be a static list of items for either information or consultation. It is clear though that the issues addressed in informing and consulting employees should be comprehensive and meaningful. Arrangements should not be used to address trivial concerns (“tea and toilets”) or individual employee grievances, but to establish a dialogue to inform on matters of collective concern.

One advisor summarised her views on the coverage of consultation:

*“I don’t think they (employees) necessarily want to be consulted on everything, but the general feeling is that they want some sort of voice, and a direct effect on issues about their day to day working lives. They want to be able to feel part of any decision-making process.”*

For these reasons, experience had shown that much should be left to the discretion of the individual workplace. In spite of this emphasis on flexibility, two common messages emerged:

- First, not all issues will need to be subject to both information *and* consultation. Much depends on the scope available for influencing decisions. The practical differences between information and consultation were discussed earlier, with the consultative process involving strong emphasis on employees’ capacity to influence decisions. It follows that the issues that managers seek to consult on should be those with scope for change. Part of the “education” and joint working processes used by Acas in organisations concerns clarifying the types of issues that best lend themselves to consultation and information in the context of a particular workplace.
- Second, it is important to strike a balance in terms of the range of issues subject to consultation. The agenda of consultative issues should be comprehensive, but not overwhelming. In workplaces without a tradition of involving employees, managers and representatives may need encouragement to think about the range of issues that might be the subject of employee consultation. However, one advisor described the flipside of this when recounting the case of a small voluntary organisation. Here, the desire for inclusivity and tendency to “Ask everybody about everything” meant that “they tied themselves up into all sorts of horrible knots”. There was little agreement and issues remained unresolved.

#### **4.3.2 The Range of Issues**

Despite this emphasis on workplace discretion, the research highlighted some *high level categories* of workplace issues where information and consultation was considered important, if arrangements are to be effective and credible. These are addressed in the following sections.

#### **Legal obligations**

While advisors placed considerable emphasis on management having discretion over which issues to consult on, they also saw it as their duty to press home the current *legal obligations* with regard to consultation. Experience had demonstrated that the certain obligations, for

instance around redundancy, health and safety, and transfer arrangements are still not known to many managers and employees.

### **The business or organisation's progress**

The Directive on Information and Consultation contains items on informing employees about "the undertaking's or the establishment's activities and economic situation", and the extension to consultation on these issues "where there is threat to employment", or decisions likely to lead to "substantial changes in work organisation or in contractual relations" (see Annex 1).

Without exception, the need to *inform on the business or organisation's progress* was seen as a priority by advisors. This was especially the case where these aspects have implications for change in working arrangements or terms and conditions. Equally, promoting an understanding of strategic and business objectives was important if individuals are to be effectively consulted about the future.

Both consulting and informing on *business progress* were seen as having potentially rich rewards for organisational harmony and greater effectiveness in meeting business needs (see Chapter 3). Steps to ensure that information and consultation arrangements allowed employees to "keep their eye on the business focus" had a number of implications. It suggested the need for business goals to be transparent, and for employees to receive regular feedback on progress. It meant that, in certain business sectors, information on the wider business environment was of relevance. As one advisor put it, "Understanding the financial pressures on the business, its cost effectiveness and the competition that exists in a similar product range". In many examples cited by advisors, consultation had extended to a discussion on the needs of the customer: for example, in cases where the provision of a seven day service had such clear implications for rotas and shifts that consultation was a natural mechanism for taking the issue forward. More specifically, employees may look directly to information on performance to assess their own contribution at work, and the impact on their job security. Issues of confidentiality can also be addressed more fully through constitutions, as discussed in Chapter 5.

Conveying knowledge of business progress and its implications for individuals is by no means straightforward. Perhaps the greatest barrier to this is the fear of a breach of confidentiality, with information being leaked, perhaps unwittingly, to competitors or other parties. From a management perspective, there was a need to give information that is meaningful, yet not in a level of detail that may jeopardise confidentiality. Advisors, however, believed that where there is a high degree of trust between managers and committee members, improved relationships can result. First when employers are prepared to disclose information; second when committee members are prepared, where necessary, to withhold information from the workforce or union members until final decisions have been made and solutions developed.

Some advisors described cases where, in the context of pay negotiations for example, employee representatives have asked managers for information and managers have refused to disclose it. To representatives, this may indicate a lack of good faith on the part of the employer, leading to a breakdown in the relationship. Where employees have access to detailed information relating to the company's financial position - for example in organisations which have embraced integrative or win-win bargaining techniques - the parties are able to use this information to reach mutually acceptable decisions. Where organisations provide financial information relating to sudden and severe downturns managers are often able to elicit solutions from the workforce to prevent redundancies.

Problems may also occur where representatives are consulted over sensitive information, for example, relating to redundancy programmes, prior to the workforce being informed. In some cases representatives may not wish to be given information because they are uncomfortable with withholding it from the workforce. This is discussed within the context of strategies for “reporting back” from consultative arrangements in Chapter 5.

Lastly, advisors identified a need for workforce awareness of business pressures on organisational decision-making processes, with one commenting that, “The structure cannot stand in the way of needs for fast decision-making”. This issue is discussed further in Chapter 6, with regard to sustaining structures.

### **Issues that Affect Every-day Working Life**

Beyond these particular areas the emphasis lay on the philosophical goal of keeping employees informed and involved in matters “that affect their every day working life”, particularly those “which have an impact on terms and conditions”. Advisors spoke of the importance of working with managers and representatives to broaden their interpretation of “terms and conditions” so as to include not only holidays and pay structures, but also to embrace work organisation and other issues which do not necessarily have a direct “financial angle”.

One advisor described the key issues that managers should inform and consult the workforce on:

*“ ... terms and conditions, and change is certainly a matter for consultation, health and safety. ... Where the business is going; How is it performing and why isn't it performing as well as it should? What changes need to be made? ... Individuals ... won't want the fine detail, they're not wanting the annual report and the accountant's views in terms of the effect it could have on the share price. They're saying 'Look, in broader terms, are we competing for orders in the marketplace?' And 'Are we going to be expanding, and are we building an extension to the production line, and when's that going to happen, and how are we going to handle that change?'. ”*

### **4.4 Mechanisms for Informing and Consulting**

This section concerns the practical considerations involved in designing and establishing mechanisms for both information and consultation. The Directive provides no specific guidance on this issue, stating that the member states will have responsibility for setting up “practical arrangements for exercising the right to information and consultation at the appropriate level”. As noted earlier, it is clear that “one size does not fit all” for either information provision or consultative arrangements. A range of factors have a bearing on the design of both. These include: an organisation’s existing and historical arrangements for informing and consulting; management styles and employee needs; the size and structure of the workforce and workplace; and the issues for communication or consultation.

The data gathered in the research strongly demonstrates that there is no single set of best practice mechanisms for information provision or for consultation which will apply in all organisations. This is why third party assistance, such as that provided by Acas, can prove particularly useful in helping the parties develop customised approaches. Acas advisors play

a largely facilitative role but can also assist in an “expert role” capacity, drawing on their knowledge of what “has and hasn’t worked” elsewhere and the strengths, weaknesses and likely implications of various options. Although advisors are aware of a breadth of options, it is still possible to identify key goals that organisations should seek to achieve. Some issues are highlighted below, with examples of good practice drawn from actual cases.

#### **4.4.1 Informing Employees**

A vast array of information mechanisms were described by advisors including team briefings, briefings with structured feedback, notice boards, minutes of meetings, cascading information through the management chain, newsletters, and verbal presentation during workplace meetings. Common features that contribute to good practice, whatever the mechanism of delivery, include the following:

- Information needs to be structured, clear and provided regularly. It should be presented in an objective way and in a form that suits the audience. It must be timely to allow parties the opportunity to reflect.
- In providing information on substantial issues, management should provide the opportunity for feedback. This might involve managers or team leaders and in some instances employee representatives, receiving comments (verbal or written), observing reactions, and answering questions. All too often there was a tendency for information giving to be too “top down”.
- Arrangements for information provision are a *universal requirement at work. This was the case irrespective of the consultative, or negotiating arrangements at a workplace.* The presence of a trade union or consultative committee should not absolve managers of their responsibilities to communicate directly with the workforce as a whole.

Two cases outlined below highlight these principles, particularly the need for organisations to: provide mechanisms for feedback; and to consider the great variety of information channels available for communicating with the workforce.

**Case example:**

*Information mechanisms need effective feedback channels*

Acas was involved in a collective dispute in a small car-parts manufacturing company. As the workforce felt that they were not consulted about change issues, one recommendation in the terms of settlement was that the company should establish a consultative committee. Despite trade union support for this, management chose an alternative strategy of conducting team briefings on an ad hoc basis. The drawback of this approach was that information was fed down, but there were few opportunities for feeding information up. The advisor involved noted that one year on from the dispute the, “Lack of opportunity for meaningful consultation” had resulted in “quite a lot of ill-feeling on the shopfloor”. For team briefings to be effective, feedback sessions should be conducted, with mechanisms for collating and acting upon comments received.

**Case example:**

*Developing creative solutions for improving information and communication*

Despite having existing mechanisms for consulting and communicating with the workforce, management and trade unions at an NHS Trust decided that new arrangements were needed to improve communications and develop new employee involvement practices. Acas advisors helped establish a joint steering group comprising managers and representatives from the many trade unions representing staff at the Trust. Over a two-year period, subgroups of the steering group worked to identify how communications and employee involvement could be improved and sustained, and produced a large number of proposals.

Out of this came a Communications and Involvement Framework, in the shape of an action plan. Outcomes included: the production of a “Who’s Who”, which provided helpful contact details for key people within the Trust; the establishment of a clearer information cascading system; staff information points where employees can go with queries and problems; managers’ updates for staff in the form of newsletters which report and share good practice; and importantly, the development of programmes for training managers in techniques for involving staff. The process of change is continuing, with many of these new mechanisms themselves generating new ideas about ways of improving staff involvement.

#### **4.4.2 Consultative Arrangements**

Consultative mechanisms described by advisors included team or departmental-level feedback sessions and a variety of consultative groups with different names, including works councils, staff fora, joint working parties, consultative fora and committees. The bulk of experience reported by Acas advisors was in the formation or improvement of joint consultative arrangements involving management *and* employee representatives (union representatives, non-union representatives or a mixture) which operated at the workplace or organisational level, rather than team level. From the Acas perspective, the establishment of such committees was felt to provide the best opportunity for effective and credible consultation.

It is worth reflecting on why the Acas experience is especially strong in this area. In most instances it is driven by external demand, with managers and employee representatives inviting Acas to assist in the creation or review of a joint consultative committee. More than that, Acas’ expertise also reflects its *modus operandi*, with an emphasis on joint working and joint problem solving. In the great majority of cases, *both* employers and employees “commission” Acas to work with them. The research interviews demonstrated this approach, with advisors’ consistent emphasis on the need for joint commitment to consultation.

Other mechanisms described by advisors tended to concentrate on communication at the team, or division level; for example through team briefing arrangements. There were fewer examples of these mechanisms acting as consultative arrangements as most were seen as vehicles for information provision. Advisors stressed that for team-level briefings to fulfil a consultative role, participants need to be given time to feed comments back and have their concerns addressed. Ideally there would be mechanisms for feeding into a central committee, or for taking ideas and systematically sifting through opinions.

Aside from the specifics relating to *types* of consultative arrangements, some key characteristics of effective consultative arrangements can be derived from advisors' experiences:

- Consultative arrangements - whether *temporary, permanent, modest or ambitious in the issues they address* - require clarity of purpose to ensure that objectives are understood, and expectations met. Irrespective of the scale of the consultative arrangement, consultation is likely to be more effective if there is a *degree of formality* in terms of behaviours, setting and reviewing objectives, sound representation and clear reporting arrangements. Acas advisors work closely with managers and employee representatives to develop a joint understanding of these objectives, also drawing on best practice case studies of "what works elsewhere". Chapter 5 details the steps involved in developing a joint consultative forum.
- Committees need time to *bed down*, and for managers and employees to develop trust and confidence in working together. This is something that managers and representatives often underestimate. Workplace committees are often at their most effective once joint working is embedded in an organisation's culture. Advisors encourage managers to see the time spent as a medium to long term investment, with the ensuing benefits being improved employment relations and productivity.

As one advisor noted of employers:

*"You've got to see it as an investment. You invest some time in one part of the equation, you save it in the other. You might spend a lot of time defending something you did without consulting. If you put that (time) into the front end, you'd have spent some time to get out of it what you're hoping for, but not as much time. ... (Employers have) got to see that, in the same way as we ask them to see training as an investment, not as an overhead: you know, it's something that will have some beneficial effect on the business."*

- *Temporary or permanent arrangements each have a place.* Time-limited issues such as handling redundancy or reviewing disciplinary procedures may be dealt with through a short-term arrangement such as a temporary joint working party. Advisors' experience also demonstrated that there are potential gains in establishing permanent consultative arrangements such as joint consultative fora. Examples were cited of permanent fora which had developed from temporary arrangements once managers recognised the benefits of joint working. The advantages of more stable arrangements were that they enabled parties to work together "through good and bad times", and to develop working relationships built on trust.

Equally, there was evidence that groups established on a short-term basis for the purpose of managing difficult workplace changes were perceived "negatively" by the workforce (see earlier discussion in 2.2.2). In such cases, it may be necessary to establish a new committee to shrug off these connotations. Some advisors highlight, to employers, the benefits of preserving committees on the basis that they will have a vehicle in place for dealing with difficulties, such as redundancies, as and if they arise.

Although advisors recognise that organisations need to be flexible in their arrangements, they emphasise the benefits of permanent arrangements, as demonstrated in the following interview extracts:

*“There are benefits to having something in place should they be needed at some later date, because it’s much more difficult to set it up at the last minute than to have it in place and have people who know what the possibilities are, and what the legal rights are.”*

*“To be effective, consultation needs to be properly structured. It needs to be something that is on-going, I would say, not tied to specific issues like redundancy. ... It would be good to meet, say, quarterly and deal with issues as they arise, not take that kind of ad hoc approach, so it becomes cultural rather than responsive.”*

- *Sound arrangements for informing employees should support and run parallel with consultative committees.* The responsibility for information arrangements, and allowing representatives sufficient time to inform the workforce before and after meetings, lies largely with management. Communication and consultation should form a single package. One advisor envisaged information systems and procedures being the vital “wraparound” of the consultative arrangement. In short then, consultation without planned and sustained information is not viable.
- *Regular reviews are necessary to ensure the committee’s continuing relevance.* The issues requiring consultation may change over time, as may the processes needed to resolve them. A general assessment of the committee’s effectiveness in achieving its aims and resolving problematic issues, either by the participants involved, or a third party, can lead to improvements in structures, processes and outcomes. Areas for review may include assessment of representatives’ skills and workforce opinion of the committee’s usefulness. The review process is discussed in full in Chapter 5.

#### **4.5 Meeting the Training Needs of Managers and Employee Representatives**

This chapter reviewed several dimensions of good practice regarding information provision and consultation. Many of the tasks involved require specific skills, so it follows that the process of building effective arrangements will have implications for training of employee representatives and employers. This final section discusses training needs. Acas itself makes an active contribution in this area, by assisting parties to *identify* training requirements and/or in *providing* training workshops. The latter is charged for while other facilitation-based advisory work focusing, for example, on problem-solving, creating joint structures or changing working practices, is free of charge. Key training requirements were identified as common across most organisations seeking to build effective consultative arrangements. They are described below.

First, an understanding of *the legislation that underpins various workplace activities* was seen as a key area in which managers and employee representatives required training (for example, the requirement to consult in relation to redundancy procedures, transfers of undertaking, changes to terms and conditions, or on health and safety issues). While expertise in these “legal” areas has traditionally been located within organisations’ personnel or human resource management functions, employee representatives also need training to develop an independent capability to engage in this area. This was especially the case with non-union representatives who were less likely to have access to legal advice than their trade union counterparts.

One advisor described a common situation:

*“Certainly, a couple of groups that I’ve worked with, who’ve not been trade unions, there’s a worry among the representatives about how they can fulfil their duty. So, for example, if they’re asked to do a consultation on a redundancy procedure ... they often feel a little bit vulnerable ... because ... they don’t have the opportunity to get any training. A trade union representative would be trained by the union in what their role is, and they’ve got somebody they can ring up if they’re not sure about something. They’ve got a full-time officer, but [non-union representatives] on forums have no-one other than the Human Resources people, and they’re thinking ‘Well, are they on the company’s side or are they on mine?’”*

Representatives must be able to make use of *information pertaining to the financial and market position of their organisation* if information and consultation arrangements are to be effective. Appropriate information-sharing, feeding into effective consultation, is based on a model which assumes that the information recipients - employee representatives - are in a position to interpret and use the data or information they receive. Consequently, this should be a high priority for training.

The need to train management and employee representatives so they are equipped to fulfil their roles and responsibilities in committee meetings was highlighted. Acas advisors often spend time with workplace representatives and managers, rehearsing appropriate *meeting protocols*, and addressing *communication skills*. This includes training in facilitation skills for committee chairpersons, and, for employee representatives, training in methods of gauging and collating employees’ views on issues prior to and following meetings. Influencing, communication and presentation skills are all important if managers and employee representatives are to explain issues clearly to different audiences, and employee representatives may be inexperienced in presenting papers to groups and formulating arguments in response to management proposals. Likewise, some managers may also be unfamiliar with the process of communicating with employees in a formal setting. Gaining “soft skills” was also considered important, including good “people skills”, the ability to handle challenging situations and deal with people in a tactful way.

The importance of presentation skills is emphasised in the following quotation. It illustrates how difficulties may arise not only from a manager’s unwillingness to share important information, but at the other extreme to overwhelm employee representatives with information. Sometimes it may be beneficial for managers and employee representatives to be trained together, because it enables managers to assess, first-hand, representatives’ response to their communication and presentation styles.

An advisor provided an example of how joint training can be beneficial:

*“I think it’s about managers as well. A good example was ... the company which gave a lot of information to lots of employees, and most employees said ‘They send us lots of graphs and charts, and I don’t know what any of them mean.’ I think managers need to hear people saying that, otherwise they’ll carry on sending the graphs and charts that nobody (understands). And all people said was ‘All we want to know is, are we doing okay?’. You know, so just say ‘Yeah, we’re doing fine’. They’d be happy with that, they don’t want all these (statistics). So I think training them together is good.”*

## 4.6 Summary

This chapter identified a range of principles - both high level and practical - which contribute to effective information and consultation. A key principle is the need for commitment to ensure sustained involvement and participation in arrangements. This commitment must be manifest through genuine consultation on meaningful issues. This involves: providing timely information; consultation at the right point in the decision-making process; and explaining the rationale behind final decisions.

The structures for arrangements for informing and involvement will vary across workplaces, but the benefits of working jointly to establish arrangements and agree objectives cannot be over-estimated. Both information *and* consultation arrangements create challenges in terms of establishing and sustaining acceptable arrangements, but perhaps some of the greatest challenges lie in the creation of effective joint consultative arrangements. The next chapter focuses on this issue, considering the practicalities of ensuring effective operation of joint consultative committees.

## 5 PRINCIPLES FOR EFFECTIVE JOINT CONSULTATION

As described in previous chapters, the Acas approach to information and consultation centres on: establishing jointly-developed, transparent processes and mechanisms; providing skills; and instilling the attitudes required for communication and consultation to be effective. While advisors assist workplaces to develop a range of mechanisms depending on their needs, the focus of their activities tends towards providing guidance on the establishment and operation of joint consultative structures. This chapter is devoted to describing the process of developing foundation principles for the operation of group structures (referred to hereafter as 'committees'), and key considerations for those involved in establishing them. A summary of the key points of the chapter is contained in Annex 3. It should be noted that most of the principles described apply to committees or other named consultative bodies that are either temporary - established to meet a short-term need - or permanent.

### **The Acas approach to establishing consultative committees**

Acas advisors follow a broadly consistent process when establishing consultative committees in organisations that request their assistance. Depending on the context, some advisors carry out preliminary employee surveys or conduct diagnostic workshops to assess employees' and managers' consultation needs. Some hold meetings with managers and employees separately to assess interests and concerns.

Whatever the situation, all advisors begin the process by setting up joint working parties (JWPs) or steering groups of managers and employee representatives to discuss consultation and information needs, including which structures might be appropriate for their organisation. Advisors report that the Acas JWP approach is a highly effective means of developing consultative committees because it provides, in itself, a tangible example of joint consultation working methods. Further, involvement in JWP processes leads to employees feeling greater ownership of committees once they are established, reducing the likelihood that they will lose momentum.

During JWP meetings, advisors provide guidance on a range of issues. These might include: examples of good practice drawn from other organisations; advising on the distinction between information, consultation and negotiation processes; and discussing whether the scope of the new committee will cover one or more of these spheres of activity. Once the ambit of the committee is established, steering group members are asked to describe the topics or issues they think the committee should be consulted or informed about. Most advisors also lead discussion or conduct training on behaviours needed for effective consultation.

Having established the committee's aims, participants are encouraged to draw up a constitution (or "framework") for the committee or works council. Advisors do not take a prescriptive stance or advise working party members what they should and should not include in their constitution. They do, however, explain the benefits or otherwise of including or omitting certain elements or provisions from the constitution. There is no single Acas model of a constitution, although advisors may supply participants with (anonymous) constitutions developed in other organisations, or template constitutions<sup>5</sup>. The focus remains on the working party developing their own constitution, tailored to their organisation. Developing the constitution jointly provides a sound foundation for joint working and again, advisors stated that representatives feel "they have more ownership of it".

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<sup>5</sup> Including the checklist set out in the Acas advisory booklet *Employee Communications and Consultation*.

Once a constitution has been established - or, during the process of developing one - some JWPs consult with the workforce over the committee, feeding employees' comments into the process. Advisors stressed the need for the JWP to communicate its activities to the workforce so that all employees understand how and why decisions are being made. In terms of the committee's composition, those involved in setting up the committee - if sufficiently representative of the workforce - may go on to take up a formal role as committee members. Alternatively, the JWP may oversee a process of electing representatives to the council or committee.

Once committee members have been elected, it is common practice for Acas advisors to train them in consensus decision-making or problem-solving cycle techniques. An advisor described, in detail, how she explained the notion of consensus decision-making to steering groups during training sessions: *"I wanted to embed in their psyche the principles of consensus. That is to be able to say, 'Once a decision has been reached, I understand this decision ... my views have been heard, and this may or may not be a decision with which I agree, but I'm able to accept the views of the others in the group that this is the right decision. And to understand that consensus is not about voting, not about 'ten against one'."*

Following training, Acas advisors may sit in on some of the committee's early meetings as observers. They can help committee members adhere to the processes and protocols set down in the constitution. The observing advisors can also coach them in using the right language and behaviours, rather than those that might lead to difference and dispute.

## **5.1 Developing the Constitution**

Advisors felt that it was essential for organisations to develop a constitution that would provide the committee with clarity about its scope (issues) and processes. There was some concern that if the processes and protocols outlined in the constitution became too complicated, the workforce may begin to view the committee as "a big mystery" and be unwilling to participate in it. Several advisors argued for simplicity in committees, to prevent employees from feeling reluctant about becoming involved, or feeling excluded from them. One advisor argued that, "The formalities shouldn't be an impediment", and noted that it is important to reach a balance between formality (the procedures in the constitution), flexibility, (the ability to add items to agenda or vary meeting protocols) and clarity (easing the understanding of how procedures work).

The constituent items of the constitution are described in the remainder of this chapter. In simple terms, a constitution sets out how consultation will be carried out, what will be discussed, who will be involved, and how the meetings will be conducted. The first item in most constitutions is usually the title and objectives of the committee, the second, its terms of reference as discussed below.

## **5.2 What will be Discussed?**

Advisors stressed the importance, from the outset, of establishing the scope of the committee, or its "terms of reference" with regard to which matters it can and cannot discuss. An effective means of doing this is by the joint working party discussing it and drawing up a detailed list of issues they feel should be the subject of consultation. Clarity of understanding about the difference between which issues are for information, consultation and negotiation is important at this early stage. In some cases it may be easier to frame a "list" in terms of what the

committee is *not* going to do. An advisor commented, “In a sense, it’s easier almost to say, ‘We’re not going to negotiate on pay and terms and conditions, but we’re happy to talk about everything else’”. A disadvantage of drawing up a list of issues is that the committee may become constrained by it, so that if an issue emerges that is not listed, the committee might feel unable to consider it. Overall, it is important that lists, where drawn up, are updated.

At a more general level, there was widespread agreement that committees are not appropriate for airing or resolving individual grievances and disciplinary matters, nor for providing a vehicle for representatives to put their individual views forward. Rather, the committee should be used to establish or express the majority view on collective matters; for example, terms and conditions of employment. In some cases, committees may discuss issues of generic or collective grievance. It is essential that the entire workforce, including committee representatives, agree about the committee’s purpose and role, so as to “manage expectations”. The committee must be sure to communicate its objectives or terms of reference (as discussed in the previous section) to the workforce.

### **5.3 Committee Size and Constituencies**

For committees to be effective vehicles for consultation they must include management and employee representatives. Constitutions should include details of: “who” will be involved in the committee in terms of the number of employee representatives; who they represent (their “constituents”); which management representatives will be included in the committee; and the method for obtaining members. A related issue is the size of the committee. The general view was that effective committees should not have more than 8 to 12 members, although larger workplaces with a great diversity of functional areas may need larger committees.

On what basis should employee representatives be selected? Acas advisors supported a constituency-based approach to selecting members as a means of ensuring representativeness while keeping committees to a manageable size. Using this approach, the number of committee members depends on the size and number of the constituency groups from which representatives are drawn. Advisors gave organisations advice on the benefits or drawbacks of shaping constituencies in certain ways. Advisors helped JWPs to decide whether organisations might be divided into constituencies by: occupational group; grade; geographical area; functional or operational area (for example production, shopfloor, warehouse, or office); according to shift patterns (constituencies of night and day shift workers); or by production line, perhaps with one representative per line. The eventual choice of a method for structuring consistencies will depend on the individual circumstances of the organisation.

Issues may arise around whether the committee is appropriately representing or reflecting the composition of the workforce. Ideally, committees should strive to accommodate distinct groups of employees reflecting the range of different interests and needs of the workforce. Gender and ethnicity are likely to be important considerations, and depending on the issues under discussion, the committee may also wish to ensure representation of employees from across occupations, different skill levels, and job functions. Likewise, where unions are present, a certain number of seats may be reserved for trade union representatives.

In terms of representation, if there are 200 employees, all doing exactly the same job, 2 or 3 representatives might be adequate, but five groups of 20 employees, all doing different jobs, may need 5 representatives. It is important that there is representation across all areas of operation and grades, provided that the committee does not become too unwieldy. The

process of deciding how representatives will be selected from constituencies must also take into account the practicalities of the representatives' role.

One advisor outlined her approach in terms of clarifying, with committee members, the mechanics of representing constituencies:

*“(I spend) a lot of time saying, ‘Right, so we’ve said these are your roles and responsibilities, so let’s look at the practicalities. You are supposed to gather the views of your constituents, so how are you going to do it?’ (reply) ‘Well, it’s alright for Wendy because she’s in the office and there’s only about seven or eight of them, she can have a quick word’. ‘Right, so who covers the night shift? Are you on nights?’ ‘No’. ‘So how are you going to cover the night shift when you’re not on nights?’. So really getting them to think about it, with management there, and management involvement and agreement, so you end up with a facilities agreement almost.”*

It is problematic for employee representatives covering a large constituency to communicate effectively and gather feedback from their constituents. One benchmark for constituency size is based on management span of control; that is, how many employees each supervisor manages. The practicalities of the constituency base will also depend on the communications systems used within organisations, with effective communication channels enabling representatives to liaise with a greater number of constituents. For instance, representatives with access to company e-mail systems could find this a good vehicle for informing and seeking feedback from a large number of employees.

Other issues for consideration include the logistical or structural features of committees. For example, if the establishment is part of a larger company which has a European Works Council, or a national committee located at head office, the JWP should consider whether issues raised at the site-level committee will feed into the higher level committee. Alternatively, if the employer has a workforce scattered across a great number of sites, a decision must be made as to whether each site represents a constituency, with employee representatives chosen from each and brought together on one site for meetings. Alternatively, a committee may be established in each workplace or division. These may or may not feed into a national or head office-based committee.

While advisors generally advocate that committee members represent workforce constituencies, some organisations may not wish to follow this advice because of distinct cultural factors. An advisor described an organisation that did not want committee members to represent constituencies and instead asked for volunteers “who were keen to be involved in the committee”, and who would represent all workers. The advisor advised against this approach on the basis that when committee members represent particular constituencies, they are able to seek workforce views on perceived problems, represent these views at meetings, discuss solutions and go back to constituents with feedback. This advisor felt that, “If you have everybody representing everybody, then it’s nobody’s job. You can see things falling through the net”. In the main, a more structured approach was considered practical in terms of the effective long-term functioning of the committee.

#### **5.4 Composition of the Committee**

While both managers and employees should be represented, there need not be a 50/50 split. An equal split may often be difficult to achieve due to small numbers of managers in small firms, and because a larger number of employee representatives than managers may be

needed where an organisation is comprised of numerous, diverse workforce constituencies. Along with employees representing constituencies, advisors noted that if possible, employees with influence (the more vocal, “opinion leaders” or “informal leaders”) might be involved, as they are likely to gain the trust of their workmates in representing their views. It may also be appropriate to involve union representatives or stewards, in unionised workplaces.

As noted in Chapter 2, in organisations where the workforce comprises both union members and non-union employees, employers are increasingly looking to develop “mixed constituency” committees. For example, where trade unions have recognition, consultative committees might include a set number of places for shop stewards, in addition to representatives drawn from workforce elections. The resulting elected representatives may be non-union or unionised employee representatives drawn from *all* employees in the constituency.

Confusion may also arise regarding whether non-union representatives can be involved in negotiations. In such cases, constitutions should set out explicitly which issues are open for consultation and those that are negotiated, and which parties (union and non-union) will be involved in each. In some organisations, this takes the form of lists detailing issues that the entire staff forum will discuss, and those that will only be discussed by union representatives.

With regard to management representation on committees, it is essential that there is commitment to the committee from the highest level of the organisation, and from those managers with the greatest influence over decision-making. It is important for senior managers (for example site general managers, board members) to be involved in the committee, in terms of committing support at its formation, and as committee members. This involvement provides a visible demonstration that the company and management are committed to consulting the workforce. Yet advisors identified how the involvement of senior managers may prevent meaningful discussion if others feel intimidated or embarrassed by their presence. Again, much depends on their personalities and commitment to genuine consultation. While many expressly stated that direct senior management involvement was an essential pre-condition, others stated more generally that, “Managers with power”, “decision-makers” and managers “who have some sort of authority, who are senior enough to not have to run back to get somebody else’s permission to agree to something all the time” should be involved.

In larger organisations, HR or personnel managers should also be involved in committees. In smaller workplaces where there is often no designated HR or personnel position, the management representative(s) on the committee “may be somebody who wears three or four hats”. In manufacturing firms, operational or site general managers may also ideally be involved in committees so that operational and business issues will be discussed. Middle managers as well as supervisory and line managers were also identified by advisors as having a role to play in committees.

The rationale for their involvement varied:

- They interface with employee representatives or stewards on a daily basis and are thus directly involved in the implementation of decisions that arise from consultative committees;
- Most conflict occurs between line managers and employees so it is important that representatives of each are jointly involved in decision-making to lessen the likelihood of this occurring;

- Line managers, “Have the most to say about the time employee representatives can take off from duties”;
- They are the group most threatened by issues such as changing employee roles or job re-design, which may be discussed by committees (for example, in the context of implementing team working);
- They may feel “out of the loop”; the employees that they have responsibility for may have direct access to senior managers at meetings, while they as less senior managers may not, causing feelings of exclusion, vulnerability, or resentment;
- If they are committee members, they are, “Less likely to keep information close to their chests”, and are able to feed information back to the workforce after meetings at briefings conducted jointly with employee representatives (see Section 5.8).

There may well be opposition from managers to line managers or supervisors maintaining involvement in committees because of the time that the latter are required to spend away from their “day to day activity”. As it is often difficult for a great number or range of managers to attend meetings on a practical basis, it is important that an appropriate degree of information flows out of the committee to these managers, to prevent them from feeling excluded or uninformed.

### **Co-option of members**

As noted earlier, it is important that management and employee interests from across all aspects of the business should, where possible, be represented in committees. While this may not be possible because it results in unwieldy structures, committees should also be able to “co-opt” representatives from among both the workforce and management, by, for example, “inviting” managers with expertise in specific areas to attend certain meetings on an *ad hoc* basis. Line managers need not necessarily be included as full-time committee representatives, but could be identified by the management team to attend meetings on a rotating basis.

Likewise, an example was given of a committee which developed a “pool” of union representatives and would select certain representatives for each meeting, depending on the agenda items. The flipside of this approach is the need for consistency in committees, and the benefits of building relationships between committee members. The challenge for committees, if adopting a rotating policy, is to achieve a balance between flexibility and consistency of approach.

## **5.5 Methods for Obtaining Members: Election Procedures and Period of Office**

In unionised organisations, trade unions may seek nominations for representatives among their members and members will vote on who fills the positions. Procedures for electing representatives are not as clear in the creation of committees comprising union and non-union members, or in non-union organisations. However, the practice of managers hand-picking representatives from among the non-union workforce was singled out by advisors as dangerous since it had been found to undermine the credibility of the committee among the wider workforce.

Ultimately the most favoured option is to use transparent election processes among non-union workforces, and on occasions in mixed union and non-union workforces, to avoid the committee members being perceived as management “stooges”. Where more than one employee stands from each constituency, advisors may organise a secret ballot within that constituency. Some organisations may stipulate a period of tenure in the job - most commonly six months or one year’s service the organisation - before employees may stand for a position as a committee representative.

As well as practical issues of electing representatives, there are other issues around employee motivation that require careful treatment. As discussed earlier, it is important that committee members drawn from the workforce are as committed to genuine consultation as their management counterparts. Although employees become representatives for a variety of reasons, in general it is important that representatives are “willing”, and should not be pressured into standing for election “for the wrong reasons”. In some cases representatives may be willing, but may not have the skills or personality traits needed to be an effective representative.

Where this is the case, it is important for representatives to have a means of exiting from the role. As one advisor noted, “If people feel they’ve been press-ganged; or put themselves up for election and then find once they’ve got into it that they don’t want to be doing it, you’ve got to have something to allow people to stand down”. In other cases, where representatives are not felt to be doing their job effectively, Acas training may remedy the problem.

### **Committee members’ period of office**

When considering issues relating to the period of office and arrangements for the retirement of representatives, conflicting pressures for continuity and change come to the fore. Continuity of committee membership is important, but committees should also be flexible enough to encompass change. A period of several years tends to be the standard term of office. This enables continuity in terms of committee composition, allowing for relationships and expertise to develop over time, and reduces the need for constant training of representatives. Constitutions, can include provisions allowing flexibility for representatives to stand down or opt out of committees after a 12 month review, if they change their mind about the role. Constitutions might also include provisions for a phased election process so that all representatives do not stand for election or re-election simultaneously. If they all leave at the same time, discontinuity may result. If half of all representative positions are put up for re-election on an annual basis, for example, it will enable both change and continuity. Representatives who are involved in committees for too long can become stale.

## **5.6 Meeting Arrangements**

The constitution should provide guidance on the frequency, duration, location, agenda and minutes of meetings, as well as issues such as what constitutes a quorum (in terms of both employee and management committee members), and how the chair of the committee will be chosen.

*Regular* meetings are essential to the good operation of a committee, and to ensuring its on-going relevance and sustainability. It is more difficult to be prescriptive about the actual

*frequency* of meetings. Much depends on the range of issues being discussed, their complexity, and the timetable for decision-making. Monthly meetings appeared to be most common, with some advisors stating that “at a minimum”, meetings may be held quarterly. There may also be provision for “emergency” meetings to be held at short notice, although the power and ability to call these meetings should be strictly circumscribed in the constitution or elsewhere. Clearly, a degree of flexibility should be applied to meeting frequency provided the timetable does not lapse into inertia. Meetings may initially be held monthly; but as issues become less pressing, they may become less frequent, perhaps quarterly.

### **Placing items on the agenda**

The success or failure of consultative committees can often turn on simple things, such as adherence to procedures for setting and keeping to agenda. Agenda-free meetings may result in unstructured, “fiery” discussions. Where organisations do not have set mechanisms for placing items on the agenda or ensuring that an agenda item is dealt with, there is often a tendency to simply “move on”, leaving issues unresolved.

Agenda need not be complex - a simple framework agenda may be used which starts with an update on the business from management, followed by issues raised by employee representatives. Agenda items should be prepared by both employee and management representatives, and each party should give the other sufficient advance notice of issues they wish to raise. Instead of solely responding to items raised by worker representatives, it is important that managers proactively contribute to the agenda-setting process. In doing so, they are indicating to the workforce that they perceive the consultation process is important. The agenda-setting process may, for example, involve an employee representative and a management representative working together to determine which items will be discussed.

### **Meeting protocols**

It is important that meeting protocols, procedures and behavioural standards are established (and ideally, set down in writing) at an early stage to ensure the smooth running of the system. These should include basic ground rules on meeting etiquette and behaviours (such as not interrupting, not speaking over others, and not “taking the mickey”). They should also address means of resolving difficulties, of ensuring that meetings are chaired effectively, and of allowing adequate preparation for the meeting agenda.

Practices such as giving advance notice of meetings, providing agenda and information well in advance of meetings, and giving sufficient preparation time for advance working of agenda items, were all cited as important. One advisor, for example, spoke of an organisation where managers complained of unprofessional behaviour from representatives, who would bring items to the table without forward warning or information, preventing managers from preparing an effective response.

Many of the meeting protocols described by advisors related to setting time-specific objectives; for example, getting managers to agree to respond to issues raised by employee representatives within a timeframe, and ensuring that the meeting minutes are written and circulated among the workforce within a certain period of time. Additionally, protocols preventing unfair treatment of representatives may be included in the constitution. Some advisors encourage companies to include a provision stating that “no representative acting in

good faith as a representative will suffer any detriment”, such as being penalised in terms of promotion or other opportunities, for speaking out. This kind of protocol was perhaps most important in workplaces without a tradition of employee involvement. Another clause in the constitution might state that where managers make a decision that does not coincide or correspond with the views of committee members, they must explain their reasons for making that decision to the committee. If this is not done, the workforce may begin to doubt the credibility of the employee representatives and their ability to put employees’ views forward effectively.

### **Arrangements for minutes**

Arrangements for recording, agreeing and distributing minutes should be set out in the constitution. One option is writing full minutes of meetings. This provides certainty, as it provides a comprehensive record of points raised, issues discussed and actions proposed or taken. The problem with writing full minutes is that it may lead to disagreements among committee members over “who said what” during meetings. By comparison, short notes or action points derived from the meeting may be favoured because they avoid such disagreements and are more likely to be read by the workforce, who are likely to see them as more relevant and interesting than full minutes.

Alternatively, the committee chair might write a summary of the meeting at its conclusion, which can be an effective approach for gaining consensus at the end of each meeting. A summary can identify key points and main actions, outlining principles that are reached and assigning tasks to specific individuals. Ultimately, it is for committee members to decide the level of detail in which meetings are recorded. This will depend on the nature and complexity of the issues discussed during meetings, and the perceived appropriateness of particular methods for communicating information to the workforce.

### **5.7 Arrangements for Liaison with Constituents and Reporting Meetings**

The constitution should also include provisions relating to facilities for committee members, such as payment while attending meetings and time off for liaison with constituents. For committees to be effective, employee representatives need sufficient time to seek constituents’ views on issues in advance of meetings, and to feed back information and decisions to employees following meetings. This was an area that was highlighted as being particularly problematic. One advisor stated that committees, “Can often fall down, because the day job kicks in, priorities of the business kick in, and there isn’t the opportunity to undertake the consultation process on a wider level, which needs to then inform the forum”.

A key concern for both management and employee committee representatives will be the time-scale around consultation. Employee representatives may be burdened by their role of consulting employees if the time-scale they are given is insufficient to talk properly to their constituents and collate feedback. Yet equally, there will be occasions when managers are under pressure to obtain a speedy response where there is a demand for rapid change. Outside of these situations of extreme pressure, Acas advisors noted a broader tendency for managers to say, “I haven’t got time to consult”, since the process is generally regarded as resulting in slower decisions. One solution offered by advisors in these circumstances is for managers and employee representatives to clarify jointly the key issues that are important to consult on, and those that are not.

It is also important that the “communication loop” out of the committee - the dialogue that takes place with the workforce, following meetings - is effective. Various devices for communicating information from meetings were used. Minutes, key points or briefing notes from meetings were agreed and circulated among the workforce, or placed on company intranets and notice boards. Acas may also train committee members in methods of communicating with the workforce.

One advisor discussed how representatives might gather information from, and convey information back to, the workforce:

*“It depends on the physical set-up of the company. If it’s a single workplace, it ought to be possible for the employee representatives to talk to the constituents that they’ve been elected by ... and at the very least give them the minutes, but ideally a fairly short briefing on what’s happened. The opportunity needs to be there for the employees to contribute towards what happens at the next meeting. It wants to be bottom-up if at all possible, and that’s about time and resources ... a half-hour briefing session after a meeting, and maybe another before the next meeting for agenda items to be talked about. People need to feel involved.”*

This kind of formal exchange between representatives and constituents was important from the management perspective too, in reassuring them that representatives were genuinely reflecting the views of the wider workforce and not just their individual viewpoints.

Some advisors felt that joint (verbal) feedback from line managers and employee representatives was by far the most effective means of conveying information discussed during committee meetings. Several advisors described these arrangements:

*“They could have a good debate in the forum, but what message do they send out to the employees? Is it just by minutes being posted on notice boards? Who reads notice boards? Or is it through some joint presentation on the back of a team-briefing which they had in place in their organisation, whereby the forum representative along with the team leader would say, ‘We had a forum meeting last week and these are the key issues’?.”*

*“Some companies around this area have joint presentations carried out by shop stewards and managers. And they’ll do that, and a steward will go round the different meetings and will play their part in each one of them, emphasising the fact that it’s been agreed on a joint basis, and ‘This is what’s happening’, and handling the difficult questions from the lads.”*

How and what information is conveyed to the workforce can be an issue of some complexity. While it is best for committee members to be as open as possible during committee meetings, they will often have to be more guarded in terms of information communicated to the workforce, following meetings. There are several aspects to this. First, where confidential information is discussed, the committee must decide how much of this information may be disclosed to the workforce. Second, it is important that committee members are “telling the same story” once they leave the meeting, to prevent confusion or conflict from occurring within constituencies. This can place considerable pressure on the representatives. One advisor summed up a common scenario, noting, “One of the biggest problems for staff representatives is that as soon as they leave a meeting, they get collared - ‘Oh you’ve just come out of the meeting, what did they say?’”. Accordingly, the final task of meetings may be

to agree what information will be briefed to the workforce so that they all receive the same message.

One advisor described this process:

*“It’s part of the work I would do with any group, whether it’s setting up a committee in the first place or whether it’s a project that’s on a completely different subject - existing trade union or elected reps - say, quarter of an hour, twenty minutes at the end of the every meeting, ‘So what are we going to say to the workforce?’ And we agree before they leave that room ... that gets rid of that issue of everybody leaving a meeting with their own perceptions, because we’ve tied it all together, we’ve summarised it.”*

Third, employees may not feel that committee representatives are adequately representing their interests in meetings because representatives are not able to tell them what is discussed “behind the scenes”. An advisor described how this was tackled in one unionised company:

*“One of the things they’ve started to do, is when they put out communications, it’s not just saying, ‘We had a meeting and this was the outcome, we’re recommending this’, but to say, ‘This was the management’s position, and this was the union’s position, and we moved through these various stages’, because they found out that people felt that the union hadn’t been doing a very good job if they came out of a meeting with an agreed solution. People’s perception was that they hadn’t tried very hard on their behalf. So it’s almost that they need to tell people what they’ve been through.”*

At a more strategic level, advisors also stressed that managers should not use communication channels flowing from committees as a means of abdicating their responsibility for directly informing employees through other communication vehicles. Managers should inform the workforce about issues as a matter of course, as information may be slow to filter out via committee minutes or post-meeting briefings.

## **Dealing with financial and confidential information**

Importantly, the constitution should also make clear the responsibilities of members with regard to how confidential information is dealt with. Some companies are reluctant to disclose information for reasons of commercial sensitivity related to the stock market, or competitive advantage when bidding for contracts. Indeed, Article 6 of the Draft Information and Consultation Directive addresses this very issue, stating that employee representatives are not authorised to reveal, to employees or third parties, any information that has been given to them in confidence. Most advisors (and particularly those who were proponents of consensus decision-making or integrative bargaining techniques) were in favour of employee representatives being given financial information, and training in how to understand it. However they felt that managers needed to strike a balance between giving information that was meaningful and not jeopardising confidentiality. One solution may involve, at the stage of developing a constitution, managers spelling out the type and degree of confidential information they will share with representatives, and JWP members developing protocols for ensuring that committee members maintain confidentiality.

## 5.8 Reviewing the Constitution

The constitution must also include details of how the arrangements (including the constitution itself) may be altered. It should also set out how and when the organisation will review the constitution and the workings of the committee more broadly. The need for review is linked to the issue of ensuring the sustainability of committees, which is examined in Chapter 6. The evaluation processes set out in the constitution should emerge from the group itself identifying the appropriate review mechanisms.

An initial 6 or 12 month review of a newly-established committee should ideally be followed by regular annual evaluations of committee structures and processes. In some cases Acas advisors may offer to be involved in annual reviews. The advantage of involving a third party facilitator in the review process is that both parties are free to focus exclusively on issues of *substance rather than the review process itself*. An impartial facilitator can also assist in creating a safe environment which encourages mutual trust and honesty, so that the parties can be open about their concerns and criticisms while at the same time pursuing solutions. Some advisors will also survey the views of managers, the committee and the workforce during the review process.

A different approach promoted by Acas advisors involves committee members developing their own review mechanisms. Some organisations may be reluctant to conduct reviews because they believe them to be time and resource intensive, but the review process need not be complex. A simple process of asking those involved in the committee, “What’s working well, and what can be improved?”, may suffice. Or it may involve asking employees about how effective they feel the committee is. Advisors felt it necessary to evaluate both the workings of the committee itself, and the *process* of consultation; or, “how the debate is taking place”. Where problems or deficiencies are identified, it is important to establish who should take responsibility for making the necessary improvements, and the time-scales within which improvements should occur.

## Elements of review

A review might measure performance from a variety of angles, but it may be difficult to measure the “success” or otherwise of committees, for several reasons. First, there is often little clarity regarding what constitutes success; is it judged in terms of the short-term resolution of an issue, or the on-going sustainability of the committee? Secondly, there is usually little objective evidence of success, and the committee must rely on individual perceptions rather than quantitative measures. Despite this, advisors highlighted specific principles or issues for consideration when conducting reviews. They felt that there should be critical examination of:

- What the committee first set out to do, and what has been achieved in practice;
- Whether the committee has resulted in improvements in terms of the specific issues that caused it to be set up initially (for example high levels of sickness absence, staff turnover, and disputes). In other words, asking the question, “Have improvements occurred now that there is a mechanism to deal with issues that would have festered otherwise?”;
- More importantly, has there been any impact on levels of commitment, trust, morale or motivation; or indicators such as turnover, grievances, investment in training or productivity?;
- Whether the committee has resulted in more effective communication. How accessible are the representatives? Do employees receive enough information from committee members? Are the issues raised by employees passed on to management and dealt with? To what extent does information percolate down to employees?;
- Whether managers’ decisions have been influenced by what employees have said (proving to employees that committees are responsive/effective);
- Whether employees feel more broadly that the committee is effective, whether they are happy with it, and whether there has been “buy-in”. This might be assessed using employee surveys, or through other indicators. For example, are employees willing to put themselves forward for positions when elections are held, because they believe that the committee is making a difference in the organisation?;
- What kind of changes/decisions are informed by/have resulted from the consultative process, in terms of substantive issues, and the reaction of the workforce to them;
- Examples of where both employee and management representatives have contributed to the committee process;
- Reviewing progress with respect to whether the group is making decisions within the context of the consensus decision-making and joint problem solving techniques in which they were originally trained.

## **5.9 Summary**

This chapter has outlined a range of principles and protocols for effective joint consultation, all of which were uniformly espoused by Acas advisors. They emphasise the importance of: having an agreed constitution; representative and legitimately elected members; good meeting and recording protocols; and sound arrangements for reporting back. Reviews are also crucial to maintaining the most meaningful and apt arrangements. These “good practice” principles are the product of repeated testing, application and evaluation in the context of Acas; advisory work. They provide highly robust guidelines for operation, and are uniformly applicable to a broad range of structures and organisational types. Their effective operation may, however, be hindered by specific cultural and structural features of organisations. These challenges to effective, sustained information and consultation are explored in detail in the next chapter.

## 6 THE CHALLENGES AND ENABLERS OF INFORMATION AND CONSULTATION

The report so far has focused on good practice in information and consultation - on the behavioural aspects (the necessity of commitment), and practical considerations (creating appropriate processes and structures). Naturally the challenges to effective arrangements are wider than those discussed so far. The interviews with Acas advisors generated a series of diverse factors that may be embedded in workplaces and which, in themselves, present challenges. This chapter considers these contextual factors, examining the obstacles and the opportunities they present. The chapter concludes with a broader discussion on the challenges presented in maintaining momentum once information and consultation arrangements are in place

### 6.1 Management Values and Style

Perhaps the most pervasive influence is that of *management values and styles*. The research found that the approach adopted by managers and their level of commitment to employee involvement were the most important influences over whether mechanisms for information and consultation were adopted, and effective. In circumstances where there was little or no willingness to share information, there would almost certainly be little opportunity for employee “voice”. This kind of stance may stem from some managers believing that it is crucial to their role to control access to information. They may fear of loss of control in decision making or be unwilling to accept that there are potential benefits of employee involvement in terms of “intellectual capital” which could be useful in management decision-making.

As one advisor noted about managers:

*“If you’ve got a personality that is threatened by others, it’s clearly going to be a barrier in this joint problem-solving consultative framework which we advocate because we’re advocating sharing ideas, and valuing them all equally, evaluating them objectively.”*

Other barriers to involvement cited were where managers exhibited an overly “paternalistic” management style, or, where past management styles had, over years, built a tradition of paternalistic practice. In these environments, managers were less likely to be willing to share information and may be resistant to, or unaware of the benefits of, information and consultation. Advisors frequently used the term “baggage” to denote traditional and on-going resistance to involving employees in decision-making. They described how it was often difficult to persuade managers to change their viewpoint in the face of long-standing, embedded behavioural patterns. This kind of pattern may be especially prevalent in smaller workplaces: those that are owner-managed; and those that have passed through the family, in which as one advisor described there may be “a paternalistic ‘my grandfather would turn in his grave’ type attitude”.

This proprietorial attitude was sometimes described in terms of owner-managers’ unwillingness to accede “power” to and involve other organisational actors:

*“Owner-managed companies (may) generally see it as, “This is my company”... they are the boss and they don’t see why they should give information out. At the end of the day it’s the fear of losing control ... It is a control thing.”*

*“It’s what was called a ‘unitary’ perspective: ‘I’m the boss, I have the vision, I have the clout, I have the wisdom’ ... because it’s not easy for them to see that it’s a good way forward. And even if we persuade them, they’ve got such a lot of baggage about being used to running the business without consulting people, that it’s very difficult. Even if they say, ‘Yes, we’ll do it’, they still have great difficulty genuinely doing it, because their behaviour patterns are already formed ... it’s management not seeing the point of consultation.”*

*“A lot of smaller companies I come into contact with are still very sort of paternalistic, and ... they talk to their staff, but it’s very much, ‘We know what’s best for you’. And they’ll listen to what they’ve got to say, but they don’t really see them as having any role in commenting on the business.”*

Organisations in which information and consultation were more likely to flourish included those where managers had a very “*open*” *management style* with an emphasis on inclusivity in decision-making, or they ascribed to the belief that employees had an intrinsic and *fundamental need for “voice”* mechanisms. Likewise some managers felt, from a purely instrumental perspective, that employee involvement in decision-making paid dividends in terms of organisational performance outcomes. The most prominent examples of this management philosophy were evident in firms where a range of techniques associated with high performance work systems (HPWS) were found, including team working and quality-improvement techniques.

## **6.2 Employment Relations Climate and Structures**

### **6.2.1 The Climate of Relations**

The history of relations may have a pervasive effect on the opportunities for introducing new consultative arrangements in a workplace. This may manifest in *employee behaviours*. Employees may feel cynical about becoming involved in consultative exercises where, for example, they have previously been involved in, or have observed, consultative arrangements that were either not meaningful or had no visible impact. This resulted in a situation of “low trust”.

Equally, where there has been no culture or tradition of employee involvement, employees may simply not be accustomed to having any input into decision-making and there may be a lack of confidence in engaging in discussion. Accordingly they may express suspicions when they are confronted with a “new” information or consultation initiative. At its worst, there may be a culture of fear of participation and employee opposition to being involved. For instance, employees may feel concerned that involvement will jeopardise their job security or career prospects if they are seen for to challenge managers’ views in consultative fora. Once again, historical precedent means that it is difficult for advisors to set up structures and processes, and difficult for employee representatives to champion and sustain them.

An advisor explained:

*“If you’re suddenly asking people to be consulted and they’ve never been consulted before and there’s been no culture of it, that makes life very difficult for them. ... They don’t know what it is, they don’t know how to do it, or how far they can push it. ...*

*There's always a significant element of the workforce that genuinely can't see the point, 'I come to work, I do my job according to the instructions I'm given, pick up my wages and I go home'. ... And that's the problem with the reps ... if they can't get people to attend meetings, or won't get a response from people, that makes their life difficult. It comes back to what the emphasis is from the company as well, to make sure that people do understand that it is a significant process."*

A further cultural barrier to meaningful and effective information and consultation is evident in firms where there has been a long tradition of *adversarial union-management relations*. In such workplaces, employees and stewards may be opposed to consultative committees because they believe that they will be used by managers to downgrade or dilute union rights. Moreover, in some traditional manufacturing sectors where union membership is high, trade unions have historically dominated the flow of information to employees. As a consequence, stewards may perceive management efforts to inform the wider workforce as an attempt to undermine their relationship with their members. Again, advisors referred to these traditional cultures as the "baggage" of past employment relations traditions.

The research also reveals that, despite a shift to more harmonious dealings, residual workplace cultures may cause employees to believe that their employee representatives should continue to relate to managers in a certain way. One advisor described this:

*"We sometimes work with organisations (where) we can move from that traditional, very confrontational style between the key management team and the key union officials ... but then you've got a whole lot of people beyond that, how do you convince them? Union members may feel, 'Well, I elected my representative to go and bang on the table and say "We're not having that"'. I didn't elect them to go to a nice hotel for a day and come up with a solution, and tell me, "This is the best that (we can get)"', because I don't know, as a member, what discussions they went through'."*

Adversarial relations may not be exclusively within the union/management sphere. A culture of *poor employment relations* more generally may prove a challenge to effective information and consultation. In these circumstances, it may be a perception (or reality) that managers are introducing committees or other groups for consultation purely to comply with the law, rather than as a vehicle for meaningful dialogue.

In contrast to organisations with a history of poor relations were those which had developed *positive working relationships with employee representatives*, in some cases through co-operative trade union or partnership relationships. These might be characterised as *high trust organisations*. These arrangements may be longstanding, or may have emerged from some sort of "culture change" taking place in the organisation, resulting in a shift from adversarial to harmonious working relationships. Such changes may be gradual, or stem from a "crisis" situation in which managers are compelled - sometimes for legal reasons - to consult.

Two factors were felt to be key to these high-trust relationships. First was a commitment that trade union and employee representatives should be actively involved in the very early stages of decision-making. Second that managers should provide representatives with a much greater array of information - including financial information - to assist the decision-making process. In such cases, employees and their representatives may be accustomed to imparting information, and know how consultative committees operate in terms of protocols, processes, and roles. Consequently they may be more receptive to management efforts to introduce new mechanisms for information and consultation that run alongside, replace or improve upon existing structures (this is discussed in Chapter 2).

### 6.2.2 Creating Mixed Constituency Committees

Perhaps one of the greatest challenges relates to the logistics and dynamics associated with the creation and running of so-called “mixed constituency” committees. These occur in workplaces in which a decision is reached to create or reconfigure a forum involving both union and non-union representatives. This may occur in circumstances where union density is relatively low and there is a desire to broaden the scale of representation in a consultative forum.

Advisors reported a range of challenges relating to these structures. First, tensions may emerge between the two sets of representatives in these integrated fora. Trade union representatives may be reluctant or suspicious towards a joint union/non-union forum if they fear a reduction in their role. In some instances this may extend to resistance and possibly refusal to sit alongside non-union representatives on consultative mechanisms.

One advisor described the range of reactions from existing unionised committee members to managers’ proposals for mixed committees. He stated that responses varied (emphasis added):

*“... from, ‘Yes, we can live with that, because we recognise that there’s a body of people out there and we would want to have them involved’, to the other end of the spectrum: ‘We are recognised, we will have the role and responsibility for all negotiation (and) consultation with management on this site’.”*

There may also be a disparity in the circumstances of union and non-union committee representatives, with the latter at a disadvantage for several reasons. Non-union employee representatives may lack confidence and feel concerned that they are unable to adequately fulfil their duties as a representative, for example when consulted over redundancies. They may feel vulnerable if they have not had the opportunity to receive training for their position, and may have no support within the organisation in terms of seeking advice on issues. Where they have not received training, non-union representatives are not as likely to have met together and prepared, prior to meetings.

Alongside this, trade union representatives are able to rely on support and back-up from the union and its full-time officers if they require help, while non-union employee representatives may have no comparable “back-up”. In certain circumstances union representatives may feel resentful of sharing their skills with non-union representatives. Some union representatives may feel disgruntled that non-members can reap the benefits of trade union involvement and expertise without paying membership fees.

As one advisor commented:

*“I think that the union representatives may feel that they’re stronger because they’ve got the full-time officer they can call on, and they’ve got the mandate to be there. Whereas although the others have been voted in, I think they possibly feel different from a union representative in that sense. I think that the union would feel they’ve got more power. The representatives, I think, feel that they’re there as a sort of a conduit, but not really with the power to speak for (employees).”*

### 6.3 Organisational Structure and Size

Alongside features of the workplace relating to management style and workforce willingness to engage in information or consultation, aspects of the workplace structure and composition may equally present challenges to - and may also enable - effective information and consultation. These structural features are discussed below and include: the hierarchical or management structure of the organisation; and consultation in dispersed and small workplaces.

#### 6.3.1 Management Structure

It is clear that composite features - behavioural and historical - combine to influence the scope for introducing sound consultative arrangements. Certain management structures were also raised as significant. The presence of a *flat management structure*, where accompanied by a positive commitment to employee involvement, was identified as an enabling feature. The most common examples were workplaces that had adopted team-working structures, where information and consultation mechanisms had been built into the team-working approach. A second more specific category of organisation comprised firms where management buy-outs had occurred, again resulting in a flatter structure. As a result of having worked closely together through a period of great change, employees had developed a greater "stake" in these businesses, and each party had grown to appreciate the value of meaningful, frequent information and consultation as vital for effective functioning.

Similarly, where competitive pressures have required organisations to engage in restructuring programmes involving the reduction of layers of management, and in some cases the establishment of team-working structures, the same effect - that of encouraging greater and more meaningful information provision - has been observed.

As one advisor commented:

*"What has helped the approach is that in a lot of companies, managers are now much more at the sharp end. Using the (Company X) example, the Chairman maybe would visit the company once in every five-year cycle. So the senior management was much more remote. Now, I think, managers are much more at that level, so there's more involvement with the shopfloor and the shareholders. Because of the flatter management structures you haven't got loads of levels, layers, of managers ... I think it has meant probably more information - stark, real information - getting to people."*

This kind of distinct organisational structure may have an impact upon the nature of the consultative mechanism established and once again committees, and the constitutions that underlie them, need to be tailored to the cultures of organisations. One advisor explained how a JWP set up to establish a consultative committee in a voluntary sector organisation wrote a constitution which reflected:

*"... the particular culture that they have. They're quite participative and they're not very grade-ist. It's not like a hierarchical structure. They work a lot in teams ... and they felt that the management and employee split wasn't quite right, because they saw themselves all as equal partners. They wanted it put it in a written (constitution), in a structure that they were equal ... they didn't want it to look divisive. So as far as they were concerned, the wording was very important to this."*

### 6.3.2 Dispersed Workplaces

Some of the greatest challenges lie in introducing effective information and consultative arrangements in national organisations where employees are spread throughout dispersed workplaces. In some instances this provides the spur for improving communication and consultation. However employees and managers may find it more difficult to establish and maintain consultative committees in these workplaces. In some cases this might be because of logistical or geographical barriers, in others due to a tradition of “not consulting”. There was no single solution to this challenge.

In many of the examples cited in the research, a key focus of management activity was the establishment of mechanisms for information-sharing. Tackling the more challenging area of establishing consultative arrangements required a more considered approach, with the key question being whether arrangements should be at the organisational or establishment level. Positive examples cited in the research highlighted the importance of establishing a consultative arrangement which mirrored the structure of the organisation. Often, these involved regional or workplace fora, and in some instances representatives also attended a central higher-level consultative committee.

The agenda at different sites may vary according to the priorities of that particular workplace, so flexibility is important if individual committees are to meet their specific needs. These committees might also address organisation-wide issues and so contribute to the “central organisational agenda”.

**Case example:**

*Information and consultation structures must be tailored to organisational structures*

An advisor described a national charity offering care-related services at sites across England, where the workforce and managers were keenly committed to establishing a consultative committee which drew representatives into regionally-based fora. He stated that the working party charged with setting up the regional fora, “Tried to be sensible about geography” when establishing *where* employees would be drawn from. In doing so, “They just had to accept the limitations of the kind of outfit that they were”. The working party recognised the priority for sharing information across dispersed sites and a complex set of arrangements were established to tackle the needs of the changing organisation. Alongside consultative arrangements, written communication was important. The organisation distributed a newsletter which was highly regarded by employees.

As the advisor noted:

*“Part of their problem is they’re all over the country ... but they’re also diverse in terms of the work that they do, so communication’s obviously a big issue for them. ... What they were good at was written communications, they had a very good newsletter, which was very user-friendly and interesting, and had things in it that the employees wanted to read, and did read ... they’d got the tone of it somehow right ... It was physically distributed, they weren’t all on e-mail. ... there were some distribution difficulties, but for the most part it worked really well and the content was about right. So newsletters work well for them.”*

### 6.3.3 The Challenge of Informing and Consulting in Small Workplaces

Research indicated that the same need for principles and benefits of effective information and consultation apply equally to large and small organisations. Often, however, the challenges of introducing arrangements may be different in the latter.

#### Information mechanisms in small workplaces

Informal, *ad hoc* verbal communication tends to be the norm in most small firms where, to some extent, information-sharing may be easier and more effective. This is because managers' span of control may be smaller than in larger organisations and there may be a greater degree of day-to-day contact between senior managers and employees:

*"If we're talking 20, 30 people, then what you normally find is communication is superb because ... everybody knows what people are doing. What I always try and advise big organisations to do is to copy what small workplaces do. They (small workplaces) probably don't have that many meetings, but they talk to each other. And it's more face to face ... Some of the bigger companies that I have seen with good communications have mirrored that ... they have broken things down into smaller units, and they've got teams operating."*

*"(There's) a greater degree of informality in a small business. You know, you can catch people in the corridor, or across the desk or whatever and do a bit of ... opinion forming ... to a greater extent than you would have the opportunity to do in a large business."*

Managers in small firms may also communicate with staff through all-staff meetings, or through team leaders or supervisors. Word of mouth information exchange is inevitable in such circumstances, and has its benefits and drawbacks. One advisor described a common means of imparting information in small firms:

*"In the organisation of less than 50 it's really a ... dialogue by the boss to a large extent, just talking to employees in and around the business situation, on a day-to-day basis. And ... I think that they rely on the grapevine taking that information away and making sure that all the employees get it, without pulling them together formally and doing a presentation or an update or whatever. It's ... picking off key people as the owner sees it."*

Managers in small organisations may perceive information-sharing through such informal means to be effective. Employees, however, may not, and may desire more information regarding issues surrounding, for instance, the business and job security. Such information often cannot be delivered informally through the grapevine, and is more effectively communicated through a structured route. Alongside this is the fact that information provision may only be top-down, while employees may wish to give feedback. In light of these factors, it can be beneficial for small organisations to invest in formal information structures which run alongside informal communication channels.

Additionally, some managers seek to establish information and consultation structures in anticipation, or because, of an increase in the organisation's size. Once a small organisation becomes larger, managers often discover that formal information processes and structures are required. This is because face to face communication becomes more difficult and time-

consuming, or because managers wish to ensure that all employees are receiving consistent, accurate information. In such cases, formal exchange of information with feedback is needed, and may involve managers providing information, observing responses, taking questions, and providing answers. As organisations or workplaces grow, the challenge is to ensure that information and consultation mechanisms remain congruent with organisational size.

As one advisor noted:

*“Once it’s above 50-odd (employees) it (communication) need structuring. The sort of “benevolent parent” style approach from the owner/boss becomes much more tenuous. He tries to do it (communication) in the same way he used to do it before, and it doesn’t work. And that’s when they need that change-around. And I think that’s a key point for most companies, because they seem to go from 40 to 50 (employees) to up into the 80s, 90s and hundreds, very rapidly. And it’s then they need to grab hold of the business and say ‘Alright, how do we communicate here?’”*

### **Consultative structures in small workplaces**

As the above quotation illustrates, growth in workplace size may also result in the need for formal *consultative* committees which enable managers to consult over a range of issues including: expansion; dealing with problems that previously had no mechanism for resolution; or adhering to legal requirements, for example relating to consultation on transfers of employees or redundancies.

*Communication* arrangements may suffice in small workplaces until problems occur, when a more strategic approach is needed:

*“(Managers) will normally communicate through the management structure. They may be quite a small company that can maybe get everybody together in a room, so it’s not that big, or they might feel that the best way of communicating with staff is through people like team-leaders, supervisors. Managers will talk to the team-leaders to find out what the staff is thinking, about what the staff’s views are on something, and use that as their mechanism. But they run into difficulties if they need to consult on redundancies or transfers or they want to do something like set up a workforce agreement on the Working Time Regulations, because they don’t have any mechanism to set up those sorts of things.”*

Managers in smaller organisations may have concerns about the degree of time and commitment necessary to sustain effective mechanisms. They may be reluctant to involve the workforce in decision-making if they view this as a diminution of their managerial prerogative. Additionally, consultation can be difficult in small organisations because of difficulties maintaining anonymity, as a complaint about ‘management’ may be easily related to one or two individuals.

As one advisor explained:

*“In a bigger organisation you can talk obliquely about people. So if you’re not happy ... you can say, ‘Well, management are doing this’, and everyone around the table probably knows what we’re talking about ... but when there’s only a company of 25 and you say ‘management’, and there only is one manager, and he’s sat opposite you, it’s much, much harder to say some of those things.”*

Nonetheless committees in many types of small workplaces are possible, necessary and work well. Advisors provided many examples of organisations with fewer than 50 employees that had developed consultative mechanisms - some temporary, some permanent - which were highly effective in resolving problems. These were located across a range of industry sectors. Examples were given of workplaces in which committees were set up on a one-off basis to meet short-term needs, but where it was decided to retain them because they had worked so successfully.

One advisor described his experience:

*“I’ve done work with a double-glazing manufacturer... and there were 35 employees, and they established a consultative forum for the purposes of developing and improving the policies and procedures. It was going to be a one-off forum, but they went through the process of electing representatives - the specific project was to review and harmonise terms and conditions, and produce a written statement that reflected that. But then they saw how good a mechanism it was - it wasn’t overdone - and they are now meeting on a quarterly basis (beyond the project end), so consultation is taking place.”*

In other cases, consultative structures are set up primarily because of senior managers’ commitment to consulting and involving employees. Such cases run counter to the view that owner-managers and managers in small firms are opposed to workforce involvement. In one case, a small, family-owned engineering company set about establishing a consultative forum. As a first step, the managing director began to hold regular team briefings with structured feedback sessions. All questions raised were noted down, and written answers provided within an agreed time-scale and shared across teams. The system worked effectively and gained the respect of employees, and a consultative forum was set up at a later date.

In another case, the manager subscribed to the view that consultation was a means of empowering the workforce. An advisor described the case:

*“I went to talk to an employer who employs 18 people and he wants to set up a works council. And I said, ‘Why do you need one?’. He said, ‘Well, you know, 18 is a lot to talk to’. So he’s actually going to set one up. ... eventually they may have lots and lots of people there ... he’s wanting to promote employee involvement. He’s wanting not all of the decisions to come from him; he’s wanting the employees to look at him not just as the manager but as a person as well, so they’ve got some kind of ownership and some power in the company. He’s now got three volunteers and his little works council for 18 employees.”*

#### **6.4 The Challenge of Sustaining Structures**

Beyond the challenges of establishing appropriate mechanisms tailored to the culture and structural features of each organisation, a further difficulty lies in *sustaining* the arrangements. This relates particularly to the difficulties associated with maintaining consultative committees, but also has implications for maintaining momentum in any drive to provide communication at work. The issue of sustainability is paramount and intrinsic to the conception of what effective information and consultation involves. Loss of momentum, especially in consultative committees, is a common problem.

Probably the most common threat to the sustainability of consultative arrangements is the tendency for “substantial issues” to dominate in the early days of a consultative committee, but for these to be replaced by more “trivial concerns” as time goes on. Where this is the case, interest among employees and their representatives may diminish, apathy may become a problem, and there is danger of the committee being seen to have “withered on the vine”. This may be exacerbated by the fact that the committee was formed specifically to deal with immediate concerns, and that once dealt with, consultation may “slip down the pecking order” in favour of other changing business priorities. The pattern may be reinforced where managers lose patience when they fail to get responses from employees on more substantial concerns. Alternatively, where meetings are poorly managed, there may be a tendency for the committee to become a forum for individual grievances or “whinges”.

Experience demonstrates that this falling away of issues is frequently a feature of the natural dynamics of committee structures, especially for committees initially set up to deal with redundancies or business transfers. Arrangements will not endure if they have no function to perform, but this needed to be balanced against the value of maintaining the continuity in dialogue, given the absence of significant issues.

Additionally, sometimes the consultative mechanism could delay decisions, possibly unreasonably, when management are under pressure to “move forward and do something yesterday”. When establishing the forum, it may be wise to engage in discussion about how short-term decision making may be inevitable in some circumstances.

One advisor described employers’ concerns that consultation may delay decision-making in response to urgent external pressures:

*“The criticism that will often come from employers is that (the consultative process) is diluting and sort of elongating the decision-making process. And that where we need to respond to very fast-moving markets, to suddenly say ‘halt’ and then put that issue into a consultative mechanism which may take one or two or three meetings to resolve, or to take the views on board of our employees. By that time the contract’s gone, the opportunity has disappeared.”*

In such circumstances, managers may be required to develop alternative consultative mechanisms that provide a shortcut through existing formal processes, on the basis that this is necessary in light of business needs. The workforce must be made aware that this is standard procedure prior to its use, and managers must ensure that decisions are not made in this manner on a consistent basis. If employees are not adequately reassured, they may quickly lose confidence in the mechanism’s potential for meaningful consultation.

Another challenge to sustainability is the unpredictability of issues facing the committee. Several examples were cited of consultative arrangements working well, but where the sudden emergence of an issue with serious consequences- mergers, takeovers or redundancies were the most commonly cited - resulted in a loss of trust in management’s ability to be open or honest participants.

As advisors noted:

*“You might be happily building up a nice relationship with this group that you’ve set up, and then there’s a major redundancy. That throws everything out ... it might be this sort of distrust thing, that the unions think, ‘Well, you were supposed to be being open and honest with us, and then this is the thanks we get. You just tell us 80*

*people are going to be made redundant'. ... Those are the major sorts of things (where) they run into difficulties."*

*"A very difficult (situation) is when managers have had a meeting and they've told the group everything they could, and then something else comes to light a day later. That does cause distrust inevitably. So you might get a situation where you meet and everything's fine, and then you get notified the following day 'There are going to have to be redundancies in this area', and people say, 'Well, why didn't you tell us? We had a meeting yesterday, you must have known'. It's really difficult how you can manage this."*

External events pose one set of problems, but maintaining participants' commitment in the face of membership turnover was a further challenge. Consultative arrangements may be undermined by committee members reaching the end of their term of office with a resulting lack of continuity in membership. Indeed, the willingness of employees to participate in committees is one of the most indicative features of whether or not a committee is working well. Challenges to sustainability may arise, however, when new members are elected who do not have the same sense of ownership as those involved in establishing the committee from the outset.

An advisor described a common situation:

*"One of the reasons why (committees) often lose momentum is change of personalities involved. So if you get different trade union representatives, different managers, different approaches, they'll lose momentum because of that. Sometimes then, because you get changeover, you end up with a situation where none of the original people who set up these mechanisms are there anymore, so (new members) are thinking 'Well, I don't understand how this works - why is this like this? This doesn't make sense to me at all'. ... So that can sometimes be a problem, that sort of continuity when you hand things over."*

Other difficulties stemmed from the parties having little understanding of the constitutional arrangements of the committee, particularly the boundaries between information, consultation and negotiation. Several examples were found in which, a year or so after a committee had been established, Acas advisors were invited to revisit the workplace and found the debate dominated by pay matters, in some cases leading to disillusionment with the committee among participants.

Management behaviour and attitudes to the consultative process, and the importance of commitment are discussed earlier. This issue re-emerges when considering the challenges to sustainable committees as representatives may fail to match the expectations of the opposing party when participating in the committee. Strategies for pinpointing such problems and resolving them are discussed in the following section.

#### **6.4.1 Strategies for Ensuring Sustainability**

The responsibility for maintaining momentum lies with the managers and employee representatives involved with information and consultation arrangements. But Acas advisors also work with individuals from the outset to help identify some strategies for ensuring sustainability.

First, consultative arrangements may be more effective in cases where a designated manager has responsibility for maintaining the momentum of the committee. Likewise, advisors stressed that it was important for employee and management committee representatives who “take (the committee) seriously, who are enthused by it, and who work at it” to champion it among their colleagues, to build widespread commitment. If committee members are unable to build support among the workforce, employees may begin to view it as a “jolly” for representatives, or perhaps feel that employee representatives have been co-opted by management.

Second, it is important to build workforce commitment to a consultative arrangement at the outset by demonstrating that it is an effective vehicle for tackling issues. One means of convincing the parties of the merits of consultative committees involves publicising “quick wins” - cases where committees are able to demonstrate results that have been transparently influenced by employee input. Representatives may choose a problem or agenda item that can be resolved quickly, to prove to employees that the committee can resolve issues easily and effectively. This may be used where the committee has first been established, or at later stages as a short-term strategy for counteracting potential loss of enthusiasm.

The following examples highlight the merits of this approach:

*“One of the suggestions I would always make to management if they’re setting up a consultation arrangement, is to find something from one of the early meetings that you can do something about quickly, and do it. If people say, ‘We need more notice boards’, go out and buy some and get them put on the wall ... Anything fairly simple that you can do, do it, and then it shows to people that the process is actually working.”*

*“Where there’s no obvious main subject, I always say to companies, ‘You need to begin to think now about an issue where you’ve not made your decisions, where you genuinely find that you can consult, and it would be an advantage to consult, but where you know the representatives are likely to have some good ideas ... let them put them forward, accept them as their ideas, and get a quick win”.*

*“... win some brownie points early on with the wider workforce. A lot of the agenda items in the first two or three meetings will be ones where you can score quick points. Again, to say to the troops outside, ‘Look, we’ve got our representatives now, doing our bidding with management in consultation, and look, they’ve informed all these decisions that are - maybe not all in our benefit - but action’s being taken on issues we’re raising’... (It is important) not to get too tied up in a long drawn out issue that no-one will see the back end of for months. If that’s all you’re dealing with, folks get frustrated.”*

Likewise, sustainability can rest on the commitment of both managers and employee representatives actively generating issues for discussion on a continued basis to sustain the interest of participants, and the wider workforce. It was considered to be the “role and responsibility” of committee members to identify potential issues on an ongoing basis, and not simply to be reactive at meetings. This would help stimulate interest as well as raise the profile of the consultative committee.

Clearly, the issue of ensuring sustainability of committees is linked to the on-going review of committees (described in Chapter 5). While continuity is important, so are change and fresh ideas. Committees may need to be modified in response to dynamic organisational and external environments; hence the need for continuous assessment of whether the committee and constitution remain relevant to the needs of the organisation over time.

## **6.5 Summary**

This chapter profiles a range of potential challenges to effective information and consultation. Of these, managerial styles not attuned to informing and consulting may pose a difficult obstacle, but by the same token, where managers do embrace employee involvement, information and consultation arrangements can thrive. Other challenges - relating to employment relations culture, or structural factors such as workplace size or workforce dispersion - need not prevent effective information and consultation from occurring, particularly if the principles and process outlined in Chapters 4 and 5 are followed. Likewise, strategies for ensuring the sustainability of committees - for example, the promotion of committees by "champions", visible demonstration of the effectiveness of committees, and on-going review and evaluation - assist their longevity. The final, following chapter summarises these key issues and others, and evaluates the future role for Acas in light of the forthcoming Directive.

## 7 CONCLUSIONS AND THE FUTURE ROLE OF ACAS

The importance placed by Acas on effective communication and consultation as a central element of good employment relations can be traced as a consistent theme throughout the organisation's quarter century life-time. As a result of the centrality of information and consultation in Acas' work portfolio it has been possible to gather the material detailed in this report. This portfolio is significant. Currently, Acas runs a comprehensive programme of seminars, training events, and advisory project work aimed directly or implicitly at improving communication in the workplace.

Through its dispute resolution work (both at the collective and individual level), it is apparent that poor communication practices often lay at the heart of problems, and that improvement in arrangements can provide the key to medium and longer-term resolution of difficulties. Furthermore, as this report has demonstrated, the issues brought forward in Acas' advisory work consistently highlight the benefit of introducing or improving arrangements for communicating and consulting.

### 7.1 Commitment and Trust - Creating an Environment for Change

Perhaps one of the most powerful lessons learned through Acas' work is that effective communication and consultation arrangements are most likely to develop where managers and employee representatives alike are able to demonstrate a sustained *commitment* to employee involvement. From the management side, this commitment ideally should be shown at the most senior level as well as throughout the organisation. In addition, managers should be willing to embrace the full benefits of "genuine" information sharing and consultation.

"Genuine" consultation implies a commitment to joint working, two-way communication and jointly exploring options. Managers must be committed to consulting early in the decision-making process, listening to contributions and explaining final decisions. This kind of commitment may require a shift in attitudes and behaviours for some managers and representatives - a change which may take time to develop and embed. This may especially be the case where there has been no tradition of employee involvement, or where the employment relations climate has been adversarial.

Allied to commitment is the importance of workplaces striving to attain *trust* between employers and employee representatives. Mutual trust may well be a precondition for effective consultation in many circumstances, but equally it is a feature of the employment relationship that is most likely to emerge where the parties have worked through difficult issues together, using joint consultative processes.

### 7.2 Towards Good Practice

No two workplaces are the same, and the challenges of informing and consulting employees are wide-ranging, necessitating a sensitive, tailored and, at times multi-layered, response. It is clearly not possible to devise "template" information and consultation arrangements which can be replicated across organisations. Rather, this report has attempted to capture a series of overarching principles which provide a point of entry for securing meaningful, effective and lasting arrangements.

One key ingredient is ensuring that information and consultation addresses *issues which are central to the needs of the organisation and meaningful and relevant to the needs of employees*. Issues addressed should be of sufficient importance for those involved to feel that their input has some influence over the future of their organisation and their own job security.

Information and consultation is then likely to address a range of issues including legal obligations, business strategy or organisational goals, and everyday developments which have implications for change at organisational, establishment and employee (terms and conditions) levels. The imperative to promote discussion and understanding of business priorities - central to an organisation's future and to the working lives of individuals - is especially important in this context. In many circumstances this will involve providing financial and business information to employees and their representatives. Such information needs to be presented in a clear manner. Equally there should be guidelines relating to the provision and containment of material, some of which may be of a confidential nature.

Clearly, in some circumstances there will be a *need for training* in interpreting complex information. However the skills and knowledge associated with information and consultation go beyond this. Training will, in the first instance, be important in providing a basic understanding of the requirements of the Directive. Participants having the skills to participate in consultative fora are also key. These include effective communication and presentation skills, public speaking, diplomacy and an appreciation of meeting protocols. Both managers and employee representatives have training needs, and often joint training will provide particular benefits in breaking down barriers.

*Consultative arrangements* should be tailored to organisational needs, cultures and structural features, and so will vary. However a degree of *formality* is necessary so that participants are clear about their roles and responsibilities. The subjects for consultation may well dictate whether consultative structures are permanent or temporary, although Acas' experience has demonstrated that the benefits of *permanent arrangements* are persuasive, as they allow time for all parties to build trust and mutual respect and develop expertise.

Permanent arrangements also provide a vehicle for dealing with issues as and when they arise, including all aspects of statutory consultation. In these arrangements, the importance of *maintaining momentum* in delivering visible and valuable outcomes cannot be underestimated. To achieve this, over time managers and employee representatives will need to review critically whatever arrangements are in place, to evaluate the actual and perceived merits of information and consultation structures.

The context in which the Directive will be implemented is complex, with highly varied employment relations traditions within and across UK workplaces. Where recognition is in place and consultative committees or other named groups involve *union representatives*, it will be important to clarify the scope of the committee and its relation to rights of negotiation that union representatives may hold. Important issues pertaining to structures in *non-union* organisations relate to training and support for representatives, their perceived legitimacy, and their ability to raise issues without fear of sanction. Perhaps some of the greatest challenges lie in the development and sustainability of structures comprising *mixed constituency* structures comprising union and non-union representatives. Here strategies will be needed to be in place to ensure clarity concerning the selection of both sets of representatives, their equal access to support systems, and balance in their input to decision making.

### 7.3 The Role for Acas

As part of its overall drive towards ensuring good employment relations, Acas has a long tradition of working with employers and employee representatives to create strategies for sound and enduring communication arrangements. The introduction of the Directive on Information and Consultation in the UK provides a new legal context for this work to be continued and expanded.

Acas is already seeing an increase in demand for training and advisory project work focused on issues relating to information and consultation. Some of this has stemmed from the introduction of the legislation relating to trade union recognition, some from a growth in partnership working. The imminent introduction of the EU Information and Consultation Directive at the time of the research was also felt to have provided some of the impetus. The rationale for employers and employee representatives seeking Acas help (at least in the context of detailed advisory projects) includes a combination of those wanting assistance in setting up new arrangements, as well as those responding to the need for reviewing, modifying and improving existing arrangements. Key considerations are Acas' unrivalled expertise and its reputation for impartiality. These stimuli for Acas involvement are likely to increase following the publication of the proposed regulations in July 2003 and the prospect of them being finalised in 2004 for implementation in March 2005.

Acas will be discussing in detail what help and guidance practitioners would like in preparing and responding to the legislation in a series of roundtables being held throughout its seven regions in September and October 2003. It will of course be proposing to provide basic guidance on good practice as well as the legislation through its national telephone helpline and written material, delivered through publications and electronically. Seminars and workshops, with bespoke training events within workplaces, will provide vehicles for addressing aspects of the law, as well as best practice. The training service Acas currently provides within workplaces, together with the advisory visits, will also be important vehicles for conveying information to employers and representatives about the legislative framework, and the choices open to them in designing information and consultation arrangements.

Also in hand is the preparation of a new booklet on *Negotiating an Agreement Under the Proposed Information and Consultation of Employees Regulations*. This is based on the research reported here together with two current Acas offerings (*Employee Communications and Consultation* and *Representation at Work*). The booklet is intended to be helpful in highlighting some of the key policy issues that will need to be dealt with.

These include:

- providing for employee representatives - especially where there is a mix of union and non-union employees;
- the nature and extent of consultation;
- the structures of information and consultation, bearing in mind the regulations will be based on undertakings as opposed to establishments or groups of undertakings;
- handling restructuring;
- confidentiality;
- drawing the boundaries between information, consultation and negotiation.

However, it is in the area of specialised, in-depth, facilitated work - of the kind explored throughout the report - that Acas' involvement is most likely to assist employers and employees in addressing the challenges and opportunities presented in introducing information and consultation arrangements. Moreover, in light of the findings of this research project, there would appear to be considerable scope for expansion in the role Acas plays in these workplace initiatives.

Two factors have emerged as especially important in securing sound consultative arrangements, both of which have implications for Acas' future role. The first is the importance of regular and systematic review of arrangements in ensuring effective and credible outcomes. To date, this role has been only partially fulfilled by advisors during their project engagements. There is much scope and potential value for an increased role for Acas in assisting parties in auditing their arrangements at appropriate intervals.

A second factor is the centrality and diversity of training needs of both managers and employee representatives. Training will ensure meaningful participation in consultation arrangements. This is distinct from Acas' training role in simply conveying the parameters of the Directive, but includes, as stated above, working with employees and managers to develop facilitation and communication skills. On the basis of the experience of Acas advisors reported here the potential demand for this kind of training could be substantial.

## **APPENDICES**

### **Annex 1 Information and Consultation Directive Articles 4 and 5**

#### **Articles 4 and 5 of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community**

##### Article 4

#### **Practical arrangements for information and consultation**

1. In accordance with the principles set out in Article 1 and without prejudice to any provisions and/or practices in force more favourable to employees, the Member States shall determine the practical arrangements for exercising the right to information and consultation at the appropriate level in accordance with this Article.

2. Information and consultation shall cover:

- (a) information on the recent and probable development of the undertaking's or the establishment's activities and economic situation;
- (b) information and consultation on the situation, structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment;
- (c) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations, including those covered by the Community provisions referred to in Article 9(1).

3. Information shall be given at such time, in such fashion and with such content as are appropriate to enable, in particular, employees' representatives to conduct an adequate study and, where necessary, prepare for consultation.

4. Consultation shall take place:

- (a) while ensuring that the timing, method and content thereof are appropriate;
- (b) at the relevant level of management and representation, depending on the subject under discussion;
- (c) on the basis of information supplied by the employer in accordance with Article 2(f) and of the opinion which the employees' representatives are entitled to formulate;
- (d) in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;
- (e) with a view to reaching an agreement on decisions within the scope of the employer's powers referred to in paragraph 2(c).

##### Article 5

#### **Information and consultation deriving from an agreement**

Member States may entrust management and labour at the appropriate level, including at undertaking or establishment level, with defining freely and at any time through negotiated agreement the practical arrangements for informing and consulting employees. These agreements, and agreements existing on the date laid down in Article 11, as well as any subsequent renewals of such agreements, may establish, while respecting the principles set out in Article 1 and subject to conditions and limitations laid down by the Member States, provisions which are different from those referred to in Article 4.

## **Annex 2      Research Methodology**

The purpose of the research exercise was to capture the broad experience of introducing information and consultation arrangements at work, as experienced and described by Acas advisors. One of the goals was to devise an understanding of “what works” yet the starting point for the research was largely “a clean slate”. Instead of introducing preconceived ideas or typologies, researchers invited advisors to identify and prioritise the key principles and challenges of introducing information and consultation at work. Clearly, the scope to probe the relevance of particular strategies and the detail of particular cases were all important features of the research process. This generative approach to data collection with a strong emphasis on retaining contextual understanding, suggest that a *qualitative approach* to this study was the most appropriate.

Qualitative research is not intended to provide statistically representative data on a given subject, but rather to allow for: exploration of processes and experiences; “knowledge for understanding” (Scott and Shore 1979); and appraisal and evaluation. It is at the level of concepts and process that data is generalisable. This process is made more meaningful since qualitative research allows for an understanding and analysis of context as a mediating and influential factor in its own right. Given the significance of context in this study (the context of the workplace, the context of the individual advisor perspective, the value of detailed cases), it was apparent that in-depth interviews (as opposed to focus group work) were especially appropriate for the purposes of the project.

### **The Interviews**

In-depth interviews were carried out with a total of 18 advisors: 10 women and 8 men. In most cases interviews were conducted with a single respondent, although on two occasions advisors chose to be interviewed in pairs. Both methods proved successful in generating valuable information.

The advisors invited to take part in the research were recommended by Acas senior managers. Bearing in mind the objectives set for the project, individuals were selected for the depth of their experience in running advisory projects, particularly in the area of information and consultation. The advisors were geographically spread, based at 8 Acas regional offices. The interviews were carried out in Autumn 2002. Each lasted between 1 and 2 hours, and took place at the interviewees’ place of work, or in the case of homeworkers, their reporting centre. Four interviewers were engaged in carrying out the programme of interviews.

The research team contacted advisors to obtain their consent to participate. They were sent an information pack comprising: a letter outlining the aims and objectives of the research; a summary of issues to be covered during the interviews; and a copy of the DTI Discussion Paper on the Information and Consultation Directive.(issued in 2002)

### **Research design process**

At the outset of the study, researchers consulted Acas policy staff and an Acas advisor to help formulate the topic guide for use during the interviews. Topic guides provide a loose framework for approaching the subjects in question and are used by interviewers to steer discussions. While not prescriptive about the way issues are ordered, or the phraseology of

particular questions or probes, they provide a useful prompt (*aide memoire*) for the interviewer to ensure that all issues are addressed.

An iterative approach was used to develop the topic guide, with early interviews suggesting the most pertinent range of dimensions which might be addressed in capturing advisors' experiences of information and consultation. Two feasibility (pilot) interviews were carried out to test the overall research approach and the contents and coverage of the draft topic guide. A cognitive approach was adopted to develop the wording and conceptual themes to be explored in subsequent interviews. At the end of the discussion, the interviewee was invited to comment on the overall conduct of the interview.

The interview programme proper began at this point. After three further interviews, the team met for a debriefing and at this point the interview topic guide was sharpened to ensure adequate coverage of the issues key to the research objectives. A copy of the final version of the topic guide is attached as Annex 2A.

### **The conduct of the research interviews**

Views were sought from the vantage point of advisors' specialist roles and positions. The interviewing style was both exploratory and responsive to allow the best capture of data. Interviewees were able to speak freely around the subject, raising issues, scenarios and cases which they considered most relevant to the broad research question (see Ritchie in Ritchie and Lewis, on qualitative work with specialists, 2003).

The interviews were tape-recorded and transcribed verbatim. In some instances, advisors provided supporting documentation to illustrate or illuminate issues raised in the interviews. The documents included: briefing notes and overhead projector presentation slides that they had used during facilitated sessions; outline terms of agreements for consultative forums; and papers outlining information or consultative arrangements taken from actual cases. In one instance a video was provided that has been used by a particular company to explain the process of establishing the consultative arrangements in the organisation. These materials were considered during the analytical phase.

### **Data Analysis and Reporting**

The transcripts were the principal source of data used in the preparation of this report. The process of analysing qualitative data requires careful scrutiny of the text to derive a thematic framework for subsequent analysis of individual interviews. The overarching themes emerging from the data were discussed by the research team as a whole, then pursued in subsequent reading of the transcripts. Evidence from each transcript was extracted to match the broad thematic headings. Gradually, sub themes and strands of enquiry were developed. The system of data analysis was flexible and allowed for the creation and review of broad concepts and sub themes at any time during the analysis. It also allowed for the identification of conflicting information and explanation of synergies and mismatches in the data.

The analysis and reporting of the interviews placed some emphasis on retaining context; both the context of cases and the context of the frame of reference held by particular advisors (see Chapter 1). The value of reporting context - or "thick description" (Geertz 1993) - is that it allows readers to assess and gauge the meaning of the data and how it might be applied elsewhere.

Alongside the conceptual data and evidence drawn from the transcripts, verbatim quotations are extracted which provide a mechanism for elaborating key, and sometimes complex, associations. These quotations provide an insight into the language and terminology surrounding the subject of inquiry; in this case the development and challenge of introducing information and consultation arrangements.

## Annex 2a Topic Guide

### Topic Guide for Consultations with Advisors, Version 5

#### ACAS Research into Information and Consultation

10/10/02

#### Broad Objectives of Research

- Identifying the key benefits of information and consultation
- Seeking evidence of good practice in implementing information and consultation arrangements
- Developing an understanding of the barriers and challenges of introducing consultative mechanisms
- Considering the current and future role of Acas in introducing information and consultation arrangements, including the strategies and working methods used by Acas Advisors.

#### Checklist before starting

- Explain again purpose of research and Acas' role in responding to DTI discussion paper
- Check received DTI discussion paper
- Re-check permission to tape?
- Emphasis on welcoming specific cases
- Assurance of confidentiality – both in personal reporting and the use of case studies

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#### 1) Personal Background and Experience

#### 2) When is Information and Consultation relevant in Advisory Project work?

- Extent of recent involvement in casework  
*Probe: Setting up communication or consultative structures or processes ; where the boundaries lie between informing, consulting and negotiating; reviewing structures/processes*
- What style adopted in Acas work: facilitative or other?
- *Types of structures you have had experience of in recent years?*  
*Probe: experience in setting up structures from scratch where there was no pre-existing structure? How common are union-dominated structures, and/or wholly non-union structures? How common are mixed union and non-union structures?*
- What are the key drivers for I&C structures in organisations where they have been recently established?

#### 3) Talk through a recent case/s in detail

*Probes*

*Seeking detailed information on the case:*

- *industry sector; public/private; number of employees; non/unionised (union density?)*
- *features of information/consultation structures/processes; multi-tiered (workplace+above) or single-level (workplace or higher level)? joint (management and employee reps?) union/non union reps?*

#### 4) Benefits of I&C

- What are the benefits of information and consultation for *managers; for employees and their representatives?*

## 5) What key features make Information/Consultation work in a workplace?

- How can Acas' involvement enhance communication/consultation structures and processes?
- What are the essential behaviours or practices needed for I&C to be effective?

*Probes:*

- *What key features make union and non-union consultative structures effective, or not?*
- *What makes for robust consultation?*
- *Which issues should managers consult employees about?*
- *When (at which stage of the decision-making process) should employees be consulted?*
- *What makes for effective communication?*
- *Which issues should managers inform employees about?*
- *Examples of organisations you've worked with which have effective I&C structures and processes?*
- *Example of a case where structures are ineffective?*
- *Which individuals should be involved in structures to make them work? (Senior managers? HR personnel? Middle management? Supervisors/line managers? Union reps? Non-union reps?)*  
*Probe where possible on voting, term of office, ratios, handling of confidentiality*
- *Do you do much Advisory Project work in establishments of fewer than 100 employees?*

## 6) Sustainability of structures/substance of information and communication

Explain issues relating to sustainability

- Which characteristics increase their chances of survival?

## **Annex 3 Principles for creating effective Joint Consultative Committees**

### **Terms of reference**

- An important first principle is the need for clarity around the purpose, scope and functioning of the committee. One means of establishing clarity is by developing a written constitution or framework setting out, for example, a joint statement of commitment from management and employee representatives, the powers of the committee, the distinctions between information and consultation, and which issues it will discuss.
- All representatives, as well as the broader workforce, should understand what the committee is for and which issues will be subject to consultation.
- The committee must communicate its objectives or terms of reference to the workforce.
- The committee should be used not to discuss individual grievance or disciplinary matters, or provide a vehicle for representatives to air their individual views, but to establish or express the majority view on collective matters.

### **Who should be involved?**

- A written agreement (referred to hereafter as a 'Constitution') should set out "who" will be in the committee and how they will be chosen as representatives.
- Committees should ideally include both management and employee representatives.
- In order that they are seen as credible representatives by the workforce, employee representatives should be drawn from and chosen by workforce constituencies or groupings. Where more than one employee stands for the position, an election should be held.
- Representation from all parts of the organisation and workforce groups or constituencies is important, provided that the committee is of a manageable size; smaller is better.
- Constituencies should also not be too large as this prevents representatives from effectively communicating with and seeking feedback from their constituents.
- Where organisations have mixed constituency committees (combining trade union and non-union employee representatives), non-union representatives should also be chosen on a constituency basis so that they are seen as credible representatives by the workforce.
- Constitutions should explicitly set out which issues are open for consultation and those that will be negotiated over, and which representatives (union and non-union) will be involved in each.
- Ideally, senior managers and managers with the greatest decision-making influence should be directly involved in committees, to demonstrate that the organisation is committed to consultation.

- Where organisations have Human Resources managers, they should be represented on committees.
- Where possible, middle, supervisory and line managers should also be represented as they are a vital link between shopfloor workers and senior managers, and their absence may lead to gaps in the communication of information.
- In terms of representatives' period of office, continuity of committee membership is important for sustaining committees. However, committees should also be flexible enough to allow and encourage change, for example, by setting in place a phased election process; or, where representatives change their mind about their involvement, enabling them to stand down after a period.

### **The conduct of meetings**

- Ideally, a constitution should set out practice regarding meeting frequency, duration, location, agenda-setting and minute-taking.
- Meetings should be regular, but the frequency with which they are held may depend on the issues being discussed, their complexity and their urgency.
- It is important to set and keep to meeting agenda so that discussion is focused and issues are resolved appropriately. Agenda need not be complex, and agenda items should be set by both employee and management representatives.
- Meeting protocols and behavioural standards should be established at an early stage and may include rules on meeting behaviour, means of resolving difficulties, adequate preparation for meetings and protecting employee representatives from discrimination.
- Arrangements for recording, agreeing and distributing minutes should also be established. Minutes need not be formal, but some record of the meeting should be circulated to the workforce. Information discussed during meetings may also be communicated through briefing sessions conducted by managers and representatives, with feedback.
- It is important that all committee members give the same account of the meeting, to prevent confusion or conflict from occurring within constituencies.
- Where confidential information is discussed, the constitution should make clear the responsibilities of members with regard to how it is dealt with. The committee should agree which information can and cannot be communicated to management and the workforce.
- If they are able, managers should give employee representatives information well in advance of meetings. Employee representatives should be allowed sufficient time to seek constituents' views prior to meetings, and to report information back to employees following meetings.

### **Reviewing committees**

- Committees may need to be modified in light of external or intra-organisational changes. It is important to establish when and how the organisation will review the constitution and the workings of the committee itself.
- Where feasible, an initial 6 or 12 month review of a committee should be followed by regular annual evaluations of both committee *structures* and *processes*.
- The review process need not be complex. It may be as simple as asking committee members, “What’s working well, and what can be improved?”. The review may also examine whether the committee has achieved its initial objectives, and whether employees feel that it is effective.

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