

Employee communications and consultation



booklet

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Introduction

Employee communications and consultation are the lifeblood of any business. Whatever the size, or type of organisation people need to talk to each other; they need to exchange views and ideas, issue and receive instructions, discuss problems and consider developments. This booklet aims to assist employers, employees and their representatives to develop effective arrangements for communications and consultation. It describes:

- why communications and consultation are important
- who should take responsibility for communicating and consulting
- what kinds of information are required and when consultation should take place
- the main methods of employee communications and consultation
- the need for regular review of procedures and adequate training.

However, it is first important to define exactly what is meant by the terms communications and consultation.

What is meant by employee communications and consultation?

Employee communications means the provision and exchange of information and instructions which enable an organisation to function efficiently and employees to be properly informed about developments. It covers:

- the information to be provided
- the channels along which it passes
- the way it is communicated.

Consultation 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. Consultation does not remove the right of managers to manage – they must still make the final decision – but it does impose an obligation that the views of employees will be sought and considered before decisions are taken. Indeed, in certain circumstances consultation with independent recognised trade unions is a legal requirement.

The dividing line between consultation and communications is not clear cut and the terms are often used interchangeably. However, there is a fundamental difference. Communications is concerned with the interchange of information and ideas within an organisation. Consultation goes beyond this and involves managers actively seeking and then taking account of the views of employees before making a decision.

It is not only the relationship between communication and consultation that causes confusion; the link between consultation and collective bargaining is also frequently misunderstood and must be clarified.

Collective bargaining is the process by which employers and recognised trade unions seek to reach agreement through negotiation on issues such as pay and terms and conditions of employment. It is quite different from consultation where the responsibility for decision-making remains with management. With collective bargaining both employer and trade union take responsibility for fulfilling the bargain.

Given this scope for confusion it is particularly important that organisations which recognise trade unions ensure that any consultation or communications procedures they introduce are compatible with, and complementary to, existing collective bargaining processes.

Why are communications and consultation important?

Employee communications and consultation are essentially about involving and developing people in an organisation. Whatever the size of an organisation, and regardless of whether it is unionised or non-unionised, employees will only be able to perform at their best if they know their duties, obligations and rights and have an opportunity of making their views known to management on issues that affect them. With the trend towards flatter management structures and the devolvement of responsibilities to individuals, it is increasingly important that employees have a real understanding not only of what they are required to do but why.

Good communications and consultation are central to the management process and assume critical importance when dealing with changes in working practices and procedures. All managers need to communicate and consult with employees in order to be effective but they also need to exchange

information with other managers which necessitates lateral or interdepartmental communications. Failure to recognise this need may result in inconsistency of approach or application.

Employee communication and consultation offer many benefits although, done well, they require time and money. In particular good employee communications and consultation can:

- *improve organisational performance* – time spent communicating at the outset of a new project or development can minimise subsequent rumour and misunderstanding
- *improve management performance and decision-making* – allowing employees to express their views can help managers and supervisors arrive at sound decisions which can more readily be accepted by employees as a whole; this may be particularly important at times of emergency

or where new practices or procedures are being introduced

- *improve employees' performance and commitment* – employees will perform better if they are given regular, accurate information about their jobs such as updated technical instructions, targets, deadlines and feedback. Their commitment is also likely to be enhanced if they know what the organisation is trying to achieve and how they, as individuals, can influence decisions
- *help develop greater trust* – discussing issues of common interest and allowing employees an opportunity of expressing their views can engender improved management/employee relations
- *increase job satisfaction* – employees are more likely to be motivated if they have a good understanding of their job and how it fits into the organisation as a whole and are actively encouraged to express their views and ideas
- *improve employee engagement* – employees are more likely to go that 'extra mile' if they feel valued and involved in decision-making. Line managers are particularly important in triggering what is called 'positive discretionary behaviour'. Discretionary behaviour is based on the choice

employees make about how well they will do their jobs and positive behaviour might include doing an extra piece of work or helping out colleagues. Employers want engaged employees because they tend to deliver improved business performance.

- *encourage a more flexible working environment* – employers can help to promote a good 'work-life balance' within the organisation by talking to all their staff about developing flexible working policies and practices.

Communications and consultation are not, and should not, be an end in themselves. Nevertheless, used properly they have a key role to play both in ensuring the business success of organisations and in involving and empowering employees.

Who should take

responsibility for communications and consultation?

Good communications and consultation involve everyone in an organisation, but, to be effective, they need to be well-organised and take place in a systematic way. This is best ensured by having a communications and consultation policy. Senior management should take the initiative in drawing up such a policy but it is important that employees are fully involved in the process. Where recognised trade unions exist, management should aim to get their agreement to the policy before it is introduced.

A communications and consultation policy is a particularly effective way of setting out the attitude of the organisation, defining the responsibilities of those involved in the process and setting out the means of communications and consultation that will be used.

A good policy should set out:

- a clear statement of policy, including the purpose of communications and consultation, the fact that it is an integral part of every manager's job and the importance of communication as a two-way process and not a one-off exercise
- responsibility for communication at each level
- the methods of communication
- arrangements for consultation and participation
- arrangements for training managers and employees in the skills and processes of communications and consultation
- how the policy will be monitored.

Senior management

Successful employee communications and consultation depend above all else on a positive lead from top management – whatever the size of organisation. However, just approving a policy is not enough. A senior manager should be made responsible for ensuring that:

- the policy is put into practice
- the practice is properly maintained
- the policy and practice are regularly reviewed
- the chains of communication and methods of consultation are clearly understood and followed by all concerned.

One of the most effective ways for senior management to demonstrate their commitment is for them to take an active personal role, for instance by chairing a consultative committee, participating in staff meetings, ‘walking the job’ or addressing the workforce.

Line managers and supervisors

The principal links in any system of communications and consultation are the line managers and supervisors. They are responsible for passing on information in both

directions as well as acting on appropriate items and issuing instructions.

Ineffective communication by managers causes inefficiency. Middle managers and, in particular, supervisors, should play a major role in any consultation and communication system. Direct communication between senior managers and employees is sometimes desirable and, as a general rule, it is best to keep chains of communication as short as possible. However, it is essential that middle managers and supervisors are not by-passed when information is given to employees. If senior managers do communicate directly with staff then middle managers must be kept informed.

In larger organisations the personnel function, as well as line management, has a substantial interest in the provision of information for employees and in the way this is done. Personnel managers are well-placed to identify needs, advise on policy and monitor arrangements and, in some companies, may have direct responsibility for communicating information and running consultative committees. In particular, personnel staff are concerned with the provision and communication of information about terms and conditions of employment.

Trade unions

Union officials also have communications responsibilities as well as information needs. In addition to communicating with their members one of their main tasks is to ensure that their members' views and opinions are conveyed effectively to management. To enable members to play a full part in union affairs, shop stewards and other officials should be allowed adequate time off and facilities for maintaining good communications with their members as well as with management. Management should recognise these responsibilities with the provision of appropriate facilities. The Acas Code of Practice No 3 *Time off for trade union duties and activities* sets out guidance on good practice in carrying out the statutory duties for such time off.

Management and union communications about joint discussions should convey the

same message wherever possible, if misunderstandings and distrust are to be minimised. This may be achieved by a jointly agreed communication.

Union officials need information to bargain effectively. Recognised trade unions have certain legal rights to information for collective bargaining purposes. The Acas Code of Practice No 2 *Disclosure of information to trade unions for collective bargaining purposes* contains advice on good practice. Negotiations are more likely to be constructive and realistic if they take account of such information. There may also be a need for special presentations of such information to recognised representatives and, where appropriate, to full-time union officials.

To view the Acas codes of practice, go to www.acas.org.uk/publications

Communications

What should be communicated?

Communication is a two-way process which requires information to flow up from employees as well as down from managers. Managers need to communicate information to employees about:

- contractual terms and conditions of employment
- the job and its performance
- the organisation's performance, progress and prospects
- changes to any of the above issues.

Employees will also have concerns and points they wish to raise about their jobs and the organisation and there should be provision for communicating this information up the line.

Information about conditions of employment

Information about pay and conditions of employment is essential to all employees. Employers are required by law to give employees *written statements* specifying the main contractual details within *two calendar months* of the commencement of employment.

Employers must also notify employees in writing of any alteration in their pay and conditions within one month of the changes taking place.

The information to be included in a written statement is available from www.acas.org.uk/writtenstatement. The written statement must cover all the main details of pay and conditions including, for example, pay, hours of work, holidays, length of notice of termination and any disciplinary rules. The written statement must also set out the employee's terms and conditions in full; it is not sufficient (except for certain items²) to refer the employee to some other document such as an employee handbook.

Some contracts of employment include important terms and conditions additional to those that must be set out in a written statement for example: time off arrangements and use of company cars. Future difficulties can be avoided if such terms and conditions are also given to the employees in writing.

When providing employees with information on disciplinary rules and procedures, employers are advised to consult the *Acas Code of Practice on Disciplinary and grievance procedures*. The Code urges employers to make every effort to

ensure that employees know and understand the disciplinary rules that apply and are aware of the likely consequences of breaking those rules. Such explanations and full coverage of the subject should be included in the induction programme of new employees³.

Employers are also required by law to give employees *itemised pay statements* whenever payments are made. The statements should cover such detail as gross amount of pay, amounts of any fixed deductions and the net amount of pay. The detailed requirements can be found at www.hmrc.gov.uk/payerti/payroll/pay-and-deductions/paying.htm.

Information about the job

Employees need a wide range of job-related and operational information about:

- the workplace
- work objectives and performance
- operating and technical instructions
- health and safety
- who is who, where they are and what they do.

Work objectives and performance targets are key items of information and need to be communicated

clearly if misunderstandings are to be prevented.

Employees require *general information*, not covered elsewhere, about their workplace, especially when just starting. On joining, and also when subsequent changes take place, they need to be told about arrangements relating to:

- working conditions
- supervision and management
- administrative procedures
- training and development
- equal opportunities
- social and welfare facilities.

It is particularly important that employees are informed of any arrangements for *trade union representation* and the relevant negotiating and consultative machinery. Such information should be provided to new employees as part of their induction⁴. The outcome of negotiations needs to be conveyed quickly to each employee and synchronised by management and trade unions.

Information is also required by shop stewards and other trade union officials about arrangements such as:

- time off for trade union duties and activities

- access to management, members and recruits
- collection of union dues or subscriptions, for example: checkoff arrangements.

Such arrangements should be covered by written agreements negotiated with the appropriate recognised trade union.

Operating and technical instructions given to employees should cover the:

- work to be carried out
- method(s) to be used in undertaking the work
- use of equipment, machinery and materials
- standards to be met
- health and safety precautions to be observed
- reporting procedures.

To avoid errors or misunderstandings, managers – including supervisors – should give clear instructions and support them with full explanations where necessary.

Careful attention should be given to the provision of information on *health and safety* matters. Employers have a statutory obligation to consult with employees

on health and safety matters. They must also provide information necessary for safety representatives or employees to participate fully in the consultation and for representatives to carry out their functions⁵.

Job instructions and information are not enough. Employees also need to know how well they are doing in relation to what is expected of them both on an individual and workgroup basis. Managers and supervisors should provide information about *work objectives and performance* and discuss these with all who report to them. Managers should be fully familiar with work-related and other factors affecting performance to ensure effective discussions.

Information about the organisation

Employees have a strong interest in what is happening in the organisation. Information going beyond matters of direct and personal relevance which should be given to employees will vary according to whether the organisation is in the private or the public sector, in manufacturing, construction or services, and on its size and structure. Management should normally report to all employees on the organisation's:

- objectives and policies

- past and present performance and progress
- future plans and prospects.

Under these broad headings information can be given about:

- financial performance
- management and staff changes
- state of the market and order book
- changes in products or services
- developments in technology and methods
- mergers
- investment.

The emphasis should be on successes and problems and the reasons for them. This information should be provided as part of a regular programme. When successes are achieved employees need to be told promptly; similarly they should be given early warning of problems. In times of trouble good communications assume particular importance and bad news is usually best conveyed by a senior rather than junior manager.

In most organisations information on performance will normally contain *financial data* about:

- sales

- income and expenditure
- turnover
- profit and loss
- assets and liabilities
- cashflow
- return on investment
- added value.

Much of this information has to be made public by law – for example in the Annual Report to Shareholders of a public or private company – and is indirectly available to employees. Often it is not readily understood in this form and may be misinterpreted by employees and, indeed, by managers: it is therefore best presented in a carefully explained separate employee report.

Special efforts are needed by management to provide information about performance, progress and prospects in subsidiary companies, private companies or partnerships, and in non-commercial organisations. Some benefits are likely to be as follows:

In subsidiary companies

- employees frequently identify themselves with the subsidiary rather than the parent group and welcome information about ‘their’ company.

Private companies and partnerships

- greater trust can be established between directors/partners and other employees.

Non-commercial organisations

- employees are interested in comparative information about financial arrangements, activities and relevant background information. It can help their commitment to the organisation's goals.

Job security

- is of major importance to most employees. Changes in technology or market conditions can cause fears among employees which become exaggerated if based on rumour or false information. Advance information and discussion of the organisation's prospects can help alleviate such fears and assist employees to adapt to necessary change.

The commercial sensitivity of some information, and management fears of breaches of confidentiality, are frequently cited as obstacles to good communication about performance, progress and prospects of an organisation. This obvious need for confidentiality about specific matters rarely justifies an overall restrictive approach to communication on all commercial matters.

Where the information may affect the share price of a company, Stock Exchange regulations also prevent the organisation informing employees before the market is notified, although they may be informed simultaneously⁶.

The process of employee communications

To be effective employee communications must be:

- clear, easily understood and concise
- presented objectively
- in a manageable form to avoid rejection
- regular and systematic
- as relevant, local and timely as possible
- open to questions being asked and answered.

A variety of communication methods will be needed, both spoken and written, direct and indirect. The mix of methods will depend mainly on the size and structure of the organisation. When setting up communications processes, it is well worth considering what use might be made of new technology. Email and intranet systems can be a useful aid to communication and their increasing availability means

that they are no longer the sole preserve of large organisations.

Face-to-face methods

Face-to-face communication is both direct and swift. It should enable discussion, questioning and feedback to take place but ought to be supplemented by written material where information is detailed or complex and where records are important. When spoken methods are used it is important that:

- the chain of communication is as short as possible
- the frequency and timing of meetings are carefully considered
- managers are fully briefed on their subjects and able to put them across clearly and consistently
- opportunities are provided for questions
- employees are given adequate information and with sufficient notice to enable them to respond properly. The main methods of formal face-to-face communications are:

Group meetings

- employees for whom they are responsible, sometimes referred to as team briefing or briefing groups. These provide valuable opportunities for discussion and feedback on matters directly

related to the workgroup and also on wider information about the organisation's progress. Opportunities for employees to contribute their ideas may arise from the use of quality circles whereby small groups of employees meet regularly to identify problems, discuss and suggest possible solutions.

Cascade networks

- a well-defined procedure for passing important information quickly, used mainly in large or widespread organisations.

Large-scale meetings

- meetings involving all employees in an organisation or at an establishment, with presentations by a director or senior manager. These are good for presenting the organisation's performance or long-term objectives; they require careful preparation but allow only limited opportunities for employee response. They should be used sparingly and need to be followed up in other ways.

Inter-departmental briefings

- meetings between managers in different departments encourage a unified approach and reduce scope for inconsistent decision-making, particularly in larger organisations.

Informal channels of oral communication obviously play

a major part in the passage of information and instructions in any organisation, for example: in the course of daily work in face-to-face encounters or on the telephone. Inevitably there will be a 'grapevine'. This will pass news and information quickly, but it cannot be relied on and is likely to encourage ill-informed rumour. It must not be allowed to replace other methods of employee communications.

Written methods

Written communication is most effective where:

- the need for the information is important or permanent
- the topic requires detailed explanation
- accuracy and precision in wording are essential
- the audience is widespread or large
- a back-up is needed to oral communication
- there is need for a permanent record.

The main methods of written communication are set out below:

Company handbooks

- bring together employment and job-related information which employees need to know and

which does not change too often, such as holiday arrangements, company rules and disciplinary/grievance procedures⁷. They can be given to all employees and may also usefully include background information about the company, its policies and objectives. The handbook can also provide useful information to new employees in support of any induction process.

Employee information notes

- inform employees about the activities and performance of their organisation. Good reports are written and presented so as to be readily understood by employees at all levels, with emphasis on their contribution and achievement. In large organisations it is often desirable to produce reports for operating divisions or local units and this enhances their impact. The use of clear illustrations is helpful in such reports provided they do not distort the information.

House journals and newsletters

- enable factual information about an organisation to be presented on a regular basis. These usually contain a large element of social or personal news. In large organisations their production is often highly-professional but even small organisations can reap benefits from well-produced attractive newsletters.

Departmental bulletins

- give information on a sectional, departmental or wider basis about specific items of general interest.

Notices

- placed on well-situated noticeboards bring to the attention of a wide audience matters of general importance as well as items of specific interest. Care needs to be taken over location, over rights to use noticeboards and in keeping them up-to-date. Diagrammatic notices and signs can also be useful for communicating with employees, particularly those with limited reading ability.

Individual letters to all employees

- can be used to give information about matters of major importance accurately and simultaneously.

Other methods

Other methods of communication include the following:

Intranets

- information on internal computer networks can be maintained in a structured way and be easily accessible by employees.

Information points

- a method which enables employees to listen to prerecorded and regularly changed bulletins about matters of interest on an internal telephone system; this is normally appropriate only in large establishments.

Audiovisual aids

- video, film or tape/slide presentations are particularly useful for explaining technical developments or financial performance. It is important to provide opportunity for feedback.

Normally only large firms can consider producing films or video tapes, but even very small firms can make their own slide presentations without professional help.

Email

- which is very useful for communicating with employees in scattered or isolated locations.

Special needs

Special attention should be given to ensuring information is understood by employees within a multi-racial workforce or by those who cannot read easily. It is equally important not to ignore isolated groups, for example: those on nights shifts, maintenance or sales employees working away from base, employees working largely from home and those in remote locations, or staff who work on a part-time basis. In larger organisations it is also easy to ignore individual employees such as switchboard operators, receptionists and messengers who may work in isolation.

Monitoring

Communication systems should not be taken for granted, nor should it be assumed that because information is 'sent' it is also 'received'.

Consultation

Timing and content

Consultation involves taking account of as well as listening to the views of employees and must therefore take place before decisions are made. Making a pretence of consulting on issues that have already been decided is unproductive and engenders suspicion and mistrust about the process amongst staff. It will be helpful to decide upon the degree of consultation first and to inform people what the decision making process will be.

Consultation does not mean that employees' views always have to be acted on since there may be good practical or financial reasons for not doing so. However, whenever employees' views are rejected the reasons for doing so should be carefully explained. Equally, where the views and ideas of employees help to improve a decision due credit and recognition should be given.

Consultation requires a free exchange of ideas and views affecting the interests of employees and the organisation. As such, almost any subject is appropriate for discussion. However, both management and unions may wish to place some limits on the range

of subjects open to consultation, for example: because of trade confidences or because they are considered more appropriate for a negotiating forum. To avoid misunderstandings and the possibility of employment relations difficulties it is advisable for management and recognised unions to agree on the issues that will be the subject of consultation.

A comprehensive list of subjects appropriate for consultation is impossible to give as this will depend on the circumstances of each organisation and how these circumstances change over time. However, whatever subjects are chosen, they need to be relevant, clearly defined and geared to the needs of the organisation and its employees.

Whatever issues are agreed upon as being appropriate for discussion, it is important that they are relevant to the group of employees that will be discussing them. For instance in a larger organisation, it may be inappropriate for a local, section level, consultative committee to discuss purchasing policies or marketing plans as the managers involved may not have the authority to make unilateral changes to organisational procedures.

If consultation is to be effective it is essential to avoid discussing trivialities. This is not to say that minor issues should be ignored; indeed what is minor to one person may be a major problem for another. Nevertheless, minor issues and pet grievances should not be allowed to dominate the consultation agenda.

The legal aspects of consultation

The Information and Consultation of Employees (ICE) Regulations

The ICE Regulations were introduced on 6 April 2005 and apply to businesses with 50 or more employees. They give employees the right to request an information and consultation agreement.

An employee request must be made by at least 10 per cent of the business' employees, which must amount to at least 15 employees. You must start negotiations with representatives of the workforce for an agreement no later than three months after a valid request has been made.

If your organisation already has in place one or more pre-existing I&C agreements, you may hold a ballot to see whether a new agreement is needed.

The areas on which you inform and consult are for you, your employee

representatives and your employees to agree on. If a negotiated agreement is not reached then the fall-back provisions (known as the 'standard provisions' of the ICE regulations) set out the areas where an employer is obliged to inform and consult.

Under these provisions you must inform and/or consult your employees about:

- the business' economic situation
- their employment prospects
- with a view to reaching an agreement on, decisions likely to lead to substantial changes in work organisation or contractual relations.

If you fail to abide by the terms of a negotiated information and consultation agreement or the fall-back provisions, your employees can raise a complaint with the Central Arbitration Committee.

Health and safety

The law requires that employers must consult with employees on health and safety at work matters⁹. Where an employee recognises a trade union which has appointed, or is about to appoint, safety representatives under the Safety Representatives and Safety Committees Regulations 1977, then the employer must consult those

safety representatives on matters affecting the group or groups of employees they represent.

Any employees not in groups covered by trade union safety representatives must be consulted by their employer, under the Health and Safety (Consultation with Employees) Regulations 1996. The employer can choose to consult directly with employees or through elected representatives. If the employer decides to consult employees through elected representatives, then employees will have to elect one or more people to represent them. Where there are existing consultation arrangements which satisfy the law there is no requirement to change them.

Redundancies

The Trade Union and Labour Relations (Consolidation) Act 1992¹⁰, as amended by the Trade Union and Labour Relations (Consolidation) Act 1992 (Amendment) Order 2013, requires employers to consult about redundancies in circumstances where it is proposed to dismiss as redundant 20 or more employees at one establishment over a period of 90 days or less.

- Where an employer is proposing to dismiss as redundant between 20 and 99 employees at one establishment, the consultation must begin at least 30 days before the first dismissal takes effect

- Where an employer is proposing to dismiss as redundant 100 or more employees at one establishment, the consultation must begin at least 45 days before the first dismissal takes effect
- The term 'establishment' can be complex where an employer does not operate from a single location and they may wish to seek legal advice on their requirement to consult in such circumstances.

Under the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2006, consultation has to be with a trade union where one is recognised, or with other elected representatives of the affected employees where no trade union is recognised. (Employers continue to have a duty to act fairly and reasonably in handling redundancies and informing and consulting affected employees individually, regardless of the number of dismissals)¹¹. The consultation must take place with a view to reaching agreement with the appropriate representatives and must include discussion about ways of avoiding the redundancies, reducing the numbers to be dismissed and mitigating the consequences of any redundancies. Consultation should be completed before any redundancy notices are issued.

Business transfers

The Transfer of Undertakings (Protection of Employment) Regulations 1981, as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 and 1999¹², require employers to consult representatives of an independent trade union where one is recognised or other elected representatives of the affected employees where there is no recognised trade union, where there is to be a transfer of a business to which the regulations apply. The consultation must be undertaken by the employer with a view to reaching agreement with appropriate representatives.

Works Councils

Companies with at least 1,000 employees in European Union member states and with at least 150 employees in two or more member states must have a European Works Council (EWC) or an equivalent procedure. The purpose of the EWC is to provide 'transnational information and consultation' for their entire workforce. Companies must set up a 'special negotiating body' under the provisions of the Directive.

Occupational pensions

The Social Security Pensions Act 1975 requires employers to consult with independent recognised trade unions on certain matters in relation

to the contracting out of the state scheme of an occupational pension scheme.

In addition to having a statutory duty to consult in certain circumstances, organisations employing more than 250 people (calculated according to the legislation) are required by the Companies Act 1985 (as amended by the Companies Act 1989) to include a statement in their Director's report describing the action taken in the previous financial year to introduce, maintain or develop arrangements in the following areas:

Information/communication

- providing employees systematically with information on matters of concern to them as employees.

Consultation

- consulting employees or their representatives on a regular basis so that the views of employees can be taken into account in making decisions which are likely to affect their interests.

Financial participation

- encouraging the involvement of employees in the company's performance through an employee share scheme or some other means.

Economic awareness

- achieving a common awareness

on the part of all employees of the financial and economic factors affecting the performance of the company.

The Occupational and Personal Pension Schemes Regulations 2006 mean employers are obliged by law to inform and consult employee representatives about certain planned changes to pensions. For further information visit the Department for Work and Pensions website at www.gov.uk/dwp.

Methods of consultation

Consultation methods will, of necessity, vary from organisation to organisation and there is no single arrangement that will suit all working environments. It is therefore important for organisations to choose carefully the sort of consultation procedure(s) that will best suit their own structure and business culture. Factors that will influence this choice include:

- size and structure
- degree of centralisation or decentralisation
- employment relations climate
- management style
- the issues to be discussed
- whether trade unions are

recognised and if so their structure.

Many organisations are increasingly adopting consultation as an integral part of their day-to-day management processes and, as a result, are consulting directly with employees as well as indirectly through employee representatives. Direct consultation can take a variety of forms ranging from informal discussions with individual members of staff to more formalised group meetings or seminars.

Indirect consultation through employee representatives is best carried out in a formally constituted forum such as a joint consultative committee or joint working party.

Joint consultative committees

Joint consultative committees (JCC), or works councils as they are sometimes known, have long been used as a method of employee consultation. The committees are made up of managers and employee representatives who come together on a regular basis to discuss issues of mutual concern.

When setting up a JCC a constitution should be agreed with employee representatives, including where appropriate recognised trade unions, which lays down the rules and procedures that will govern the committee's operation. Agreeing

a constitution at the beginning can help overcome subsequent problems and misunderstandings.

A checklist of issues to be covered in a JCC constitution is contained in appendix 1.

There are a number of issues that need to be considered and agreed between the parties when establishing a JCC; these include:

- size and composition of the committee
- organisation of committee meetings
- subjects to be discussed
- facilities for committee members
- arrangements for reporting back.

Size and composition

The number of members a JCC should have will vary depending on the size of organisation and the constituency to be covered. However, as a general rule the size of the committee should be kept as small as possible consistent with ensuring that all significant employee groups are represented. Extra members can always be co-opted to deal with specific matters or problems. As JCCs are not involved in decision taking it is not necessary to have equal numbers of managers and employee representatives; indeed, it is often

helpful if there are more employees than managers as this makes the point that the committee is not employer dominated.

It is usual for management representatives on JCCs to be nominated as this helps reinforce the point that they are on the committee as part of the management team. In order to demonstrate commitment to consultation it is essential that a senior manager with authority and standing in the organisation is a member of the JCC and is present at all meetings. Other management representatives should be drawn from a variety of functions and grades within the organisation.

While continuity of membership among management representatives is an advantage it can be helpful for managers to be replaced periodically in order to allow their colleagues a chance to gain experience of participating in a consultation committee.

Employee representatives on the committee should be elected by the employees they will represent. Where an organisation has an established trade union structure it is sensible to invite one or more of the senior shop stewards to sit on the committee. They have already been elected by their fellow employees and ignoring their status could undermine the

existing framework for joint union/management regulation.

This is not to suggest that only shop stewards ought to attend JCC meetings. Employee representatives may be elected on a constituency basis irrespective of their trade union role or membership. The mixing of union and non-union representatives on the same consultative committee will clearly be a matter of concern to recognised trade unions and, to help allay any fears they might have, it is advisable for managers to discuss the arrangement with union representatives before it is introduced. An assurance that the consultative process will not detract from the powers or decisions of the recognised negotiating body may go some way to allaying union fears. However, the solution will depend very much on the relationship between management and trade union representatives and their respective commitment to the consultation process.

Meetings and their organisation

Meetings of the consultative committee should be held regularly – once a month is usually sufficient for most organisations. In addition to regular meetings it is also helpful to provide for ad hoc meetings to be held as and when a particular need arises.

Every meeting should have as its focus a well-prepared agenda

and all members of the committee should be given the opportunity of contributing items to the agenda before it is circulated. The agenda should be sent out at least five working days in advance of the meeting so that representatives have an opportunity of consulting with their constituents prior to the committee meeting.

As with all meetings, the JCC needs to be well chaired if it is to run efficiently. The person selected to take the chair should ensure that all parties have an opportunity to express their opinion and that discussion is not allowed to wander from the subject under consideration. The chairperson should also allocate tasks to particular people to ensure that the views of the committee are taken into account by the decision makers.

A poor chairperson will not only lead to disorganised meetings but may, in some instances, bring the whole concept of joint consultation into disrepute. Getting the right person to chair the meeting is therefore crucial. In some organisations the chair is taken by a senior manager who has experience of chairing meetings. While this arrangement can help to emphasise the organisation's commitment to the concept of consultation, some may see it as giving management too much control over the JCC. A number of JCCs therefore rotate the position of

chairperson since this is seen as a more open procedure to adopt.

In addition to a chairperson it is also helpful to appoint someone to act as secretary to the committee. The secretary's duties will include:

- gathering items and papers for the agenda
- circulating meeting notices and agendas
- taking and circulating meeting minutes
- dealing with any correspondence concerning the committee
- taking action on matters as instructed by the committee.

Whether the secretary is drawn from management or employees is a matter for discussion when setting up the committee. If agreement cannot be reached, rotating the role of secretary or having joint secretaries are possible alternative options.

One of the secretary's most important roles is keeping minutes of the committee's proceedings. Minutes should:

- be an accurate record of the main points raised and decisions reached
- indicate who is responsible for

taking action on particular topics

- be distributed as soon as possible to all committee members and senior managers; copies should also be brought to the attention of all staff either by issuing them individually or putting a copy on a noticeboard
- be used by the chairperson to monitor progress on any action points decided by the committee.

Subjects to be discussed

To avoid misunderstandings it is important to agree at the outset which subjects are appropriate for consideration in the JCC and which are best dealt with in a negotiating or other appropriate forum (for example: a safety committee). The following list contains some of the issues most commonly discussed in consultation committees:

- working conditions
- new ways of working
- output and quality
- training
- health and safety
- new equipment
- staffing levels
- welfare.

Facilities for committee members

It is important that employee representatives know exactly how much time they will be allowed away from their normal work to undertake their duties as a committee member and what facilities they are entitled to use. Employee representatives should also be reassured that they will not lose pay as a result of attending committee meetings or of carrying out other activities associated with committee meetings. Without adequate, paid time away from normal duties there is a danger that representatives will only be able to put forward a personal view rather than the view of their constituents, thus undermining the effectiveness of the consultation process.

Reporting back

If joint consultation is to be meaningful, it is essential that the deliberations of the committee are reported back to employees as soon as possible. Any delay in reporting back is not only likely to lead to frustration but will also allow scope for rumours to develop in the place of hard information.

Reporting what happened at committee meetings is usually the responsibility of employee representatives but management should also help to ensure that the outcome of consultation meetings is spread quickly and accurately among employees. Methods that

might be used for reporting back include:

- briefing groups
- news-sheets
- noticeboards
- circulation of committee minutes.

Joint Working Parties

Joint Working Parties (JWPs) are similar in make-up to joint consultative committees but they are usually set up to consider and suggest ways of resolving specific issues affecting the organisation, for instance a high rate of employee turnover or problems with the pay system. The emphasis in JWPs is on managers and employee representatives working together to understand issues and overcome common problems in a non-confrontational way.

Once recommendations have been made by the JWP, it is normally disbanded and further work is left to other consultative bodies such as JCCs and to the organisation's usual negotiating forum.

The advantages of the JWP approach to consultation are that the format:

- promotes a process of joint problem-solving in a non-

negotiating forum which can help ensure that:

- eventual solutions are acceptable to those concerned
- there is a prospect of any proposals being acceptable in the negotiating forum
- allows the parties to concentrate on a specific issue
- establishes the commitment of the parties through the process of joint involvement.

The size of the JWP depends on the organisation concerned and the subject to be discussed. As with JCCs, it is important to keep the working party as small as possible to ensure that each member can become fully involved in the discussions. Between four and eight members is the normal size for a JWP.

If the recommendations of the JWP are to carry any weight, it is

important that its members are drawn from a representative cross section of the groups directly concerned with the issues under discussion. It is also important that the membership reflects the race and gender composition of the organisation's employees.

When running a JWP it is important to ensure that a reasonable momentum is maintained. Meetings should be held frequently. The exact frequency will depend on the availability of members but weekly or fortnightly meetings can greatly facilitate progress.

In certain circumstances the effectiveness of a JWP can be enhanced by the presence of an independent, third party, facilitator. By virtue of having no direct interest in the problem under discussion an independent facilitator can often help the parties work together more productively and may also be able to offer fresh ideas on how to tackle problems.

Maintaining effective *communication and consultation arrangements*

Employee communication and consultation policies and procedures need regular monitoring and review. In particular monitoring should take place to ensure that:

- communicators and those participating in consultation committees know their roles
- employees are regularly consulted on matters of interest to them
- appropriate information is made available and reaches everybody
- the information is accepted and understood
- communications and consultation brings desired benefits, particularly in the form of better employment relations
- practice matches policy.

The results of any monitoring exercise should be discussed with

employee representatives and, where appropriate, recognised trade unions. Where the monitoring process exposes weaknesses, it is essential that remedial action is taken.

Regular monitoring and review also enable an organisation to assess the cost effectiveness of its communications and consultation policy. The ideal in terms of time, method or content has to be balanced against what is practicable and economic. The direct costs of communicating have to be balanced against the less easily measured costs of not doing so.

Monitoring is largely dependent on feedback from employees through both formal and informal channels. But the effectiveness of communications and consultation can also be assessed by the following:

- extent of employee cooperation
- quality of decision-making by managers
- level of involvement by senior management
- absence and employee turnover levels¹³
- employment relations climate.

A full review of communications and consultation policy and practice

should take place periodically according to the size of the organisation. A communications audit is often a suitable way of carrying it out and can be done 'in house' by specially trained employees and managers working together; a joint working party can be a particularly effective way of carrying out such an audit. Although communications audits are generally more appropriate for larger organisations, even small concerns should make some regular assessment of their practice.

The need for training

Good communications and consultation are essential for efficient operation in any organisation. However, their impact is often diminished by a lack of skill or knowledge on the part of the participants. It is important, therefore, to provide both managers and employees with training in the skills and techniques required for communication and consultation.

Training can help employees better understand the information they are given and can encourage them to play a fuller part in the way the organisation conducts its affairs. Training courses in particular can be a useful way of giving employees factual information about their employment because they necessarily include a substantial element of explanation and provide opportunities for questions to be answered.

Managers have an important role to play in communicating and consulting and good training can enable them to:

- become more aware of the importance of good

communication and consultation practice

- understand their roles and responsibilities as communicators
- support those who are less outspoken and improve their ability to communicate.

Training is particularly important for supervisors who have important communications responsibilities but often limited experience. Communication and consultation skills should have a place in any development programme for them as well as for other managers.

Trade unions should also ensure that they provide adequate training for their representatives to enable them to take a full part in employee communications and consultation.

Wherever possible training should be participative and trainees should be encouraged to exchange views, take part in discussions and share ideas and experiences. Such participation not only makes for more effective training but also helps to foster the idea of employee

involvement which is an underlying principle of consultation and communication.

It is good practice to evaluate periodically the effectiveness of any training undertaken.

Conclusion

All organisations can benefit from good employee communications and consultation. Certain information, for example: concerning operational matters and employment rights, is essential, but in many successful organisations the principles of good management ensure that systematic communication and consultation take place on a much wider range of subjects. These organisations benefit from better decision-making, greater employee understanding and commitment and improved employment relations.

Good communication and consultation can be achieved by any organisation if the following basic requirements are met:

- a lead is given by top management
- all managers, including supervisors, are involved
- union representatives are involved
- awareness of employees' needs and wants is established
- communication is two-way and employees' views are genuinely considered before decisions are taken
- communication and consultation is both systematic and regular.

Any organisation can review the effectiveness of its communications and consultation policies and practices and can itself take action to improve its system. It may also benefit from calling in a third party to:

- assess its current communication and consultation arrangements
- discuss the organisation's needs
- work with the organisation to identify improvements.

Appendix 1

Joint consultative committee constitution – checklist

When drafting the constitution of a joint consultative committee the following elements should be covered:

- ✓ The title and objectives of the committee.
- ✓ Its terms of reference – the matters it can and cannot discuss and its powers.
- ✓ Its composition:
 - (i) employee representatives (number, constituents)
 - (ii) management representatives
 - (iii) co-option and ex-officio provisions
 - (iv) named deputies for representatives
 - (v) method for obtaining members, appointment, election, etc.
- ✓ Election procedure:
 - (i) who organises
 - (ii) when held
 - (iii) qualifications of candidates and voters
 - (iv) nominations
 - (v) voting arrangements.
- ✓ The period of office of members and arrangements for their retirement.
- ✓ Electing/nominating officers of committee, that is: chairperson, secretary.

- ✓ Meeting arrangements:
 - (i) frequency, advance notice
 - (ii) when and where held
 - (iii) procedure for placing items on agenda
 - (iv) arrangement for minutes
 - (v) quorum
 - (vi) duration of meetings.
- ✓ Facilities for committee members:
 - (i) time off for liaising with constituents
 - (ii) payment while attending meetings.
- ✓ Reporting arrangements:
 - (i) publication of minutes
 - (ii) methods of reporting back
 - (iii) responsibilities of members.
- ✓ Method of altering constitution.

Appendix 2: *Important changes to making Employment Tribunal claims*

Previously, an employee could go straight to the tribunal service, but this will change. From 6 April 2014, if an employee is considering making an Employment Tribunal claim against their employer, they should notify Acas that they intend to submit a claim.

Details of how and where to do this are given below.

Acas will, in most circumstances, offer to assist in settling differences between employee and employer. Employers intending to make a counter-claim against an employee must follow a similar procedure.

The process for agreeing settlement is called Early Conciliation. It is handled by experienced Acas conciliators and support officers and is:

- free of charge
- impartial and non-judgmental
- confidential
- independent of the Employment Tribunal service
- offered in addition to existing conciliation services.

Early Conciliation focuses on resolving matters on terms that employee and employer agree.

Early Conciliation may not resolve matters in every claim. When this is the case Acas will issue a certificate that is now required for a claim to be submitted to an Employment Tribunal.

From July 2013, employees have been required to pay a fee to “lodge” a claim at the Employment Tribunal, followed by another fee if the claim progresses to a tribunal hearing. In some cases, other fees may also apply. If a claim is successful, the employee may apply for the costs of the fees to be covered by the employer. Some employees, including those on low incomes, may be exempt from fees.

Remember, when a claim is lodged with a tribunal, Acas will continue to offer conciliation to both sides until the tribunal makes a judgment and, if the claim is successful, a remedy decision (usually financial compensation) has been made.

To find out more about Early Conciliation, go to www.acas.org.uk/earlyconciliation

To find out more about Employment Tribunal fees, go to www.justice.gov.uk/tribunals/employment

Notes

1. Information about employing people can be found at www.gov.uk/browse/employing-people.
2. The written statement can refer employees to some other document for detailed information regarding: (i) particulars of sick pay terms (ii) particulars of pension entitlements (iii) terms relating to notice of termination of the contract (that is: relevant statutory provisions or a collective agreement).
3. See Acas Advisory Booklet *Recruitment and induction* and Acas Guide *Discipline and grievances at work*.
4. See Acas Advisory Booklet *Recruitment and induction*.
5. See p20. Also see Health and Safety Executive leaflet *Consulting Employees on Health and Safety* at www.hse.gov.uk/pubns/indg232.pdf.
6. Detailed information on the release of price sensitive information can be found in the Stock Exchange's Listing Rules.
7. See Acas Advisory Handbook *Employing people*.
8. A recognised trade union is a union recognised by an employer, or two or more associated employers, to any extent for the purpose of bargaining.
9. See Health and Safety Executive leaflet *Consulting Employees on Health and Safety* IND (G) 232L, available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA, tel: 01787 881165.
10. For more information about redundancy consultations, go to www.gov.uk/staff-redundant/redundancy-consultations.
11. See Acas Advisory Booklet *How to manage collective redundancies* for further information on consulting in redundancy situations.

12. See www.gov.uk/transfers-takeovers for more information.
13. See Acas Advisory Booklet *Managing attendance and employee turnover*.

Acas Training

Our training is carried out by experienced Acas staff who work with businesses every day. They will show you the value to your business of following best practice in employment matters and how to avoid the common pitfalls. We also run special training sessions on new legislation.

Look at the Acas website for up-to-date information about all our training or if you want to book a place online, just go to www.acas.org.uk/training or call the Acas customer services team on 0300 123 11 50.

Training sessions are specially designed for smaller companies and our current programme includes:

- Managing discipline and grievances at work
- Managing absence at work
- Employment law update
- HR management for beginners
- Having difficult conversations
- Contracts of employment: how to get it right
- New employment legislation
- Redundancy and restructuring.

We also have free online learning to help you – just go to www.acas.org.uk and click on e-learning to look at the topics covered.

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be made by reference to the particular circumstances which apply. It may, therefore, be wise to seek legal advice.

Acas aims to improve organisations and working life through better employment relations. We provide up-to-date information, independent advice, high quality training and we work with employers and employees to solve problems and improve performance.

We are an independent, publicly-funded organisation and many of our services are free.

June 2014

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