
UK National Report

A Research Report for the Directorate-General for Employment and Social Affairs of the European Commission

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Introduction

This National Report on and from the United Kingdom has been commissioned as part of the preparatory work for the project of producing, for the Directorate-General of Employment and Social Affairs of the European Commission, a comparative analysis of the evolving structure of collective bargaining in Europe. The project is organised and co-ordinated by Silvana Sciarra, with the assistance of Guido Boni, both of the University of Florence; Paul Davies and Mark Freedland, respectively of the London School of Economics and the University of Oxford, were invited to prepare this National Report; they invited the assistance and collaboration of Niels-Erik Wergin and Erin Van Der Maas of the Department of Industrial Relations of the London School of Economics. The Report follows the framework established by Professor Sciarra, and is structured as a set of answers to the detailed questions posed by that framework. This Introduction makes a few preliminary points about the approach which was followed in preparing it.

The project is concerned with the evolution of collective bargaining in Europe; and it was stipulated that a legal approach to the subject matter would be at the centre of the national reports. In preparing this Report, we therefore had in mind the following focal concerns:-

(A) In what ways has the labour law regime which has been and is in force in the UK had an evolutive impact upon the structure of collective bargaining in the country; and

(B) How far if at all can that impact be understood as part of an inter-action between European law in the employment field and the national structure of collective bargaining?

Although those were our focal concerns, we were at the same time conscious that these concerns could only be effectively pursued once we had established as clear as possible a picture of the social and organisational phenomena of collective bargaining as it exists in reality; it was important to avoid drawing a map which was oriented upon the legal regime, or a picture projected directly from the legal regime. So this Report is concentrated upon the production of a factual data-base, so far as the UK is concerned, for a subsequent comparative analysis of a European evolution of the structure of collective bargaining.

All that said, and although much of this Report provides factual and in a sense pre-legal analysis, there is at least one sense in which its analysis depicts a profoundly important inter-action between the factual and the legal regimes of or for collective bargaining. For, despite the fact that the national regime for the bargaining or setting of the terms and conditions of employment of the workforce is determinedly voluntaristic in an underlying sense, nevertheless British governments have, over the last thirty-five years at least, been intermittently but recurrently pre-occupied with establishing a durable legal superstructure to shape and sustain the recognition of trade unions by employing enterprises for the purpose of collective bargaining. Major legislative experiments to this end took place in 1971 to 1974, and 1975 to 1979, but they were ultimately unsuccessful. A major new endeavour for this purpose was effected in a new set of legislative provisions made by the Employment Relations Act 1999. At the time of writing, this particular piece of statutory machinery for regulating the
evolution of collective bargaining is cautiously but widely viewed as a story of success. It is detailed as appropriate in the course of this Report.

Given that the legislation of 1999 represented a watershed, how far can we identify the whole period of 1990 to 2003 as one in which there was a coherently identifiable evolution of the structure of collective bargaining in the United Kingdom? In fact it is difficult to do so, not least because that particular time-span covers two very significantly distinct phases. The period from 1990 until 1997 can be characterised as the concluding part of a longer period of Conservative government in which the ideology and policies of Thatcherism were dominant. From 1997 onwards, New Labour governments pursued very different policy paths in the field of labour law and labour relations. It is still very difficult to offer a synoptic assessment of the evolution of collective bargaining over the whole period in the face of that particular duality, which endows the period of 1990 to 2003 with a specially Janus-like quality of looking both backwards and forwards.
1) The Regulatory Framework of Collective Bargaining

Question: Which are the main characteristics of the regulatory framework concerning collective bargaining and which changes have occurred in the period under study?

National reports should give an overview of the legal framework of collective bargaining and explain how this has changed over the years:

- In which type of legislation is collective bargaining regulated (constitution, labour code, specific acts, etc.)?
- Which actors have the right to take part in collective bargaining?
- What kinds of agreements are possible (company/plant level, multi-employer agreements, sector agreements, regional agreements, etc.)?
- Does the extension of collective agreements take place through ministerial decree and under which conditions?
- Does the law institutionalise bodies for social dialogue at the national, sector, or other level? If so, who are the actors of the social dialogue and which subject matters are foreseen for discussion?
- What can or cannot be regulated by collective agreements (for example, is there a legal minimum wage or is it defined by collective bargaining)?
- Can collective agreements specify working conditions below the standards defined by labour law?

Traditionally, governments in the United Kingdom\(^1\) took a rather passive role in industrial relations\(^2\), compared to most continental European nations. This applied particularly during the period from 1945 to about 1965. This could be seen in governments’ approach to labour legislation (section 1), as well as in the role of the state as actor in neo-corporatist arrangements (section 2). However, this changed in various ways in the subsequent period from 1965 until 1990 and continued to change in the period under review (section 3).

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\(^1\) All data on collective bargaining in this country report refers to Great Britain (that is, to England, Scotland and Wales) only, not to the United Kingdom as a whole (which also includes Northern Ireland), as most surveys on industrial relations exclude Northern Ireland. The same applies to data on trade union membership, as many employees in Northern Ireland are members of unions based in the Republic of Ireland.

\(^2\) The term ‘industrial relations’ will be used throughout this country report, rather than ‘employment relations’ or ‘labour relations’.
1.1 Voluntarism and Collective Bargaining

“When it comes to the law of collective bargaining, Britain is a backward country” (Mortimer 2004).

The United Kingdom has no codified constitution. Thus, Trade Unions do not possess, as in most European countries, any constitutional liberties. “In strict juridical terms, there does not exist in Britain any ‘right’ to organise or any ‘right’ to strike” (Wedderburn 1986: 69). Moreover, labour law does not make up for this shortcoming in constitutional law.

For a long time British labour law provided only a minimal framework for industrial relations in general, and collective bargaining in particular, reflecting the traditional reluctance of the state to regulate the economy. In the tradition of laissez-faire liberalism, British governments have in varying degrees held the belief that trade unions and employers should carry out their relations with the minimum of state interference. This is known as “voluntarism.”

As a consequence, it could in the early post-war period be said that “there is, perhaps, no major country in the world in which the law has played a less significant role in shaping (industrial) relations than in Great Britain” (Kahn-Freud 1954: 44; in Hyman 1975: 135). For a long time the regulation of British industrial relations took place mainly on a voluntary basis (thus the term “voluntarism”) rather than on a legal basis. Until relatively recently, legal regulation had never been considered as a desirable alternative by any of the three parties (state, unions, employers) in industrial relations.

One key element of voluntarism in industrial relations was that employers were not obliged to bargain with unions. Furthermore, collective agreements were, and have generally remained, not legally enforceable contracts, but “gentlemen’s agreements” which are “binding in honour only” (Hyman 1995: 30). This is contrary to the situation in most continental European nations (Bamber/Snape 1987: 2ff; Edwards et al. 1998). The fact that collective agreements are “binding in honour only” means that they depend for their collective enforcement on the industrial or economic sanctions available to employers and unions (e.g. industrial action).

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3 The United Kingdom is often said to have an ‘unwritten constitution’. A collection of acts of parliament, decrees, conventions, traditions and royal prerogatives together form the constitution. Since much of this material is, in fact, in written form, the term ‘uncodified constitution’ is more appropriate. Yet, some political scientists insist that Britain, in the absence of a unified and codified constitutional document, has no constitution.

4 However, unions have certain so-called ‘immunities’ from common law that, to a degree, are comparable to the rights conferred upon unions by the constitutions of continental European nations (Cf. footnote 14).

5 To a degree, this has changed in 1999, cf. infra.

6 This is reflected in different terminology. To give just three examples: The terms ‘Tarifvertrag’ (German), ‘Contratto collettivo (di lavoro)’ (Italian) and ‘contrato colectivo’ (Spanish) mean, literally translated, collective contract, not collective agreement.
There are two exceptions or senses in which collective agreements may be directly or indirectly legally enforceable:

- the provisions of the collective agreement may become indirectly legally enforceable by virtue of their incorporation into individual contracts of employment, and
- the presumption of unenforceability may be displaced if it is stated otherwise in the collective agreement itself in writing.

In truth, much as this presumption of non-enforceability was to the advantage of employers, trade unions were traditionally as opposed to legally enforceable collective agreements as employers were, which is to be explained partly by reference to unions' traditional suspicion of the state (that is, in particular, government and courts).

In theory, collective agreements may be reached at any level at which collective bargaining takes place (see below). Single-employer collective agreements are negotiated at establishment, company, corporate or divisional level, between an employer and one or several union(s). Multi-employer bargaining is conducted between employers' associations and unions and may cover industry sectors as well as geographical localities or regions. In practice, most collective agreements are now single-employer agreements. Multi-employer agreements have been widespread, but their coverage has declined considerably (see below).

The possibility to extend collective agreements by means of official order or ministerial decree does not currently exist in the UK. This, again, has a complex history but is basically attributable to successive versions of a voluntarist approach to industrial relations.

To the extent that collective agreements are not generally regulated by statutory law, it is up to employers and unions to decide which matters they want to regulate in them. In practice, many collective agreements include both procedural and substantive terms. Procedural agreements regulate the relationships between employer and trade unions (e.g. the specification of bargaining units and the status of unions and their representatives), as well as the treatment of individual workers (e.g. disciplinary procedures). Substantive agreements cover pay and other terms and conditions of employment such as working hours and holidays. Substantive issues can be both of quantitative as well as qualitative nature. The most important quantitative issues are working time and pay. Important qualitative issues are, for example, the introduction of new production technology or working organisation (EMIRE 2004b).

In the period between 1979 and 1990, procedural clauses were rather stable, while there was a noticeable shift in substantive clauses towards greater flexibility of work organisation (Wright 1993) (in Metcalf 1993). This is despite the fact that for unions, the emphasis is on resisting, or at least controlling any such changes. Studies have shown that British workplace representatives are merely willing to bargain over potential consequences of changed technology or working organisation. They are opposed to get involved into tasks of management (Hyman 2001b: 144). This is a sig-

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7 cf. section 179(1) Trade Union and Labour Relations (Consolidation) Act 1992 and its predecessors
8 In Britain, it is normal to divide collective agreements into procedural agreements and substantive agreements, although in practice the distinction between the two is not always clear-cut.
significant difference with works councils in continental European countries such as Germany, where trade unionists are engaged in what is called “co-management”.

Apart from Health and Safety issues, few substantive issues that, in principle, could be regulated by means of collective bargaining, are regulated by statutory law. The major exceptions to this are the statutory national minimum wage\(^9\), which came into effect in 1999 (Edwards 1999a), and the EU working time directive\(^10\), which was transposed into national law in 1998 (Gilman 1998a; Hall 1998).

Collective agreements cannot specify working conditions below the standards defined by labour law, though there are significant provisions for derogation, for example from working time regulations, both by individual and collective agreement\(^11\).

### 1.2 Social Partnership / Social Dialogue

“UK social partners are often seen as the ‘poor relations’ by their European counterparts, given the lack of formal structures for dialogue” (Macinnes 2003).

Social Partnership has never been as important a topic as in many continental European countries. In fact, the very term “Social Partners” (which refers to Employers’ Organisations and Trade Unions) is almost unknown of in the British public.

After the Second World War, several bipartite bodies (that is, bodies comprising representatives of capital and labour) have been established by successive governments. Most important among them has been the National Economic Development Council. The NEDC was established in 1962 and comprised of representatives from government, unions, and employers, with similar structures at industry and sector level. At various times, employers or unions weakened their attachment to the NEDC, and thus relations with government often have been more bipartite in nature, in part reflecting the absence of any underlying consensus upon long term goals. There is a further problem in that the TUC and collective bargaining (the unions and employers’ confederations) have been unable to control their constituents, which is necessary for the efficient functioning of a tripartite institution (EMIRE 2004f).

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\(^9\) The UK’s first ever statutory national minimum wage (NMW) came into effect on 1 April 1999 (following the election of a Labour government in 1997), with an adult hourly rate of £3.60 and a rate for those aged 18-21 of £3.00. These rates were based on the recommendations of the independent Low Pay Commission (LPC). In 2003, the UK government increased the rates to £4.50 and £3.80 per hour, as recommended by the LPC.

\(^10\) The directive rules that employees must not work more than 48 hours a week on average. In Britain, workers can sign an “opt-out” from this provision, agreeing to work more than 48 hours. Some 33% of British workers have signed such opt-outs, although only 16% are believed actually to be working more than 48 hours (The Guardian, 06/01/2004).

\(^11\) Cf. previous footnote.
In the 1970s, bipartite arrangements between the Labour government and the TUC took prominence. Those arrangements, also known as “social contract”, were an attempt to control inflation, provide growth of employment and improve the social wage, and to include a program of employment law. Trade unions were initially willing to participate, but were quickly disillusioned by the complexity of the problems and by the expectation of the government to co-operate in restraining wages (EMIRE 2004g). By 1977 the TUC felt unable to maintain restrictions on affiliated unions' pay claims, and the social contract subsequently broke down, partly because of the voluntarist nature on British industrial relations: unions regarded incomes policies as too excessive an government intervention (Taylor 1987: 84; in Lang 2001).

The Wages Councils were independent tripartite bodies established by statute that had the function of establishing minimum wages and other conditions for employees in certain sectors of the economy. They were made up of representatives of both sides of industry, together with independent members. The orders of Wages Councils had the force of law. By the late 1980s there were 26 Wages Councils operating in Britain (a similar system operated in Northern Ireland), covering over 2 million employees (EMIRE 2004h).

Since 1979, Conservative Governments have limited the opportunity for the TUC to play any part in state policy making, and abolished most bipartite and tripartite bodies. The most important were the various Industrial Training Boards, which were eliminated. The most symbolic moves were the downgrading and eventual termination of the National Economic Development Council (where six TUC leaders had met leading employers and government ministers monthly since 1962) in 1992, and the eradication of the Wages Councils (as part of a wider policy of labour market deregulation (Deakin/Wilkinson 1991)) in 199312, leaving workers in these sectors, which were largely without effective collective bargaining, unprotected.

The new Labour government under Tony Blair, which was elected in 1997, had a more affirmative approach towards these arrangements. The labour government stressed repeatedly that it was committed to partnership at work, that is partnership (or bipartism) between employers and trade unions (DTI 2002a). However, this commitment does not extend to social partnership (or tripartism), which also includes government. While this might be interpreted as symptomatic of the general decline of neo-corporatism in Europe13 (Pontusson/Swenson 1996), the British tradition of voluntarism most certainly also plays a role in this (Wood 2000).

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12 One Wage Council, the Agricultural Wages Board, was not abolished. Government suggestions that it should be abolished have been opposed by employers and unions.

13 By ‘decline of neo-corporatism’, we refer to the ‘decline of institutional arrangements for collaborative or tripartite governance of labour markets by representatives of capital, labour and the state’ (Pontusson/Swenson 1996: 224).
1.3 Changes to Trade Union Legislation since 1980

"The Thatcherite Project in Britain has been the most radical effort to change a national Industrial Relations system" (Hyman 1994: 21).

For the Conservative governments under Margaret Thatcher and John Major (1979-97), legal change central instrument to implement changes in the industrial relations system in general, and collective bargaining in particular. This marked a major departure from collective voluntarism (cf. section 1.1). British legislation since 1980 substantially limited the wide immunities enjoyed by unions previously.

The Conservative governments of the 1980s and 90s passed a series of six laws (cf. box 1) which were part of a wider deregulatory agenda. Cumulatively, these laws greatly restricted and controlled trade union activity (in particular their ability to strike), which, in turn, reduced union membership and bargaining power, and thus union’s ability to conduct effective collective negotiations. Britain is the only European country where such radical changes have happened since 1980 (Clarke 1993: 257). This process reversed the historic role of most governments since the 1870s: to protect unions and to support collective bargaining as the preferred means to regulate wages and working conditions.

**Box 1.1: Major Legislation Affecting Unions by Conservative Governments, 1979-97**

<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
<th>Key Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>Employment Act</td>
<td>Repeal of statutory recognition procedure</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Definition of lawful picketing restricted to own place of work</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Restricted right to take secondary action</td>
</tr>
<tr>
<td>1982</td>
<td>Employment Act</td>
<td>Further restrictions on industrial action</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Employers could obtain injunctions against unions and sue unions for damages</td>
</tr>
<tr>
<td>1984</td>
<td>Trade Union Act</td>
<td>Secret ballots before industrial action</td>
</tr>
</tbody>
</table>

NB: only the most important regulations affecting unions are listed

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14 A special feature of British labour law is that unions have not positive rights, e.g. the right to strike. Instead, unions have certain immunities from common law liabilities, protecting them, for example, from liability for industrial actions (Wedderburn 1986). In continental European countries, the legal logic is opposite: Employees, individually and collectively, have certain positive rights, as those to organise collectively, to strike etc. Often, these rights are protected by the constitution.
1988 Employment Act

- Restrictions on industrial action and election ballots
- Ballots for separate workplaces

1990 Employment Act

- All secondary action now unlawful
- Unions liable for action induced by any official (under certain circumstances)
- Selective dismissal of strikers taking unofficial action legalised

1993 Trade Union Reform and Employment Rights Act

- 7 days notice of ballots and of industrial action
- Members to be involved in ballot to be identified
- Independent scrutiny of strike ballots
- All industrial action ballots to be postal

After its election in May 1997, the new Labour government made a number of important changes to industrial relations:\(^{15}\):

- establishment of the Low Pay Commission and the re-establishment of minimum wages but at the national rather than industry level,
- statutory union recognition procedure for all firms employing more than 20 workers,
- relaxation of strike balloting procedures,
- strikers are specially protected against dismissal.

This legislation offered significant new support to collective bargaining: firstly, by the provision of statutory trade union recognition machinery. Secondly, legislation supporting the right to strike is to be interpreted as an institutional support mechanism for collective bargaining.\(^{16}\)

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\(^{15}\) The government outlined its approach to industrial relations in the White Paper ‘Fairness at Work’ (DTI 1998), which was basis for the 1999 Employment Relations Act.

\(^{16}\) The reason for this is that legislation on strikes, in the long term, does affect unions’ ability to carry out collective negotiations on behalf of their members. Collective bargaining, and its outcomes (collective agreements), are dependent on the respective bargaining positions of unions and employers, which, in turn, represent the power relations between the two parties. The only ‘weapon’ of trade unions is their threat to go on strike (or, more general, to engage in industrial action). Without a credible threat to do this (and given that full employment will not return in the foreseeable future), unions would be in a very weak bargaining position. As a result, they would not be able to secure favourable agreements for their members, and many members would thus leave the union. However, the lower the (union’s) membership, the lower its legitimacy to negotiate collective agreements on behalf of all employees. Thus, we argue that legislation supporting trade unions’ right to engage in industrial action is to be interpreted as an institutional support mechanism for collective bargaining.
The fact that the UK is now fully obliged to transpose EU directives into national law has implications for freedom of association and recognition of the right to collective bargaining in Britain (Commission 2001).

**Box 1.2: Major Legislation Affecting Unions by Labour Governments, since 1997**

<table>
<thead>
<tr>
<th>Year</th>
<th>Legislation</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>National Minimum Wage Act</td>
<td>- National minimum wage for employees over 18, subject to exceptions</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Low Pay Commission to recommend minimum rate changes and coverage</td>
</tr>
<tr>
<td>1998</td>
<td>Working Time Regulations</td>
<td>- Implements EC directive regarding maximum working hours, breaks, annual leave</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Subject to modification under collective agreements</td>
</tr>
<tr>
<td>1999</td>
<td>Employment Relations Act</td>
<td>- Recognition and negotiation procedures for employers with more than 20 workers</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Establishment of bargaining units</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Dismissal for participation in official industrial action deemed unfair</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Ballot and notice provisions for strike or industrial action</td>
</tr>
</tbody>
</table>

As we indicated in the Introduction to this Report, the enactment and implementation of the trade union recognition provisions of the Employment Relations Act 1999 constitute a watershed in the evolution of collective bargaining in the period under review. The statutory provisions have been officially summarised in the following terms:

“The Act establishes a new statutory procedure, which took effect on 6 June 2000, for the recognition of independent trade unions in organisations employing 21 or more workers, if that is the wish of a majority of the workforce. The procedure seeks to encourage voluntary agreements where possible. If employers and unions cannot agree, the Central Arbitration Committee (CAC) will decide the appropriate bargaining unit and whether the union should be recognised, and – if necessary – will impose a legally-binding procedure for bargaining about pay, hours and holidays. The Act also provides for changes in the bargaining unit and for the derecognition of unions and protects workers against detriment or dismissal for exercising their rights under the Schedule” (cf. DTI 1999).

A review of the working of these provisions down to the end of 2002 conducted by the Department of Trade and Industry in 2003 concluded that:
“On the evidence of its first two and a half years in operation, the procedure is, over-
all, working well. In particular, the large majority of recognition claims have been set-
tled via voluntary resolution. There is clear evidence of a general rise in voluntary rec-
ognition agreements. TUC surveys have logged a thousand new instances of voluntary
recognition since 1998, with three times more recognition agreements in 2000/2001
than in 1999/2000. It is worth noting that this has been achieved without any evidence
of a general recourse to industrial action to support recognition claims. Advisory Con-
ciliation and Arbitration Service casework figures also provide evidence of an increase
in the voluntary resolution of claims. Acas completed recognition cases rose from 148
in 1999 to 339 in 2001. The proportion leading to full recognition over the same period
increased from 33% to 60%, having peaked at 65% in 2000. The number of completed
cases fell back slightly in 2002 to 316, with full recognition occurring in 52%. Up to
31December 2002 the Central Arbitration Committee had received 236 applications for
recognition. Of these, some 52 had led to statutory Trade Union recognition” (cf. DTI
2003c: paras 2.4 – 2.5).
2) Actors in Collective Bargaining

Question: Who are the actors involved in collective bargaining?

Each country report should firstly give an overview of the main characteristics of the actors involved in collective bargaining, and how these have changed in the period under review:

Trade unions:
Which are the main trade unions and union confederations?
Describe the membership, both in general figures and in breakdowns for various areas of activities and the mandate for collective bargaining. Please, indicate possible differences for the public sector.
What percentage of the labour force is affiliated to a trade union?
Is there a tradition of pluralism in trade unionism?
Are there ideological and organisational links between trade unions and political parties?

Employers’ organisations:
Which are the main employers’ organisations and confederations? Please indicate organisations active in the public sector.
Describe the membership and the mandate for collective bargaining.
What share of the labour force works for employers affiliated to employers’ organisations? Does that coincide with being covered by collective agreements?
Is there one main organisation or many fragmented ones?

Government:
Is government as such involved in collective bargaining (central, regional, and local government, public utility companies, etc.)? Please describe branches of the administration assigned to such negotiations.
Describe also the political orientation of governmental coalitions (e.g. Christian Democrats, Social Democrats, Neo-Liberals, and Nationalists) which have undertaken centralised negotiations with the social partners in the period under review. Describe also the contents of such agreements (e.g. concertation on income policies, negotiated legislation, social pacts)

Other Actors:
Which other actors are involved in collective bargaining and what is their relevance (e.g., works councils; temp agencies, etc.)?
Are there any supra-national actors involved in collective bargaining and what is the relevance of their involvement (European Works Councils, ETUC, UNICE, international sector unions, multinationals with supra-national agreements, etc.)?
2.1 Trade Unions

2.1.1 The TUC

There is a single trade union confederation to which the overwhelming majority – by membership - of trade unions are affiliated. This is the Trades Union Congress to which currently some 71 trade unions are affiliated. There are more than twice as many unions again (some 150) which are not affiliated to the TUC, but they represent fewer than 1 million members, whereas the TUC unions have a combined membership of nearly 7 million. Since the TUC represents all the major trade unions in Britain, rival confederations based on ideological or confessional diversity, competing for affiliates, are not a feature of the British system of industrial relations. The number of affiliates to the TUC has decreased markedly in recent times, not because of disaffiliation from the TUC but because of the on-going trend toward trade union mergers among the affiliates.

The role and scope of the TUC’s mandate from its affiliates has fluctuated over time but at no point in the TUC’s history has it been mandated to bargain collectively on behalf of the members of affiliated unions, in the sense of coming to agreements with employers about the terms and conditions of employment of workers. This does not mean that the TUC is never involved in the bargaining process. It may make available its ‘good offices’ to help resolve difficult and long-running industrial disputes between employers and one or more affiliated unions (especially where the employer is government) and it has developed a set of principles (see below) designed to prevent conflict between affiliates over the representation of workers for the purposes of collective bargaining. Finally, there have been brief periods since the Second World War when the TUC reached agreements with Government and, sometimes, the central employers’ federation (the Confederation of British Industry) over macro-economic policy, including an overall figure for the rate of increase of wages. However, the TUC has not engaged in such activity since the middle 1970s (see further answer to Q 1 above).

The main roles which the TUC performs for its affiliates can be categorised as follows:17

- brings Britain’s unions together to draw up common policies
- lobbies the Government to implement policies that will benefit people at work
- campaigns on economic and social issues
- represents working people on public bodies
- represents British workers in international bodies, in the European Union and at the UN employment body - the International Labour Organisation
- carries out research on employment -related issues
- runs an extensive training and education programme for union representatives
- helps unions develop new services for their members

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17 In the TUC’s own words see www.tuc.org.uk/the_tuc/about_role.cfm.
helps unions avoid clashes with each other
builds links with other trade union bodies worldwide

During the 1980s and 1990s a significant change in the internal structure of the TUC occurred. It switched its structure away from a committee structure that shadowed Government departments to that of a more streamlined campaigning organisation. The reason for such a shift was that the Conservative Government of 1979-97 sought (successfully) to exclude trade unions from their previous influence within Government departments. This influence was of very long-standing and can be traced back at least as far as the Second World War when the TUC established itself almost as an extension of the governmental bureaucracy. The changes during the period 1979-1997 included the abolition as a distinct entity of the Ministry of Labour, which had been the TUC’s main interlocutor with the governmental machinery. This process of exclusion from the State severely undermined the authority and usefulness of the TUC as the conduit to Government for its affiliates. Although relations between Government and the TUC have improved substantially since the election of a Labour Government in 1997, the pre-1980 closeness of the governmental and TUC machineries has not been restored. In particular, a Ministry of Labour has not been re-created and that department’s functions remain divided among a number of different departments (notably the Department of Trade and Industry for the reform of labour law). Thus, relations between Government and TUC remain at arms’ length.

In response to the Thatcherite neo-liberal assault the TUC developed two, potentially inconsistent, strategic responses, which are reflected in two competing models of union modality, both currently advocated and supported under the TUC umbrella.

First, the ‘TUC’s ‘organising academy’ was set up to promote and sustain an organising culture within the affiliated organisations. It operates to train (normally new and young) officials, who are sponsored by affiliated trade unions, in the techniques of membership recruitment the obtaining of recognition from employers. This was a response to the drastic fall in membership of affiliated unions in the 1980s and 1990s (see below) and to the consequent decline in the coverage of collective bargaining. Its aim was to focus the efforts of affiliates much more firmly on the business of recruiting members and securing recognition from employers. In particular, the aim is to reach out to those workers unrepresented by a trade union, especially in the ‘new workplaces’ and among non-traditional union members (women, ethnic minorities). The new statutory trade union recognition procedure (see below), a central feature of which is the requirement of a ballot of the workforce in the bargaining unit proposed for collective bargaining purposes, has reinforced the importance of securing support for the union in the workplace. This model of trade unionism fits well with the traditional role of British unions as ‘managers of discontent; the anger, hope, action model of unionism.’

In contrast to the more traditional ‘organising’ model the TUC has also been central to the development of the idea of ‘social partnership’ and the turn around in attitude vis-à-vis the European integration project. This model of trade unionism turns on its head the former oppositional identity of unions as class protagonists. Unions would seek to obtain recognition from employers by emphasising the benefits to the employer’s business from union recognition rather than simply the strength of the employees’ support for the union. A certain tension between partnership and organising exists within the trade union movement, for the two models can be thought to be
based on different ideological foundations. This tension is also apparent within individual affiliates, the same unions at different workplaces employ both traditional and partnership approaches, differentiating between good and bad employers.

2.1.2 The Trade Unions

Although there are some 70 unions affiliated to the TUC and over 200 unions in total, a very high percentage of total union membership is accounted for by those unions which have more than 100,000 members, of which – as of December 2001 – there were 16. According to the Certification Officer’s Report for 2003 the membership of these 16 unions accounted for over 80% of membership of all trade unions (whether affiliated to the TUC or not). Of these 16 only two were not affiliated to the TUC. These were the Royal College of Nursing, with some 344,192 members and the British Medical Association, with a membership of 112,872. The latter, although formally a trade union, also has the characteristics of a professional body, its main task being to represent the interests of practising doctors. Even within the 16 largest unions, there is a considerable dispersal of membership, with the largest (UNISON) having nearly 1.3 million members and the smallest just over 100,000 (ie the BMA). Table 2-4 shows the steady decline in the number of independent trade unions over the past quarter of a century (from 446 in 1975 to 226 in 2000), but concentration of union membership in the largest trade unions is also a trend over this period. In short, the decline in the numbers of trade unions has been brought about not only by the larger unions merger with small unions but also by mergers among large unions, the latter phenomenon producing the concentration of membership mentioned above. Neither process seems yet to be at an end. Thus, in January 2002 the Amalgamated Engineering and Electrical Union (the third largest) amalgamated with the Manufacturing Science and Finance Union (the sixth largest) to become the second largest union just behind UNISON, but then in March 2004 it was reported that the members of the GMB (fourth largest union) had voted to amalgamate with UNISON, which amalgamation, if carried through, would produce a trade union of some 2 million members.

As far as union membership is concerned, the main story of the past quarter century has been one of declining membership – a development which has significantly influenced the willingness of even large unions to amalgamate. Thus, if the TUC suffered from its exclusion from the position of privileged interlocutor with government, its affiliates suffered from loss of membership and bargaining rights. Table 2-4 gives the membership figures, which show a decline of one third between 1975 and 2000. In terms of union density (percentage of employees in union membership) Table 2-1 shows a decline from 38% to 29% over the 1990s. If one took the density figure back

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18 UNISON (1,272,700), Transport and General Workers Union (848,809), Amalgamated Engineering and Electrical Union (728,508), GMB (689,276), Royal College of Nursing (344,192), Manufacturing Science and Finance Union (332,691), National Union of Teachers (314,174), Union Shop Distributive and Allied Workers (310,337), Public and Commercial Services Trade Union (281,923), Commercial Workers’ Union (279,679), National Association of Schoolmasters and Union of Women Teachers (253,584), Association of Teachers and Lecturers (186,774), Graphical Paper and Media Union (170,278), UNIFI (154,434), Union of Construction and Allied Trades and Technicians (119,993), British Medical Association (112,872).

19 The Certification Officer is the statutory official charged, inter alia, with oversight of unions’ financial records.
to 1980, the decline in density would be even more dramatic because the bulk of the fall in membership occurred during the 1980s. In 1980 density was well over 50% of the workforce. The two main reasons for the decline in membership were the assault launched by the Conservative governments of 1979 to 1997 on the legislative, administrative and structural factors which supported high levels of union organisation and the profound changes in the structure of the economy over this period, as a result of which large-scale manufacturing (easy to organise) fell as a proportion of the economy and service provision (difficult to organise) rose. As stated, both these trends had their greatest impact in the 1980s and indeed, with the re-election of a Labour government in 1997 and the introduction of the statutory recognition procedure and other union-friendly policies, the Government no longer pursued an anti-union line, though it reversed only a small part of the legislative changes made by its Conservative predecessors. Consequently, the decline in membership virtually came to a halt in 1996, though the unions have yet to achieve significant gains in membership.

We noted above the TUC’s response of encouraging affiliates to devote greater resources to recruitment, but the unions found themselves faced with a difficult recruitment task. Trade unions’ own inability to respond quickly to industrial restructuring and the consequent change in worker constituencies also contributed declining membership. Trade unions found it difficult to recruit part-time workers, women and ethnic minorities although the more recent figures do show that differences in membership based on gender and ethnicity are not as significant as before. Union membership figures also demonstrate variation based on age groups, with membership in the over 40s age group reaching 40% whereas the age group 20-30 years measure just 20%. (DTI 1998b).

Beneath the overall story of decline in union membership and density, however, there are some interesting and important variations, especially between the public and private sectors. Table 2-1 shows the aggregate levels of trade union membership in Britain up until 2002. However, if public sector and private sector levels are compared, widely different trends can be discerned (cf. table 2.3). Public sector unions have been able to maintain and even increase their membership levels. Public sector union density hovers at 60% of the employees whereas in the private sector has fallen from 22% to 18% in the period under study. Teaching and nursing unions have managed to double membership figures since 1979, recently increasing membership as a result of the government-funded expansion of the health and education sectors. It is interesting that the main nursing union and each of the three main teaching unions are among the top-ten unions, whilst the largest union (UNISON) is one whose power-base lies predominantly in the public sector.

2.1.3 Trade Union Structure

Given the voluntary nature of labour relations in the UK for much of its history (see above) it is perhaps not surprising that no single model for trade union organisation has emerged. Pluralism of trade union form is an inherent feature of trade union structure in Britain. The divergent union types were born in different historical circumstances and so retain specific ideological inheritance (Hyman 2001b: 73). What we

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20 See Tables 2.2 and 2.3 for union membership by sector and occupation.
are left with after two centuries of gradual evolution is a confusing structure of trade union organisations. Craft, industrial, general, public sector and white-collar unions exist side-by-side with cross-cutting membership constituencies. The recent tendency towards merger among large unions has, if anything, made the picture more confusing, as unions with different organisational histories have amalgamated and produced conglomerates whose bases of organisation defy neat categorisation. Some unions (again the teaching and nursing unions are good examples) have remained rooted in particular occupations which have maintained and even expanded their role in the economy. Outside the public sector and even within it to a considerable extent recent decades have seen such fundamental restructuring that many unions have to abandon whatever organisational coherence they once had. Thus, the Iron and Steel Trades Confederation has turned itself into a union which seeks to recruit members in all manufacturing operations in the areas in which the steel companies formerly had large plants.

One important consequence of organisational diversity among British trade unions is that competition among unions for members in the same workplace is an ever-present risk. Even where unions are organisationally coherent, as with the teaching unions, there may be competition because more than one union is available for employees to join. In the case of teaching a choice exists among three TUC-affiliated unions and one non-affiliated. Consequently, an important role historically for the TUC has been to help resolve conflicts among affiliates in competitive member recruitment or employer recognition situations. The rules which have been agreed on by the TUC affiliates to govern these matters are contained in the *TUC Disputes Principles and Procedures* (originally adopted in 1939 at the TUC Congress at Bridlington and thus colloquially referred to as the Bridlington Procedure). They are enforced principally through the threat of expulsion from the TUC. The prospect of inter-union conflict over recruitment and bargaining may also influence the drafting of labour legislation. Thus, the statutory recognition procedure (see below) generally excludes the Central Arbitration Committee from proceeding with the processing of either application where unions put forward competing applications.

### 2.1.4 Shop Stewards

#### 2.1.4.1 History of the Shop Stewards’ Movement

In view of the firm-based nature of collective bargaining in the UK (see answer to Q 3), it seems sensible to include some information on shop stewards, i.e., the employees of the employer who act as representatives of the union in the plant. The British trade union movement to a much larger extent than is the case elsewhere in Europe is structured, organised and resourced by unpaid volunteer activists. The number of training courses offered to shop stewards illustrates the diversity of roles expected of the unpaid volunteers. The major roles of the steward are bulleted below

- Bargaining in the workplace
- Representing union members in the workplace
- Health and Safety
- Building organisation
- Recruitment

The stewards’ movement began as an autonomous phenomenon outside the structure of the trade union, especially in the manufacturing sectors, engineering in particular. Shop stewards were therefore outside the ‘rulebook’ of trade unionism and this often brought them into conflict with trade union officials. The end of the 1960s saw trade unions leaders committed to incorporating stewards into the union much more systematically, Jack Jones (T&G) especially. This has been referred to as the ‘bureaucratisation of the rank and file’. However, the tension between the local and the regional/national levels of the union remain albeit to a lesser degree. The 1970s witnessed the growth of stewards in the public sector mainly in reaction to unpopular incomes policy (negotiated by regional/national union officials) and also to restore wage differentials eroded by the success of the manual trade unions in securing favourable local pay deals.

By the late 1970s shop stewards were found in 73% of manufacturing sector establishments with more than 50 employees (Brown 1981). Their popularity was enforced by sympathetic state policy and the Donovan Commission’s recommendations. For example, the 1974 Health & Safety at Work Act gave statutory backing to the election of a workplace representative where a union was recognised, ensuring shop steward presence in all unionised workplaces. Terry (1995) points to an environment of relative stability and economic growth, the attitudes of union members and employers and also the State as the main determining factors in the rise of the shop steward movement. Recent changes in the external environment and in governmental and employer attitudes have reduced the importance of shop stewards in British industrial relations, their strengths in the previous era have turned into their shortcomings in the present.

The most commonly used argument in support of the shop steward movement is the democratic one. Stewards are ‘closer’ to their constituencies and therefore it is expected that their representations vis-à-vis the employer will focus almost exclusively on the members’ issues. The union official at national or regional level has to aggregate a much larger constituency’s views and therefore is less likely to be able to directly and accurately express the specific views of the membership. However, the limited focus of the shop steward movement, the workplace, also contributed to recent waning influence.

Terry (1995) points to three particular deficiencies; organisational, structural, and ideological. Organisationally the shop stewards were predominantly organised in the manufacturing and public service sectors. In the private service sector, with its smaller unit sizes and atypical workers, the stewards mode of representation was much more difficult to establish and maintain. Recent shifts in the labour market towards the private service sector has resulted in the huge representation gap illustrated by the data below.

Structurally the shop stewards are very decentralised, with the trend toward flexibility and decentralisation of employment relations one might expect this to benefit the shop steward system. However, decentralisation has been accompanied by a reassertion of managerial autonomy, attempts at direct ‘employer-to-worker’ employment relations (human resource management) that often bypass the traditional single chan-
nel of shop steward representation. In addition the decentralisation of employment relations often occurs within a firm and with no significant organisation above the level of the workplace the shop stewards are no longer negotiating with managers who are able to unilaterally raise terms and conditions but with managers within a wider framework of intra-firm competition that are obliged to conform with decision-making at higher levels either nationally or increasing at the international level.

In terms of the union organisation itself the tension between local and full-time union leaderships often manifested itself in a distance between workplace and higher levels of union organisation. Regional or national interference in local bargaining was often viewed as a ‘failure’ of the particular shop steward by local members rather than as a supplementary support mechanism. Steward loyalty was primarily focussed on their worker constituency, secondary was the workplace itself with the wider union organisation coming in a poor third place. This created problems for union wide policy making and implementation, hence the difficulty experienced during the ‘social contract’ period as local priorities often came before adhering to national guidelines on income policy negotiated by national union leaders.

More recent evidence suggests that shop stewards are now highly dependent upon full time officials. In current workplace environments many trade union members are wary of standing for the post of shop steward. When volunteers are forthcoming they require much more support from full-time officials in order to maintain local structure and without this support stewards feel isolated and ‘vulnerable to attack’ (IRRR 1993). Terry (1995) makes the point that as management support structures were withdrawn throughout the 1980s and 1990s local representatives had to rely more and more on their unions for similar services.

The distance between shop stewards and the wider union organisation and their closeness to the workplace membership also produces ideological problems. The main criticism of the stewards has been their lack of ideology and their narrowness of vision (Terry 1995). The bargaining agendas have often been economistic and sectional and in numerous examples they have often overlooked the views of ethnic minorities or women in the workplace. Idiosyncratic outcomes to bargaining often manifested themselves in this environment. For example, when highlighting problems of health and safety within the workplace the stewards would often negotiate the payment of ‘dirt-money’ rather than press management to alleviate the root cause of the problem. This short-termism and lack of ideology guiding action is the major intra-union criticism of the shop stewards.

### 2.1.4.2 Empirical Data On Shop Stewards

In 1984 54% of all establishments surveyed had a shop steward present, by 1990 this figure was only 38%, the most recent survey shows that almost three out of five (60%) workplaces had no worker representatives of any kind, for non-union firms this figure rose to nine out of 10 (90%). Where unions were present in the firm 75% had a shop steward. This suggests that the steward is still the preferred method of membership representation but it also leaves 25% of workplaces with trade unions present without a shop steward to represent the membership.

So for workers in the 25% of workplaces with union presence and 90% of workplaces without union members there remains a “representation gap” at their work-
place. Employee access to a local system of representation and joint regulation via collective bargaining is now confined to a minority. (Cully et al 1999).

What do shop stewards do? Time spent on representative activities has fallen and is now relatively low, a majority of shop stewards who were surveyed report spending less than 2 hours per week on union work, 29% reported just 1 hour. This figure varies according to the size of the establishment represented, in the larger workplaces 60% of the shop stewards or convenors (senior steward) spend more than 10 hours engaged in representational activity. (Cully et al 1999)

In terms of the issues they cover the stewards who were surveyed stated that they spent ‘most of their time’ dealing with issues related to

- Health and safety
- Treatment of employees by management
- Wages, employment security.

They spent ‘significant time’ also on

- Resolving conflicts between employees and management
- Finding ways to improve productivity.

At first glance it seems that the priority of shop stewards have not altered in decades, these are and always were the bread and butter issues around which the shop stewards based their activity. What has changed radically is the type of engagement the stewards now have with managers over these issues, implicit in the change in the nature of engagement is the declining influence over outcomes that shop stewards now have.

Only in 39% of workplaces did managers and worker representatives report that the bread and butter issues (pay, health and safety, grievance handling) were dealt with via bargaining. Bargaining allows the greatest influence for shop stewards and is therefore the strongest form of employer-steward interaction on issues. On issues outside the ‘bread and butter’ agenda, bargaining (joint-regulation) was extremely rare. Issues are more likely dealt with by consultation or even just information sharing, implying a severe limitation on the joint regulation of employment relations. 72% of workplace managers who would rather consult directly with employees than with trade union representatives. Redundancy, for instance, (below the threshold for mandatory consultation) managers consulted directly with employees affected in 82% of cases. However, even in unionised workplaces 36% bypassed union representatives either by consulting employees directly or not consulting at all. The very heart of the voluntarist system of UK industrial relations has declined to a point where it can no longer be credibly held up as an overarching system at all. The survey data reinforces the argument that the “representation gap” is in many ways a symptom not of macho management but of managerial indifference to worker voice. It should be noted here that this data was collected before the implementation of the Employment relations Act 1999 and the Information and Consultation Directive. Both statutory acts should provide the trade unions with useful levers to increase recognition and to bolster representational rights within the workplace.
2.1.5 Links between Trade Unions and Political Parties

In reversal of the normal European pattern (trade unions being formed by political parties to take their message to the working classes), the Labour Party was formed by the TUC at the beginning of the twentieth century, in order to seek reversal by legislation of court decisions unfavourable to the development of collective bargaining. The origin of the party in the unions partly explains the absence of competing ideological trade union confederations in the UK. The unions, which may affiliate to the Labour Party, have been the main paymasters of the Labour Party ever since.\(^{21}\) The approach implicit in this arrangement was that the labour movement should seek to achieve its industrial goals largely through collective bargaining and its political goals by securing election of a Labour Government. Relations between the industrial and political wings of the labour movement have always been in some degree of tension, since the Labour Party needs to appeal to a majority of voters (whether union members or not) whilst individual unions need to make gains for their members, inconvenient though these gains may be on occasion for a Labour Government.

However, a major shift occurred after 1979 when a majority of union members probably voted for the Conservative Party. Slowly during the 1980s and early 1990s the Labour Party distanced itself from the unions. After re-election in 1997 the Party has pursued a progressive social agenda, but not one wholly to the liking of the unions. Thus, on the side of inaction, the Government has not substantially amended the laws restricting lawful industrial action, introduced by the Conservative governments, and, on the side of action, the Government, in the name of improving the delivery of public services, has committed itself to public/private arrangements for financing those improvements which the public sector unions in particular see as a threat to their members’ jobs or terms of employment. Consequently, within trade unions the level of funding of the Labour Party has become controversial and the link with the Labour Party was debated by all major trade union congresses in 2003. So far, only one union has broken the link with the Labour Party, though it was symbolic that the union in question (a railway trade union) had been one of the unions which helped to found the Labour Party.

2.2 The Employers

2.2.1 The CBI

The TUC is paralleled on the employers’ side by the Confederation of British Industry, which, again like the TUC, has no mandate to collectively bargain and bind its af-

\(^{21}\) The main source of this funding is the ‘political levy’ paid by union members on top of their normal subscriptions. Since the beginning of the twentieth century this levy has been option (in the sense that individual members can choose to opt out of it) and the principle of the union having a political fund has to be approved every ten years by a vote of the union membership as a whole, a reform introduced by the a Conservative government in 1984. Unions seem not to have had difficulty in obtaining the necessary majority, perhaps because all political activities, and not just contributions to the Labour Party, need to be made out of the political fund and members of most unions wish their unions to have the freedom to engage in some sorts of political activity.
filiates. Moreover, industrial relations is just one of the matters upon which the CBI represents the views of its members to Government, whether at domestic or European level. However, its members are not employers’ associations (ie the equivalent of unions as members of the TUC), but individual companies. By and large the CBI represents large companies in the private sector of the economy and is regarded by Government as its main interlocutor with business. To the extent that tripartite discussions occur on matters relating to the whole economy, they will involve Government, TUC and CBI. In recent years, Government, when it has decided in principle to legislate in the area of collective labour law, has encouraged the TUC and CBI to agree the details of the legislation. Thus, after the Government had decided to introduce a statutory recognition procedure, it invited both TUC and CBI to agree how this should be done. Although TUC and CBI could not reach agreement on all points (and Government had to resolve the areas of disagreement), the agreed points were carried through into legislation. Again, the Government invited TUC and CBI to negotiate over the transposition in the UK of the Information and Consultation Directive. Here, the two peak organisations achieved a much higher degree of consensus and the Government is currently consulting on a set of draft laws substantially based on that agreement.

To some degree, the CBI faces competition from the Institute of Directors as the representative of British industry. As its name suggests, however, the IOD is an association of individuals, primarily directors, senior managers and partners in professional partnerships. With such a membership, it naturally has no collective bargaining function. As a representative of the views of British business, its stance is generally to the right of the CBI. As far as the present Government is concerned, it is clear that it regards the IOD as a valuable consultee, but as one which ranks after the CBI on labour relations matters.

2.2.2 Employers’ Associations

The Certification Officer reports that it has some 90 employers’ associations on his list and is aware of some 84 further unlisted associations. As with trade unions, there is considerable concentration at the top end of the list. Thus, the 28 employers’ federations with more than £2 million of annual income (of which 5 are unlisted) represent 92% of the income of all listed employers’ associations and 87% of the income of all employers’ associations, listed and unlisted. Traditionally, employers’ associations have performed an important collective bargaining role, but, as explained in answer to question 3, the decline of multi-employer bargaining in the UK has meant that that role is very much reduced today. Employers’ associations perform a range of functions for their members (ie individual companies), many of which are outside the arena of collective bargaining entirely. Within the area of collective bargaining, most associations will offer advice to members, both on legal and non-legal aspects of industrial relations, and a few continue actually to bargain.

22 Although the CBI opposed the compulsory recognition laws on principle, it was prepared to negotiate with the TUC on the modalities of the legislation, once the Government had made clear its intention to proceed.

23 Listing is voluntary and the incentives to apply to go on the list are not as strong for employers’ associations as they are for trade unions.
The most active organisations (measured by size of income) are in the engineering industry, construction, printing, newspapers and transport. Employers’ associations may operate in the public sector (outside the area of central government) and among the 28 largest are the West Midlands Local Government Association and the Association of Colleges. However, as explained further below, it is rare for employers’ associations today to engage directly in collective bargaining.

### 2.2.3 The State as an Employer

It is important to note at the outset that British labour law does not draw a firm dividing line between private and public employment. In principle, the same rules apply to employees in both sectors: the concept of the Beamte or fonctionnaire is unknown to British labour law. However, historically the industrial relations policies pursued in the public and private sectors have been distinctive, with the Government giving a lead in encouraging union membership and collective bargaining. This policy was adopted during the First World War but came under severe challenge in the period 1979 to 1997. During this period, the State began to use its considerable influence in the opposite direction and was instrumental in the transformation of the labour market, not just as legislator, but also as employer. The State as an employer led by example.

The government consistently sought to undermine union strongholds in the public sector. One way of achieving this was to split up state monopolies and privatise them, so that public monopolies did not become simply private monopolies. Where simple splitting up could not by itself achieve competition, regulatory structures and the creation of quasi-markets might achieve the same result, especially as privatisation was often accompanied by liberalisation of the relevant market (ie removal of barriers to entry by competitors). Thus, the privatisation of railways, telecoms, airlines, gas, water and electricity effectively shifted public sector unions into a competitive private sector environment. Where the government was unable to privatise completely they sought to hive off as much of the ancillary services to the private sector as possible, for instance, cleaning contracts in hospitals or refuse collection in Local Authorities. The workers performing the contracted-out functions often lost the benefit of collective bargaining machinery which had covered them in the public sector, because their new employers did not recognise unions for the purpose of collective bargaining. The main aims of these policies were to cut public spending and discredit and/or decentralise collective bargaining. Even where the workers in question remained fully in the public sector, the government became less committed to collective bargaining for such employees, as with the removal of collective bargaining rights for teachers in 1987 and their replacement by a ‘pay review’ system (McIlroy 1985).

Local government was obliged to introduce ‘compulsory competitive tendering’ for the delivery by private sector companies of previously ‘in-house’ services. NHS and school ancillary workers were particularly badly hit by these developments, witnessing a cut in pay of up to 50% and inferior conditions of employment. The change in government in 1997 brought some respite for workers in the public sector given

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24 The police and the armed services are notable exceptions to this statement, to which the Government is currently proposing to add the fire-fighters.
New Labour’s commitment to increase public expenditure. More importantly, the Government has taken some steps to relieve the downward pressure on the terms and conditions of those workers who are transferred to the private sector. In local government an important code of practice has been agreed which grants TUPE-style protection even to those subsequently hired by the private sector company. The long-awaited final proposals for transposing into UK law the revised Business Transfers Directive will be an important event in this regard. However, underlying the commitment to increased spending and protection for employees is a determination to transform the public sector further, with the goal of achieving the more efficient delivery of public services, so that changes in work organisation can be expected to continue, in some respects going further than even the Conservative government dare tread.

However, national bargaining still continues to be significant in the public sector, especially among the core public sector workers, and recent developments in the NHS aimed at removing the two-tier workforce signals a return to national level pay bargaining. In 1997 a single status pay and conditions agreement was signed by the Local Authorities. This agreement harmonised separate agreements for manual, administrative, professional and clerical staff (UNISON 2004). In higher education teaching unions employed successfully industrial action in 1997 to protect national bargaining.
Table 2.1: Trade Union Membership in Britain, 1991-2001

<table>
<thead>
<tr>
<th>Year</th>
<th>Membership (in 1000s)</th>
<th>Density all in employment %</th>
<th>Density employees %</th>
<th>Annual change in % points</th>
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<td>1992</td>
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</tr>
<tr>
<td>1994</td>
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<td>33.6</td>
<td>-1.5</td>
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<td>28.8</td>
<td>32.1</td>
<td>-1.5</td>
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<td>27.3</td>
<td>30.2</td>
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<td>2000</td>
<td>7,351</td>
<td>27.0</td>
<td>29.4</td>
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<tr>
<td>2001</td>
<td>7,295</td>
<td>26.5</td>
<td>28.8</td>
<td>-0.6</td>
</tr>
</tbody>
</table>

Source: Labour Force Survey

Table 2.2: Trade Union Membership, by Occupation and Gender, 1992-2002.

<table>
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<tr>
<th>Occupation</th>
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<th>Female</th>
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<td>Managers &amp; Administrators</td>
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<td>24</td>
</tr>
<tr>
<td></td>
<td>1998</td>
<td>18</td>
<td>21</td>
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<tr>
<td></td>
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<tr>
<td>Professional</td>
<td>1992</td>
<td>44</td>
<td>62</td>
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<tr>
<td></td>
<td>1998</td>
<td>39</td>
<td>62</td>
</tr>
<tr>
<td></td>
<td>2002</td>
<td>36</td>
<td>60</td>
</tr>
<tr>
<td>Associate profess. &amp; technical</td>
<td>1992</td>
<td>40</td>
<td>59</td>
</tr>
<tr>
<td></td>
<td>1998</td>
<td>34</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td>2002</td>
<td>37</td>
<td>46</td>
</tr>
<tr>
<td>Clerical &amp; Secretarial</td>
<td>1992</td>
<td>41</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>1998</td>
<td>30</td>
<td>22</td>
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<tr>
<td></td>
<td>2002</td>
<td>31</td>
<td>23</td>
</tr>
<tr>
<td>Craft &amp; Related</td>
<td>1992</td>
<td>45</td>
<td>34</td>
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<td>33</td>
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<tr>
<td></td>
<td>2002</td>
<td>30</td>
<td>25</td>
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<tr>
<td>Personal &amp; protective services</td>
<td>1992</td>
<td>47</td>
<td>26</td>
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<tr>
<td></td>
<td>1998</td>
<td>40</td>
<td>22</td>
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<tr>
<td></td>
<td>2002</td>
<td>37</td>
<td>30</td>
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<td>Selling</td>
<td>1992</td>
<td>16</td>
<td>13</td>
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<tr>
<td></td>
<td>1998</td>
<td>8</td>
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<tr>
<td></td>
<td>2002</td>
<td>13</td>
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<tr>
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<td>37</td>
</tr>
<tr>
<td></td>
<td>1998</td>
<td>40</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>2002</td>
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<td>31</td>
<td>28</td>
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<tr>
<td></td>
<td>2002</td>
<td>29</td>
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Source: Labour Force Survey
Table 2.3: *Trade Union Membership in Britain, by Sector and Gender, 2001*

<table>
<thead>
<tr>
<th></th>
<th>Public Sector</th>
<th>Private Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>% of all employees</td>
<td>66</td>
<td>56</td>
</tr>
</tbody>
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Source: Labour Force Survey

Table 2.4: *Number of Trade Unions and Union Members in Britain, 1975-2000*

<table>
<thead>
<tr>
<th>Year</th>
<th>Membership (in millions)</th>
<th>Number of Unions</th>
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<tbody>
<tr>
<td>1975</td>
<td>11.7</td>
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<tr>
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<td>482</td>
</tr>
<tr>
<td>1982</td>
<td>11.7</td>
<td>456</td>
</tr>
<tr>
<td>1983</td>
<td>11.3</td>
<td>432</td>
</tr>
<tr>
<td>1984</td>
<td>11.1</td>
<td>400</td>
</tr>
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<td>1985</td>
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<td>1986</td>
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<td>1987</td>
<td>10.5</td>
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<td>1988</td>
<td>10.4</td>
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<td>237</td>
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<tr>
<td>2000</td>
<td>7.8</td>
<td>226</td>
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Sources: Certification Officer's Annual Reports
3) Levels of Collective Bargaining

Question: At what level does collective bargaining take place and what is the relative importance of each level (is it mainly centralised, de-centralised, sector, a combination)?

3.1 Introductory Legal Remarks

It is crucial to note initially that the traditionally voluntary approach to industrial relations in Britain (see answer to Q 1 above) has meant that there has been no significant attempt to provide a legal framework in which collective bargaining at different levels may operate and through which the different levels may interact with each other. As we shall see below, the level at which collective bargaining mainly operates has changed over time and with significant consequences for industrial relations. However, these changes of level have resulted from the changing practices of the bargainers, not from changes in legal framework.

It is also perfectly possible that bargaining will occur at more than one level in relation to a particular group of workers, although, as explained below, this is less common than it was when multi-employer bargaining was more extensive than it now is. Where there is bargaining at more than one level, there is the potential for conflict among the collective agreements reached at the different levels. As one would expect from what is said above in answer to Q 1, there is no legally specified hierarchy of collective agreements. There is thus no prohibition on lower level collective agreements derogating from the provisions of higher level collective agreements. As we have shown, where there is only a single collective agreement in operation, its impact legally on the individual employment relationship depends upon whether the collective agreement has been incorporated into the individual contract of employment and that in turn depends on the terms of the individual contract. Equally, where more than one collective agreement is relevant, the resolution of conflicts between the agreements is resolved, as far as individual workers are concerned, by the terms of the individual contract of employment. In short, the question is, which collective agreement is given priority by the individual contract of employment (though it is often the case that the individual contract of employment does not address this issue at all clearly)?

It may be that the parties to the collective agreements themselves will attempt to regulate the issue of hierarchy, for example, by specifying in the higher level agreement the scope for bargaining at lower levels. However, as we have already explained, because the collective agreement does not normally constitute a legally enforceable contract as between the parties to it, the enforcement of such stipulations relies on industrial relations sanctions, which may not be wholly effective if the bargainers at the lower level are not closely tied in with those at the higher level.

3.2 Levels of Collective Bargaining

The UK has been remarkable for having a great diversity of levels of collective agreements, though, as we show below, the pattern today is increasingly one of con-
centration on company-level bargaining. Generally speaking, collective agreements depend on union recognition, either by a company or by an employers’ association. While recognition does not need to be formal, most collective agreements are negotiated with unions which are formally recognised for collective bargaining purposes (Brewster 1992: 152f). As explained above, the UK has today no legal provisions for the extension of collective agreements to employers who have not agreed, either directly or through their membership of an employers’ association, to bargain with a trade union. In fact, general extension mechanisms have never existed in the UK, though during the Second World War there was legal machinery for extending multi-employer collective agreements on a case-by-case basis to individual ‘non-federated’ employers and versions of this machinery survived in one form or another until the 1980s.

Traditionally, collective bargaining in the UK has taken place at three different levels: at sectoral level, at company level, and at sub-company level (that is, at plant or shop-floor level). In many cases, employees have been affected by more than one collective agreement, that is, by agreements that had been negotiated at different levels. As we have already pointed out, however, bargaining at a possible fourth level (ie at the level of the whole economy) has not been a feature of the British system, as individual unions have kept the bargaining function in their own hands and have not been willing to delegate it to the TUC.

**Figure 3.1: Centralisation and Decentralisation of Collective Bargaining**

Collective bargaining at sectoral or ‘national’ level has decreased considerably in recent years and so one can say that there has been *de-centralisation* of collective bargaining to lower levels. This has been a long-running historical process, which began shortly after the Second World War, though its full implications have become

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25 National collective bargaining refers to bargaining for the entire industry, not to bargaining for the whole economy.
clear only more recently. On the other hand, over the past thirty years there, collective bargaining at plant- and shop floor level has become less important than it was in the 1950s and 1960s, so that one can say that there has been a centralisation of collective bargaining to the company level. (cf. fig. 3.1). Thus, most collective bargaining now takes place at company (or organisational, in the case of the public sector) level – if it still takes place at all: the coverage26 (or incidence) of collective bargaining has decreased considerably in recent years, too (cf. answer to Q 4).

The first sub-section (ch. 3.1.1) of chapter 3.1 describes different levels of collective bargaining, and the relationship between them. The second sub-section (ch. 3.1.2) depicts decentralisation of collective bargaining, while the final sub-section (ch. 3.1.3) deals with centralisation of collective bargaining. (Quantitative data on coverage rates of collective agreements at different levels will be presented in chapter 4.)

3.2.1 Types of Collective Agreements

In Britain, the main distinction concerning collective agreements is between single-employer and multi-employer agreements. Both types of can take place at various levels, leading to different types of agreements, which are described below. All agreements, whether single or multi-employer, might be with one or several unions, or a confederation of unions. Multi-employer agreements are depicted in the following section (ch. 3.2.1.1), single-employer agreements are described in the next-but-one section (ch. 3.2.1.2), and the relation between the two levels shall be portrayed in ch. 3.2.1.3.

3.2.1.1 Multi-Employer Agreements

In Britain, there are two types of multi-employer agreements: industry-wide agreements (also called “sectoral agreements” or “national agreements”), and district agreements.

National Agreements

National collective agreements (also referred to as “industry-wide”, “sectoral” or “multi-employer agreements”)27 are reached through industry-wide or sector-wide collective bargaining between employers or employers' associations and trade unions or union confederations and affect all employees in companies that are members of the respective employers' association (EMIRE 2004b). Of course, the distinction between multi-employer and single-employer agreements breaks down if there is only one employer in the industry, which is often the case in the public sector. Because of their industry-wide characteristics, such agreement are normally discussed together with national agreements which are genuinely multi-employer. This point is of some

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26 The term “coverage” is defined as the share of employees affected (“covered”) by a collective agreement out of the total population (the sector, in the case of sectoral bargaining, the company in the case of company bargaining, etc.) of employees who could potentially be affected by those types of agreements.

27 As mentioned, there are actually two different types of multi-employer agreements. However, the term “multi-employer agreements” usually refers to national agreements, not to district agreements, which have been rare (cf. next section).
importance since the public sector is still contains a number of important industry agreements, whilst they have become rare in the private sector of the economy.

Historically, multi-employer, national agreements were the dominant form of collective agreement. With government encouragement, institutions for multi-employer bargaining at industry or sectoral level (the “Joint Industrial Council” model), leading to national agreements, became widespread in British industry during the inter-war period. From the 1920s onwards, the national engineering agreement set a benchmark for other industries (Barnard et al. 2002: 26f), and national agreements determined pay in several sectors until the Second World War. After the Second World War, industry-wide agreements gradually ceased to set effective wage levels for all workers, but in many industries such as engineering, they still set minimum levels of pay and conditions (EMIRE 2004b).

The growth of single employer bargaining, which started after the Second World War (cf. ch. 4) eventually undermined industry-wide collective bargaining. Almost all industry-wide agreements in the private sector of the economy have collapsed, or been greatly reduced in influence and/or coverage since the mid-1980s (Brown/Walsh 1991). They continue to exist in parts of printing, textiles, clothing and construction only (Metcalf 2001: 9).

District Agreements
District agreements are collective agreement between unions and employers covering specified workers in a geographical locality or district. Agreements at this level, although important in the nineteenth century, are rare and relatively unimportant in Britain today. Historically they were of particular importance in the engineering industry, but they have been superseded by other forms of agreement (EMIRE 2004b).

3.2.1.2 Single-Employer Agreements
Single employer bargaining has been growing at the expense of multi-employer bargaining since the end of the Second World War, and is now the most important form of collective bargaining in Britain (for details, cf. ch. 4). Single-employer bargaining can take place for the entire company, at (multi-) plant level, or at shop-floor level. Single-employer bargaining is most important in the private sector, where collective bargaining is usually conducted at company and/or plant level.

Company Agreements
A company agreement is a collective agreement at company, corporate or divisional level, covering all or groups of workers in that organisation. In single-plant companies plant bargaining and company bargaining are synonymous. In 1968 the Report of the Royal Commission on Trade Unions and Employers’ Associations sought to promote company (and plant-level) bargaining as against collective bargaining between low-level managers and shop stewards at shop-floor level (Donovan Commission 1968). Shop-floor bargaining, which was then dominant in a number of economically important private-sector industries, was thought, because of its disorderly and competitive nature, to have led to high levels of industrial action, inflationary wage settlements and the inefficient use of labour. Partly as a result, there has been an increase in com-
pany and plant level bargaining at the expense of low-level shop floor bargaining since the late 1960s (EMIRE 2004b). Thus, the term “decentralisation”, which is commonly used to describe recent trends in British industrial relations, is insufficient when applied to collective bargaining. While single employer bargaining has indeed been growing at the expense of multi-employer bargaining (thus decentralisation), a centralisation (from shop-floor level to plant and company levels) has taken place within the group single-employer agreements.

Multi-Plant Agreements
Multi-plant agreements cover employees in more than one plant of the same company. Several companies with multi-plant agreements practise a mixture of multi- and single-plant bargaining, for example bargaining on a multi-plant basis for blue-collar workers and on a single-plant basis for white-collar staff (EMIRE 2004a).

Plant Agreements
Plant agreements cover employees in an individual plant. The plant-level is a very common level of bargaining in the manufacturing industry (EMIRE 2004a).

Shop-floor Agreements
Shop-floor agreements are collective agreement negotiated at shop-floor level (that is, below the level of the individual plant) between junior levels of management and union representatives (usually shop stewards) on behalf of individual employees or small groups of employees. Such agreements often have often dealt with the operation of piecework schemes, and have been informal and unwritten in nature (EMIRE 2004b, 2004a).

3.2.1.3 The Relationship between Different Levels of Collective Bargaining
In Britain, collective bargaining at shop-floor level has always taken place, even if agreements at higher levels existed. The Royal Commission therefore spoke of “two systems” of industrial relations: one “formal system” involving negotiations between the official institutions of trade unions and employers' confederations (at industry, company or plant level), and an “informal system” involving shop-floor bargaining between shop stewards and managers (Donovan Commission 1968).

During the 1960s, the relation between the two levels could be described as follows:

“Generally speaking, national minimum rates are bargained on the national level, while at the local level negotiation takes place over such matters as piece-work rates and other forms of payment by results, additions to wage rates such as bonuses, and local rules and practices including the manning of machines and demarcation questions. Of course, this two-tier system of negotiating does not apply to all workers. (…) Broadly

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28 This shows that the term “decentralisation”, which is commonly used to describe recent trends in British industrial relations, is insufficient when applied to collective bargaining: While single employer bargaining has indeed been growing at the expense of multi-employer bargaining (thus decentralisation), a centralisation (from shop-floor level to plant and company levels) has taken place within the group single-employer agreements.
speaking, the two-tier system applies to most of the private sector, with the exception of highly centralised areas like the banks” (Cliff 2002: ch. 4).

The relation between the two levels has not always been without problems. According to the Royal Commission (1968), industrial conflict could be attributed in part to conflict between these two systems. In large part, this was because the system of shop floor bargaining had developed in an era of high employment when shop stewards, responsible mainly to their electorate of fellow workers, had development systems of bargaining outside the traditional multi-employer arrangements operated by employers’ associations and trade union bureaucracies. Shop floor bargaining, characterised as fragmented, informal, and autonomous, was said to cause problems for employers, unions and governments, as it operated outside their ability to monitor and influence bargaining at this level: often, shop floor bargaining was carried out by people who, according to the formal structures of their respective organisations, had no authority to do so. During the 1970s, following the recommendation of the Royal Commission (ibid.), much managerial effort was invested in reducing the number of shop floor agreements (by moving them “upwards” to the company level) (EMIRE 2004a, 2004c).

3.2.2 Decentralisation of Multi-employer Bargaining

During the 1970s, company- and workplace level bargaining was increasingly considered not only as a complement, but also as an alternative to national bargaining. The significance of national multi-employer collective bargaining continued to decline, although formal coverage rates remained quite high first (Zagelmeyer 2003: 5)29. Then, in the second half of the 1980s, about one million employees moved out of coverage of national agreements (Brown/Walsh 1991). Although multi-employer pay determination had declined significantly in the first half of the 1980s (Brown/Walsh 1991: 49), it was not until the second half of the 1980s that multi-employer arrangements dissolved on a large scale in a number of industries, and, most importantly, in engineering and shipbuilding (IRS 1989a, b, 1990a, b, 1993, 1994a, b; in Zagelmeyer 2003: 7). A considerable number of companies, in particular large ones, withdrew from national agreements. In some cases, this led to the collapse of the employers' association and/or the national collective agreement (Purcell/Ahlstrand 1994: 125).

A good example is the engineering industry, where a major industrial dispute over working time took place in 1989. The Confederation of Shipbuilding and Engineering Unions (CSEU, cf. ch. 3.3.1) demanded a reduction of working time from the basic 37.5-hour week to 35 hours. However, no national collective agreement was reached, and individual companies negotiated local agreements for reductions in basic hours instead. Thus, the 1989 dispute saw the effective end of national sectoral collective bargaining (which was carried out by the CSEU) in the engineering industry, and sectoral agreements more generally began to decline as a source of regulation of terms and conditions of employment around this time (Barnard et al. 2002: 27).

Among workplaces with recognised unions, the coverage of workplaces where multi employer bargaining affected the pay of at least some employees fell from 68 per cent to 34 per cent between 1980 and 1998. In public services, coverage decreased

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29 In addition, the character and scope of collective agreements changed (ibid.).
from 81 to 47 per cent, in private manufacturing from 57 to 24 per cent, and in private services from 54 to 12 per cent (Cully et al. 1999: 228).

This decline of multi-employer bargaining was encouraged by Government.

“Government policy, both through its dealings with its own employees and through persuasion and advocacy to other employers, encouraged a move away from national, multi-employer pay settlements towards more locally determined ones which were more sensitive to local labour markets and the circumstances of the employer” (Millward et al. 1992: 217).

In the public sector, decentralisation of organisational structures (e.g. the establishments of trusts in the NHS) made collective bargaining at local level possible. Central government has decentralised collective bargaining furthest, with many employees being segmented into agencies.

The privatised industries 30 decentralised collective bargaining as part of a wider decentralisation of decision making in the 1980s and 1990s (Pendleton 1997). Decentralised decision-making often helped to weaken union’s wage bargaining position 31. These privatised companies can be split into two groups. First, companies like BP (petrochemicals), MG Rover (formerly British Leyland; automobiles), BAE Systems (formerly British Aerospace) and Corus (formerly British Steel 32), which operate in competitive markets, and secondly companies like BT (telecoms) utilities and the railways, which continue to enjoy monopolistic or near-monopolistic positions, or have so until recently.

Companies from the former group were usually covered by national level collective bargaining prior to privatisation. Consequently, their bargaining strategies have been similar to those of other companies within the same industry that have always been private. For example, BAE Systems abandoned national bargaining when industry-wide engineering agreements came to an end in 1991. The company now conducts bargaining at the level of the business unit or plant like other unionised companies in the engineering sector.

The latter group of companies has followed a similar course. Sectoral collective bargaining at national level has been replaced by bargaining at company or business unit level, and elements of performance related pay have been introduced despite union opposition (Metcalf et al. 2000: 7).

In other private industries, the trend towards decentralisation of collective bargaining continued as formal multi-employer bargaining was terminated in sectors such as engineering, banking and food retailing in the late 1980s, as mentioned earlier. This reflected intensifying competition and the particular vulnerability of the “voluntarist” bargaining arrangements of the UK, where agreements had little legal basis and often provided a platform for further negotiation at local level. Where national bargaining survived, such as in printing, clothing, and construction, its relevance for pay decreased, and the collective agreements now set only few minimum

30 among them telecoms; gas, water and electricity supply; steel; air traffic; coal mining; and railways
31 However, in some sectors such as railways the fragmentation of the industry served to bolster the unions through emerging forms of “pattern bargaining”.
32 Corus was formed by the merger between British Steel and the Dutch Steel company Koninklijke Hoogovens in 1999 (Edwards 1999b).
standards for non-pay matters (Arrowsmith 2000). In few exceptional cases, such as electrical contracting, (Gospel/Druker 1998), however, national bargaining has remained effective.

In conclusion, one can say “there is no doubt that the influence of multi-employer bargaining in the UK is much less than it is virtually in all other EU member states” (Barnard et al. 2002: 27)\textsuperscript{33}, although the sector has not completely ceased to be a point of reference. The dominant form of trade unionism in the UK is now, according to Heery et al. (2000) a de facto “enterprise unionism”\textsuperscript{34} in which the bulk of union activity happens at the level of the plant or company.

Two final points should be made. First, the company-level nature of British collective bargaining, at least in the private sector, means that there is a very close connection between levels of membership in trade unions and coverage of collective agreements. Individual employers are likely to bargain with trade unions only if the union has a high level of membership amongst that firm’s workforce. Second, legislative support for collective bargaining has concentrated on reinforcing at single-employer level. This is true of all three statutory recognition procedures (those of 1971, 1975 and 1999). The latest legislation does not even permit recognition claims to be brought against associated employers (eg companies which are independent legal entities but commonly owned). In other ways, as well, labour law reinforces this situation by promoting firm-level union representation (Booth 1995; Heery et al. 2000; in Francesconi/Garcia-Serrano 2002: 8).

### 3.2.3 Centralisation of Single-employer Bargaining

While a de-centralisation from multi-employer bargaining to single-employer bargaining has taken place in the UK, as described in the previous section, a centralisation of collective bargaining within private-sector companies is taking place at the same time. Most multi-plant employers now bargain at division or company level, and not at workplace level. In those companies where collective bargaining took place in 1998, bargaining at workplace level covered four in ten employees, while bargaining at a higher level in the organisation covered six in ten (Cully et al. 1999). Furthermore, where there is decentralisation of pay bargaining to the workplace, “companies have

\textsuperscript{33} In this quote, Barnard et al. (2002) refer to the regulation of working time. However, this equally applies to pay and other terms and conditions of employment.

\textsuperscript{34} According to Heery et al. (2000: 8), de facto enterprise unionism possesses the following characteristics: “(1) Recruitment of members and maintenance of membership through processes specific to the enterprise…,

(2) Government of the union through a network of enterprise or workplace-based branches…,

(3) Representation of union members through a hierarchy of workplace representatives…,

(4) Servicing of individual union members through representation in company disciplinary, grievance and other procedures…,

(5) Bargaining substantive and procedural collective agreements at company, establishment or business unit levels, which ensure that the economic performance of the enterprise is reflected in members’ terms and conditions of employment. A feature of this form of bargaining may be what is described in Germany as ‘company egotism’…, a concern with promoting the interests of economic ‘insiders’ at the expense of ‘outsiders’ who lie beyond the constituency of the enterprise union…,

(6) Licensing of enterprise unionism through a system of collective employment law that permits unions to organise at this level and simultaneously discourages action that extends beyond enterprise boundaries.”
tended to introduce higher level co-ordination of ostensibly decentralised pay control points” (Brown/Walsh 1991). Thus the switch away from multi-employer negotiations has gone hand-in-hand with the extension of negotiating structures at enterprise or company level (Metcalf 1993: 11).

3.3 Specificity of Collective Agreements

**Question:** How specific are collective agreements at each level (for example, do national or sector agreements provide a framework for decentralised bargaining or do they include detailed regulations)?

No detailed data on this topic is readily available. The reason for this is that there is no system for registering collective agreements in the UK, which might explain the lack of research on this topic. Moreover, as pointed out above, the question is of limited legal relevance.

Generally speaking, collective agreements become more specific the lower the level they are negotiated on. This is not surprising: facts about specific companies or plants (and thus, about production technology or the organisation of work at these companies or plants) can, by definition, not be elements of industry-wide collective agreements which cover various employers. National, industry-wide collective agreements used to regulate a wide range of issues, including pay and working time, during the inter war period. Subsequently, the (Regulatory) scope of national agreements has constantly decreased. Since the Second World War, most national agreements (where they continue to exist) set only minimum levels of pay, but continue to regulate working time and various other issues.

The relation between different levels of collective bargaining has never been quite straightforward, as much collective bargaining at lower levels (at plant- and shop floor level) was, in fact, informal, and was, until the 1970s, carried out by people (usually shop stewards) who, in many cases, were either not authorised by their unions to conduct collective negotiations, or were not even recognised by them (cf. ch. 3.1.1.3). Shop stewards tended to pay little attention to higher level agreements and one of the objections on the part of both unions and employers to plant level bargaining was the normative incoherence it produced. Therefore, industry-wide collective agreements have not usually provided any framework for decentralised bargaining; rather has collective bargaining at central level and at company level, on the one hand, and at plant- and shop floor level, on the other hand, been rather unconnected until the 1970s.

With the increasing focus of collective bargaining in the private sector on the company or plant level, the problem of co-ordination of levels of bargaining has been reduced. Within a single firm, the co-ordination of formal bargaining at plant and company level (where both levels exist) is relatively easy to bring about, whilst the more difficult co-ordination problems have been dissipated with the decline of informal workshop bargaining, on the one hand, and of national bargaining, on the other.
3.4 Union’s Co-ordination of Bargaining Strategies

**Question:** To what extent are union bargaining strategies vertically and/or horizontally co-ordinated? Is there any form of international co-ordination among unions on collective bargaining? Please indicate also “informal” cross-country co-ordination, e.g. on wage policies, following ETUC guidelines?

In the UK, a co-ordination of collective bargaining policies (wage demands and other requests) or strategies (i.e. how to achieve those demands) across sectors (or national boundaries) does not take place to any substantial extent.

There are three main reasons for this. Firstly, the competitive nature of trade union organisation (see answer to Q 2) makes co-ordination of strategies extremely difficult, despite the fact that British unions have never been radically differentiated on ideological or religious grounds (Edwards et al. 1998: 28), as it is the case in many continental European countries.

Secondly, the Trades Union Congress (TUC, the umbrella organisation of British unions) is rather weak vis-à-vis unions, who have been reluctant to cede powers to the TUC, in particular in such central areas as collective bargaining (in which the TUC has no powers). British unions have generally been too protective of their own autonomy to allow the TUC a more powerful role (Bamber/Snape 1987: 38). Golden and Wallerstein note that

“British trade unionism is notorious for the weak authority of its major central confederation, the TUC. In effect, the TUC – which does not engage in collective bargaining on its own – has virtually no means to compel its affiliates to follow central policy. Many of the recurrent problems in making incomes policies stick in Britain stem from the TUC’s lack of authority. The confederation has largely been unable to get its affiliates to tow the line (at least for long) on central policy commitments, and the 1970s witnessed repeated breakdowns of central wage agreements as national affiliates broke with TUC recommendations” (Golden/Wallerstein 1994: 16; in Kenworthy 2001: 69).

The following table gives an overview of the TUC’s competencies in the area of collective bargaining. It shows the total absence of any confederal competencies in this area: The TUC cannot negotiate collective agreements, cannot call strikes and has no strike funds of its own, and cannot influence its affiliates in their formulation of collective bargaining strategies and policies or in their conduct of collective bargaining. Thus, Golden et al. (1993: 45) conclude that confederal authority in the area of collective bargaining in Britain is “zero”.

---

35 The latter two wouldn’t make much sense anyway, as the TUC does not engage in collective bargaining.
Table 3.2: The TUC’s Competencies for Collective Bargaining

<table>
<thead>
<tr>
<th>Competence</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negotiates peak-level wage agreement</td>
<td>no</td>
</tr>
<tr>
<td>Veto power over wage agreements signed by affiliates</td>
<td>no</td>
</tr>
<tr>
<td>Participates in demand formulation and/or bargaining of affiliates</td>
<td>no</td>
</tr>
<tr>
<td>Initiates strike action</td>
<td>no</td>
</tr>
<tr>
<td>Veto power over initiation of conflict by affiliates</td>
<td>no</td>
</tr>
<tr>
<td>Veto power over termination of conflict by affiliates</td>
<td>no</td>
</tr>
<tr>
<td>Power to impose mediation on affiliates when talks deadlock</td>
<td>no</td>
</tr>
<tr>
<td>Power to appoint leaders of affiliates</td>
<td>no</td>
</tr>
<tr>
<td>Controls own strike funds</td>
<td>no</td>
</tr>
<tr>
<td>Authority to withhold strike funds</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Source: based on Golden et al. 1993: 43

Thirdly, trade unions in Britain have traditionally had limited influence on their rank-and-file (lay) members at the workplace level, where unions traditionally are strong. The most important lay officials in Britain are shop stewards, trade union representatives who are elected by union members at the place of work. The shop steward movement has developed independent of unions, and in many unions, shop stewards were officially recognised only in the 1970s (EMIRE 2004e). Shop Stewards have traditionally been engaged in additional\(^{36}\) bargaining at shop floor level (cf. ch. 3.1.1.3).

Thus, it is not surprising that various authors (e.g. OECD 1994) have classified Britain as a country with un-coordinated collective bargaining, explaining this by reference to the fact that company- and plant-level has become the predominant form of collective bargaining. However, this line of argument is simplistic and inaccurate. A decentralisation of collective bargaining does not necessarily mean a disappearance of co-ordination, it merely means that the ways in which bargaining is co-ordinated need to change.

While it is true that there is no co-ordination of collective bargaining across sectors, as mentioned above, a co-ordination of collective bargaining within sectors does indeed take place. Basically, co-ordination takes place in two ways: firstly, there is horizontal co-ordination between different unions within one sector (inter-union co-ordination), and there is vertical co-ordination within unions (intra-union co-ordination). The former type of co-ordination is described in the next section; the latter shall be depicted in the following section (ch. 3.3.2). Furthermore, both employers and union negotiators use pay comparisons, which have the effect of co-ordination (without explicit co-ordination at central level actually taking place).

\(^{36}\) ‘additional’ meaning additional to collective bargaining at higher levels, usually at multi-employer level
3.4.1 Inter-union Co-ordination of Bargaining Strategies

Even though a considerable decentralisation of collective bargaining has taken place, several sectoral trade union confederations from the era of sectoral collective bargaining remain in existence. One example\(^{37}\) is the Confederation of Shipbuilding and Engineering Unions (CSEU)\(^ {38}\), which used to be the central co-ordinating and negotiating body for trade unions in the engineering industry during the end of sectoral collective bargaining in the engineering industry in 1989 (cf. ch. 3.1.2). The CSEU continues to hold annual policy conferences and has national industry committees for aerospace, railways, shipbuilding and engineering (CSEU 1999; in Metcalf et al. 2000: 6). The CSEU survives despite the decline of sectoral bargaining as single table bargaining\(^{39}\) now prevails in the engineering industry, which makes a co-ordination of bargaining strategies between unions necessary (Metcalf et al. 2000: 6). Metcalf et al. (ibid.) explain that

“(t)he role of these meetings in pay determination should not be underestimated just because they have no formal role in formulating pay claims. The networking and contacts built up among shop stewards in different companies and workplaces are an important factor in maintaining the idea of the rate for the job across companies and workplaces.”

3.4.2 Intra-union Co-ordination of Bargaining Strategies

Most collective bargaining on pay in the private sector is now decentralised, i.e. it is carried out by union reps (mostly shop stewards) at company or workplace level. However, even in sectors where national bargaining has ceased, unions encourage (or at least permit) pay comparisons between companies by means of

“research support for collective bargaining, the way lay officers are taught to formulate pay claims, industry level forums, and the involvement of full time officials in local pay negotiations” (Metcalf 2001: 9).

The last point is rather important: 57 per cent of union representatives who conduct negotiations at company or plant level do so with the assistance of a full-time union official (Cully et al. 1999). It is likely that this influence of union officials narrows the distribution of pay within the unionised sector, Metcalf et al. (2000: 6) suggest, as full-time union officials

“bargain with the same broad objectives from workplace to workplace and play an important role in shaping the preconceptions of what constitutes a ‘fair deal’ among the reps and members” (ibid).

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\(^{37}\) Further examples of British trade union federations still in existence are the GFTU (General Federation of Trade Unions), which organises 21 specialist unions, and the Federation of Entertainment Unions, which organises six entertainment unions

\(^{38}\) The CSEU was constituted in its present form in 1936 although it has its origins in the Federation of Engineering and Shipbuilding Trades founded in 1891 (CSEU 1966).

\(^{39}\) During the 1980s some British employers sought to overcome multi-unionism by agreeing with all their recognised unions that they act as a single bargaining agent. In practice, this means that employers don’t negotiate with all their recognised unions separately, but together at a “single table”. The term single table bargaining refers in particular to attempts to bring together negotiations for blue- and white-collar groups into one single process (EMIRE 2004f).
One might object that full-time officials could not have a significant impact on the compression of the pay distribution, as there are 216 unions in Britain (Certification Office 2003: 19), all with their own bargaining policies. However, more than two thirds of union members now belong to the eight largest unions, which is mainly due to mergers (Gilman 1997; Hall 1999), while the smallest 109 unions have fewer than 1000 members each (Metcalf et al. 2000: 6), and thus cannot afford many full time officers, or any at all. Thus, a high proportion of union activists and negotiators get the information on which they base their pay claims from a small number of sources (such as unions research departments, which only large unions can afford), and are assisted by full time officials from a small number of large unions.

3.4.3 Co-ordination of Collective Bargaining in the AEEU

This section gives Amicus-AEEU as an example to illustrates the co-ordination of collective bargaining within a union. Amicus-AEEU is the (larger\textsuperscript{40}) part of Amicus, the biggest British union for the private sector (and second biggest overall), with more than a million members. The following table depicts the competencies for collective bargaining of union activists at the central and local level. The former are usually full-time officers, the latter are usually shop stewards. The table also shows the competencies of the CSEU (cf. ch. 3.1.2, ch. 3.3.1), which conducted national negotiations prior to 1990.

Shop stewards in Amicus-AEEU have various rights (cf. table 2). However, shop-floor unions are not allowed to strike without higher-level approval\textsuperscript{41}, and shop stewards, while elected, can be replaced from above. Furthermore, national full-time officers have to approve wage agreements negotiated by shop stewards as well as strikes in particular plants or companies, they control strike funds, and they can appoint district officials (Golden et al. 1993: 13).

\textsuperscript{40} Amicus is the product of a merger between AEEU (Amalgamated Engineering and Electrical Union, 729,000 members (data as of 2001)) and the MSF (Manufacturing, Science and Finance Union, 333,000 members), which took place in 2002. The only union which is larger that Amicus is Unison, with 1.3m members, which organises in the public sector.

\textsuperscript{41} Unofficial strikes, in which this approval has not been sought or granted, have been common in the UK. However, Golden et al. (1993: 13) note that this “should not necessarily be taken as an indicator of shop-floor autonomy. In some ways, the prevalence of unofficial industrial actions in the UK is testimony to a complicated game occurring between national unions and their shop floor organizations, in which national unions may use the frequency of unofficial actions as a device in national bargaining.”
### Table 3.3: Amicus-AEEU and CSEU’s Competencies for Collective Bargaining

<table>
<thead>
<tr>
<th>National Level (mainly full-time officers)</th>
<th>Amicus-AEEU</th>
<th>CSEU(^1) pre ‘89</th>
<th>CSEU post ‘89</th>
</tr>
</thead>
<tbody>
<tr>
<td>Negotiates industry-level wage agreement</td>
<td>no</td>
<td>yes</td>
<td>no</td>
</tr>
<tr>
<td>Veto power over wage agreements signed by lower levels</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Participates in demand formulation and/or bargaining by lower levels</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Initiates strike action</td>
<td>yes</td>
<td>yes(^2)</td>
<td>no</td>
</tr>
<tr>
<td>Veto power over initiation of conflict by lower levels(^4)</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Veto power over termination of conflict by lower levels</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Power to impose mediation on lower levels when talks deadlock</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Power to appoint leaders of lower levels</td>
<td>yes</td>
<td>yes(^3)</td>
<td>no</td>
</tr>
<tr>
<td>Controls own strike funds</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Authority to withhold strike funds</td>
<td>yes</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Local Level (mainly shop stewards)</th>
<th>Amicus-AEEU</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Are recognized by union and/or legal statute</td>
<td>yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are elected, not appointed from above</td>
<td>yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Can be dismissed or replaced from above</td>
<td>yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right to strike without approval from above</td>
<td>no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Automatically receive strike funds or control own</td>
<td>no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right to negotiate plant- or enterprise-level wage agreement</td>
<td>yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Right to negotiate autonomously (without external official present)</td>
<td>yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sign wage agreements autonomously</td>
<td>no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participate in wage bargaining delegation of higher levels</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes**

1. The CSEU is a confederation of unions in the shipbuilding and engineering sectors which negotiated industry-wide agreements until 1989 (cf. ch. 3.1.2, ch. 3.3.1).
2. The CSEU had to have 2/3 approval by affiliates to strike.
3. The CSEU used to appoint district officials, who were chosen from the pool of officers of affiliated unions. They were not full-time CSEU official.
4. Workplace strikes that occur without first exhausting union procedures are deemed “unofficial.”

Source: based on Golden et al. 1993: 43
So, to which degree is the pursuit of coherent industry-wide collective bargaining policies possible? Golden et al. (1993: 18) argue that national or industry-level bargaining and “the exercise of authority over the contents of decentralized wage agreements” (ibid.) by a national union (or union confederation) are, to a degree, functional equivalents:

“As long as the union confederation (or industry-level union) maintains the right to deny approval of local wage agreements or of strike actions when local negotiations reach an impasse, the confederation (or industry-level union) may be able to pursue a national (or industry-level) wage policy even without a national (or industry-level) wage agreement” (ibid.).42

3.5 Employers’ Co-ordination of Bargaining Strategies

*Question:* To what extent are employers' bargaining strategies vertically and/or horizontally co-ordinated? Is there any form of international co-ordination among employers on collective bargaining?

The plurality and fragmentation of the employers’ associations is at least as pronounced as that of the unions: In 2002, there were 182 employers’ associations in Britain (Certification Office 2003: 19), and the Confederation of British Industry (collective bargaining, the employers’ equivalent of the TUC), like the TUC, has limited powers, and does not participate in collective bargaining.

Overall, the picture is therefore one of fragmentation of collective bargaining. However, the fact that the process is decentralised and fragmented does not necessarily mean that outcomes are less uniform than previously. The outcomes of all individual settlements in the private sector do not deviate much from each other, neither do arrangements where no collective bargaining occurs. The sector is therefore still an important point of reference in determining pay, with employers subject to similar product market conditions “moving like ships in convoy” (Arrowsmith/Sisson 1999). However

“this ‘co-ordination’ is a very informal process, which makes it extremely difficult for any party to assert a broader bargaining agenda or pact, even if they wanted to” (Arrowsmith 2000: 10).

Thus, the Labour Research Department concludes:

“In the private sector there is no formal macroeconomic guidance though wage bargaining, where it occurred, tended to produce very similar outcomes in terms of pay increases” (LRD 1999).

---

42 Golden et al. (1993: 18) qualify their statement: “Yet, there may also be important differences. The centralization of wage negotiations may allow the unions to accomplish goals that are beyond the reach of centralized authority without centralized wage-setting. For example, it is hard to imagine the implementation of a wage policy that dramatically alters the relative wages of different groups of workers, such as solidaristic bargaining in the Nordic countries, without a national labor contract.”
4) Coverage of Collective Bargaining

Question: How has the incidence and coverage of collective agreements evolved and what is the relative importance of collective bargaining comparing the various sectors of the economy; the public and private sector; small and large enterprises?

Specify the situation for the main sectors of the economy, for public and private sectors, and for small and large enterprises.


Typically, wage agreements in the UK last for one year, which is shorter than in many continental European countries, which have two- or three-year deals. However, agreements for different time periods are common. The period of validity depends to a degree on the issues they are meant to regulate: agreements on working practices may last only few weeks, agreements on pay usually last for a year (though they tend to last longer since the mid-1980s), agreements on working hours and holidays may last for several years, and agreements on areas such as pensions, for example, may well last for decades (Brewster 1992: 154f).

4.1 The Current Situation

4.1.1 Coverage of Employees

A key development in the 1990s and 1980s has been the declining coverage of collective bargaining in both the public and the private sector. As a result, collective agreements now cover only a minority of employees. In 1998, just above a third of employees (in workplaces with 25 or more employees) were covered by collective bargaining on pay. Out of those, two in five were covered by multi-employer bargaining, three in five were covered by single-employer bargaining (cf. table 4.1). National bargaining determined the pay for 35 per cent of public sector employees, but only for 5 per cent of private sector employees. Single employer bargaining (at organisational level) applied to 14 per cent of private sector employees and 16 per cent in the public

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43 Data from the Labour Force Survey series (LFS) deviates from data in the WIRS/WERS (Workplace Industrial Relations Surveys and Workplace Employee Relations Surveys) series, as methods for data collection differ. The advantage of the LFS series compared to the WERS/WIRS series is that it is updated (at least) annually, while WIRS/WERS is updated only every couple of years (the last time in 1998, the next survey has just started); its disadvantage is that data is far less detailed than in WERS/WIRS. For example, there is no data on levels of collective bargaining in the LFS.
sector. Workplace level bargaining applied to 9 per cent of private sector workers and 3 per cent in the public sector. (Cully et al. 1999: 106ff).

As collective bargaining on pay decreases, other methods of pay setting are on the increase: nearly two thirds of private sector employees, and one in ten public sector employees now have their pay set unilaterally by management.

The incidence of collective bargaining in the public sector is considerably higher than in the private sector: More than half of all employees in the public sector are covered by collective bargaining, while less than a third of employees in the private sector are covered.

Furthermore, the relative importance of national bargaining is considerably higher in the public sector compared to the private sector: for almost two-thirds of public sector employees whose pay is determined by collective bargaining, this is done at national level, while this is the case for only one in twenty private sector employees (cf. table 4.1). Thus, single-employer bargaining is most important in the private sector, while national bargaining is most important in the public sector.

In the public sector, national bargaining still, for example, over half a million health service ancillaries, prison officers and employees in the (remaining) public corporations like the Post Office (Metcalf et al. 2000: 6). Despite the fact that national bargaining is decreasing in importance even in the public sector, the “national rate for the job” (ibid.) mainly survives in the public sector.

Independent Pay Review Bodies, which have replaced national collective bargaining in large parts of the public sector, set national pay rates for well over a million public sector employees (cf. table 4.1 (last column), Arrowsmith 2000: 3). Currently, five such bodies exist: Senior Salaries (for senior civil servants, senior military, judiciary, MPs and Ministers); Armed Forces (for all other military ranks); NHS Doctors and Dentists; NHS Nurses and Professions Allied to Medicine; and School Teachers (for maintained schools in England and Wales) (EEO 1999). The first Pay Review Bodies were established in the early 1970s (EMIRE 2004d).

<table>
<thead>
<tr>
<th></th>
<th>collective bargaining</th>
<th>set by management</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>multi employer</td>
<td>higher in organisation</td>
</tr>
<tr>
<td>private sector</td>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td>public sector</td>
<td>35</td>
<td>16</td>
</tr>
<tr>
<td>total</td>
<td>14</td>
<td>15</td>
</tr>
</tbody>
</table>

Note: In the public sector, “other methods” refers largely to Pay Review Bodies
Source: Cully et al. 1999: 108 (base: all workplaces with 25 or more employees)
Furthermore, some 0.3m police and fire fighters have national pay scales determined by indexation formulae. Finally, for about one million Local Authority employees (other than teachers, police and fire-fighters, for whom pay is set by review bodies) such like education ancillaries, manuals, builders, engineers and white collar administrative, professional and technical employees,

“(L)ocal government operates a comprehensive system of national pay bargaining. While the system is a voluntary one, in that local authorities are not obliged to follow national agreements, for the most part national agreements do apply” (Local Government Association 1997 para. 4; in Metcalf et al. 2000: 6).

4.1.2 Coverage of Workplaces

Table 4.2, as opposed to table 4.1, depicts the coverage of workplaces, not employees, by different methods of pay setting. Data on collective bargaining coverage of workplaces and employees differs, as larger workplaces are more likely to be covered by collective bargaining than small workplaces (thus, bargaining coverage rates for workplaces are lower than those for employees).

The table further informs about whether pay is set by only one method, or by a mixture of methods. The latter is the case in one quarter of all workplaces. It usually means that different parts of overall pay are determined by different methods, e.g. base pay in set by collective bargaining, while a bonus is set unilaterally by management.

The table shows that in 1998, for one third of public sector employees, but for less than one in ten private sector employees pay was set only by collective bargaining. National bargaining is the most important form of collective bargaining in the public sector, while company-level bargaining is the most important form of collective bargaining in the private sector. Workplace level bargaining is rare or non-existent in both the private and the public sector. Overall, of all workplaces where collective bargaining takes place, about half takes place at multi-employer level, and about half at company-level.

However, in a further one in five public sector workplaces, and in a further one in twenty private sector workplaces, part of the pay package is determined by collective bargaining.

For almost half of all workplaces, pay is set unilaterally by management. In half of these cases, pay is determined by managers at a higher level in the organisation, in the other half, it is set by managers at workplace level.

In the private sector, unilateral pay setting is the exclusive method of pay determination in almost two thirds of all workplaces. In half of the cases, this takes place at a higher level in the company, in the other half, this takes place at workplace level. In a further quarter of workplaces, a mixture of methods is used.

In the public sector, “other methods” (usually par review bodies, cf. above) or a mixture of methods determine pay in more than half of all workplaces. Unilateral pay setting by management is the exclusive method of pay determination in only one in ten workplaces. Where it takes place, pay is usually set at a higher level in the organisation, not at workplace level.
Table 4.2: Methods of Pay Determination in Britain in 1998, by sector
workplaces covered by different methods, in per cent

<table>
<thead>
<tr>
<th>Collective bargaining (CB):</th>
<th>Private sector</th>
<th>Public sector</th>
<th>All workplaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Only set by multi-employer CB</td>
<td>2</td>
<td>22</td>
<td>7</td>
</tr>
<tr>
<td>Only set by single employer CB</td>
<td>6</td>
<td>11</td>
<td>7</td>
</tr>
<tr>
<td>Only set by workplace level CB</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Sub-total</td>
<td>9</td>
<td>33</td>
<td>15</td>
</tr>
</tbody>
</table>

Set unilaterally by management:

| Only set by management at higher level | 32 | 9 | 25 |
| Only set by management at workplace level | 31 | 1 | 23 |
| Sub-total                              | 63 | 10| 48 |

| Only set by individual negotiations   | 3  | 0 | 3  |
| Only set by other methods             | 3  | 20| 8  |
| Set by a mixture of methods           | 22 | 37| 26 |
| Total                                | 100| 100|100|

Where pay is set by a mixture of methods, any part of it is set by (out of 100):

<table>
<thead>
<tr>
<th></th>
<th>Private sector</th>
<th>Public sector</th>
<th>All workplaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>collective bargaining</td>
<td>20</td>
<td>60</td>
<td>31</td>
</tr>
<tr>
<td>management</td>
<td>83</td>
<td>23</td>
<td>66</td>
</tr>
<tr>
<td>individual negotiations</td>
<td>9</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>any other methods</td>
<td>6</td>
<td>54</td>
<td>19</td>
</tr>
</tbody>
</table>

Source: Cully et al. 1999: 109 (base: all workplaces with 25 or more employees), own calculations

4.1.3 Coverage According to Firm Size

Table 4.4 (which is a more detailed version of table 4.1) provides a breakdown of 1998 bargaining coverage rates according to firm size. The table shows that establishment size and the incidence of collective bargaining on pay are strongly correlated positively in both the private and the public sector, while unilateral pay setting by management is negatively correlated with establishment size. With other words: the bigger the establishment, the higher the incidence of collective bargaining, and the lower the incidence of unilateral pay setting.

Levels of collective bargaining and establishment size, on the other hand, are only weakly correlated. In the private sector, the incidence of multi-employer bargaining and establishment size are not correlated at all, while the incidence of collective bargaining both “higher in the organisation” and at workplace level are positively correlates with establishment size: only five per cent and two per cent of employees in the smallest workplaces, respectively, are covered by collective bargaining higher in

44 for non-managerial employees
the organisation and at workplace level, while 25 per cent and 16 per cent in large workplaces are covered. With other words, the incidence of collective bargaining both higher in the organisation and at workplace level increases with workplace size. The incidence of multi-employer bargaining, however, does not (as there is no linear relation between the two variables). Rather, the relation between the incidence of multi-employer bargaining and workplace size is hump-shaped: the incidence is low in small workplaces, relatively high in medium-sized workplaces, and small again in large workplaces (cf. figure 4.3).

Figure 4.3: Multi-employer Bargaining and Workplace Size

Coverage of private-sector employees in 1998, in per cent, by workplace size

An explanation for this pattern has to take into account two facts: Firstly, small firms have traditionally been reluctant to join employers’ organisations, which negotiate multi-employer agreements on behalf of their members. Most members of employers’ organisations are therefore medium-sized or large enterprises. However – and this is the second fact – many large employers left their employers’ organisations in the 1980s and 1990s, as they believed that changed circumstances (new legislation, changed economic situation) put them in a position where they could negotiate more favourable deals with “their” unions themselves than their employers’ organisation could; in other cases (cf. ch. 3.1.2) employers started negotiating with unions directly because negotiations at multi-employer level had stalled.

Thus, medium-sized employers are the only ones left who still participate in multi-employer bargaining to a certain extent. The reason for this is that medium-sized employers often do not have the manpower and expertise to negotiate with unions themselves, thus they are happy (that is, if they are not opposed to collective bargaining in general) to leave collective bargaining to their employers’ organisation.
Table 4.4: **Methods of Pay Determination in Britain in 1998, by workplace size and sector**

*non-managerial employees covered by different methods of pay setting, in per cent*

<table>
<thead>
<tr>
<th></th>
<th>collective bargaining</th>
<th>set by management</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>multi employer</td>
<td>higher in organisation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>private sector workplaces:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25-49 employees</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>50-99 employees</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>100-199 employees</td>
<td>10</td>
<td>11</td>
</tr>
<tr>
<td>200-499 employees</td>
<td>5</td>
<td>13</td>
</tr>
<tr>
<td>500 or more employees</td>
<td>2</td>
<td>25</td>
</tr>
<tr>
<td>all private sector workplaces</td>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td><strong>public sector workplaces:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25-49 employees</td>
<td>30</td>
<td>11</td>
</tr>
<tr>
<td>50-99 employees</td>
<td>30</td>
<td>19</td>
</tr>
<tr>
<td>100-199 employees</td>
<td>37</td>
<td>15</td>
</tr>
<tr>
<td>200-499 employees</td>
<td>43</td>
<td>20</td>
</tr>
<tr>
<td>500+ employees</td>
<td>35</td>
<td>16</td>
</tr>
<tr>
<td>all public sector workplaces</td>
<td>35</td>
<td>16</td>
</tr>
<tr>
<td><strong>all workplaces</strong></td>
<td>14</td>
<td>15</td>
</tr>
</tbody>
</table>

Source: Cully et al. 1999: 108 (base: all workplaces with 25 or more employees), own calculations
### 4.1.4 Sectoral Coverage Rates

Figure 4.5 provides a breakdown of collective bargaining coverage rates in 2001 according to sector. The data comes from the Autumn 2001 Labour Force Survey.

According to this data, coverage rates are above average in public services (education, health) and public administration, and in formerly nationalised industries (utilities, transport, communication). Coverage rates are below average in private services and in manufacturing. The highest coverage rate is in public administration (77 per cent), followed by the privatised utilities (64 per cent), and lowest in real estate and business services (11 per cent) and the hotels and restaurant sector (9 per cent).

*Figure 4.5: Employees Covered by Collective Agreements in 2001, by sector in per cent*

<table>
<thead>
<tr>
<th>Sector</th>
<th>Coverage Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public administration</td>
<td>77</td>
</tr>
<tr>
<td>Utilities</td>
<td>64</td>
</tr>
<tr>
<td>Education</td>
<td>63</td>
</tr>
<tr>
<td>Health</td>
<td>50</td>
</tr>
<tr>
<td>Transport, communication</td>
<td>48</td>
</tr>
<tr>
<td>Financial intermediation</td>
<td>38</td>
</tr>
<tr>
<td>All employees</td>
<td>36</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>30</td>
</tr>
<tr>
<td>Other services</td>
<td>29</td>
</tr>
<tr>
<td>Mining, Quarrying</td>
<td>25</td>
</tr>
<tr>
<td>Construction</td>
<td>23</td>
</tr>
<tr>
<td>Wholesale and retail trade</td>
<td>18</td>
</tr>
<tr>
<td>Agriculture, forestry, fishing</td>
<td>14</td>
</tr>
<tr>
<td>Real estate, busin. services</td>
<td>11</td>
</tr>
<tr>
<td>Hotels, restaurants</td>
<td>9</td>
</tr>
</tbody>
</table>

4.2 The Evolution of Collective Bargaining Coverage

4.2.1 Economy-wide Development of Coverage Rates

The decentralisation of collective bargaining (that is, the replacement of multi-employer bargaining with single employer bargaining) in Britain is by no means a new development. The coverage of employees by multi-employer agreements has been decreasing steadily since the end of the Second World War, from 60 per cent of all non-managerial employees in 1950 to just 5 per cent in 1998 (cf. table/figure 4.6). At the same time, the coverage of employees by single-employer agreements has been increasing steadily, from 20 per cent in 1950 to 40 per cent in 1980. With other words, multi-employer agreements had increasingly been replaced by single employer agreements. The overall coverage of employees by (any) collective agreements thus remained relatively stable until 1980.

However, the increase of (coverage by) single employer agreements stalled during the 1980s, and has been decreasing since the early 1990s. With other words: while the period until 1980 was marked by opposite developments of (coverage by) multi-employer and single-employer agreements, the period since 1990 was marked by decreasing coverage of all forms of collective bargaining. Thus, what is taking place since the 1990s is not a decentralisation of collective bargaining, but an overall “decline of collective bargaining as a mechanism of employment regulation” (Hyman 2001a). The topic of (bargaining) decentralisation is irrelevant now in Britain, as collective bargaining “evaporates” altogether (Neal 2003). As a result of these developments, the number of employees whose pay is not fixed by collective bargaining has increased sharply since 1980 (cf. figure/table 4.6).

This development can be explained largely by changed government policies. Whereas all previous post-war governments took a positive approach to (centralised) collective bargaining, the election of Margaret Thatcher in 1979 meant a significant change in the government’s approach towards collective bargaining. Collective organisations and institutions such as trade unions and collective bargaining were seen as an obstacles to a free labour market (Deakin/Morris 1998) that should be removed. Anti-union legislation and the repeal of legislation supporting collective bargaining were meant to achieve this. The repeal of the 1946 Fair Wages Act in the early 1980s, which provided for the extension of multi-employer agreements to non-union firms in the same industry, and the abolition of the Wages Councils in 1993 are examples for this (Zagelmeyer 2003: 6).
Table/Figure 4.6: Evolution of the Private-sector Bargaining Structure in the United Kingdom

non-managerial private sector employees covered by collective bargaining (CB), 1950-98, in per cent

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pay fixed by CB (total)</td>
<td>80</td>
<td>75</td>
<td>70</td>
<td>70</td>
<td>60</td>
<td>50</td>
<td>28</td>
</tr>
<tr>
<td>of which:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- multi-employer CB</td>
<td>60</td>
<td>45</td>
<td>35</td>
<td>30</td>
<td>20</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>- single employer CB</td>
<td>20</td>
<td>30</td>
<td>35</td>
<td>40</td>
<td>40</td>
<td>40</td>
<td>23</td>
</tr>
<tr>
<td>Pay not fixed by CB</td>
<td>20</td>
<td>25</td>
<td>30</td>
<td>30</td>
<td>40</td>
<td>50</td>
<td>71</td>
</tr>
</tbody>
</table>


4.2.2 Development of Sectoral Coverage Rates

The following figure and table (figure/table 4.7) provide a sectoral breakdown of the evolution of collective bargaining coverage from 1998 to 2001 (newest available data). In this relatively short period, some considerable changes have taken place: Big relative increases in collective bargaining coverage have taken place in three industries where unions have traditionally been weak (and where collective bargaining coverage has thus been low): the number of employees covered by collective agreements in agriculture, forestry and fishing has increased by more than half, and in trade and in hotels and restaurants by more than a quarter. On the other hand, collective bargaining coverage has decreased by almost ten percent in manufacturing, and by almost twenty in mining and quarrying, two industries where unions have traditionally been strong.
### Table/Figure 4.7: Employees Covered by Collective Agreements 1998 – 2001, by sector and by union membership in per cent

<table>
<thead>
<tr>
<th>Sector</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>Δ in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture, forestry and fishing</td>
<td>9</td>
<td>15</td>
<td>15</td>
<td>14</td>
<td>+55.6</td>
</tr>
<tr>
<td>Wholesale and retail trade</td>
<td>14</td>
<td>17</td>
<td>18</td>
<td>18</td>
<td>+28.6</td>
</tr>
<tr>
<td>Hotels and restaurants</td>
<td>7</td>
<td>10</td>
<td>9</td>
<td>9</td>
<td>+28.6</td>
</tr>
<tr>
<td>Other services</td>
<td>26</td>
<td>30</td>
<td>30</td>
<td>29</td>
<td>+11.5</td>
</tr>
<tr>
<td>Construction</td>
<td>22</td>
<td>26</td>
<td>24</td>
<td>23</td>
<td>+4.5</td>
</tr>
<tr>
<td>Transport and communication</td>
<td>46</td>
<td>47</td>
<td>48</td>
<td>48</td>
<td>+4.3</td>
</tr>
<tr>
<td>Health</td>
<td>50</td>
<td>52</td>
<td>51</td>
<td>50</td>
<td>0</td>
</tr>
<tr>
<td>Education</td>
<td>64</td>
<td>63</td>
<td>64</td>
<td>63</td>
<td>-1.6</td>
</tr>
<tr>
<td>Public administration</td>
<td>79</td>
<td>77</td>
<td>78</td>
<td>77</td>
<td>-2.5</td>
</tr>
<tr>
<td>Utilities</td>
<td>69</td>
<td>62</td>
<td>64</td>
<td>64</td>
<td>-7.2</td>
</tr>
<tr>
<td>Real estate, business services</td>
<td>12</td>
<td>12</td>
<td>13</td>
<td>11</td>
<td>-8.3</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>33</td>
<td>32</td>
<td>31</td>
<td>30</td>
<td>-9.1</td>
</tr>
<tr>
<td>Financial intermediation</td>
<td>44</td>
<td>41</td>
<td>41</td>
<td>38</td>
<td>-13.6</td>
</tr>
<tr>
<td>Mining and Quarrying</td>
<td>31</td>
<td>32</td>
<td>34</td>
<td>25</td>
<td>-19.3</td>
</tr>
<tr>
<td>Union members</td>
<td>81</td>
<td>77</td>
<td>77</td>
<td>77</td>
<td>-4.9</td>
</tr>
<tr>
<td>Non-union members</td>
<td>14</td>
<td>17</td>
<td>17</td>
<td>17</td>
<td>+21.4</td>
</tr>
<tr>
<td>All employees</td>
<td>34</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>+5.9</td>
</tr>
</tbody>
</table>

Sources: 1998-2001 Labour Force Surveys
Interestingly, the coverage of union members by collective agreements has decreased, while the coverage of non-members has increased considerably. This could be explained by the fact that union now start organising (and negotiating collective agreements) in sectors where they have previously been weakly represented.
5) Issues covered by Collective Bargaining

Question: Which are the main issues dealt with in collective bargaining (traditional bargaining on wages and working conditions, bargaining on other issues such as training, mobility between jobs etc., broader agreements on social and economic policy, etc.), and how has this changed over time?

“(L)ong term, substantial, carefully worded agreements running to many pages and covering all sorts of subjects comprehensively (…) are (…) very much in the minority. For most, the rather elemental few-page agreement is typical.”
(Brewster 1992: 155)

5.1 Evolution of Collective Bargaining Issues

The scope of collective agreements (that is, the number of issues an agreement deals with) has been declining steadily in recent decades (Brown 1993; Arrowsmith 2000: 3).

From the mid-1960s onwards, the contents of multi-employer agreements had increasingly shifted from determining increases in the wage floors, which affected the earnings of all employees covered by the respective collective agreement, to determining minimum standards only (sometime to be supplemented by local negotiations) which affected only the lowest-paid employees in the industry (Brown/Terry 1978; Brown 1981).

In single-employer agreements, there was a noticeable shift in substantive clauses towards greater flexibility, while procedural clauses have been rather robust over time: apart from some procedural extensions, there was little change (Dunn/Wright 1994).

A new development of the 1980s were so-called “new style” collective agreements, which require employees (among other things) to be flexible (Bassett 1987: 96f) (cf. next section). A more recent development, which is partly a further development of “new style” agreements are so-called “pacts for employment and competitiveness”, which link employment security to concessions on the side of employees such as changed working practises and increased flexibility (cf. next but one section).

5.1.1 “New Style” Collective Agreements

So-called “new style” agreements, or “single union, strike free” agreements as they are sometimes referred to, gained prominence in Britain during the 1980s. They consist of a number of related elements (cf. Brewster 1992: 163f):
• single union recognition,
• a reliance on arbitration procedures in order to exclude industrial action, in particular strikes (thus “no strike” deal),
• a high degree of information sharing by management,
• participative institutions such as company advisory boards or company councils,
• substantial flexibility in working practices (for examples, cf. box 5.1)
• wide-ranging training and re-training,
• single-status conditions for all employees.

Box 5.1: Examples of Flexibility Clauses in “New Style” Coll. Agreements

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>EXAMPLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOSHIBA</td>
<td>“In reaching this agreement the trade union recognises and supports the complete flexibility of jobs and duties within the company, both within departments and between the various departments of the company, subject to individual skills and capabilities. In return the company recognises and accepts the need for training and retraining the broadening of skills and in new technological developments as they affect the company’s efficiency as a manufacturing operation.”</td>
</tr>
<tr>
<td>INMO</td>
<td>“Unions and management agree to respond flexibly and quickly to changes in the pattern of demand for the company’s products and to technological innovation.”</td>
</tr>
<tr>
<td>AB ELECTRONICS</td>
<td>The collective agreements requires “the maximum co-operation and support from all employees in achieving a completely flexible, well-motivated workforce, capable of transferring on a temporary or permanent basis on to work of any nature, that is within the capabilities of such employees, having due regard to the provisions of adequate training and safety arrangements.”</td>
</tr>
<tr>
<td>SANYO</td>
<td>At Sanyo, all employees are expected to work in any job which they are capable of doing. In-plant training is provided, and job rotation is practised throughout the company. There are no job descriptions, and all production, inspection and most clerical staff are paid the same job salary.</td>
</tr>
</tbody>
</table>

Source: Bassett 1987: 96f

None of these elements is new (single union deals are common), however their combination into a single agreement was an innovation. These agreements have been the subject of much controversy, and led to the expulsion of one union, the EETPU, from the TUC in 1988, which negotiated several such agreements, excluding other unions from negotiating rights. Although the number of these agreements grew considerably in the 1980s, and received considerable attention by the press, the overall number remained very small indeed in relation to the overall number of agreements (Brewster 1992: 164f).

45 Those institutions, however, usually have considerably less rights than continental-style works councils. Furthermore, as opposed to the latter, they rely on management good-will, and thus cannot be turned into an instrument of power by unions.
5.1.2 Pacts for Employment and Competitiveness

A recent innovative approach to collective bargaining, against the backdrop of increasing international competition and rising unemployment from the later 1990s onwards, has been the conclusion of so-called “pacts for employment and competitiveness” (PECs). PECs are collective agreements which combine three main elements: employment security, competitiveness, and partnership (Sisson et al. 1999; Zagelmeyer 2000; Sisson 2001).

Research on PECs (European Foundation 2002) found that

- they widen and deepen the bargaining agenda;
- they are prevalent in sectors such as manufacturing, banking and recently-privatised public enterprises, where there is considerable pressure to restructure, reflecting changing market conditions;
- for management, they offer an opportunity to reduce costs, improve flexibility, and change organisational culture;
- for unions, they offer the possibility to minimise job losses and strengthen their role in company decision making;
- while they are seen to have made a positive contribution to competitiveness and employment, they are not deemed sufficient for growth and employment creation;
- they encourage the decentralisation of collective bargaining;
- they encourage a change in emphasis from “distributive bargaining” to “integrative bargaining”, including not only trade-offs but also on-going joint monitoring and assessment.

PECs are precariously balanced between unions and management. One of their essential elements is their evolutionary nature. For unions, they are frequently a last attempt to secure jobs during, or after, major reorganisations. For management, they are often the only way to achieve additional flexibility. As such these agreements are the culmination of a set of special conditions unique to each individual organisation, and are not likely to be transferable as a package from one organisation to another (Gilman 1997).

For two examples of PECs in the manufacturing industry and the service sector, cf. boxes 5.52 and 5.3.

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46 PECs are not specific to Britain, but can be found in most European countries.
Job security guarantees are significantly more widespread in the financial services sector than in almost every other part of the economy. Staff in almost 40% of workplaces in financial services are covered by a job security agreement. The partnership agreement between the Co-operative Bank and the banking union BIFU, a central feature of which is a strengthened commitment to employment security, provides a good example.

The Co-operative Bank is a medium-sized bank, employing around 4,000 staff. In 1997 (when the agreement was signed), staff in the Bank were organised by the Banking, Insurance and Finance Union (BIFU, now Unifi) which had sole recognition rights to represent and negotiate with management on behalf of staff. The density of trade union membership was around 80 per cent.

BACKGROUND
From the mid-1980s, a combination of deregulation and new technologies led to increasingly fierce competition in the banking industry, prompting widespread restructuring and rationalisation (including many branch closures), resulting in substantial reductions in employment. Employment at the Co-operative Bank declined by 20% (in full-time-equivalents) between 1990-98.

At the same time, there was a growing recognition by both management and unions that the far-reaching changes occurring in the market for banking and financial services were likely to continue, and that there were compelling reasons for reviewing and modernising their relationship, ensuring that the implementation of changes such as new working practices was mutually beneficial. This recognition led to the conclusion of a partnership agreement between the Coop Bank and BIFU in May 1997.

RATIONALES OF THE PARTIES
For the Bank, the partnership arrangements was a tool to “repair” previously bad industrial relations. The Bank was also concerned with securing predictability over wage costs, at a time when its financial position remained fragile. On the union side, BIFU had been keen to secure job security agreements with employers throughout the 1990s. Furthermore, the agreement offered to broaden the remit of the industrial relations agenda and to involve more union members in greater depth than before in change processes within the Bank.

PROCESS
The initial impetus for the partnership agreement came from BIFU. The Bank was receptive as it saw the possibility of securing changes in working and employment practices in a way that cut through existing industrial relations procedures and which secured wage stability. The negotiations were protracted over 6 months. Both sides encountered some difficulty in securing support from their own constituencies, as it (the agreement) required a willingness to cast aside previous ways of doing things.

CONTENTS
The partnership agreement concluded between the Coop Bank and BIFU in May 1997 ran initially for 3 years. A strengthened commitment to employment security, involving an undertaking that no compulsory redundancy was anticipated for the duration of the agreement, and a 3-year pay deal are central features of the agreement, but so too was a new way of dealing with issues. The agreement specifies that it is intended to provide a framework for:

- the sensitive and effective use of change management during a period of likely business development;
- improved pay and rewards throughout a 3-year period; and
- the joint review of a number of wider issues related to working practices and employee benefits through project teams.
EFFECTS OF THE AGREEMENT
For management, the agreement provided a mechanism for delivering changes in working and employment practices, which have underpinned the continued transformation of the Bank’s performance over recent years. For employees, the agreement provided clear gains, too: there have been no compulsory redundancies, the Bank has delivered pay rises over inflation and is prepared to carry people on surplus lists.

EVALUATION
The employment security commitment made in the May 1997 partnership agreement strengthened, and following major redundancies in the early 1990s gave fresh credibility to, the Co-operative Bank’s long-standing agreement on job security concluded in 1983. The commitment to no compulsory redundancy over the 3-year period during which the agreement is in force is an integral part of a package, which facilitates changes in working and employment practices and provides a long-term pay deal. For the Bank, faced with rapid changes in market conditions and technologies, there is a clear business, as well as industrial relations, rationale for the agreement. The key exchange is between income and employment security for staff and acceptance of the need for, and the fact of, greater flexibility and change. For the union, employment security is part of an exchange, which has secured wider involvement in the change process within the Bank as well as economic gains for its members.

Although circumstances provided both the bank and BIFU with motives to enter into an innovative agreement, which incorporated a renewed employment security guarantee, there was no inevitability about the process. Indeed, just 7 or 8 years ago, both sides acknowledged that relationships between them were poor. Key individuals, on both the management and trade union sides, were influential as they were committed to a different, partnership approach. Obstacles to a successful outcome to the negotiating process were more apparent within the wider management and trade union constituencies than between the parties directly involved in the negotiations.

Sources: based closely on Marginson 1999, 2002

Box 5.3: Pacts for Employment and Competitiveness: Manufacturing Industry Case Study – Vauxhall Motors

The employment security and flexibility agreements reached in Vauxhall are of particular interest for a number of reasons. Firstly, having been introduced in the late 1980s, they represent one of the longest standing UK examples of an approach that links employment security to changes in pay and working practices. Secondly, the agreements have successfully withstood a critical testing time and were reformulated in 1998. Thirdly, there is an explicit European dimension both in terms of context and content. The 1998 renewal was triggered by the conclusion of similar agreements in sister companies in other EU Member States, while pay was linked to the sterling/euro exchange rate as part of the deal.

BACKGROUND
Vauxhall is the UK subsidiary of General Motors (GM), the world’s biggest car company. Until recently, the company has operated from two factories based at Ellesmere Port in the North West of England, and at Luton, north of London.

At the time of the deal, employees were organised by the manufacturing unions AEEU and TGWU as well as the white-collar union MSF.

In the late 1990s, General Motors threatened to close the Luton plant because of the pound's strength against the Deutschmark (making it far cheaper to produce cars in Germany) and the crisis in the Far East. In response to this crisis Vauxhall managers met with all three recognised unions to reach a deal linking flexible production with employment security.
The deal had to be reached in a very short time span, and both sides felt that the trust that had been established through the company's long-standing open consultation and information sharing were crucial. In 1998 workers at Vauxhall’s Luton and Ellesmere Port plants voted overwhelmingly for an agreement which was spread over three years and linked pay to the strength of the pound.

CONTENTS
The agreement included the following items:

Employment
- No compulsory redundancies arising from implementation of the agreement
- Safeguard Luton jobs by building replacement Vectra
- Safeguard Ellesmere Port jobs by building replacement Astra

Pay
- 3-year deal: 3.5% year 1; higher of RPI or 3% year 2; RPI year 3
- Exchange rate bonus of 0.5% in year 3 if sterling rate drops relative to euro
- Reduced new starter rates, though progression to full rates by three years
- Reduction of future productivity payments above current levels

Working time
- Variable “hours corridor“ (+ 5 hours per week)
- Part-time and temporary employment (up to tenth of relevant workforce)
- Facility for working through annual “shutdowns”

Work organisation
- Commitment to “world class standards“ (new “lean production“ techniques)
- Facility for outsourcing of contracts

EVALUATION
The employment security aspect of the agreement 1998 was fundamental to employee acceptance of ongoing productivity change. The original deal was struck against the backdrop of a plant closure and closer integration of the company into GM Europe. It was designed not just to reassure the workforce in a time of change but also to signal a new departure in employee relations. Both the union and management representatives who were interviewed emphasised the success of the employment agreement in helping to shift attitudes and relations from an adversarial to a joint problem solving approach.

The first real test came in 1998 when it seemed that the proviso of “exceptional business circumstances“, which had never been defined, would extend to internal GM decisions about consolidation of productive capacity. The key question had moved on from there being no enforced redundancies arising from productivity changes to one of saving a whole plant from possible closure. Both management and unions quickly realised that the original agreement would have to be refashioned to help secure the future of the company.

The revision of the agreement succeeded in securing employment at both plants for at least some time. Both parties declared themselves satisfied with the outcome, although the unions were aware that they had in effect committed themselves to potentially open and varied change in return for the employment guarantee. However, both sides were keen to point out that the employment guarantee did not just serve an immediate purpose in safeguarding jobs, but was symbolic of a long-term commitment to build relationships based on good faith and trust.

Sources: based closely on Arrowsmith 2002, Wergin 2003, IPA 2004
5.2 Issues covered by Collective Bargaining in Current Practice

In Britain, there is a distinction between procedural and substantive agreements. Procedural agreements regulate the relationships between employer and trade unions (e.g. the specification of bargaining units and the status of unions and their representatives) as well as the treatment of individual workers (e.g. disciplinary procedures).

Substantive agreements deal with pay and other terms and conditions of employment such as working hours and holidays. Substantive issues could be both of quantitative as well as qualitative nature. The most important quantitative issues are working time and pay. Important qualitative issues are production technology and the organisation of work (EMIRE 2004).

Which issues are covered is influenced by history and tradition, by the level at which the agreements are reached, by the parties’ bargaining position (i.e. their strength), and by particular issues of the moment. Collective agreements are usually about pay, i.e. about salaries and wages, incentive schemes (such as performance related pay) and premium payments (such as overtime premiums and Christmas bonuses). They often deal with working organisation, and sometimes with other terms and conditions of employment such as pensions, training or holidays. Only very occasionally do collective agreements in Britain cover other topics; agreements on issues such as recruitment and future investments are exceptional (Brewster 1992: 155).

5.2.1 Substantive Issues

Collective Agreements in the UK are likely to incorporate some or all of the following substantive issues (cf. Brewster 1992: 155ff):

1. **Pay Levels and Structures**

   Most collective agreement deals with pay levels. The most common ones, which are typically re-negotiated annually, comprise only a pay increase. They deal, with other words, with pay levels. Those agreements are also referred to as wage agreements. Increasingly, collective agreements also deal with pay structures. These agreements, or separate ones, may also cover issues such as bonuses and premium payments etc.

2. **Other Terms and Conditions**

   Topics such as hours of work, holidays, pensions and health and safety are regularly (though less frequently than pay) included in collective agreements.
3. Job Evaluation

Systematic job evaluation systems are usually introduced, and often administered by, collective agreements. In workplaces where formal and systematic job evaluation systems (including comparison with each other) are used, which is the case in about one fifth of all workplaces with 25 or more employees (Millward/Stevens 1986: 255; in Brewster 1992: 156), these systems are usually the subject of collective agreements.

4. Working Organisation

The organisation of work, that is, questions such as manning levels, the allocation of tasks and functions, the structure of teams, and the ways in which tasks are executed, are frequently dealt with in collective agreements.

5. New Technology Agreements

Collective agreements on the introduction of new technology were an important topic for several unions during the early 1980s. However, these agreements have not become common: Among companies which recognise trade unions, only 10 to 15 per cent negotiate over the implementation of new technology (Daniel 1987: 130, 149; in Brewster 1992: 156). This might be explained by the fact that, after the weakening of trade unions in the 1980s and 1990s, managers often were in a position to introduce new technology without having to consult with unions.

6. Flexibility and Productivity

So-called “productivity bargaining”, which was concerned with limited changes to working practices in order to improve productivity, was an important practice during the 1960s. Productivity bargaining had a revival in the form of “pacts for employment and competitiveness” since the 1990s. These collective agreements are, however, more far-reaching than those from the 1960s. They usually promise employment security in return for increased flexibility among the workforce in order to raise productivity (for examples, cf. boxes 5.2 and 5.3).

7. Redundancies

The reduction of the workforce might be regulated by means of collective agreements. Obviously, such agreements are of a defensive nature, negotiated by unhappy unions in order to prevent worse. Usually, unions focus on raising the compensation paid to employees who were made redundant.

8. Training

Traditionally, British unions limited their concern with training on apprenticeships. However, since the virtual collapse of the British apprenticeship system, unions widened their concern, and are now much more willing to bargain over training, re-training and further training, and agreements on these topics are now widespread in many industries.
5.2.2 Procedural Issues

Collective Agreements in the UK are likely to deal with some or all of the following procedural issues (cf. White 1992: 191ff; Dunn/Wright 1994):

1. *Disputes*
   The most important procedural issue is how to deal with disputes between employees and their unions, on the one side, and managers and employers on the other. Basically, this relates to the conduct of industrial action, and how to deal with it. Thus, regulations on disputes might include compulsory “cooling down” periods and/or mediation and arbitration. Some so-called “new-style agreements” also include no-strike clauses (Bassett 1987).

2. *Other Union Related Procedures*
   Other procedural issues related directly to trade unions deal, among other things, with check-off (the deduction of union dues directly from employees’ pay by employers on behalf of unions), facilities for shop stewards and. One very important issue was the closed shop, which, however, has subsequently been outlawed by the Thatcher government.

3. *Grievance Procedures*
   Grievance procedures enable individual employees to communicate criticisms or problems to superiors or higher management.

4. *Disciplinary Procedures*
   Disciplinary procedures enable managers to take measures against employees who breach certain rules and regulations.

5. *Redundancy Procedures*
   Redundancy procedures are meant to assist unions and employers to deal with redundancies, if unavoidable, in a controlled and orderly fashion. Those procedures are designed to lead to substantive regulations on redundancies (cf. above, point 7).

6. *Health and Safety Procedures*
   Health and Safety procedures are there to achieve safe and healthy working conditions.

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47 It is worth discussing whether this is actually a procedural or a substantive issue (cf. supra: pt. 2 in “substantive issues”).
5.3 Empirical Data on Collective Bargaining Issues

While collective agreements in Britain, in theory, can include many issues, as described above, most of them, in practice, deal with relatively few issues. The most common topic is pay: in 38 per cent of all workplaces with at least one recognised trade union representative (and in 13 per cent of all workplaces with at least one non-union employee representative recognised by management) there is collective bargaining on pay and/or conditions of employment (cf. figure 5.4).

Unfortunately, the Workplace Employee Relations Survey (WERS), from which this data is taken (cf. Cully et al. 1999: 104), does not provide information about the proportion of collective agreements that deals with certain issues. It only provides information about the proportion of workplaces with employee representatives where collective bargaining on certain issues takes place. However, it can be assumed that collective bargaining on pay occurs in most workplaces where any collective bargaining takes place.

WERS does not distinguish between pay and other conditions of employment. Yet, we know from other research (e.g. Brewster 1992; Wright 1993; Dunn/Wright 1994) that considerably more collective agreements deal with pay than with other terms and conditions of employment.

In 17 per cent of workplaces with union representatives (13 per cent in workplaces with non-union representatives), there is collective bargaining on handling grievances; in 13 (24) per cent of workplaces collective bargaining on health and safety issues occurs; in 12 (7) per cent of workplaces collective bargaining on systems of payment takes place; and in 7 (17) per cent of workplaces, collective bargaining on equal opportunities happens.

Equal opportunities and health and safety are the only issues which are dealt with more often by non-union representatives (and management) than by union representatives. Usually, it is the other way round: more collective bargaining is taking place between union representatives and management than between non-union representatives and management.

On all other issues which WERS included – performance appraisals, staffing or manpower planning, training, and recruitment and selection, there was collective bargaining in less than 6 per cent of workplaces with recognised employee representatives (union and non-union) (cf. figure 5.4, cf. Cully et al. 1999: 104).

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48 As mentioned earlier, there is little and insufficient data on collective bargaining.
The following figures and tables (5.5 and 5.6) depict the results of a more detailed (however less recent) study than WERS on the contents of British collective agreements in 1979 and 1991 (Dunn/Wright 1994). Figure and table 5.5 show which procedural issues British collective agreements deal with, while figure/table 5.6 deal with substantive issues.

The most common procedural issue to be dealt with in collective agreements are regulations regarding disputes. All studied agreements from 1990, and almost all from 1997, contain provisions on how to deal with disputes. More than four in five agreements (both in 1979 and 1991) deal with the provision for facilities for shop stewards, while around half deal with check-off\textsuperscript{49} mechanisms. Provisions regarding closed shops featured prominently, too, in both 1979 (in a third of agreements) and 1991 (in two in five agreements). However, those will have disappeared, as the closed shop was outlawed by the conservative government of Margaret Thatcher.

\textsuperscript{49} The term “check off” means that employers deduce unions’ dues from wages on behalf of unions.
The most important substantive issues to be dealt with in British collective agreements are job grading structures (46 per cent of agreements in 1991, and two in five agreements in 1979). The second most important substantive issue in 1991 were flexibility agreements, which featured in more than a third of agreements in 1991. The incidence of those agreements increased more than twofold between 1979 and 1991, which underlines how important flexibility has become for employers. Flexibility agreements can include various provisions, for example, on new technology or flexible work. They regularly also include, in exchange for employees; concessions, guarantees regarding the security of jobs and/or earnings. Agreements which are based on such an “exchange of concessions” are referred to as “pacts for employment and competitiveness”. For two examples from the service sector and the manufacturing industry, cf. boxes 5.2 and 5.3 above.

Another important substantive issue are job descriptions, which are included in one in seven agreements both in 1979 and 1991.
**Figure/Table 5.6: Substantive Issues of Collective Bargaining in British Workplaces, 1979 and 1991**

*Issues dealt with in workplaces with union representatives, in per cent*

**Diagram Description:**
- **Grading structures:** 1979: 14%, 1991: 46%
- **Flexibility agreement:** 1979: 36%, 1991: 20%
- **Flexible work:** 1979: 2%, 1991: 16%
- **Security of earnings:** 1979: 4%, 1991: 4%
- **Job description:** 1979: 14%, 1991: 12%
- **Security of jobs:** 1979: 2%, 1991: 12%
- **New technology:** 1979: 10%, 1991: 16%

**Table:**

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<th>1979</th>
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<td><strong>Job description</strong></td>
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<td><strong>Grading structures</strong></td>
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<td><strong>Flexibility agreements</strong></td>
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<td>on flexible work</td>
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<td>on security of jobs</td>
<td>4</td>
<td>12</td>
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<tr>
<td>on security of earnings</td>
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<td>16</td>
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**Source:** Dunn/Wright 1994
6) The Role of Collective Bargaining in Transfer of Undertakings and Collective Dismissals

Question: Describe the role of collective bargaining in transfers of undertakings and in collective dismissals.

There is relatively little material available upon which to answer this question. The data which is available concerns bargaining over collective dismissals, which was an area where collective bargaining was well established before the adoption of the Directive in 1975, though some of the situations studied will have involved redundancies arising out of transfers of businesses. The legal rules on this topic were thrown into a state of confusion by the decision of the European Court of Justice in Cases C-382 and 383/92, Commission v UK. Until that time the obligation upon the employer was to consult only with a recognised trade union, if there was one. After these decisions, the law was changed so as to give the employer a choice of consulting with the recognised trade union, a standing consultative body or specially elected employee representatives. Then, the current rules were adopted which require the employer to consult with a recognised trade union, if such exists, and, if not, to consult in either of the other two ways.

The Workplace Employment Relations Survey 1998 (Cully, 1999: 96-97) contains some overall data on the operation of the rules in the second phase noted above (employer free choice). In 82% of cases there was consultation with individual employees (in effect this is required by the unfair dismissal legislation); in 49% consultation with a union; in 21% consultation with a joint consultative committee and in 4% with other employee representatives. More than one form of consultation may be used in a single redundancy (in effect the law requires individual consultation as well as collective consultation). In 12% of cases there was apparently no consultation at all. Since these were mainly redundancies of 20 or fewer workers, the lack of collective consultation is easy to explain, but that lack of individual consultation is not.

As far as the detail of the content of collective agreements, information is available from case studies and so is not necessarily typical. Collective agreements often include ‘no compulsory redundancies’ clauses (especially the ‘partnership’ agreements), a longer consultation period than the statute requires and a more active re-employment/re-deployment policy.

For instance, at Littlewoods Retail, the Union of Shop, Distributive and Allied Workers (USDAW) and the General Union GMB negotiated the following collective agreement pertaining to redundancies.

• No redundancies adopted until all other means of dealing with reduced labour requirements have been exhausted and found to be impracticable.
• Alternative action will be jointly considered, for instance, reducing overtime.
• Reducing the use of temporary staff
• Early retirement and re-deployment.
• If redundancies go ahead then the firm must call first for volunteers. (IDS 2001)

Other case studies were carried out to review the impact of the 1995 statutory changes in response to the ECJ’s decision. The case studies were undertaken in union and non-union environments and so offer up some examples of diverse workplaces.

Eight case studies were undertaken by academics from IRRU University of Warwick for the DTI (1998a). Three of the workplaces studied were non-union, the remaining five were unionised. Of the three non-unionised firms only one managed to establish a legitimate representative for the employees. The two remaining non-union studies consulted individually the affected workers and in both cases, unsurprisingly, the outcome matched management’s initial agenda. In other-words, the consultation did not change management’s preferred method of selection of employees for redundancy. Managers in the two firms who did not consult collectively were reported to be very confused about the exact meaning of the legislation and claimed that they were unsure about whom to consult and how, when the obvious choices were not apparent.

In the unionised workplaces no cases were found where the employer had bypassed the union to consult via an elected employee representative (this is no longer permitted under the law). In fact, out of the data bank of the DTI redundancy notifications only four were found out of 2,048 to be possible examples of bypassing the established trade union. When followed up by the researchers, they proved not to be examples of this behaviour.

The research found that the consultation was much more effective than had been anticipated, especially given that no agreement is a legitimate outcome. However, the methodology of the redundancies rather than the actual principle of redundancy was where the core of consultation was focussed. It is clear that in the unionised workplaces consultation did make a difference. In the engineering workplace under study consultation ensured that the ‘last in – first out’ principle was used in the selection of employees for redundancy. In addition, the consultation provided the AEEU with a space for ‘voice’ and their suggestions for re-organisation saved between 4-5 jobs losses. Other agreements negotiated in the five union workplaces included redeployment of all redundant staff and the keeping on of certain staff for limited periods.

Therefore, in almost all the cases where meaningful consultation took place, more positive outcomes were produced. Nevertheless, the redundancies were generally viewed as inevitable. Where trade unions were present these positive outcomes for the employees were greater. The authors of the report suggested to the DTI that law should tighten up its definition of whom and how to consult. This was done in the 1999 legislation. Also given the positive experiences reported, the authors also recommended that the process of information and consultation should be encouraged. The forthcoming transposition of the Information and Consultation Directive into UK law should make it easier to identify the relevant collective body to be consulted in non-union workplaces.
7) The Influence of European Law and EMU on Collective Bargaining

Question: What has been the influence on national collective bargaining of European law; did the adoption of the Maastricht criteria have an impact on some contents of collective agreements; did the single currency have an impact on wage negotiations; is European Enlargement taken into account for future bargaining policies?

Again this is a very difficult question to answer in the British context. Britain is not part of the Euro-zone and does not have national collective bargaining systems per se. Therefore, in order to answer this section I think it is best to concentrate on the following two areas.

1. Trade union and employer attitudes toward deeper European market and financial integration and especially membership of the Euro-zone. Has anticipated membership and/or non-membership had an affect on bargaining strategy?

2. Trade union and employer response to the proposed enlargement of the EU are they aware of the imminent changes and have they formed a strategy?

7.1 European Integration and the Euro: Perspectives on British membership.

The UK government has decided not to press ahead with a British application to join the single European currency. However, this position is somewhat different from that of the previous administration, at least in rhetoric. Obstacles to British membership are now deemed to be pragmatic rather than an opposition on principle. Therefore, the debate seems to have shifted from the issues around loss of sovereignty onto the actual terms of the Maastricht convergence criteria and the 5 economic tests that must be met, set by the Treasury.

Gilman (1998b) highlights the Government’s main areas of concern, all of which seem focussed on the labour market.

1. Wage flexibility – the Government points to the decentralised system of collective bargaining as a source of strength in this area. Local bargaining is much more sensitive to specific demand conditions and therefore facilitates quick response.

2. Employment flexibility – again the government feels that Britain is well placed to take advantage of the increased competitiveness inherent in the Euro-zone. Hiring and firing regulations are less robust in the UK than elsewhere in the EU. Workers in the UK are also more flexible in terms of total
amount of hours worked and when those hours are worked. Only 10% of the British workforce work a standard 40 hour week (Gilman 1998b)

3. Life long learning – new insecurities occur given the increased competitive environment and shifting structure of the economy, this can be countered by life long learning programs that allow workers to gain skills in order to be flexible enough to shift employment as and when necessary. 'UK plc' must be able to attract foreign direct investment and a flexible, well trained workforce is a key factor. Governmental programs to date have mainly been aimed at the excluded parts of the labour force, long-term unemployed, lone parent and the young.

The CBI is broadly in favour of British EMU membership. Together with the TUC they have strongly criticised the lack of leadership from the political elite and the uncertainty this causes for business investment. Given that Britain has one of the most flexible workforces in the EU employers are confident that this will attract foreign direct investment, however, the political equivocation on the issue has clouded investment with uncertainty. (CBI 2000)

The affiliates to the CBI, like the TUC (and British society more generally) are split as to whether the Euro is a good idea for Britain; however, the majority are in favour. Those in favour feel that more robust competition, lower inflation and price transparency will make Europe more efficient vis-à-vis our major competitors. The fact of currency stability within the Euro-zone would also encourage more direct foreign investment in Britain.

Those who argue against stress the differences between Britain and Continental Europe. Given that Britain would lose its ability to change its currency, the labour market becomes the only mechanism left to respond to changing circumstances. Given that Britain is out of synch with the rest of European economies, it is likely that this will thereby lead to lower wages and/or job losses.

Preparations among business for the introduction of the Euro have been extremely piece-meal. A large amount of preparation took place before the 1st January especially in those firms exporting to the Euro-zone. However, preparations for UK entry are not generally being made except where systems updates allow for factoring in the Euro. Firms will not commit resources to this until the government announces a referendum.

“Like Government, firms are rationally spending just enough to ensure that they can rise to the challenge of the Euro if and when UK entry occurs” (CBI 2000: 7).

The TUC have been highly critical of the UK government for its role in the EU, both in the lack of political leadership on the Euro and the poor record of trying to water-down EU social provisions and then transposing them in a weak fashion in Britain. The TUC have been calling for a nation-wide debate on monetary union since the British opt-out. The fear is that without the pro-Euro camp coming out and campaigning, given the British government’s indecisiveness, the field is left open for the newspapers and the large anti-Euro camp to lead the debate on this issue. For the TUC the Euro is seen as an integral aspect of the integration project that will in-turn
drive the social dimension to the EU. The transposition of EU social directives is increasingly becoming a major activity for the TUC and has brought it back in from the cold of the Thatcher/Major years into social dialogue with employers and Government. The TUC has been a very vocal and strong supporter of European integration since 1988. However there are serious differences of opinion on Euro issues among their affiliates, and the Congress vote on the Euro is getting closer every year. The vote is almost 50%-50%, the manufacturing unions making up a coherent group in favour. Those against are not so well organised and disagree as to the reasons for opposition.

The T&G union feel that the time for entry is not at the present although they present an official policy of ‘wait and see’, in line with meeting the chancellor’s five tests, the debates within the union highlight issues of sovereignty and democracy in addition to the adverse effect the Maastricht criteria would have on public services. Given the recent boost to public spending under the Labour government the T&G want the government to ensure this level of spending continues, in order for them to win a third term, joining the single European currency is seen as a threat to this. (TGWU 2003a, b)

UNISON, the largest TUC affiliate, has a firm anti-Euro stance. To be more precise UNISON are anti the ‘growth and stability pact’ rather than the concept of a single European currency. They are quick to dismiss arguments based on what they term right-wing or nationalistic issues. In their pamphlet ‘Say No’ they suggest that the Chancellor adopt a sixth test for UK entry to the Euro that being the impact on public services. Representing workers in the sheltered sector of the labour force it is unsurprising that issues of international competitiveness do not force their hand in the Euro debate. (UNISON 2002, 2003).

ASLEF take a similar tone, although they accept that Europe is home to the largest trade union movement and the most generous welfare systems, they suggest that recent evidence from within the Euro-zone suggests that these achievements are under increasing threat from the monetarist thrust of the single currency. The lack of individual exchange rate flexibility means the onus will be put firmly on the labour market to be flexible. In addition the undemocratic structure of the ECB and the lack of self-determination in economic policy making are also criticised (ASLEF 2004).

The trade unions in favour of the Euro generally have large sections of membership in the exposed sectors of the economy. MSF/AEEU (Amicus), the GMB, GPMU and KFAT are examples of the pro-Euro group. Like the TUC they view the Euro as an integral part of the integration project and are concerned that Britain is losing influence over some key decisions while not in the Euro-zone. They are specifically concerned with the likelihood that Britain will miss out on inward investment if it remains confused about membership of EMU (AEEU et.al. 1998)

Given the wide diversity of views and the hostility in some parts of the movement it is surprising that the TUC has consistently managed to produce a pro-Euro policy. Recent changes in trade union leaderships might have an impact. The three trade union leaders who were most pro-EU, Ken Jackson (AEEU), Roger Lyons (MSF) and John Edmonds (GMB) have all stood down in the last year.
7.2 Collective Bargaining and EMU

The precise impact of the introduction of the Euro on collective bargaining in Britain is of course impossible to assess. Most studies have veered away from the national analysis and either concentrated on the sectoral level or the company level. Research indicates that a Europeanising element in collective bargaining is most likely to occur in the exposed international sectors, engineering, printing, retail or transport. Findings are thin on the ground to date and it is difficult to disentangle Europeanization from wider process of internationalisation and globalisation. The actual Maastricht criteria would only have a specific impact where national level sectoral bargaining was co-ordinated or inter-sectoral national bargaining takes place. In the British case, given the lack of sector level bargaining, surveys or case studies have concentrated on multi-national companies (MNCs), especially examining the role of European Works Councils as a forum for trade union exchange of information to counter employer demands for internal company competition for investment (labour costs) and ‘benchmarking’ (labour practices).

‘Benchmarking’ is an important process in management for the assessment of employee performance. Managers encourage the use of cross-national comparisons in order that the local plant is able to compete within the internal company structure for capital investment. Managers tend to emphasise overall labour costs rather than specific pay and conditions. In engineering, in particular, benchmarking is a very important process, less so in transport, retail or printing (Arrowsmith/Sisson 1999). However, managers’ encouragement of benchmarking has meant that local worker representatives learn much more about the terms and conditions in all the company’s plants worldwide. This can lead to bargaining demands to ensure parity or above parity vis-à-vis other sites. However, signs of concrete co-ordination across MNCs (outside the European Metalworkers Federation (EMF)) are hard to come by. British unions at the PSA Peugeot-Citroën Ryton Plant made a bargaining claim for a 35 hours week by using a direct comparison with plants operated by the same company in France (Sisson/Marginson 2000). The EMF’s working time charter has been a relevant focus for trade unions attempting to bargain down the working week, trade unions at Ford and GM Vauxhall having made explicit comparisons with other plants in the EU and referred to the charter for legitimacy (Marginson & Schulten 1999). However, given the decentralisation of bargaining in Britain this implementation of these initiatives is again likely to be piece-meal rather than across the board.

The introduction of European Works Councils (EWCs) has provided a forum for trade union or worker representatives to exchange information. However, trade unions have often used the EWCs to find out about other plants in order remain competitive rather than to co-ordinate Euro-wide bargaining activity (Hancké 2000). In addition for many EWCs management have been able and willing to set the agendas to focus on the company level rather than individual plants (Schulten/Stueckler 2000, Marginson et al. 1995).

Indeed it seems that local bargaining is peripheral to the establishment of local pay rates. Two-thirds of UK based MNCs (in survey) stated that headquarters established the parameters for local pay settlements and/or had to rubber stamp any agreements made (Marginson et al 1995).
So the assessment of EMU on collective bargaining in Britain is a difficult one to present. The decentralised system of bargaining and the implicit lack of national or sectoral co-ordination make the use of European comparisons or co-ordination very difficult to achieve for trade unions on the ground. Modest shoots of Europeanization have sprung up in the automotive industry and other sectors where the production process is also Europeanised. The establishment and continuation of the EWCs provides the most promise for developing any sort of Europeanisation of bargaining strategies although the work of the EMF proves the key role sector organisations can play at the European level.
8) The Transposition of European Directives and the Agreement on Telework

*Question:* Is the transposition of European Directives part of national collective bargaining negotiations? Has the European agreement on telework – the first signed by the social partners and not transposed into a Council Directive – had an impact on national systems of collective bargaining? Can you describe possible developments in the ways to implement the European Agreement?

8.1 Transposition of Directives by Collective Agreements

The social partners and the British government have not so far made use of the facility in Art. 137(4) EC to entrust to the social partners the implementation of Directives. Given the non-legally binding nature of collective agreements in the UK, this is hardly surprising. The obligation which remains on the state to guarantee the results provided for by the Directive would mean that the legislative burden on the state, in the face of non-legally binding collective agreements, would not be reduced and individual workers could not be required to use their collectively bargained rights rather than the legislative ones.

8.2 Role of the Social Partners in Legislative Transposition of Directives

When the British government proposes to transpose a Directive in the labour relations field by legislation, it will invariably consult publicly on the contents of the transposing measure. The views of the TUC, CBI and the major unions and employers will naturally carry much weight in this consultation. Once or twice the Government has gone further and asked the TUC and CBI to try to reach agreement on a particular legislative measure and the public consultation then takes place on the basis of what the TUC and CBI have agreed. We noted above the use of this technique, with partial success, in relation to the statutory recognition procedure. It has also been used, with greater success, in relation to the consultation framework Directive, which is currently in the legislative process. The transposition of the Information and Consultation Directive was to a large extent left to the CBI and the TUC to negotiate.

8.3 Implementation of the Telework Agreement

Again given the absence of national sectoral industrial relations this question is a difficult one to answer comprehensively. In order to be completely accurate one would have to examine every industrial sector to see if a telework agreement had been signed at national level.
However, it can be said that the DTI has published a document, *Telework Guidance*, that is the outcome of an agreement between the Confederation of British Industry (CBI), the Trades Union Congress (TUC) and the Employers’ Organisation for Local Government (CEEP UK).\(^{50}\) In itself this doesn’t sound like a remarkable achievement. The document is only a guidance paper and is not a collective agreement. Therefore, to establish how this has affected collective bargaining again one would have to conduct a separate analysis of all the agreements in all industrial sectors. The methodology of implementation used in the telework case is best summed up in the words of Digby Jones (Director General of the CBI).

“Voluntary, non-binding guidelines such as these represent the way forward in employee relations, enabling business and employees to find the right solutions without unnecessary prescription, and I wholeheartedly welcome them” (DTI 2003b: 2).

With regard the Telework Agreement, the government has done no more than facilitate and inform. Although the *Telework Guidance* (DTI 2003b) is a document published by the DTI, it carries no legal force. The document follows closely the agreement reached at EU level with a UK specific narrative to accompany the text (pointing out implementation and legal implications specific to UK). The Government have left the actual transposition of these guidance notes to the employers and employees and their representatives. In effect this means that the implementation of the Telework Agreement is likely to be piecemeal and diverse from workplace to workplace. The Telework Agreement will only have any real meaning if particular employers or employees (or their representatives) are aware of the Agreement. Even then the voluntary nature of the ‘agreement’ and the subsequent guidance document produced via the DTI mean that effective implementation requires the trades unions and employers to make their members and employees aware of the provisions.

There are now 2.2 million teleworkers in the UK, about 7.4% of all in employment (DTI 2002b). Over 60% of teleworkers in the UK are men and over 74% are in the private sector a large proportion self-employed.

Amicus-MSF (Manufacturing, Science and Finance Section) have put together an information document and a ‘model collective agreement’ for their membership (Amicus MSF 2000a). This was published in March 2000 nearly 3 years before the DTI gave their guidance on teleworking. Given the sectors that MSF organise in it is unsurprising that they have the only trade union website with any reference to teleworking (even though in the DTI’s guidance the TUC do make a commitment to post the agreement on their website in order to disseminate through their affiliates).

\(^{50}\) The DTI ‘Telework Guidance’ covers
- Contractual arrangements for distant workers
- Health and safety arrangements
- Furniture, equipment, computer and communications provision
- Systems issues (remote access to company databases)
- Information security
- Expenses and allowances (home heating/lighting) and additional travel
- Taxation
- Human resources, such as recruitment, training and career progression.
- Personal support (to avoid telework isolation).
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