Qualification: CIPD Diploma in Applied Human Resources

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Signed:

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1. **Explain the concept of employment relations and what is meant by the term 'the indeterminate nature of employment relations'. Define and compare unitarist and pluralist approaches to employment relations.**

Originally known as industrial relations, employee relations (ER) is defined by the CIPD (2019a) as both individual and collective workplace relationships. The employment relationship is the employee experience in an organisation with today's focus being on individualisation. The employment relationship is seen as indeterminate as there is no assurance on outcomes or duration (Ellis, 2016, p100) and is subject to shifting factors occurring both internally and externally to an organisation.

Ellis (2016) sets out two definitions; Regulatory and Relationship based. Regulatory refers to the rules and regulations of upholding the employment relationship and Relationship-based is the building of individual relationships during the employee life cycle. Colling and Terry (2010) believe that one response to the uncertainty of the employment relationship is to make rules for the workplace. This is usually done through Company handbooks, policies, statutes, etc. The CIPD (2019a) advocates a Relationship-based approach by focusing on individual relationships through educating line managers, who are best placed to develop a relationship of trust. Good employment relations can improve business outcomes, motivation and also increase employee health and well-being. Ellis (2016, p.100) believes that ER in contemporary organisations is about creating and sustaining effective relationships within the restraints/opportunities of organisational contexts.

Colling & Terry (2010) believe there are three aspects of ER:

- Indeterminacy- the labour contract is based on the employee providing the ability to work, with employers paying for their labour and performance expectations being built upon during the relationship.
- Unequal- Employers buy labour and employees sell it. People pursue paid work in order to survive, meaning they are often subjugated by their employer during work hours.
- Dynamic- There is both conflict and cooperation between employee and employer, with underlying conflicts of interest not always obvious. Cooperation is possible in order to pursue profitability but tensions remain and develop at times of change.

Another view by Guest and Conway (2002, cited in Ellis, 2016, p.102) is the psychological contract, where the employment relationship is focused on the mutual expectations and obligations of employees and employers.

Fox (1996, cited in Ellis, 2016, p.101) came up with two perspectives on ER, unitarist and pluralist. Unitarist approach refers to a united workforce that pulls together and cooperates with management in order to pursue a common goal. The employee relationship is in harmony and built on a team ethic and can be seen as a long-term partnership. Conflict should be non-existent. This model can be seen as the foundation for contemporary HRM focusing on the creation of policies that benefit both employees and employers (Budd and Bhave, 2009).

The pluralist perspective sees employees and employers having similar and different interests with varying agendas which can result in conflict. The relationship is seen as dependent, with conflict a natural element of the ER that needs to be carefully managed but not avoided. The pluralist approach sees trade unions as legitimate, useful and an integral part of the organisation. The pluralist viewpoint sees the unitary perspective as unrealistic and not in the interest of employees (Armstrong, 2020, p.527).

2. **Explain the roles and typical approaches taken by the key parties in employment relations: trade unions, management, government and its employment relations agencies (such as Acas).**

There are a number of parties involved in the employee relationship, all of which have different influences:

<u>Employes and their representatives (trade unions)</u>
Employees/workers are hired by employers and paid in exchange labour. If they feel that their interests are not protected they can approach a trade union, if available. Trade Unions (TR's) are independent

organisations with members who are workers or employees to look after member interests at work (GOV.UK, no date). They were originally created to represent the interests of members for democracy in the workplace (Ellis, 2016, p100) by representing on an individual or collective basis to re-balance power between employees and their employer. Unions would bargain with employers on issues such as salary, workplace rules, benefits and workplace conditions/safety. Statutory recognition of a TR occurs when a TR makes a written request to the employer for recognition and is then only recognised if they are independant and have been recognised by one or more associated employers for the purpose of collective bargaining (CIPD, 2017). Collective bargaining is the approach and negotiation with management on key issues, then ,following consultation with members an agreement is usually reached. TU's can also lobby, which is to petition the government in an attempt to influence their decisions to their advantage. TU involvement has inordinately changed as a result of legislation. Since the early 1900's the Government passed the 1906 Trades Disputes Act which removed trade union liability for damage by strike action. As a result of high levels of strike action in the 1970/80s the government introduced The Trade Union Act 2016 (GOV.UK, 2016) which made it harder for workers to strike. Trade union membership has steadily declined, there is less need for collective negotiations therefore less strike actions. Unions today mainly support individuals with disciplinary or grievance issues (CIPD, 2019). The development of globalisation has seen the UK Unions merging in order to confront international conflicts but has further reduced their power nationally. Globalisation refers to the development of international influence through international markets and increased levels of international trade, with the power of multinational organisations booming over the past 50 years. Globalisation is often blamed for labour market deregulation as they depend upon the availability and mobility of suitably skilled workers willing to be engaged in paid work (Colling and Terry, 2010, p.6). The development of globalisation has not necessarily meant improvements in pay and working conditions, with the largest adversely affected being developing countries.

<u>Employers/Management</u>

Managers are seen as the authority figure or group who hold responsibility for the smooth running of organisations (Ellis, 2016, p.103). In small and medium enterprises (SMEs) the employee relationship is individualised and informal, with no or few that are trained in ER. In larger organisations employment relations are handled by managers, with line managers playing an integral part in employment relations through the following: clarifying objectives; planning work/ organising activities; providing direction/ guidance and managing performance. Manager objectives can differ from stakeholders but often have the same goals and hold a unitarist perspective. Main objectives include increasing efficiency, productivity and quality (Gennard, Judge, et al, 2016).

Management style is seen as a way of doing things or a set of principles that management uses when dealing with employees. It can be affected by different factors such as the size of the organisation, location and business strategy. Management style can have big implications on the employee relationship, Kilroy & Dundon (2015) outline 3 management styles that are often adopted by managers:

- Policy enactor- A formal approach to HR enactment indiscriminately by translating policy to practice with their employees. Some organisations like the one I work for, Ecigarette Direct are attempting to move away from this style through minimum viable bureaucracy, which hinges on putting trust into employees over control.
- Organisational leader- This manager takes a softer approach with when and how HR policy is implemented by taking into consideration the effect on the employees experience.
- Employee coach- Employees are considered on an individual level with consideration on individual circumstances or in response to employee experiences. Emphasis is on development through coaching.

Gennard and Judge (2016) outline different management styles:

- Paternalistic- Positive attitudes towards employees and relationships are seen as high priority. Favours a unitarist perspective.
- Consultative- Prevalent in organisations with trade unions as employee consultation is high priority and consulted prior to any decision making.
- Traditionalist/Authoritarian- High levels of control which can lean towards the exploitation of employees and ER factoring low or non-existent.
- Opportunistic- Determined by local factors and opportunities, which also determines whether TU's are recognised.

The role of the manager in the employment relationship is only increasing. According to CIPD (2019b), line managers are finding it difficult to manage conflict and difficult conversations in the workplace. This outlines the need for organisations to provide better training for its managers in order to improve the employment relationship.

Government and government agencies

The government has a huge impact on the employee relationship, both as public sector employer and legislator (Ellis, 2016). According to the Office for National Statistics 16.5% of people in paid work were employed in the public sector (ONS, 2019), therefore, being such a large employer means the government can influence policy and practice through ER. Traditionally the government was seen as a model employer that upheld best practice but over the years this has changed significantly. Changing governments can drastically shift ER strategies. The current Conservative government has its own agenda via their manifestos, policies, statutes and other regulations and since 2010 their main focus has been set on austerity measures, meaning to reduce costs through redundancies and pay freezes. The Conservatives have taken a big part in creating anti-union legislation which has dramatically weakened union power. The government also has influence through their associated agencies such as Equality and Human Rights Commission (EHRC); The Health and Safety Executive (HSE) and The Advisory, Conciliation and Arbitration Service (Acas). Acas is an independent body that receives government funding, which aims to improve organisations and working life through better employment relations (Acas, no date a). These agencies help the government implement key ER policies. The Health and Safety Executive (HSE) requires employers to provide a safe working environment and systems of work (Armstrong, 2020). The Low Pay Commision also advises the government about the National Living Wage which employers must cooperate with.

There are various codes of practice that both employers and employees should adhere to like the Acas Code of Practice on disciplinary and grievance procedures and the EHRC Equality Act Code of Practice. Failure to follow the codes does not make an organisation liable to proceedings, however employment tribunals will take the Code into account when considering relevant cases.
In 2018 the government released the 'Good work plan' with the aim to increase penalties for employers that repeatedly breach employment law. Pay awards can be lifted or reduced as a result of an employer or employees failure to follow codes of practice.

Laws are critical to society, in the UK there are 3 main varieties of law at work; Statute law, Common Law and European laws. Statute law are acts of government and the main sources of legislation (Daniels, 2019, p.8). Common Law, or case law, has developed from previous judgements in courts and sets a precedent for future law. Employment law is based on the balance of probability whereas criminal law is seen as beyond all reasonable doubt. Employment law plays a big part in the employment relationship and is taken from various sources including Acts of Parliament and judgments made in courts. European Union Employment Law is another source which has developed to protect employees against exploitation and discrimination and is made up of EU directives, treaties and regulations, for example the Working Time Regulations was implemented in 1998 to limit working hours per week, ensure proper rest breaks and statutory annual leave. The purpose of employment law is to enhance social justice (Taylor & Woodhams, 2016, p.26), it balances power between employees and employers, as well as giving Trade Unions legal support. UK employment law is enforced through employment tribunals and the court system and keeping up with changes in the legal framework can be challenging for employers.

The employee relationship is binded by a contract of employment (COE), which is a legal agreement between two parties (Daniels, 2019, p.40). A COE is conveyed in Express terms, Implied terms and Statutory rights. Express terms are terms that have been discussed and agreed upon such as contracted hours, salary, etc. Implied terms are terms not specifically agreed upon but are obtained through collective agreements; statute; custom and practice; work rules and common law.

Individual laws also have an immense influence for example the Equality Act 2010 and the Employment Rights Act 1996. Collective laws such as the Information and Consultation of Employees Regulations (ICE), introduced in 2004 gives employees the legal right to be informed and consulted about employment matters that may affect them (Ellis, 2016, p.113).

3. **Explain different models of employee representation, clarifying terms such as employee involvement; participation; partnership; information and consultation.**

Employee involvement and participation are forms of employee voice (Ellis, 2016, p114). Employee Voice is a way in which employees can communicate their views. Traditionally associated with TU's, since their decline there is now the assumption that the employee voice no longer needs TU assistance, but it is more likely that union representation will increase the impact of the employee voice (Ellis, 2016, p.114). Today the movement is towards a direct communication on both an individual and collective basis between employees and employers.
Employee involvement is where management engages directly with individual employees in order to gain cooperation. Based on information sharing directly with individuals or groups in exchange for their views (Gennard, Judge, et al, 2016, p. 198) and can be done through various types of communication. Communication can be one-way, such as email, newsletters and notice boards, or two-way, through team meetings, suggestion schemes and attitude surveys. Employee communication is key to good ER, with it being a two way process involving dialogue rather than instruction (CIPD, 2019, p.2).
Employee involvement initiatives such as job enlargement or enrichment, where individuals' job scope is extended and responsibilities are increased, in order to motivate and increase job satisfaction.

In contrast, employee participation materialises through indirect collective representation where employees can have a real input on organisational decision making. Meetings can be conducted via scheduled committees, on a regular or ad hoc basis. Achieved via collective bargaining and joint consultation through initiatives such as employee forums, partnership working, joint consultation and collective representation. In 2018 ECigarette Direct (ECD) (2018) created an 'Employee Forum' where employees could nominate a representative in their area to bring key topics to management. The forum was created with the aim to grow and improve ER and hear the views, and ideas of frontline staff.

Employee consultation is where employers and employees/representatives discuss issues of mutual concern to seek agreeable solutions through exchanging views and information (Gennard, Judge, et al, 2016, p. 209). This process can challenge management but ultimately management has the final say. If employees views or ideas aren't taken forward then management should explain why. The Information and Consultation of Employees (ICE) Regulations 2005, introduced obligations for employers with more than 50 employees to provide a consultation structure to inform and consult employees about issues in the organisation, if requested by employees.
Employee partnership as defined by Teague and Hann (2010, cited in Johnstone, 2014) is "a method of governing an organisation so that corporate strategies incorporate the interests of both management and employees – the notion of mutual gains...fostering new forms of collaboration and joint action between management and employees". Partnership enables employee representatives and employers to connect and cooperate by prioritising information sharing and encourages problem solving through dialogue, consultation and negotiation in order for employees to have a genuine input in major decisions. The organisation benefits as it hears from their employees directly, gaining invaluable feedback and are able to gauge opinions and morale. Partnership means that conflict is reduced and collaboration is increased as both parties are committed to the success of the organisation (Johnstone, 2014).

There are many reasons why having an employee voice can mutually benefit both the organisations and its employees, including:

- Employees feel valued so contribute more and productivity increases
- Employees feel they have more influence over their work
- Trust in management increases
- Positive organisation brand increases making it easy to recruit and retain employees.
- Reduction in conflict and increased co-operation.

Lack of an employee voice can have a negative effect on organisations and can increase conflict as employees are frustrated, as they have no channel of communication. MacLeod (cited in Sharp, 2018) states that "Employee voice is the cheapest smoke alarm you can buy" and can help gauge the mood both internally and externally. The recent public demise some high street businesses could be seen to be as a result of a lack of employee voice.

4. **Explain different types of individual and collective conflict behaviour and some of the evolving approaches that can be used to manage these. Your response should include and distinguish between:**
   - **conflict and misbehaviour**
   - **official and unofficial industrial action**
   - **third party conciliation, mediation and arbitration**

Conflict is defined as a serious disagreement or argument or a lack of agreement (Soanes and Hawker, 2006, p.204). Conflict can occur between colleagues, an individual and their employer or a group of employees and their employer and can arise from many issues. Organisational conflict can arise from various factors, including, an unfair rewards system; power struggles and competition over resources. Interpersonal factors such as discrimination, poor performance, differences in opinions, ways of working and personality clashes can also cause conflict.
The unitary perspective is that it should not exist and is a negative outcome of poor communication and a lack of trust with managers unable to deal with the employee relationship effectively. In contrast the pluralist opinion is that conflict is natural and can support change in an organisation.
Conflict is a natural part of ER (CIPD, 2019b, p.5) that should be carefully managed in order to improve organisational performance. A traditional approach to conflict results in disciplinary and grievance procedures but the modern approach with techniques like mediation and 'alternative dispute resolution' (ADR) aims to stop conflict before it is established. The CIPD (2020a, p.3) also believes prevention is better than cure, advising that it's better to nip disagreements in the bud. This can be achieved through effective communication, setting clear expectations, coaching and giving feedback. Unchecked conflict can be serious, time consuming and costly if it develops to a claim. Unresolved conflict can lead to unworkable relationships, reduced productivity, low morale, increased sickness absence, increased staff turnover and recruitment costs.

There are different types of conflict that can occur in an organisation:

- Organised conflict- Employees raise concerns via their TU's (if available), to rally support on a collective basis. Activities can result in strikes, protests and boycotts and can be either unofficial or official. Official organised conflict is when activities are supported by a trade union and have been voted on by a majority of members. Unofficial conflict is not endorsed through a ballot by members. Other short term activities, like go-slows and work to rule activities, are unofficial and are deemed unlawful (Ellis, 2016). Last year British Airways pilots chose official strike action over pay and conditions (BBC, 2019a) which resulted in a better pay deal for the pilots.
- Unorganised conflict- Also known as misbehaviour, can be on an individual or collective basis. Activities can include absenteeism, resignation, theft and even sabotage. Such behaviours are often reactive and spontaneous.

The decline in trade union activity, according to Williams (2014, p.299) means that workers have fewer avenues to express their discontent. New and modern ways of expression via digital media can find employees asserting their discontent publicly on both an individual and collective basis. Both individual and organised conflict can be costly and can also damage the organisation and brand.

It is important employers foster a good work culture where employees are treated fairly and "where employees are able to discuss concerns without fear, and where there are clear protocols regarding workplace behaviour" (CIPD, 2020a, p.12). This positive culture helps reduce conflict and encourages a productive working environment. Acas (no date b) believes that disputes should first be attempted to be resolved internally. Individuals should raise problems informally with line managers or HR. If the issue is serious, the employee can raise a formal grievance or employers can initiate disciplinary procedures.
If the dispute cannot be resolved internally then the employee(s) can contact Acas to notify them of the details of the case and get a certificate in order to go to a tribunal. Acas contacts the employer and attempts to facilitate a settlement between the two parties, known as third party/early conciliation, this is done to avoid going to employment tribunal and can be done both individually and collectively. A dispute between an employer and a group of employees is known as collective conciliation.
The conciliator can explain the process and talk through the issues with both parties and also talk through possible options in order to help to resolve the dispute. If both parties reach an agreement Acas confirms in

writing a settlement agreement (Acas, no date b). Benefits of conciliation are that it's confidential, flexible and is a lot quicker and can save time, money and effort than having to go to tribunal. Negatives on conciliation is that it is not legally binding, there are no appeals and a decision is not even guaranteed at the end of the process.
Failing early conciliation, paperwork is submitted and the case then goes to a preliminary hearing to decide whether the case is suitable for tribunal. If suitable a date will be set and heard by a judge or a panel of 3 people, evidence will have already been submitted and so will be reviewed and witnesses may be called. Following the judgement the claimant can appeal the outcome to a higher court within 14 days.

Acas can also aid organisations in resolving workplace disputes using other methods such as mediation and arbitration. Arbitration is where an independent impartial person, appointed by Acas, known as an arbitrator, assesses the dispute and then makes a final binding judgment based on the evidence presented. Prior to arbitration both parties must agree to accept the arbitrator's final decision by submitting 'terms of reference' where they agree and sign on an Acas form (Acas, no date c). The decision or 'award' is made in writing within 2 weeks of an individual case or 3 weeks in a collective case hearing. Arbitration can be used individually and collectively. On an individual basis it can only be used in situations of unfair dismissal and flexible working (Ellis, 2016, p.118). Benefits of arbitration are that it's free, confidential, binding and will bring the dispute to a quick and ultimate end. Negatives of arbitration are that the decision is final and therefore difficult to appeal, even if an arbitrator has made a mistake.
Mediation, similar to conciliation, apart from the fact that the dispute hasn't been threatened as a claim. Is a form of alternative or informal dispute resolution where both parties are brought together by a neutral third party in order to reach a quick and mutual agreement (Ellis, 2016, p.118) acceptable to both parties. The CIPD (2020b) deems the process to be flexible and voluntary, seeking to address underlying causes with agreements being morally rather than legally binding. The process aims to create a safe, confidential space for those involved to find solutions that are acceptable to each side. A popular choice in organisations as it can be used at any stage of a dispute. Conflict involving relationship breakdowns is best suited to mediation as it encourages parties to be more open to compromise. Benefits include cost reduction as tribunal claims are avoided; relationships tend to be improved and maintained; wellbeing is improved as there is less stress on both parties and finally it can help to develop skills to resolve workplace conflict in future (CIPD, 2020). However it is not suitable for resolving all types of conflict such as violations of disciplinary rules, bullying or when it is clear that both parties do not have the authority to settle the dispute.

There are other informal conflict resolution approaches that can be helpful, such as 'facilitated conversations' by HR or trained staff members (CIPD, 2020b). Heal (2018) discusses the importance of 'conversational intelligence' where all staff are supported through learning on how to talk, work together and deal with differences. The importance of emotional intelligence training is also highlighted as an important tool for both managers and employees.
Organisations should have clear disciplinary and grievance procedures and in formal cases it is essential that managers are trained to adhere to the Acas Code of Practice on disciplinary and grievance in order to uphold fairness and natural justice. Natural justice is that every employee should have the opportunity to freely state their case and to be heard fairly and impartially.

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