

CIPD Diploma in Applied Human Resources

Understanding the Management of Employment Relations

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Task 1

1.1 Explain what is meant by the indeterminate nature of employment relations.

Dibben, et al (2011) state that *"The employment Relationship lies at the heart of modern economic and social life, it embodies many dimensions: commercial exchange and promises, power and subordination, co-operation and confrontation, authority and assumptions of equity in treatment"*, therefore there is a high importance to get this relationship right. Theorists have derived many definitions and concepts of the term employee relations, what it means, and how in fact the complex relationship between employer and employee should look and be delivered. Once referred to as *'industrial relations'* it is today better known as Employee relations and should be a primary focus of HR professionals and senior managers alike (Bingham,2016).

With a focus on the regulatory side of employee relations, Gennard et al (2016) state *"The purpose of employee relations is to establish rules, regulations and agreements to regulate the employment relationship"*.

This is due to legislation and regulations put in place, such as, The Human Rights Act, 1998 and the Equality Act, 2010 – both are key legislation in place to support rights and protect against discrimination in both the workplace and society. Regulations governing working time in the UK were introduced by the Working Time Regulations 1998, This sets out minimum statutory standards for workers throughout the UK to receive certain statutory employment rights in relation to pay, holidays and working time (Daniel's, 2019). These are just a small proportion of the employment law legislation in place today.

The CIPD stirs away from a focus on regulations stating *"Today employee relations is seen as focusing on both individual and collective relationships in the workplace, with an increasing emphasis on helping line managers establish trust-based relationships with employees"* (CIPD,2020).

The Taylor Review (2017) proposed that a successful employment relationship must go beyond the formal expression of the relationship; the contract of employment (Rubery, 2002) and make consideration of the true value of its employees. The Review argues that if employment is *'fair and decent'* (Taylor, 2017) and companies invest in their employees, productivity will be largely improved, in order for this to be achieved - *'workers must have a voice'* (Taylor, 2017). Employee voice is *'an essential ingredient for employee engagement and commitment to an organisation'* (Bingham, 2016).

Employers also need to recognise that the world and concept of work is continually developing and changing with new technology and external influences, such as the results of Brexit, change in government, and the increase in demand to work flexibly. The CIPD (2020) also highlights *"The public nature of corporate scandals, enabled by the media, that can undermine employees' trust in their employer"* and its effects on the employee relationship to develop its employee relations.

Dibben, et al (2011) describe a *'psychological contract'* between employer and employee which, unlike the legal contract is unwritten. *"the psychological contract is built on the everyday actions and statements made by one party and how they are perceived and interpreted by the other"* (CIPD,2020). It is the bases of the day to day working relationship and is said to provide a better understanding of what helps or hinders developing employee relations. Although as the psychological contract is unwritten expectations in the employment relationship may differ between both parties causing negativity and conflict (Dibben, et al, 2011).

The very recent global pandemic of coronavirus will without a doubt leave a mark on the future of work , unemployment levels and society as a whole, while at this point the majority of the world is in lock down we have already seen redundancies, store closures, furloughing of staff with reliance on 80% funding provided via HMRC too help workers and business' retain staff at this time (CIPD,2020), and even with government intervention of the furlough scheme, 1 in 4 employers expect permanent redundancies from coronavirus crisis (CIPD,2020).

Churchill (2020) states *"the number of employees on payroll in May this year was down 600,000 on the previous year, official figures have shown, while vacancies have seen a record fall and the number of people claiming universal credit continues to rise"*, making a challenging time for the future of work and Human resource practitioners.

1.2 Compare unitarist and pluralist approaches to employment relations.

Frames of reference represent differing versions of what the employment relationship may or should be (Heery, 2015) with all the varied perspectives influencing employee voice considerably. Originated from the works of Fox (1966) cited in Ellis (2016), two approaches are known as Unitarist and Pluralist.

The unitarist perspective assumes the collective position - that organisations and its employees are united together to achieve the same goals, with a focus on teamwork and that there is no need for conflict in employment relationships (Bingham, 2016).

Armstrong (2016) claims that effective human resources management should be approached holistically, that there needs to be mutual trust and a combined effort to achieve a high performing culture and achieve an organisations vision, which is ultimately the basis of the unitarist approach.

The unitary approach sees an emphasis on good working relationships and working conditions, with clear detailed communication between employers and employees on all change, whilst encouraging involvement on all aspects of working life, with management empowering employees to develop and in turn encouraging commitment to the organisation (www.whatishumanresource.com).

A criticism of the unitarist theory is that it has the potential to lead to a culture of fear and discontent (Bingham, 2016), with management enforcing authority over the employment relationship (Lewis, Thornhill and Saunders, 2003) disregarding employee voice.

In contrast, the Pluralism theory places acceptance on the workforce being made up conflicting agendas from both individuals and groups within the employment relationship (Fox, 1966, Akers and Wilkinson, 2005 and Bingham, 2016), and attempts to recognise the differing views for all stakeholders in the decision-making process (Bingham, 2016).

Pluralism perceives the organisation as a '*miniature democratic state*' (Fox, 1966) with conflict, competition and debate are Key to delivering targets and high performance (Lewis, Thornhill and Saunders, 2003). The role of trade unions is encouraged, and managers should realise that conflict is likely to occur, (in contrast to the unitarist approach of 'harmony' in the workforce), setting up clear procedures to follow in these circumstances will alleviate pressure and give clear guidance on resolving issues. *"Consequently, the role of management would lean less towards enforcing and controlling and more toward persuasion and co-ordination"* (www.whatishumanresource.com).

Recent literature looks to a pluralist direction of employee voice (Della Torre, 2018). The shift from unitary to pluralist voice can be seen in the decline of industrial action (Office of National Statistics, 2018), rise in single employment tribunal claims and through legislation such as The Equality Act, 2010, Right to Request Flexible Working, 2014 and Shared Parental Leave 2015, emphasising on diversity and individualism (gov.co.uk). The shows that even though there is a decline in the union membership there is still effective protection in place for the employee who is sometimes seen as the "less in control" of the employment relationship due to the power of management (Ellis, 2018).

Dibben et al (2011) state *"The nature of employment relations vary according to the political, economic, social and regulatory context and the nature and role of institutions within a particular society"*. Although which approach that is used can also be dependent on the organisation, its values and goals, Voice mechanisms are directed by the organisation's frame of reference but with the complexities of many modern workplaces there is potential that many may have a multi perspective workforce (Heery, 2015).

With the complexities of different organisations, it is important to note that these theoretical perspectives cannot be considered perfect definitions of employee relationships within an organisation and of the workforce (Bingham, 2016).

Task 2

2.1 Explain the purpose and key developments of the trade union movement.

Ellis (2016), cited in Taylor and Woodhams (2016), states *“the role of trade unions is to represent the interests of their members in pursuit of democracy in the workplace”* with the trade union - Unite, the largest union in the UK, stating their purpose as being *“dedicated to serving the best interests of its members, protecting workers rights and equality and diversity in the workplace by negotiating with employers and government”* (unitetheunion.org).

The trade unions were devised from the need to distribute equal power between the employee and employer relationship, helping employees on both an individual and collective basis (Ellis, 2016, cited in Taylor and Woodhams, 2016). Since the peak of the trade unions in 1979 (largely due to the part trade unions played in disputes like the miners' strike), a steady decline in membership has taken place, Aylott (2018) states that only 21% of employers in the UK recognise a trade union and union membership has dropped to 30% to date.

Rose (2008), cited in Taylor and Woodhams (2016), suggests this is due to policies, procedures, and legislation devised and enforced, often influenced by human resource practitioners promoting employee relationships.

Bingham (2016) highlights that during the years that Margaret Thatcher was prime minister the union membership numbers fell. High levels of unemployment and restrictive legislation was put in and the unions were seen to be losing their power.

In 2015 the trade union bill was designed to put order to the ability of trade unions and its members, defining clear expectations in the way they are able to operate in relation to taking industrial action, ensuring the process is fair (Bingham, 2016). In 2016 the Trade Union Bill received Royal Assent and is now the Trade Union Act, 2016 (gov.uk).

Even though there has been a decline of membership, trade unions, specifically in the public sector have a large representation, furthermore, Nowak (2015), cited in Taylor and Woodhams (2016), highlights that current working conditions, lack of pay increase, low pay rates and an un-balance in the employee and employer relationship calls for union action more than ever.

Some employers will have union representatives within the workplace, they can provide support for employees at investigation, discipline and grievance matters. Unions have the use of Collective bargaining, this is where unions can negotiate with employers, on behalf of employees in relation to salary, overtime, working hours and annual leave entitlements, or anything that is has agreed with the employer as appropriate (Alloy, 2018).

Ellis (2018), highlights that the presence of the union representative within a workplace can speed up and resolve issues of groups of employees rather than having individuals raise issues one by one, alternatively the negative of their presence being the *“threat of conflict that might escalate to industrial action”* (Ellis, 2018).

It is unlawful for an employer to discriminate against an employee if they wish to join a union. Official union representatives are entitled to have a reasonable paid time off from work to carry out duties in relation to the union. It is important that this time makes up part of the persons working hours and does not leave them working over the times set by the Working Time Regulations 1998 (Daniels, 2019).

2.2 Compare different management approaches to employment relations.

Key stakeholders in the delivery of HR policy and procedures are line managers, these will be the drivers of policy's in practice. HR need to develop relationships with line managers in order to coach, support and work together to deliver expectations; after all Karaoulanis (2015) highlights *“People management is one of the most difficult areas of management nowadays. Why is that? Because people are not machines, they are complicated, emotionally unstable and a good manager needs to overcome all the pitfalls that may appear in their job lives in order to maintain the team stability and a valuable equilibrium between their lives, personalities and performance”*. Furthermore - Hutchinson & Purcell, cited in Taylor & Woodman's (2016), found that line management skills were a direct influence on the productivity and behaviours of their teams.

There are numerous definitions of management styles, Kilroy & Sundon (2015), cited in Taylor & Woodhams (2016), identify three specific types. "Organisational leader", said to implement selective policy and practice; the "Policy enactor" who strictly deliver all policy, and the "Employee coach" who will deliver policy and practice to suit individual need and situation. With the many interpretations of management styles available it difficult to fit an exact style to that of a manager, along with the changing demands of management roles and situations in reality a mixture of management styles dependant on situation may be more appropriate. Kilroy & Sundon (2015) found that different management style has a direct influence on employment relations, be it in a positive or negative manner, they concluded that the management style "employee coach" contributed to employee commitment. The "Policy enactor" may be a manager who causes frustration amongst employees, when working lives and situations are not always clear cut, and that of the "organisational Leader" being selective could cause further more frustration if the policy is followed for some or others causing confusion and ill-feeling amongst the workforce.

As noted, line managers have direct influence on how current and future employees will see the organisation, not having a fair reputation will increase labour turnover, potential lack of talent retention, proving costly to an organisation.

The retail store, Timpson, has recently come to light for its unique management style, promoting its staff as part of the Timpson Family, with benefits such as the day off for your birthday and free use of company holiday homes, they have an "upside down management" approach, which gives employees "total authority to do whatever they can to amaze customers" confirming "we trust our colleagues to run our business as they see fit". This work ethos appears to be benefiting the staff and management alike with news that they plan to open new stores (www.timpson.co.uk, 2020).

2.3 Explain the role of UK and EU government, and the principle employment relations agencies of the state, in managing employment relations.

Employment Law is the foundation of the working relationship between employee and employer, providing guidance on expectations of each party and their rights. Employment law covers a range of processes within the employee – employer relationship to ensure equality and equal rights within the workplace, these can range from Employment contracts, Equal pay, Parental leave, Working hours, Health and Safety regulations, Discrimination, Discipline and Grievance, to name a few (CIPD, 2019).

Over the past 30 years employment law has developed significantly, going from a laid-back approach to a strongly regulated part of working life (Taylor and Amir, 2015).

The UK has one of the most regulated Labour markets in the world, with legislation and regulations covering a range of topics such as Health and Safety, family friendly employment rights and working time regulations, to mention but a few. Governments also influence organisational decision-making by setting targets to be achieved, such as the recent topic of environmental matters in the aim to reduce carbon emission (Taylor, 2014). With the rapid growth of employment legislation implementation is now only issued twice a year, on the April 6th and October 1st to give order to implement the changes (Ellis, 2016).

There may be changes as a result of Brexit when the UK leaves the EU, as it will be no longer governed by EU law. In 1997 the UK signed up to be part of the 'Social chapter of the Maastricht Treaty' committing the UK to follow EU's directive of a vision based on *"a strong welfare state, a partnership between government, employers and workers and minimum standards of work"* (Ellis, 2016). Influences of EU law can be identified by the provision of legislation relating to topics such as parental leave, flexible working, and National Minimum wage.

As of October 2020, the UK officially leaves the EU due to Brexit, undoubtedly there will be future change, what that may look like or be is still unknown at this point.

As of May 2020, the current government includes the prime minister, Boris Johnson, leader of the Conservative party. Along with government agencies such as the Advisory, Conciliation and Arbitration Service (Acas), the Equality

and Human rights Commission (EHRC) and Health and Safety Executive (HSE), all parties influence employee relation practice across the UK.

The government plays a large part in contributing to employee relations, this is from its role of both employer and legislator (Ellis,2016). Due to the large size of the public sector in the UK, which includes the National Health Service (NHS), employing approximately 1.3 million staff (www.jobs.nhs.uk) the government can directly influence policies and procedures (Ellis,2016).

Acas plays a part in employee relations with specific guidance and expectations on how matters should be dealt with in the workplace. For example, The Acas statutory “Code of Practice on discipline and grievance procedures” provides guidance and principles to employers, employees, and representatives to be able to fairly conduct disciplinary and grievance procedures (Acas,2020). The codes are not acts of parliament or government regulations, they are “*authoritative statements of good practice*” (Acas, 2020) and will be looked at within a relevant tribunal case, if it is highlighted that the employer or employee has not followed the guidance then as much as 25% could be added or taken off the claimants compensation “*for unreasonable failure to comply with any provision of the Code*” (Acas,2020). Although, it should be highlighted that Acas (2020) states that “*failure to follow the Code does not, in itself, make a person or organisation liable to proceedings*.”

Acas has the ability and power, under the Trade Union and Labour Relations (Consolidation) Act 1992 (Acas,2020), to devise the codes as and when it feels required, the codes are taken from “good practice” values of both employee and employer (CIPD,2020). In 2014, the government decided that all Employment Tribunal claim would need to be put to Acas in the first instance, in the hope that this would help resolve some of the cases before proceeding any further. This shows how the government can influence through its external agencies (Ellis,2014).

Established by the Equality Act 2006 as of 1st October 2007, The Equality and Human Rights Commission (EHRC) is an independent public body for the UK, with responsibility to enforce equality and non-discrimination human rights laws protecting individuals’ rights of fairness, respect, and dignity. The EHRC has the power to challenge discrimination, acting where their guidance is not followed. The EHRC operates independently of UK governments, but they work with them to influence and promote positive change for equality (www.equalityhumanrights.com, 2020).

The HSE works in partnership with employers to provide advice and guidance on safe systems of work within the standards required. Legislation such as, the Health and Safety at Work Act 1974, sets out guidance for all employers to follow and is enforced by the HSE, which has the right to close an unsafe workplace with immediate effect and has the ability to prosecute if serious breaches of Health and Safety are found (Daniels, 2019).

In conclusion there are many parties that shape and effect employee relations in the UK, consideration, and tact to comply legally is paramount to avoid potential legal battles and costs of non-compliance.

Task 3

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

As a result of the Information and Consultation of Employees (ICE) Regulations 2004, in the UK, all employees have a statutory right, to have, and request information and be consulted on change (Ellis,2016) and apply to businesses with 50 or more (ACAS,2020). The regulations were put in place to improve communication for employees , although, Ellis(2016), notes that the regulations can be interpreted in a way in which employees could be involved and consultation of change but not necessarily have any true influence over future plans. Therefore, the Employee voice of each organisation may significantly differ from one to another. Never the less, ACAS(2020) refers to Information and consultation as being “*the basic building blocks of every effective organisation*”, highlighting its importance.

Organisations with strong information and consultation benefit from improved trust, engagement and productivity, innovative ideas and problem solving from the workforce, improved retention of staff with fewer workplace disputes, to mention a few (CIPD,2020).

The informal dynamic of any workplace has a strong influence on both satisfaction and commitment of employees, good employee relations mechanisms will enable a positive workplace culture. Effective approaches for employee voice should, according to the CIPD (2020), include, two-way communications, joint consultation, employee attitude or engagement surveys and a 'partnership' style of working.

Practices in place which are designed to enable employee representation and voice in the workplace include employee involvement, participation, partnership, information, and consultation; with Involvement and participation considered as the main forms of employee voice (Ellis,2016).

Primarily, employee involvement is the process where employers introduce policy collaboratively with its employees to gain ideas and buy-in to working practice (CIPD,2020). In some organisations this is often via management directives, or via direct downward communication, involvement can include consent from employees in direct two-way communication (Marchington, Cox and Suter, 2007 and Gennard et. Al, 2016). A better approach to employee involvement would consist of direct upward feedback, aiming to include employees in suggestions for improvement and problem solving (Marchington, Cox and Suter, 2007 Marchington, Cox and Suter, 2007) giving employees a sense of job enrichment (Dundun and Wilkinson, 2013). The down side of this, in instances such as, direct upward feedback in appraisal meetings may be that employees may find they can not be honest for fear of management reaction, ultimately depending on trust between employee and management, with a lack of, resulting un-honesty about workplace issues (Aylott,2018).

Dromey (2016) identified, that *'no matter what job you're doing if you feel involved, you feel you have autonomy, a role in decision making...you'll care more about what you're doing and hence the company will have better results'*.

Employee participation in comparison does not communicate decision making directly through the employees, but through their representatives (CIPD,2020). This may include employee forums, partnership working and joint consultation committees (Ellis,2016).

Profit-sharing bonuses and shared ownership (Marchington, Cox and Suter, 2007) is found in one third of organisations, this is a form of direct financial participation. This form of participation increases motivation and commitment for employees as the more the organisation achieves and prospers so will the employees in turn.

Bingham (2016) states that *"Partnership assumes shared interests and common goals with an emphasis on joint problem solving"* this ultimately needs clear honest communication and information sharing. Partnership allows employees to have direct decisions about their workload, about any employment issues they have, and decisions made which affect them. Potential benefits of partnership being overall improved organisational performance, as employee attitudes and behaviours have we positively increased commitment and in turn better sales and profits, although Bingham (2016) does indicate for this to work employees and employers must have the same level of commitment to ensure success .

The outcomes of this being similar to that of participation, looking to establish commitment of employees and in turn increase revenue, but taking an opposite tack with not communicating directly through its employees.

Data from the Workplace Employment Relations Survey (WERS,2013) revealed that the most used form of employee voice is downward communication, this may be due to the lowering union membership, showing that direct communication is moving forward (Ellis,2026). Although, it has been highlighted that this may not necessarily be the most effective form of employee voice. Research by Wilkinson et al (2010), cited in Taylor and Woodhams, (2016), states *"this employee involvement practice can be evaluated as shallow in depth and narrow in scope, which may limit the power and influence of this type of voice"*.

In conclusion, evidence suggests that if truly enabled and considered within an organisation, employee voice can only add to the development and success of an organisation, its true power will rely on the senior management team and line managers recognising its importance and putting in place an employee voice mechanism that works.

Task 4

4.1 Distinguish between conflict and misbehaviour, and between official and unofficial industrial action.

During working life, in line with the pluralist theory, a degree of conflict and misbehaviour is almost certain. Sisson (2010), cited in Taylor and Woodhams (2016), describes this as *“the discontent arising from a perceived clash of interests, can involve individuals and/or groups and take a number of expressions”*.

Some conflict can be for the better resulting in positive change, although some can damage relationships having negative effects on individuals, their teams and the organisation as a whole. The CIPD’s 2020 Managing conflict in the modern workplace research concluded that *“In general, most in the UK have positive work relationships”* (CIPD,2020). In contrast the report results also shows *“a third have experienced some form of interpersonal conflict..... over the past year.... Fifteen percent report being bullied over the past three years”* showing the reality that conflict is widespread in organisations. Also highlighting that if it is not dealt with timely and appropriately these issues will grow and continue to harm working relationships (CIPD,2020).

Eliis (2016), describes conflict as strikes, protests, demonstrations, boycotts and misbehaviour as theft, sabotage, and absence. Both conflict and misbehaviour can arise both on an individual and collective basis and be just as costly to an organisation as each other, with either being classed as official or unofficial industrial action (CIPD,2020). On

On an individual basis, conflict can be shown via grievance, absence, resignation, and complaints to employment tribunals. Collectively - Conflict is generally associated with strikes, although there has been a steady decline in this type of action over the past 30 years (CIPD,2020).

An official strike is recognised by a union by the arrangement of a ballot, giving employers two weeks’ notice of, and then confirming the result to the employer in a timely manner. In this instance employees are protected and able to strike for up to 12 weeks, after this time if the employer has not taken adequate measures to resolve issues this can continue. Within this time an employee can not be dismissed, if after the 12 weeks or any granted extra time, if the employees do not return to work and reasonable adjustments have been made by the employer then employees can be fairly dismissed and will not be entitled to notice, redundancy or any termination payment (CIPD,2020).

Entering into Unofficial action, including strikes that are not recognised by a trade union(no ballot has been drawn), leaves employees without the statutory protection that official action receives, if it is proven that an employee is dismissed for having taken part in this action, they will have breached their contract and have no right to a claim for unfair dismissal (CIPD,2020).

4.2 Distinguish between third party conciliation, mediation and arbitration.

Workplace disciplinary, disputes, or grievances should, where possible, tried to be resolved within the workplace, quickly and through the best procedure for the situation. Without this, claims can go on to be brought to employment tribunal, often proving costly for organisations. Along with this, ill felling can be caused amongst the workforce, moral can plummet, effecting productivity and once again prove costly to the organisation (CIPD,2020).

If the situation can not be resolved ‘in house’ then an independent third party is an option which could be considered. The third party may not necessarily be from outside the organisation but someone who is completely

impartial to the events and situation, in some instances an external third party might prove more suited (ACAS,2020).

Mediation can be used to try and resolve a dispute in workplace relationships; the mediator will need to be impartial and encourage the parties involved to find a resolution to work together in the future which all involved agree to. Mediation can be used to resolve relationship/personality clashes, communication breakdown, and bullying and harassment.

As Mediation is confidential, less formal than other process, and it benefits from flexibility it can provide quick results. It stirs away from the more formal costly process of going to employment tribunal, reducing stress.

Although all involved will need to agree to this type of intervention and it should be noted that it can not be used if a claim has been, or could be taken to an employee tribunal, which is worth bearing in mind (ACAS,2020).

ACAS (2020), highlights that *“In 2018 and 2019, 80% of Acas-led mediations were fully or partially resolved”* showing the positive outcome resolve through medication can achieve.

Unlike Mediation, Arbitration takes the decision-making power from those involved and gives to a neutral third party to settle, referred to as an arbitrator. Disputes between employer and employees (both individual and collective) can be resolved this way.

To go ahead with this process all parties involved will be required to sign to confirm they will accept the decision made, which is known as the ‘award’, although this is not legally binding, is considered “binding in honour” so it will not allowed to be contested in the future.

Evidence from both parties will be sent to the arbitrator to be considered before a hearing is set, where both parties will be able to provide more detail on their circumstance, the outcome (award) will then be sent to Acas within 3 weeks and the dispute is settled. This service is free, confidential and brings issues to an end on a permanent basis due to its binding nature(ACAS,2020).

Some of the techniques mentioned give the opportunity for improving conflict and working relationship, all with benefits and flaws, choosing the correct procedure to follow will ultimately be dependent on the situation, topic and even the organizations values.

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