Response to the DTI Consultation

Workplace Representatives:  
A Review of their facilities and Facility Time

Introduction
ACM is a specialist TUC affiliated trade union representing some 4000 managers in the learning and skills sector. The majority of our members work in further education colleges with the remainder working in adult and community learning, agencies such as the LSC, universities and private training providers. Our members all have management and leadership roles, and may be employed in a teaching capacity or business support area such as finance or estates.

We set out below our response to the issues and questions raised in the consultation document.

The Characteristics of Representatives

Question 2a
ACM does not appear to be following the trends described in the consultation document. The numbers of ACM representatives are increasing, as are the number of workplaces recognising ACM for collective bargaining purposes. This is perhaps itself a reflection of the growth in membership ACM has experienced in the last three or four years.

Workplace representation continues to be very important to ACM, and we do not anticipate any future decline. Our only negative experience has been when a college reduced the level of trade union representation by bringing in non-union representatives. This caused considerable bad feeling and mistrust, and the damage to employment relations will be felt for some considerable time to come.

Unless there is any further moves of this nature, we believe workplace representation will continue in essentially the same format.

Question 2b
In terms of diversity, ACM’s membership is almost exclusively aged over 40, reflecting the age of managers in the further education sector. As such, our representatives are all from the same age bracket. Indeed, future ACM representatives are probably not yet working as managers; and may even be a member of another trade union in the earlier stages of their career (particularly if they are teachers). In terms of sex and race, ACM representatives are slightly over represented by male and white British members.

Achieving an increase in younger representatives is clearly a challenge for all unions. A climate of stable and productive employment relations, with meaningful consultation and employers who value a partnership approach, can all help contribute to a positive environment for new representatives to develop. We believe government can help in this area by
continuing to provide funding through the Partnership Fund and the Union Modernisation Fund. In addition, support for Union Learning Reps has already brought benefits and should be continued. But the government can go further by promoting good employment relations practice directly in the public sector, and recognising and supporting the role of trade union representatives. It is also in a unique position, through agencies such as ACAS and the HSE, to raise awareness among employers of the positive contribution trade union representatives bring to the workplace.

Increasing the proportion of women and black and minority ethnic managers who become ACM representatives is already being addressed. We are doing this through positive action and through partnerships with networks supporting black professionals and women managers in the sector.

Overall, we believe a climate where unions are seen as essential partners is more likely to encourage women, BME and younger workers to develop an interest in becoming representatives than one in which unions are marginalised.

Question 2c
We have no quantitative data of our own so do not feel able to comment on the accuracy or relevance of the figures in Annexe B. However, we are in broad agreement with the qualitative benefits.

In terms of realising the benefits more fully, this would depend upon the skills and training of individual representatives, and the value employers placed on working with and consulting representatives. In our experience representatives who have been well trained by ACM are better equipped and more confident about working in partnership with employers. In a environment such as further education, with pressures of funding claw-backs, inspections and performance targets; good employment relations are essential to ensure effective management of change. In contrast, where employers take a contemptuous attitude towards consultation and negotiation, problems are much more prevalent.

It follows therefore that an effective legal framework supporting representatives training and rights to paid facility time is beneficial. We do not believe this requires revision of existing laws, but rather more effective guidance and codes of practice (see below). In addition, a more proactive role for ACAS in fostering partnerships and good employment relations practice would also bring benefits.

**Time off for representatives**

**Question 3a**

In a recent survey we conducted of our own lay representatives, we found that the single biggest problem relating to time off for union duties was pressure of the job as a college manager. Of the five issues identified in the consultation document, job pressures ranked way ahead of anything else. In fact, only 7% of reps said it was not a problem whereas two thirds scored it as a serious or major problem. Many of our reps said they simply added their union duties on to their already substantial manager duties and so worked well in excess of their contractual hours. Clearly impacts on work-life balance, which ranked second in our survey as a problem.
To overcome this serious issue we believe a two tier approach is needed. On the one hand the FE sector needs to tackle the serious problem it has of a long hours culture. At our initiative, the trade unions are trying to negotiate guidelines for reducing long hours but existing external pressures in the sector make this an uphill task.

On the other hand we believe the government should consult with trade unions and employers with a view to clarifying the right to time off perhaps through a revised ACAS code of practice. In particular we would wish to see more emphasis on compensating or relieving workloads for salaried staff who undertake union duties in addition to all their normal workload hours.

From our own survey we know that the other issues identified in the consultation document were not considered particularly significant problems by ACM representatives.

Question 3b
As above, we are unable to comment on the quantitative data. However, given that very few of our members have any reduction in workload as a result of their union duties we believe any costs are negligible.

Training and time off for training

Question 4a
Our survey of ACM representatives found only one incidence of time off for training being refused. So from that perspective, the attitude of employers towards training is not an issue.

However, their own workloads as managers is a very major barrier that prevents our representatives form taking time off for training. As we have said before, ACM duties are carried out in addition to their role as managers. Any time spent away from work on training will have to be made up later in what is already an extended working week for most managers in further education.

We believe this issue can be addressed in the manner described in our answer to question 3a.

Question 4b
For an organisation like ACM, with a specialist membership in a single sector, general trade union education courses are not always the most suitable. We are working with the TUC and the General Federation of Trade Unions to provide bespoke courses for our representatives. We would welcome online availability of bespoke training but we expect this to be more costly than general provision. As such, further provision of funds to providers of such training is needed before it becomes available.

Question 4c
In terms of course content, we support the three broad areas described in the consultation document. However, the majority of our members are fairly confident in the use of ICT so this area would not be such a requirement. Specifically our representatives have asked for training to be accredited, and cover areas such as skills (listening, negotiating etc.); procedures (grievance, disciplinary, working time, redundancy etc.); employment law (e.g. redundancy,
dismissal, discrimination) and specific issues such as bullying, health and safety, diversity, work-life balance etc.

We also believe that the range of training available should not be restricted just to some narrow band of issues for which the trade union has collective bargaining rights. With increased job mobility many of the skills learnt on union training courses are transferable and so such training should be viewed in a wider professional development context.

**Question 4d**

In some areas the impact of training can be measured fairly easily. For example, trained union learning reps have had noticeable effect in workplaces increasing the uptake of training and basic skills by the workforce. However, we agree that in other areas the impact of training is less easily measured. That said, we believe many trade unions could provide anecdotal evidence where trained representatives have made a positive contribution to employment relations.

We believe the approach outlined in the consultation document involving the DfES, TUC and the devolved administrations would be beneficial.

**Question 4e**

In our sector, non-union representatives are rare, only being found in those colleges where the employer has sought to undermine existing unions and collective bargaining procedures. We are not aware of a single case of employees triggering any new consultation arrangements under the ICE regulations.

We therefore do not believe the training of non-union representatives to be relevant for our sector.

**Facilities for representatives**

**Question 5a**

We are unable to comment on this in relation to other unions, but so far as ACM representatives are concerned, our survey found 100% access to e-mail and internet for trade union activities, 98% access to other forms of ICT and 91% trade union access to college intranets.

ACM would certainly support efforts by other unions and employers to widen access to such technology for trade union use.

**Question 5b**

We asked this question in our own survey and 13% of our representatives said they felt compromised in using ICT as a result of privacy and employer security issues. Although not a particularly big issue for our members, we believe the best way of addressing such concerns is for the negotiation of clearly understood policies on e-mail and internet use that make special reference to trade union facilities.
Guidance for representatives

Question 6a
We would like to see the ACAS codes updated but this must be done only after proper consultation with the TUC. We would be opposed to any suggestions that non-union representatives should be encouraged by employers where there are already trade unions, whether recognised or not.

What we would wish to see is clear guidance on dealing with workload pressure, whereby employers had to compensate or provide workload relief to representatives whose union duties were in addition to their normal jobs.

Question 6b
Although there is a wealth of useful information available on the websites of the DTI and ACAS, it is not always easy to find what one is looking for. We therefore would welcome a single portal linking to such information. We also believe that awareness needs raising among employers in particular of exactly what is available and where it can be obtained.

We would support a single publication on the different type of trade union representatives but we do not feel it would be appropriate for this to cover non-union representatives given their prevalence in non-unionised companies.

Question 6c
We do not believe line managers are adequately trained and advised about the management of workplace representatives (indeed, our own members are the first to admit this).

This problem could be rectified by including such training into professional development courses and through the wider use of joint training. Appropriate bodies to consult on this might be ACAS, TUC, GFTU Educational Trust and organisations such as CIPD.

The regulatory framework

Question 7a
We do not believe any revision of the law covering existing workplace representatives’ facilities and facility time is needed. But we do believe that the guidance and codes of practice should be updated to reflect problems like pressures of work and work-life balance; and to broaden the duties and provision of facilities for the various types of representative. In particular we wish to see guidance on compensating or providing workload relief to those reps who undertake their union duties in addition to their normal workload.

We would however support new statutory provision for equality reps and reps dealing with non-traditional issues such as environmental issues.

Association For College Management
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