

Management strategies and outcomes of non-union employee representation at Eurotunnel

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Introduction

Existing research in the United Kingdom (UK) has provided little insight into how nonunion employee representation¹ (NER) structures are composed, the degree of independence from management, and their "representativeness" and accountability (Gollan, 1999; Gollan, 2000; Terry 1997; Terry 1999). In addition, little is known about the impact of such structures on either the managerial objective of securing agreement to organisational change or the employee objective of influencing managerial decisions. This research will attempt to throw some light on these issues by focusing on NER structures in the UK and, in particular, assessing their effectiveness in representing the needs of employees through an examination of representative arrangements at Eurotunnel.

Historically, NER structures have played a minor role in the UK industrial relations system, having no formal processes or legal requirements². However, the lack of representative structures covering increasing numbers of non-union employees due to declining levels of trade union density and the legislative changes banning closed shop or compulsory union arrangements have kindled the current interest in NER structures.

The paper attempts to build on existing research by addressing the following questions. First, why do non-union organisations choose NERs as an HRM strategy? Second, what factors do organisations consider when choosing the type of NER strategy? Third, what are the outcomes for employers and employees of NER forms? Fourth, are NER forms of employee representation necessary in non-union organisations and how effective are such systems in representing employees' interests in the decision-making processes?

Existing evaluations of the impact of NER structures to date raise key questions about their structure, decision-making capacity, the issues discussed, their outcomes and their functions. The rationale for a representative agency function - union or nonunion - in the workplace can be expressed in terms of certain productivity and equity outcomes. These include: improved communication and information sharing; effective dispute resolution; enhanced employee bargaining power; fair and just decision-making; and improved morale and social cohesion.

The precise structure of the NER structures and the level at which they operate vary considerably. They may take the form of company councils, works councils, consultative councils/committees (CCs) or joint consultative committees OCCs). In reality, the differences in terminology do not equate to differences of form or function; importantly, all these structures represent all employees³ at the establishment or workplace. Some structures can include management representation (often as chair) and may involve union representatives. This lack of commonality in NER structures in the UK may be a consequence of the lack of prescriptive legal requirements for and precise definitions of such structures.

The structure of the paper is as follows. First, the paper provides information on Eurotunnel, and outlines the company council structure, its formation and its decisionmaking processes. The second section analyses an employee survey at Eurotunnel and reports on the initial findings. It also gives some indication of the important representation and consultation issues from the perspective of employees at Eurotunnel and the response of management. Finally, a discussion of the research and synthesis of the major issues surrounding NER forms are undertaken and the implications for public policy examined.

Case study: Eurotunnel

Background

Eurotunnel has a 50-year lease to operate the Channel Tunnel link between Britain and France. It has a complex structure consisting of two legal entities to meet requirements in the UK and France. Eurotunnel employs a total staff of 2,300, with appropriately 1,300 based in Britain on UK contracts. The UK head office is in Folkestone (Longport) with a separate office nearby for some administration activities (ie call centre). The UK side of Eurotunnel only recognises the company council for negotiation purposes; employees may become union members but will have no formal representation from their union. As part of an early policy choice to integrate its two workforces, the company council for UK-contracted employees was established in December 1992 which is broadly similar to the enterprise committee (or comite d' entreprise) under French legislation.

Research strategy

The Eurotunnel research involves a case study analysis, using interviews, company documents, climate surveys, focus groups and observation. In order to assess employees' responses, an employee survey was undertaken expanding on some of the issues raised in the focus groups and interviews. The survey consisted of 27 questions and was given out to almost third of the UK workforce (400 employees) by company council representatives and deputies. Some questions are similar to those asked in the WERS98 management and worker representative surveys, allowing direct comparisons to be undertaken. Previous company surveys were also analysed for comparison. The intention of this is to assess the feedback on and satisfaction with the effectiveness of works council structures in representing and communicating the interests of employees to management and the degree of satisfactory outcomes that have been achieved. This has formed the basis of ascertaining the structure's contribution to the general climate of management and employee relations. The themes raised in the questionnaire included: work involvement; personal involvement in the consultation process; information received from management; the extent of voice and influence; union relations; company council effectiveness; and management relations.

The Eurotunnel company council

The UK company council consists of employees who are democratically elected every two years⁴. Importantly, it is the company's only communications forum and has three main aims: to give information and consult on matters of common concern to employees; to be the only form of official employee representation (including bargaining and negotiation over pay and conditions); and to manage the social and welfare budget equal to one percent of payroll (approximately £250,000-£350,000 per year). This may include welfare support for needy families, money for trips away, nights out etc. It must be noted that the company council are trustees only.

One representative and one deputy are elected from each of eight constituencies, which are geographically or functionally based, including: Technical Engineering, Shuttle Services, Tourist Division, Train Crew, Freight Division, Corporate (Administration), Technical Railway and Call Centre. Each constituency has a representative and deputy on a joint ticket. Election is by secret ballot for a two-year period. All representatives must be permanent employees with at least one year's service, and on permanent rather than temporary contracts. They may, however, be full-time or part-time employees. This is an issue in the call centre operations where many employees are on limited contracts of employment.

Rules allow around 20 hours a month to be spent on council business by representatives and deputies, although this is not strictly enforced and is flexible according to issues. Minutes are publicised through noticeboards, newsletters and the company's internal computer mail system (including its intranet). In 1995, the company council was granted membership of the Industrial Society, and was the first works council ever to gain such recognition. It was stated in the council's 1995 information leaflet, "What this means is our representatives can go on courses and get access to the most up to date advice about working practices, dismissal procedures, contracts of employment, maternity, paternity, paternity, health and safety".

Frequency of meetings

Meetings are held twelve times a year or approximately once a month. All representatives and deputies attend. In addition, all meetings are attended by the senior executive or chief operating officer (Managing Director) who chairs the meeting and the human resources director. Any other senior management official may be invited to participate if the need arises i.e. health and safety matters may require the H&S Officer/Manager. Sub-committees deal with the spending of the sports and social budget.

In addition to the formal company council meetings, agenda meetings for employee representatives only are also held about one week before full company council meetings. As stated in the company council information letter: "The company council meeting is where the questions and issues that have been raised at the agenda meetings are answered by the Eurotunnel management".

Scope of discussions

As stated in its constitution, the company council consults on all matters and issues of concern to employees. These issues include: operational changes; shift rosters; workplace change; investment strategy; terms of employment; and financial and performance data, including but not limited to profits. This data may incorporate future financial and market strategies, commercial policy and profit figures. In addition, each company council representative can provide employee representation on individual issues and grievances. However, in general, personal issues and grievances are excluded from discussion, unless they raise issues that have wider implications for the workforce as a whole.

Recent issues discussed

The company council has raised a number of issues in the previous 18 month period. These issues have included the recent train drivers' pay dispute when the trade union ASLEF threatened industrial action by members. This dispute involved the drivers' pay differential compared to those in other train companies, including French drivers and crew members. A company council initiated

share option scheme was also introduced called "Eurotunnel's Share Save". In addition, the different rules applying to French and UK-contracted workers and safety and security have also been major issues for discussion. In addition, questions of race discrimination, loss of duty-free sales, executive pay and the formal investigation by French authorities of three senior executives of their alleged role in publishing false financial information have also been raised. However, a recent key issue discussed at the company council has been union recognition due to the introduction of the "Fairness at Work" legislation on union recognition (see below for management response).

Survey results

This section of the paper reports the initial main descriptive findings of the employee survey at Eurotunnel (UK)⁵. These findings are based on 123 responses from 400 questionnaires (around a 32 percent response rate). The questionnaires were given out by the company council representatives in their area or section. The representatives were instructed to distribute the questionnaires paying particular attention to workers on different shifts and temporary/part-time workers. The questionnaires were given out in broadly similar proportions (i.e. 50 questionnaires per section or area). The rationale for this is to get a broad set of opinions and impressions from a very diverse company structure ranging from train crew and drivers to call centre operators. This also allows a comparison to be made of the views from employees in different sections at Eurotunnel and helps to identify important factors and issues concerning communication and representation.

Company council effectiveness

When asked how often they talk to their section representative regarding company council matters, only five percent of respondents stated "very often" and another 20 percent stated "fairly often". Some 75 percent of respondents indicated that they rarely talked to their representatives or not at all. However, in relation to the question of how helpful company council representatives were at keeping employees up-to-date with developments at Eurotunnel, some 55 percent indicated that they were very helpful or helpful compared with 45 percent who felt they were not so helpful or not helpful at all.

One respondent suggested:

The company council representatives are well meaning but when trying to make changes for us their hands are tied. They must follow company policy so are not truly representative i.e. working hours in a six day shift we regularly work in excess of 51 hours per week. Also our French colleagues have very different working rules which are favourable to them because they have union representation.

This evidence seems to be supported by responses regarding the amount of contact employees have with their company council representatives. Some 76 percent were frequently or at least occasionally in contact with worker representatives, while only 24 percent said they were never in contact with worker representatives with another 3.5 percent stating they did not even know their worker representative. Overall, 36 percent of employees thought that the company council was "effective" or "very effective" in representing general employee interests. One respondent suggested, "The company council are good in relation to the social side of things but lack the muscle or determination on the most vital issues. That way union representation may improve things with management thinking first before they act. Basically I believe they have no personnel management skills". Another respondent stated, "I feel the company council could co-exist with the

union presence but at present they lack the experience and knowledge for representation in all areas".

In an interview with the chief employee representative of the company council, he argued, "Generally, I would say the company council is not so effective really. Many employees are waiting until the union comes in to solve their problems. What we will have to address is the potential for divide and rule with a number of unions in the short term" (Interview - Chief Employee Representative of the Company Council, 18-- 02-98)

Attitudes to management

As an indicator of "trust" in management, employees were asked to what extent they believe the information they are given when management communicates. Some 44 percent reported that they did not believe management at all or only a little, another 42 percent indicated that they believed some of the information while 14 percent believed management a lot or a great deal. A Eurotunnel staff survey in 1998 also highlighted these problems with some 52 percent indicating that management was more inclined to talk rather than listen, 51 percent suggesting general communication was rather bad and 58 percent stating that they received information at the last minute.

The survey also reinforced the disillusionment with management (see table 1 below). On all major indicators to do with management information (i.e. the amount, type and timing) the vast majority of respondents (ranging from 70 to 87 percent) were not satisfied. As an another indicator of management relations, employees were asked how much influence they had over management. Some 45 percent of employees indicated that they had no influence at all, while another 33 percent said that they had little influence on management. Only 21 percent of employees felt they had some or a lot of influence on management decisions.

This frustration was reflected in the statement of one employee, who suggested:

Our department is undermanned. As a result it is impossible to create a rota that covers the operational requirements of the company and gives us a humane shift pattern. Techs are always required to be ultra flexible within the shift pattern, while managers neglect to fill vacancies. We get a new group leader every year and morale is low. Management do consult us on various issues but their hands are tied and nothing ever changes. The only way to get change, is to force change. With UNIONS!

Representation

Just under 13 percent of respondents claimed to be union members with six percent suggesting that there was an active union presence in their area or section and 10 percent stating that they have regular contacts with union members or union representatives. However, some 80 percent of employees would like management to recognise a trade union. Notwithstanding that the majority of employees would prefer union representation, Table 2 below suggests that around 20 to 30 percent of employees would favour the company council to represent their interests at Eurotunnel. Significantly, over 25 percent of respondents would prefer to represent themselves regarding changes to their immediate workplace.

Table 3 below would suggest that most employees believe that trade unions would best represent their interests in individual grievances, work conditions and pay. However, other issues such as health and safety, job security and training were less clear cut with many employees believing trade union involvement would have little influence.

Significantly, Table 4 below indicates that most employees see a role for the company council even if trade unions were recognised. On all major issues, few employees (around 20 percent) thought that the company council should play no role at all. In fact on all these issues, respondents regarded the company council as an important agent for consultation with management and as a source of information. However, one employee summed up its role as follows: "I feel the company council could coexist with the union presence but at present they lack the experience and knowledge for representation in all areas".

Union relations

The survey also suggest that there was greater support for the company council among those employees with no regular contact to union members and/or representatives (see Table 5). Some 56 percent of employees indicated that the company council representatives were helpful or very helpful. This compares with just 30 percent of those employees with regular union contact. These results are similar to those of union membership.

One respondent suggested:

As far as I am concerned the actual communication between the management and employees is pretty much a one way thing. But, with a good measure of arrogance and ignorance on both sides, as before, we shall just be fine. And to give you an idea of what it is really like: Nobody gets informed of the result of the last survey, but we are already busy filling the next one in!"

With respect to employee influence over management, all employees with regular contact to union members and/or representatives were negative about their ability to influence management compared to those employees without such contact. These employees responded more favourably with some 23 percent indicating that they had some or a lot of influence over management (these figures also closely resemble those for union membership). Again, all employees with regular union contact wanted the union to represent their interests when dealing with management over securing pay increases compared to only 68 percent of those who did not have regular contact with union members and representatives. In fact, in this group some 25 percent wanted the company council to represent them while another 8 percent wanted to represent themselves individually (These figures were nearly identical when comparing the views of union members and non-unionists). These results were broadly in line with the responses to other issues, such as work conditions, health and safety issues, individual grievances. Interestingly, of those employees who did have contact with union members and/or representatives, 64 percent thought that trade unions could improve training and job security.

Union contact was also an important factor in perceptions of the effectiveness of the company council in representing general employee interests. Nearly twice as many employees without regular union contact (35 percent) stated that the company council was effective or very effective compared to those employees with regular union contact (18 percent). Conversely, 82 percent of employees with regular union contact indicated that the company council was either not so effective or not effective at all. This compares with 65 percent with no union contact (although some 21

percent of this group indicated that the company council was not effective at all). These results were also broadly in line with the union membership; five times as many non-union members (37 percent) suggested that the company council was either effective or very effective compared to union members.

A recent recognition survey at Eurotunnel suggested that up to half of employees would be willing to join a union if management were to recognise one. However, the survey did highlight that many employees were concerned about the presence of a union. In particular, there was a perception that unionisation equals militancy or party politics and a number of staff suggested that improving or enhancing the existing company council would be preferential to "throwing the baby out with the bathwater". (Eurotunnel company council recognition survey, November 1999).

This attitude was reflected by the view of one respondent:

I am adamantly opposed to joining a union as they either carry out the wishes of the management or bring the work force into no win strike situations for the benefit of their stronger members. Unfortunately the company council representatives have little or no training to negotiate with Eurotunnel management in pay or conditions. I believe that the best way forward is to have a consultative body (not a union), paid from the company council funds to represent the workforce on these issues and the council be used to organise holidays and functions.

Written responses

Interestingly, many of the respondents had written answers to an open-ended question at the end of the questionnaire. The question asked "Do you have any final comments you would like to make about Eurotunnel, the company council, your workplace, or about the questionnaire?" About half (58 responses) of those responding to the questionnaire provided answers. The respondents voiced strong opinions on Eurotunnel management and representation and what needs to be done for improvement, allowing insights into the depth of feeling on particular issues and possible alternative approaches which could be considered. Below is a summary of the responses.

Management response

As of March 2000, the T&GWU was granted recognition by Eurotunnel management. However, ASLEF has taken industrial action after management recognised only one union. Although the company recognition survey found that 43 percent of employees thought that union recognition would give them more effective representation than the company council, management has indicated its desire to recognise a union that was capable of representing all staff. It is estimated that ASLEF has around 150 members at Eurotunnel (People Management, 2000, p.10). However, ASLEF claim membership is closer to 250 members. The rationale for excluding ASLEF was expressed by the HR Director, who stated "One of the issues which concerns me about some of the unions is that they always have to look outside the company for advice rather than within. The problem with unions like ASLEF is that, because they have not been as effective as other unions, they have maintained the entrenchment in their negotiating stance. They don't consider the workforce as a whole as a going concern. They still do not have the perception of profit and business success. In the company you can draw a circle around those people that love a union, those people that hate a union and those in the middle. I would hope not to have two channels, with one representing unionist and the other not. I think people employed by the company talking and

sharing values always works. If we lost, that it would be a concern (Interview - Director of HR Eurotunnel, 29-04-99)

Conclusion

The Eurotunnel case study has provided an opportunity to further explore the impact of NER structures on certain processes. In particular, it addresses the question of what impact employees feel that the company council has had on Eurotunnel in terms of its management, communication, employee participation and the nature and type of information received. In addition, it addresses employees' perceptions of the company council in terms of its effectiveness.

Overall, the case study findings suggest that there is widespread dissatisfaction with management, especially with their lack of understanding and willingness to make decisions and consider employee concerns. They also highlight the perceived lack of effective power the company council has with representatives lacking sufficient training in and experience of negotiating with management.

These findings have been supported by a recent recognition survey undertaken by the Industrial Society on behalf of the Eurotunnel company council which concluded:

The majority of respondents are in favour of a trade union as the way they wish to be represented . . . However, it is clear that support for this solution varies from division to division and that there is not a majority in each division for recognition. What is clear is that people do not believe the company council, as it is currently constituted, is an effective body on these matters. The alternative, to have union representatives on the council, is supported by more than a third of respondents. (Eurotunnel company council recognition survey, November, 1999).

This suggests that a "substitute" strategy as used by Eurotunnel could have inherent dangers. Many employees and representatives feel that the company council as it currently operates lacks the effectiveness and influence required to fulfil its requirements of representing the interests of employees. The implications of not recognising the limitations of a union avoidance strategy could mean greater union influence in workplace issues.

One respondent summed up the feeling of many employees:

The longer management "run-scared" of recognising and dealing with proper unions the more trouble they are storing up for themselves. Unfortunately most managers have grown-up during the "Thatcherite" era of do as I say or go, and have no concept of negotiating with a professional body which is aware of its rights and will not allow its members to be bullied any longer. How long can it be before a complaint is brought under European Court of justice regulations? As we do exactly the same job, for the same money as the French but they have far superior terms and conditions i.e. 35-hour weeks, guaranteed union representation and where time off is given for holidays worked.

The survey results also seem to indicate that while the vast majority of employees would like union recognition at Eurotunnel, they are not convinced that union representation alone would achieve greater benefits for employees. This would suggest that unions have not won the argument that sole union representation is desirable. A significant minority of employees would like the company council to play an important role in employee representation, either as an information channel on some issues or as a genuine negotiating body with greater power than existing arrangements on

others. Importantly, the results imply that simple outcomes regarding union recognition may not be possible, or in the view of some employees desirable. However, the significance of these results and the additional written comments from the respondents of the survey, is that some alternative representation arrangements need to be pursued to achieve greater employee satisfaction.

In an environment of low trade union presence and a widening of the 'representation gap" (Freeman and Rogers 1993, p.14; Towers 1997), there has been considerable discussion on the effectiveness of NER structures as communication devices and mechanisms for employee involvement, or as a substitute for unions in the collective bargaining process. Overall, the evidence suggests that most NER structures are used as devices for consultation and communication rather than as bargaining agents. This was certainly the view of employees at Eurotunnel. While it can be argued that consultation, not bargaining, may indeed be the objective of such bodies, it nevertheless questions their legitimacy as true alternatives to unions. As the Eurotunnel findings and other evidence has indicated the effectiveness of NER structures in representing the interests of employees and filling the lack of representation is doubtful". This therefore highlights an important issue for policy makers; whether in a climate of declining union density, countries should seek to redress this decline and close the widening representation gap through supportive union regulation and policies.