



BARGAINING IN HE

A LITERATURE REVIEW TO STIMULATE DISCUSSION
OF THE PAY BARGAINING OPTIONS FOR HE



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1. Introduction

Multi-employer pay determination in higher education has existed since just after World War II, and until 2004 these arrangements reflected the structural diversity and origins of higher education institutions in the UK¹. Until the creation of the Joint Negotiating Committee for Higher Education Staff (JNCHES) in 2001, there were ten separate negotiating groups, six in the pre-1992 sector, three in the post 1992 sector in England and one in Scotland, with exclusive unions representing academic staff, and craft and general unions representing support staff.

The origins of New JNCHES can be traced back to the 1997 Dearing Report and the Bett Review. The New JNCHES machinery has remained largely unchanged for a period of ten years².

In that time, New JNCHES pay negotiations have more often than not failed to reach a settlement, leading employers to implement a pay uplift without union agreement. On several occasions over the last decade this has resulted in industrial action, or threats of action which can be equally disruptive for both students and staff.

Over the last ten years the trade unions' claims have also grown in scope, with non-pay matters increasing in scope and magnitude. Devolution has also led to different policies and funding regimes for HE. Despite increasing divergence across the sector, the number of participating HEIs has remained relatively constant at 146.

Consequently, a reappraisal of the pay bargaining system has formed one of UCEA's priorities in its strategic plan³.

UCEA has launched its *National conversation on pay bargaining* with a view to achieving the most effective pay bargaining structure for the sector, HEIs, staff and, ultimately, students.

In order to consider how the HE sector can best evaluate the various options for the future of pay setting, it is necessary to examine the theoretical models of collective pay bargaining, the reasons for the decentralisation of pay bargaining and the models that exist in other countries. These may provide useful insights into the factors that could influence the direction of pay determination in HE.

1.1 Executive Summary

As a result of the Whitley Committee's recommendations in 1916, the growth of collective bargaining saw the introduction of Joint Industry Councils (JICs) for well-organised industries, and an "extension" of the "rate of pay" across all industry sectors so workers benefitted from reduced "wage inequality".

Trade union membership peaked in 1979 at 13.2 million or 53% of the workforce but had declined to 28% by 1999. Similarly, the share of employees with wages set by collective bargaining fell from 70% in 1980 to 45% by the mid-1990s. Trade union density in the Education sector now stands at 51.4%, the highest sector level in the UK.

¹ Fairfoul, Helen; Hopkins, Laurence; and White, Geoff; *Collective Bargaining In United Kingdom Higher Education*, 2012, Journal of Collective Bargaining in the Academy: Vol. 3, Article 7

² *Higher Education Pay Bargaining – A brief history*, July 2021, UCEA, [Higher education pay bargaining – a brief history \(ucea.ac.uk\)](https://www.ucea.ac.uk/higher-education-pay-bargaining-a-brief-history)

³ *Agility in a time of uncertainty*, April 2021, UCEA, [Strategic Plan and Work Programme \(ucea.ac.uk\)](https://www.ucea.ac.uk/strategic-plan-and-work-programme)

ASHE data for 2020 shows that 38.7% of jobs had pay set by national, industry or organisational agreements; 90% in the public sector compared to 20% in the private sector. Since the peak, the traditional male, “blue-colour” union membership has diminished, with a higher proportion of female trade union members in 2020. Union membership is now more likely in larger workplaces rather than small ones and amongst professional occupations.

Many commentators attribute this decline or decentralisation to a mixture of de-industrialisation of the UK economy leading to greater fragmentation of UK employers (which particularly affected manufacturing), greater globalisation leading to increased competition and the unfavourable political climate in the 1980s resulting in more legislative requirements on trade unions prior to taking industrial action. Other factors include the privatisation of government run industries and services, the emergence of new industries leading to a larger proportion of smaller, private sector organisations (where union recognition halved between 1984 and 1998) and increased foreign and product market competition. Wherever profitability declined, there was a dramatic drop in collective bargaining.

The change in the UK political landscape and industrial relations legislation was also key: the Conservative Government’s 1988 White paper sought to emphasise company performance and ability to pay and aspired to achieve local labour market rates of pay. Wages and incomes policies were abandoned, wage councils gradually lost power in the 1980s and were abolished, and growth in private companies was encouraged by reduced regulation. Specific legislation introduced secret ballots for industrial action, outlawed secondary picketing and the closed shop, and protected non-union members from discrimination or dismissal.

Societal change also played a role with a raft of legislation on equality to protect people from discrimination on the basis of race, gender and disability, to grant employment rights (on holidays, working hours and leave for childcare) and introduce the National Living and Minimum Wages.

While the reduction in the size of the workplace appears a consistent factor, other observers dismiss the influence of macroeconomic factors or the business cycle in the retreat from collective bargaining. Workforce characteristics have notably changed since the 1980s, with union membership skewed to older workers. NIESR reject the hypothesis that compositional change or foreign ownership has led to the decline in collective pay bargaining. Machin et al (2000) contend the downturn in union recognition reflects an inability to organise unions in new establishments rather than any process of derecognition.

Emerging emphasis on corporate strategy and business performance, the creation of profit centres, profit management and the desire to control the business costs contributed to devolved bargaining. Even where the increase in pay was the same as collective bargaining, companies were able to achieve “something for something” agreements, or improvements to productivity. Consequently, multi-employer agreements fell from 15% in 1985 to one per cent in 2004 amongst single, independent employers, while the proportion where management fixed pay autonomously at the workplace level, rose from 59% in 1984 to 92% in 2004.

External economic conditions also influenced the outcome of pay negotiations during the 1980s, with upward pressures including cost of living, ability to recruit and retain staff, profits, productivity and order levels and downward pressures comprising price constraints, profit levels, cost of living, risk of redundancy and order levels. This is still the case with Incomes Data Research (IDR) demonstrating the lag effect of inflation indicators on pay awards since 2008.

The 1980s and 1990s provide examples of firms experimenting with departures from centralised collective bargaining, and the union response. Some unions sought to preserve a “national claim” by submitting a “common core claim” to the decentralised bargaining units. Others focussed on circulating information about claims and outcomes to negotiators, creating a “climate of expectation” (usually based on RPI), and “leapfrog bargaining” to apply pressure on other employers.

Local bargaining had resource, skillset and training implications for both employers and the trade unions, with union representatives spread more thinly, and smaller employers who lacked industrial relations or negotiating specialists often reforming employers’ associations and / or re-engaging former specialists as consultants. Crucially a “co-ordination of information” role was required to protect companies from “leapfrog bargaining”, or “Wage Council Plus” settlements. This could occur in HE without the co-ordination of New JNCHES.

Individual performance related elements (job evaluation, pay grades, incremental scales and payments by results systems) and formal profit-sharing schemes or performance related pay would not have been possible under national bargaining arrangements.

Pay bargaining structures continue to evolve as there is no universal best-practice system, and firms should utilise the most appropriate pay bargaining structure for them. Many OECD countries with more extensive pay bargaining receive some form of state support, either through regulation or fiscal subsidy and incentives to union membership.

The OECD Jobs Strategy reported that “earnings dispersion” is lower with collective bargaining. The main reference for pay negotiations at firm level is firm performance, as overall industry performance is at sectoral level. The “organised decentralisation model”, notably present in Germany and Austria, is resonant of the New JNCHES arrangements in HE. Sectoral agreements set the standard terms of employment and allow for exceptions via opt-out or derogation clauses.

“Pattern bargaining” (present in different forms in Sweden, Austria, Denmark, Germany, Japan, the Netherlands and Norway) sets a “cost mark” (an increase in the wage bill for that year) with the distribution of pay decided at firm level.

Section 8 on the *Implications for collective bargaining in HE* sets out some of the considerations for retaining or reforming collective bargaining in higher education.

2. Theory and rationale for collective bargaining

2.1 Theory of collective bargaining

Drawing extensively on *The role of collective bargaining for good labour market performance*, OECD Jobs Strategy, 2018, this section presents some of the theoretical ways that collective bargaining can affect employment, unemployment, productivity and pay.

At the peak of collective bargaining in the 1960s and 1970s the majority of employers entered into “voluntary agreements” with trade unions, largely because it served the interests of both parties for a number of reasons. Collective bargaining “**took the wages out of competition**” enabling firms to focus on other priorities. This worked best if the majority of competitors also paid collectively negotiated rates of pay, which was most likely to occur where there was limited sectoral and international market competition. The more competitive the market conditions, the less likely it would be that the employer was generating sufficient profits for trade unions to bargain over, referred to as “**rents**”.

Although the notion of “rents” may appear to be more applicable in a commercial environment than to HE, the introduction of student fees in 2005 triggered a long-running dispute with the sector’s trade unions who perceived this to be additional HE funding, of which they could claim a share. The increase in domestic undergraduate applications for university places, as a result of the change in measuring grades for ‘A’ Level or Scottish Highers gave rise to such a situation in the New JNCHES negotiations for 2020-21 and 2021-22 where the union side argued that a pay rise could be afforded.

Noting the correlation between union density and collective bargaining, the OECD Country Report contends that collective bargaining in the UK is dependent upon trade union density to apply pressure on the employers to enter into collective bargaining. Brandl and Kildunne argue that collective bargaining is **voluntary**, as it only occurs where the trade union(s) can bring the management to the negotiating table⁴. But collective bargaining may have suited trade unions, employers and the government in the industrial context and the structure of the mid-20th century UK economy.

Industrial relations theory suggests that employers and unions bargain jointly on wages and employment in a way that maximises the surplus after deduction of their outside options in “**efficient bargaining**” models. Collective agreements signed by employers and unions primarily determine wage levels (or wage increases) and non-wage working conditions, including working time, leave arrangements, training, employment protection, and health and safety provisions.

In theory, the effect of collective bargaining depends also on the structure of the market and the degree of competition. With perfect competition in product and labour markets, raising wages above the market equilibrium wage induces **unemployment**⁵. However, when product market competition is imperfect (i.e. when firms have some degree of monopoly or oligopoly power), higher wages may not induce greater unemployment but be simply the result of workers appropriating a greater share of the “**rents**”.

Some argue that even in imperfectly competitive labour markets, higher bargaining power and higher wage floors can increase employment. This would be the case in the presence of monopsony power, which enables firms to offer wages below the market wage, for example

⁴ Brandl, Bernd; Kildunne, Anne (2018) *Outsourcing and collective bargaining in the UK*, The Country Report – RECOVER project. [<https://ddd.uab.cat/record/202076>]

⁵ OECD Jobs Strategy, *The role of collective bargaining (for good labour market performance)*, 2018

because workers have limited opportunities to change their employer or would incur high costs if they did so.

In *The role of collective bargaining*, (2018) the OECD explains that outcomes such as **employment and productivity** are not usually taken account of in wage negotiations. The trade unions are representing their membership with the focus on improving pay and conditions for the “**insiders**” (their members) rather than creating full employment or concerning themselves with rising levels of unemployment amongst the “**outsiders**”. There is evidence that union members receive a “**union wage premium**”, which is a measure of success and has been used to document the benefits of collective bargaining for employees.

The way collective bargaining influences labour market performance depends on the bargaining strategies of both sides, the structure of product and labour markets and the nature of collective bargaining institutions⁶. The external impact on the labour market is linked to the **share of workers covered by collective agreements, rather than union membership density** (which might involve smaller organisations) but also the level at which collective bargaining occurs and therefore the extent to which collective bargaining is **extended** across the workforce via so-called “*erga omnes*”⁷ clauses. The “*erga omnes*” mechanism (or regulations) which extends collective agreements to non-unionised workers, may weaken incentives to join a union. The extension of the “rate of pay” across whole industry sectors was an objective of collective bargaining during both World Wars to improve industrial relations and reduce industrial action. Such administrative extension mechanisms are still used to imply sector wage rates in France and Spain and are used on a voluntary basis in Denmark and Sweden (see Section 7).

This is an important point given that around 146 HEIs regularly sign up to the New JNCHES agreement, giving a dominance of HE pay setting using collective bargaining.

However, sector or industry **extensions** can also have downsides, as they may be used as a tool for unfair competition and harm the economic prospects of those not represented at the negotiation table, such as start-ups, small firms or vulnerable workers according to studies by Haucap, Pauly and Wey⁸ and Hijzen and Martins⁹.

2.2 Efficient bargaining model

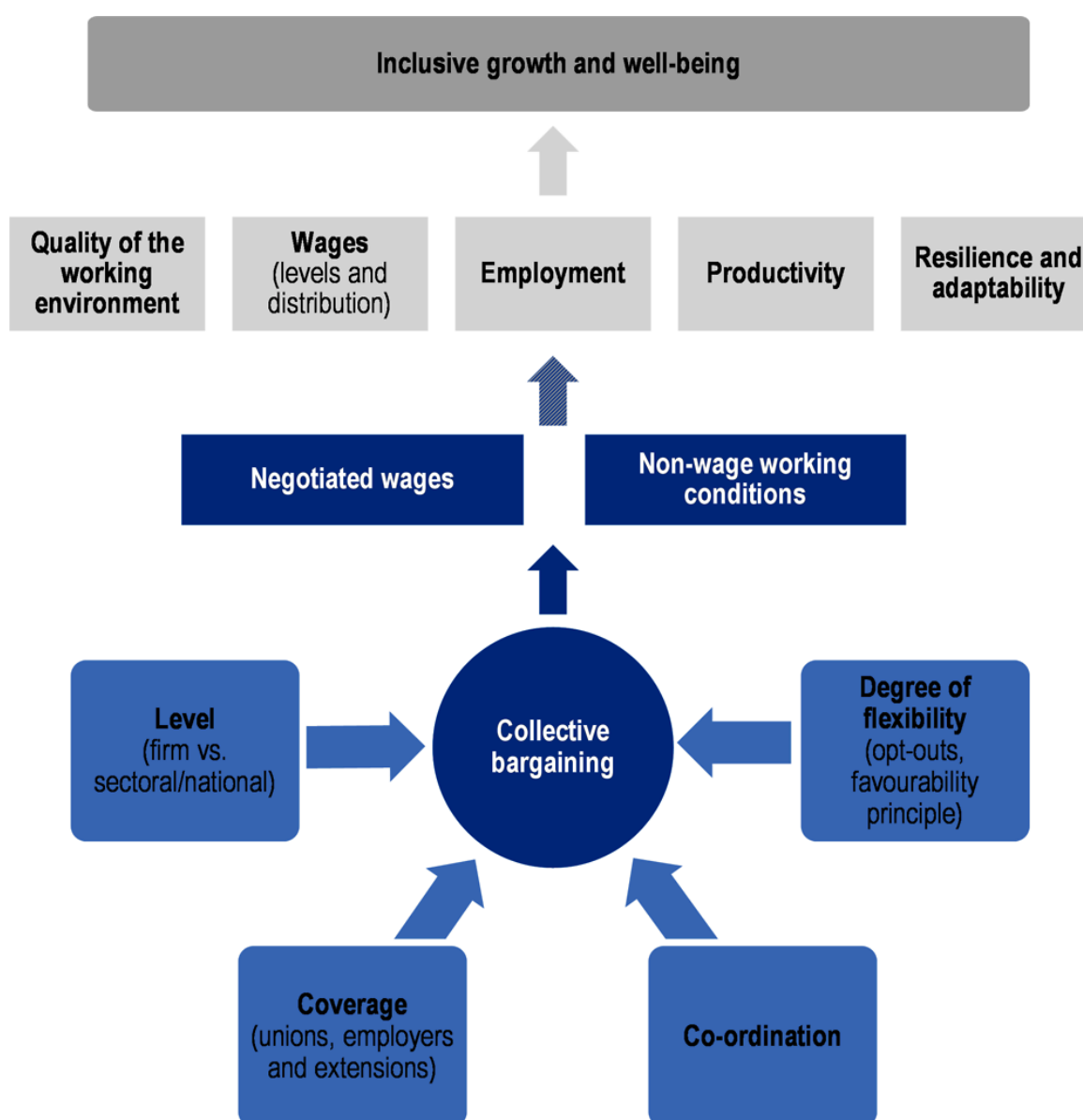
A theoretical model is presented diagrammatically in the OECD Jobs Strategy: *The role of collective bargaining (for good labour market performance)*, 2018. p30, below:

⁶ OECD Jobs Strategy, *The role of collective bargaining*, 2018

⁷ *Erga omnes* (Latin: “toward all”) legal term for rights and obligations being owed / extended to all

⁸ Haucap, J., U. Pauly and C. Wey, *Collective wage setting when wages are generally binding: An antitrust perspective*, 2001, International Review of Law and Economics, Vol. 21/3, pp. 287-307.

⁹ Hijzen, A. and P. Martins, *No extension without representation? Evidence from a natural experiment in collective bargaining*, 2016, IZA Discussion Paper, No. 10204.



2.3 Productivity growth and wages

In theory, collective bargaining can impact on productivity in two ways. On the one hand, collective bargaining can increase **aggregate productivity** by setting higher wage floors (and making it more difficult to cut costs through lower wages) which may force unproductive firms to exit the market¹⁰. More rigid wages may also increase the incentives of the **firms' owners to innovate**, as they would reap the full benefits of productivity gains, as argued by Acemoglu and Pischke¹¹ and Haucap and Wey¹².

¹⁰ Braun S, *Unionisation structures, productivity and firm performance: New insights from a heterogeneous firm model*, 2011, Labour Economics, Vol. 18/1, pp. 120-129.

¹¹ Acemoglu D. and J. Pischke, *The structure of wages and investment in general training*, 1999, Journal of Political Economy, Vol. 107/3, pp. 539-572.

¹² Haucap J. and C. Wey, *Unionisation structures and innovation incentives*, 2004, Economic Journal, Vol. 114/494, pp. C149-C165.

Other ways through which collective bargaining could promote productivity growth are higher “efficiency” wages, better non-wage working conditions and the possibility for workers to voice concerns¹³.

One of the arguments in favour of broad collective bargaining, is the impact (i.e. reduction) of “**wage inequality**” across sectors / industries and across the country. In practice, trade unions often regarded the negotiated industry / sector settlement as the baseline from which to negotiate individual employer enhancements, which contributed to “**wage drift**” - the difference between the actual wage outcome and the negotiated wage¹⁴.

2.4 Implications for HE

Many of these arguments are pertinent for HE, as the JNCHES pay spine is essentially removing wages from competition, although HEIs can set their own grade boundaries within the pay framework. This does not include senior pay outside of the spine, from Professorial level for academic pay. This is particularly important given that staff costs accounted for 59% of all HEI costs in 2018-19¹⁵.

It is more difficult in the HE context to see how productivity can be increased, although the variety of teaching methods introduced following the Covid-19 pandemic may add choice and flexibility of delivery for students and staff alike. Some HEIs are planning to use more flexible working methods, which would allow them to rationalise the number of office buildings required. There are also alternative sources of funding, including conferences and accommodation available to some HEIs.

The key difference in HE is that generating income or profits is restricted by the fact that fees for domestic undergraduates have changed little since the cap of £9,000 was introduced in 2010, with a further uplift to £9,225 in 2017-18. HEIs have more discretion on fees for foreign and postgraduate students, but without the protection of state funding afforded elsewhere in the public sector, it is still challenging for institutions to pass on any additional staff costs to their “customers”.

¹³ OECD Jobs Strategy, *The role of collective bargaining*, 2018, p30

¹⁴ OECD Jobs Strategy, *The role of collective bargaining*, 2018, p28

¹⁵ *Expenditure in HE*, HESA, 2018-19

3. The growth and decline of collective bargaining

This section seeks to explore the experience of collective bargaining in HE as it relates to wider economic and historical developments.

3.1 Growth of collective bargaining

Collective bargaining was seen as a solution to industrial unrest during the first few years of WWI. The Whitley Committee, established in 1916, had been asked to make suggestions for securing 'a permanent improvement in the relations between employers and workmen and to recommend ways of systematically reviewing industrial relations in the future'.

The primary recommendations from the Whitley Committee's five reports were:

- 1) the establishment of Joint Industrial Councils (JIC)s in well-organised industries where national bargaining could take place, and
- 2) an extension of the system of statutory wage regulation in badly organised trades

The Committee's suggestion of a statutory regulation of wages in unorganised industries was achieved in 1918 through the extension of the *1909 Trade Board's Act*. This empowered trade boards, themselves composed of both employer and trade union representatives, to fix minimum wage rates. In the four years following WWI no less than 73 JICs were established and 33 interim reconstruction committees were set by the Ministry of Reconstruction where it was not possible to establish a JIC. Following these recommendations by the Whitley Committee, industry-wide multi-employer pay bargaining became the dominant model for pay bargaining and remained so for 50 years.

However, in the inter war years multi-employer collective bargaining reverted to local bargaining in many industries except those that were sheltered from the depression and international competition, including railways and construction. Collective bargaining was maintained in the public sector, and in more prosperous private sectors, like cement, chemicals and flour milling. After the General Strike in 1926 the coal industry reverted to local pay bargaining. The number of trade union members dipped during the inter-war years and the number of JICs reduced to 47 by 1924 and remained at 45 in 1938.

With the outbreak of WWII, the government again introduced a form of compulsory arbitration, this time through the *Conditions of Employment and National Arbitration Order of 1940* which prohibited strikes and lock-outs and set up a new body, the National Arbitration Tribunal, to arbitrate in disputes and to issue binding awards. Fifty-six JICs were established or renewed, and statutory wage regulation was consolidated and extended through the *Catering Wages Act of 1943*, the *Wages Council Act 1945*, and the *Agricultural Wages (Regulation) Act of 1947*.

The majority of workers were covered by national collective bargaining by the end of WWII with only two million of the estimated 17.5 million workforce excluded according to the Ministry of Labour. Acts of Parliament taking various industries into public ownership specified that the relevant authorities had a statutory responsibility for setting up negotiating systems, which extended collective bargaining into service industries, and from manual trades to non-manual and professional workers.

Since its peak in the 1960s and 1970s collective pay bargaining has been in the process of decentralisation in the UK which affects the extent of its use and influence.

3.2 The decline of collective pay bargaining

The decline or decentralisation of collective bargaining can be viewed from a number of perspectives, using data on trade union membership, and the proportion of the workforce covered by collective bargaining. Since the 1970s there have been dramatic changes in:

- 1) Trade union membership: by 1999 less than a third of workers (28%) were union members compared to 53% in 1979
- 2) The share of employees whose wages are set by collective bargaining: from 70% in 1980 to around 45% by the mid-1990s¹⁶ (Machin et al, 2000).

This section documents those changes, how they portray the change in industrial relations over the last 100 years, and what factors have been instrumental in the change away from collective bargaining in the UK.

3.3 Trade union membership

Trade union membership levels as reported by the unions listed or scheduled in the UK reached their peak in 1979 (13.2 million) and declined sharply through the 1980s and early 1990s. From 1996 onwards the rate of decline slowed significantly, with occasional years of slight growth interspersed with the general annual reductions in membership. In 2018-19 unions reported membership at 6.70 million, down 15.7% from the 1996 level of 7.94 million.

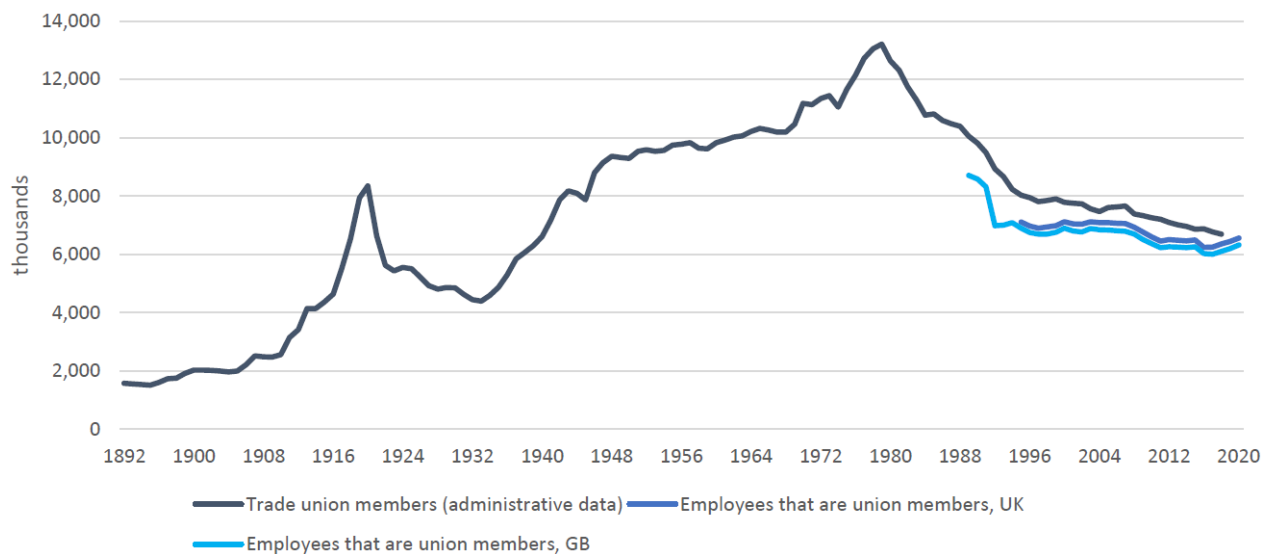
The trend since 1995 for numbers of employees who are trade union members is similar. However, there are clearer periods of broad stability, between the mid-1990s and mid-2000s, and between 2011 and 2015, along with significant falls in the late 2000s and in 2016. Overall, between 1995 and 2020 union membership levels among UK employees fell by 555,000 (7.8%) from 7.11 million to 6.56 million.

The chart below illustrates both:

- 1) Administrative data: membership reported by unions listed and scheduled in the UK, including unemployed, inactive and retired members and
- 2) More recent figures for employees who are trade union members from the Labour Force Survey (LFS), which collects sample data in Q4 (October to December) each year.

¹⁶ Machin, Stephen; *Union Decline in Britain*, 2000, British Journal of Industrial Relations, 38 (4), 631-645.

Trade union membership levels in the UK, 1892 to 2020

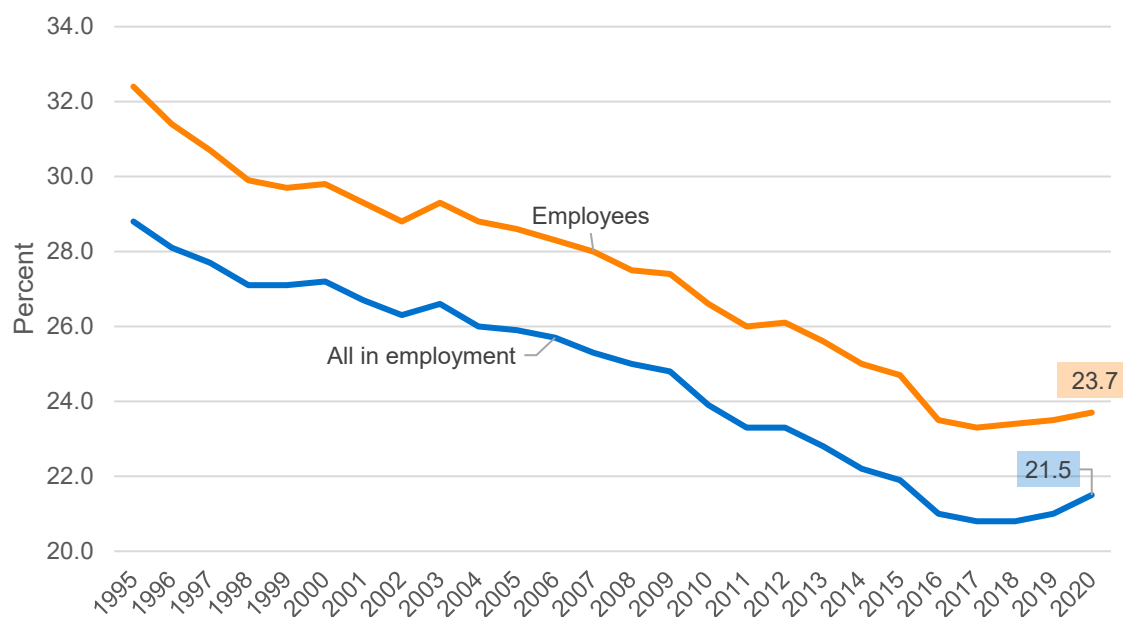


Source: Administrative data on union membership from Department for Employment (1892-1973); and the Certification Office (1974-2019). Data on UK employees that are trade union members is based on the Labour Force Survey, Office for National Statistics

3.4 Density of trade union membership

In 1979 some 53% of workers were union members. Union membership as a proportion of employees has fallen from 32.4% in 1995 to 23.7% in 2020. This is due to overall UK employee numbers rising during the period, by around 5.9 million to 27.8 million, while union membership among employees did not keep pace and fell significantly. The Resolution Foundation analysis of the Labour Force Survey illustrates this:

Trade union membership as a proportion of all employees and those in employment, 1995 to 2020

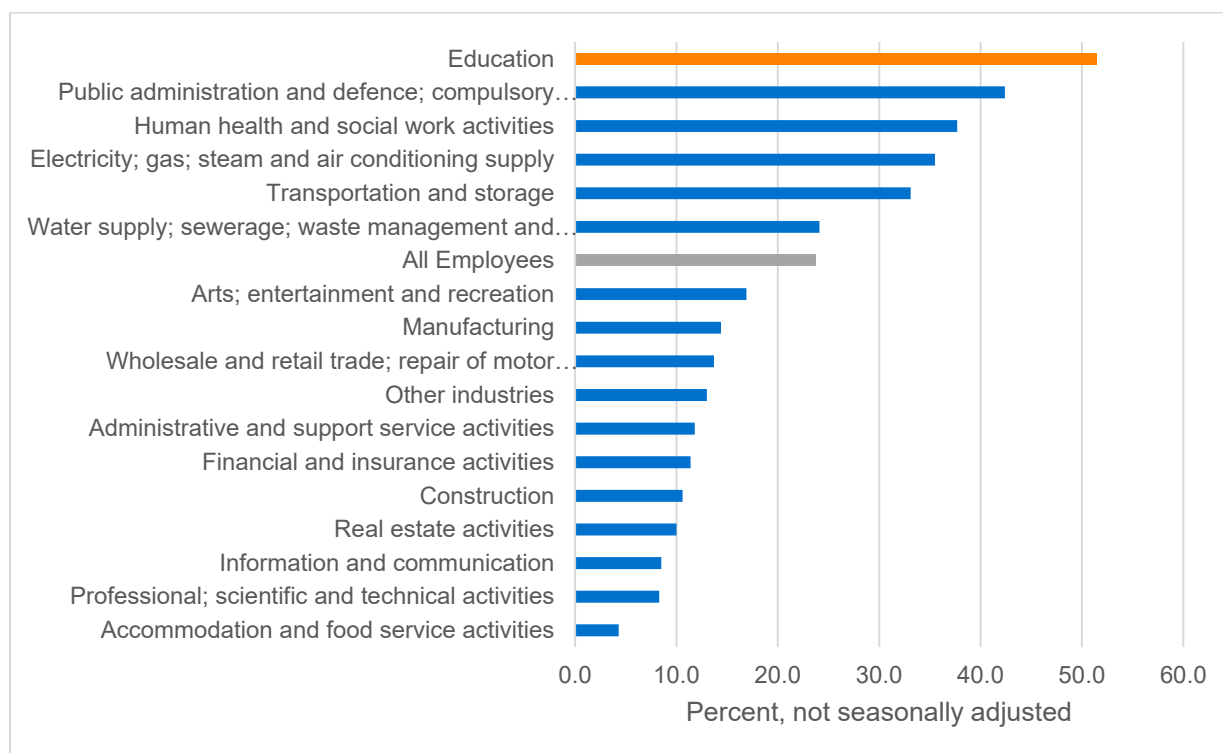


Source: Labour Force Survey, 2020, ONS

3.5 Trade union density in HE

It is interesting to note that the Education sector now has the largest density of trade union membership at 51.4%, followed by the Public Administration and Defence: compulsory social security, some way behind at 42.4%, and Human health and social work activities in third place with a density of 37% check. This level of union density is double that for all employees, at 24.5%.

Trade union membership as a proportion of employees, by industry, 2020



Source: Labour Force Survey, 2020, ONS

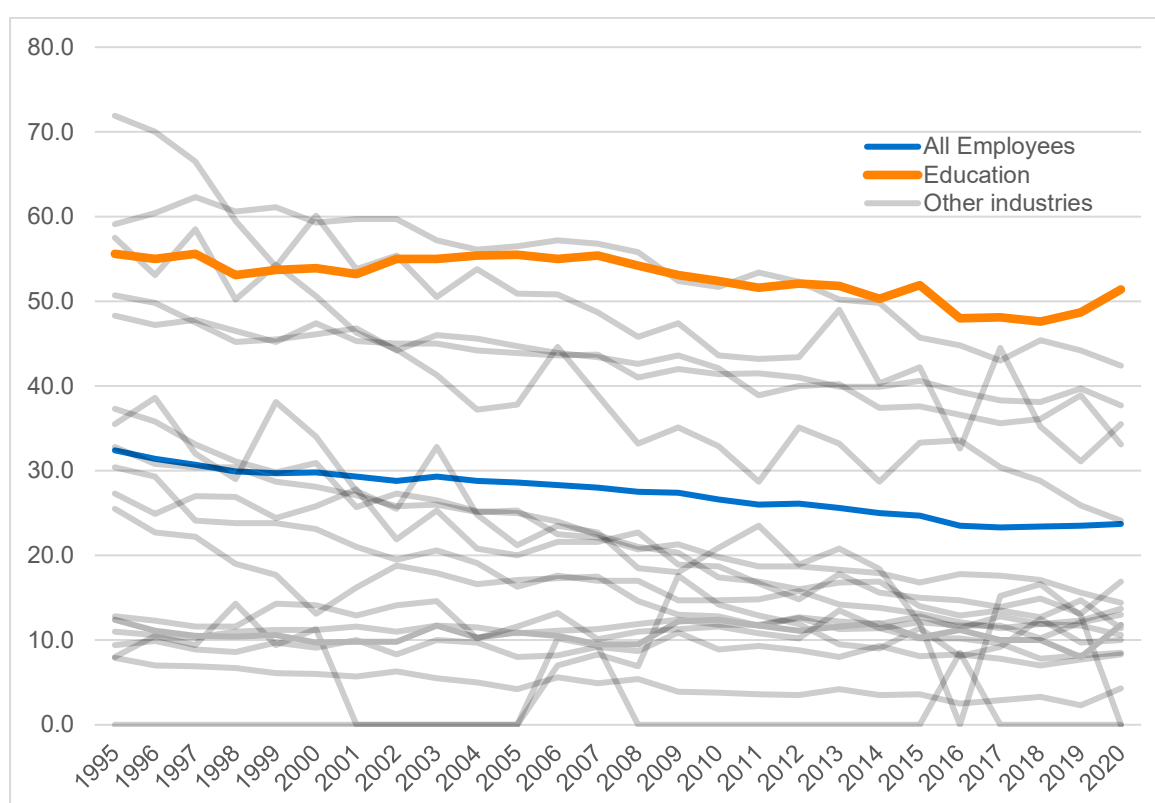
Note: It is hard to isolate the HE sector in government statistics, as the Education sector includes schools and the FE sector as well as HE.

UCEA's survey in 2018 indicated that almost one-third of academics (29.8%) are UCU members and 12.9% of professional services staff are UNISON members in the HE sector. It was a sample survey using matched sample analysis to extrapolate for missing HEI data and may therefore underestimate trade union density in HE¹⁷.

Although there are some headline figures suggesting a revival of trade union membership since 2016 there is still an underlying downward trend for many sectors. What is interesting is that the Education sector is withstanding those downward pressures better than other sectors, as illustrated by the orange trend line of trade union membership density from 1995 to 2020.

¹⁷ www.ucea.ac.uk/member-resources/employee-relations-and-trade-unions/Trade-union-membership/

Trade union membership as proportion of employees, by industry, 1995 to 2020



Source: Labour Force Survey, 2020, ONS

UK trade union membership levels among employees have risen in each of the past four years (by 17,000 in 2017, 103,000 in 2018, 91,000 in 2019 and 118,000 in 2020) to reach 6.56 million in 2020. Union membership levels have therefore fully recovered from the large drop of 267,000 in the year to 2016 when membership levels among employees fell to a record low of 6.23 million.

Note that ONS has stated that estimates for 2020 should be treated with caution.

The proportion of employees that were union members has also increased more substantially this year, with an increase of 0.2 percentage points compared to the 0.1 percentage point increases of the two prior years. The proportion of employees that were union members reached 23.7% in 2020. This indicates that in the past three years growth in employees that were union members has been faster than growth in employee numbers overall.

3.6 Recent coverage of collective bargaining

In addition to the administrative data on membership from trade unions and trade union membership information gathered by within the LFS (see section 3.3 above), alternative information suggests collective agreements are more widespread in the UK.

The Annual Survey of Hours and Earnings (ASHE) also collects **information on collective agreements**¹⁸ from employers concerning around 180,000 workers each year in April (around 136,000 in 2020). It asks if the worker's pay was set with reference to an agreement covering more than one employee (for instance pay may be agreed collectively by a trade union or workers' committee). The question is slightly broader than the LFS question and covers jobs rather than individuals (as individuals can have more than one job, so the

¹⁸ *Trade union membership, 2020*, Statistical bulletin, BEIS

employer can only provide information on the job rather than comprehensive information on the worker).

For 2020, the ASHE data shows that around 38.7% of jobs had pay set by an agreement covering multiple employees (primarily through National or industry agreements, followed by organisational agreements). In the Public Sector around 90% of jobs had pay set by such agreements according to ASHE, compared to around 20% of jobs in the Private Sector. One factor in the difference between the LFS and ASHE figures is the manner in which they are collected. The LFS is a household survey asking about union membership, and there may be a lack of awareness among some individuals about how their employment terms and conditions are set.

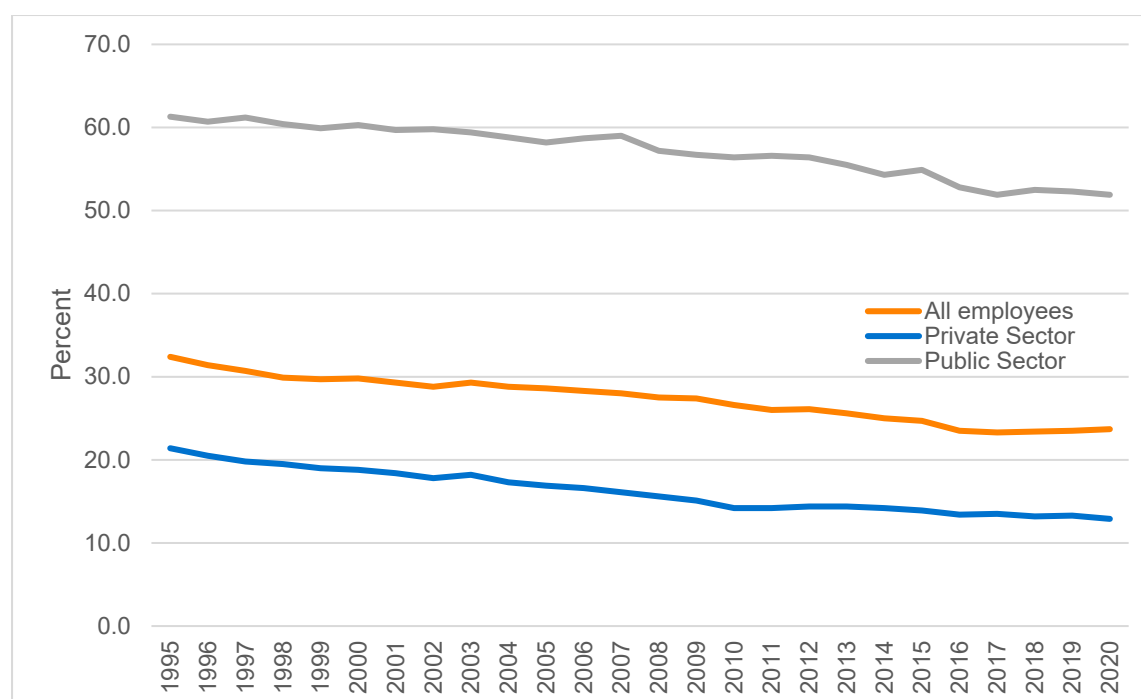
3.7 Change in union member characteristics

This latest BEIS release on trade union membership figures illustrates the extent to which trade union membership has declined in traditional “blue-collar”, predominantly male sectors, with a rise in public sector “white collar” employment.

Estimates from the LFS¹⁹ show that trade union membership among **public sector** employees increased by 228,000 in 2020 to 4.00 million. This was the third consecutive annual increase following the rise of 149,000 in 2018 and 74,000 in 2019. Among private sector employees there was a decrease in union membership of 110,000 to 2.56 million which is the largest decrease since 2010, following a slight increase of 17,000 in 2019.

The LFS estimates showed that there had been a decrease in the proportion of **private sector** employees that were union members from 13.3% in 2019 to 12.9% in 2020, this followed a small rise from 13.2% in 2018 to 13.3% in 2019. Whilst in the public sector union membership density had its second consecutive fall from 52.3% to 51.9%

Trade union membership as a proportion of employees by sector, 1995 to 2020



Source: Labour Force Survey, ONS, 2020

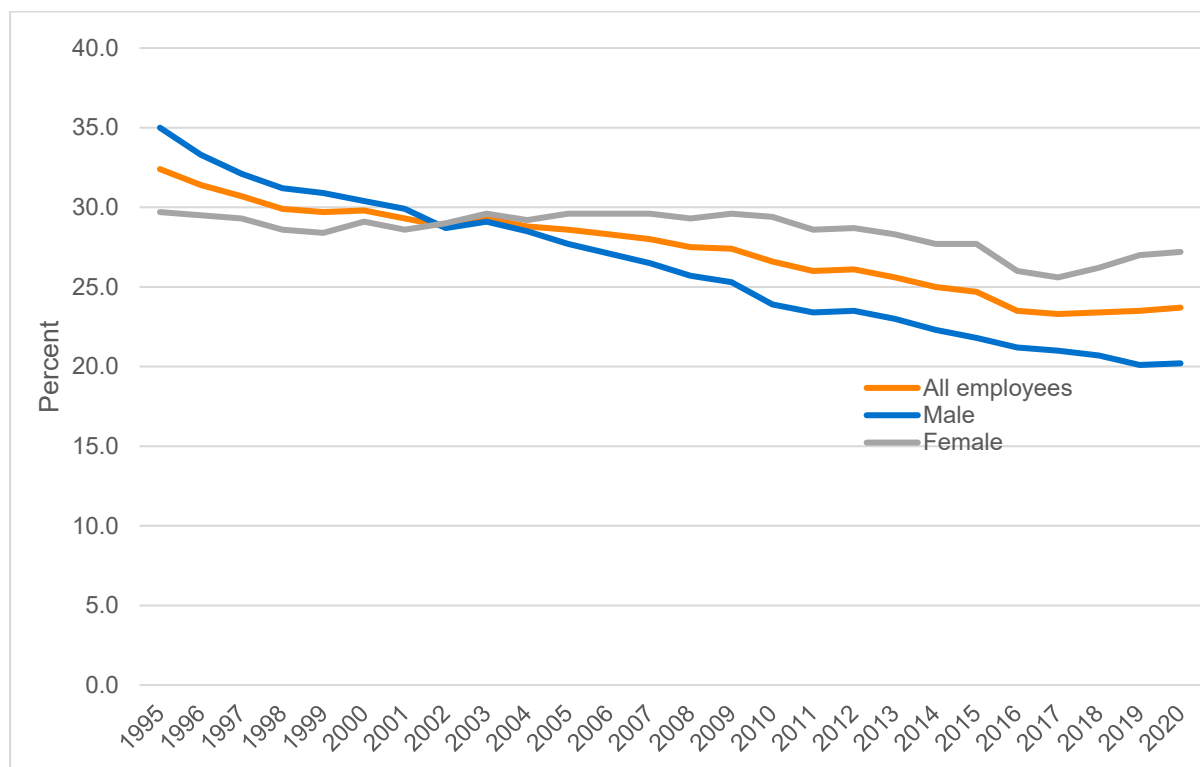
¹⁹ *Trade union membership, 2020*, Statistical bulletin, BEIS

3.8 Gender change in union membership

The number of UK female employees reached 3.76 million in 2020, the highest level recorded since 1995. Meanwhile, the proportion of UK male employees who were in a trade union in 2020 increased by 46,000 on the year to 2.80 million in 2020, following two years of membership levels decline.

In 1995, the proportion of male employees who belonged to a trade union was around 35%, compared with just below 30% for female employees. High falls in union membership densities among male employees narrowed the gap between males and females. In 2002, the proportion of employees belonging to a trade union was around 29% for both genders.

Trade union membership as a proportion of employees by gender, 1995 to 2020



Source: *Labour Force Survey*, ONS, 2020

3.9 Change in size of workplaces

The proportion of employees who belonged to a trade union in larger workplaces was 30.5% in 2020, compared to 15.4% of employees who were employed in a smaller workplace (less than 50 employees). 65.7% of employees working in larger workplaces had a trade union presence in the workplace, compared to 31.5% of employees based in smaller workplaces. The proportion of employees whose pay was affected by a collective agreement between their employer and a union was 35.1% in larger workplaces and 14.2% in smaller workplaces.

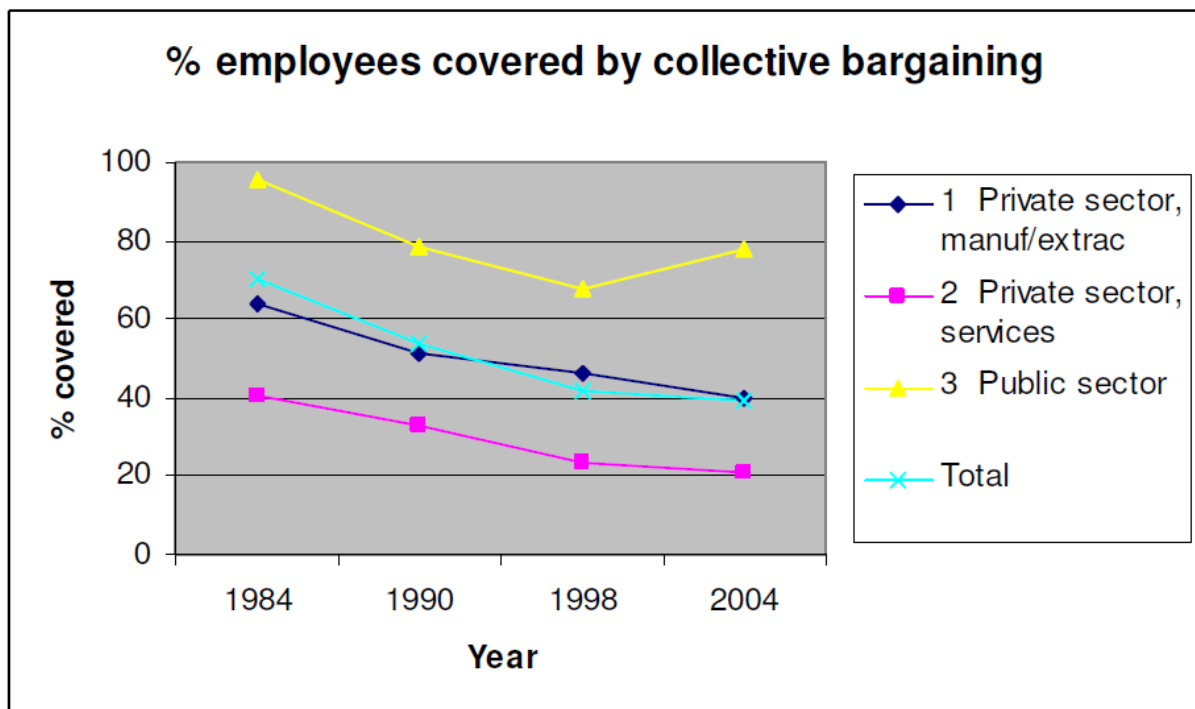
3.10 Trade union membership higher in professional occupations

Those working in Professional occupations accounted for over four-in-ten (41.6%) of employees who were trade union members in 2020, but only 24.5% of UK employees overall, indicating that this occupational group is relatively highly unionised.

3.11 The share of employees covered by collective bargaining

Between 1984 and 2004, the proportion of workplaces with any collective bargaining fell from 47% to 16%. Where collective bargaining did take place, the proportion of workplaces

for which it encompassed 80% or more of the workplace rose from 58% in 1984 to 77% in 2004. But the proportion of those where fewer than 50% of workers were covered fell from 14% to 8%. It has become harder for a trade union to maintain a minority presence in a workplace²⁰.



Source: CO, calculations by Gooberman et al, *The decline of Employers' Associations in the UK*, 1976 – 2014

²⁰ Brown W, Bryson A and Forth J, *Competition and retreat from Collective Bargaining*, NIESR Discussion Paper No 318, 2008

4. Reasons for the decline in collective bargaining

Understanding the reasons for the decline in collective bargaining across the UK will help us to determine the current structure of collective bargaining for the HE sector. Many commentators attribute this decline or decentralisation to a mixture of de-industrialisation of the UK economy leading to greater fragmentation of UK employers, greater globalisation leading to increased competition and the unfavourable political climate in the 1980s resulting in more legislative requirements on trade unions prior to taking industrial action. In addition to apportioning the component contributions of legislation, deregulation, and globalisation, other factors are also worth considering like societal change, the size of the workplace and workforce characteristics.

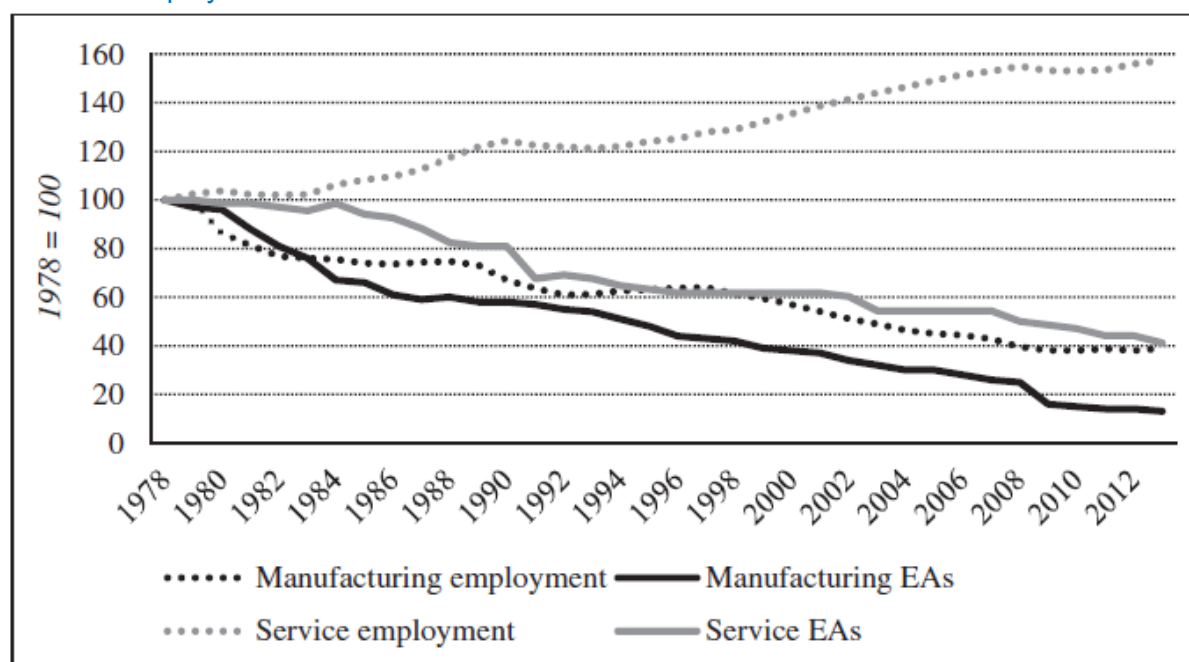
Lash and Urry²¹ linked the changes in industrial relations to the external changes in society, the decline in class identification and the growing importance of non-class based social movements, the continued expansion of white-collar employment, the decline in plant size and the emergence of the “world market”.

4.1 De-industrialisation

To illustrate the impact of the change in UK industries over the four decades since 1979, manufacturing, which accounted for 50% of Employers' Associations (EAs) at the peak of unionisation, had shrunk to less than a quarter of associations (22%) by 2013-14²².

Gooberman et al track the decline in the proportion of the workforce employed in manufacturing, which was offset by a rise in service sector businesses from 1976 to 2013-14. But rather than the 60% rise in service sector employment being mirrored by an increase in EAs, the reverse occurred with the proportion of workplaces and EAs in the private sector declining by 2011 to around 30% of the proportion in 1984.

EAs and employment 1978 – 2012-13



Source: ONS (JWR series), CO, calculations by Gooberman et al

Note: Consistent ONS employee data not available before 1978

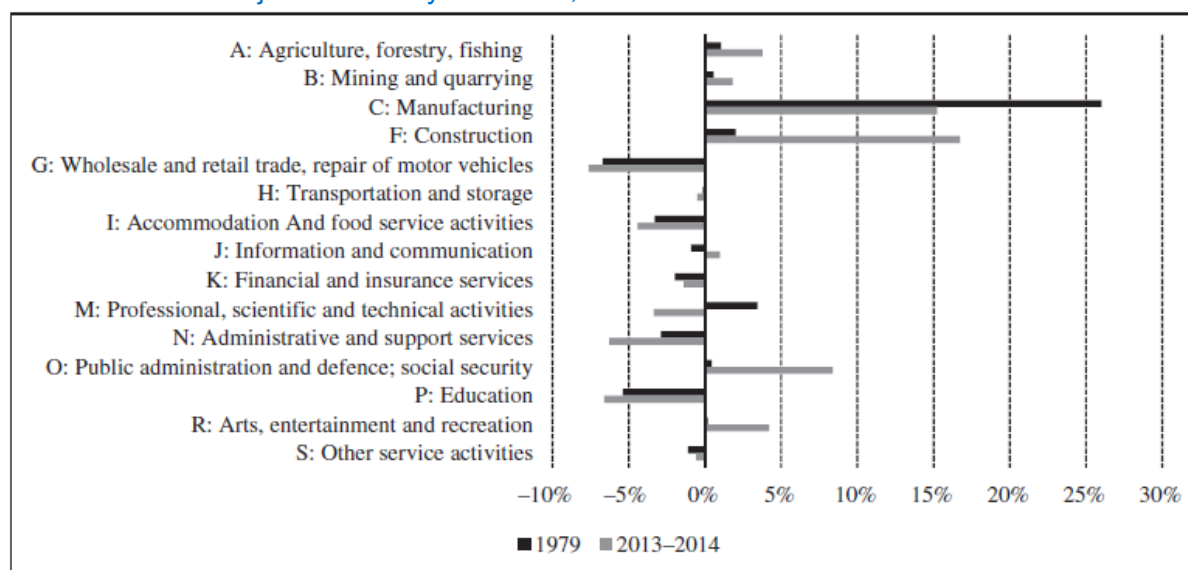
²¹ Lash S and J Urry, *The End of Organised Capitalism*, 1987, Cambridge Polity Press

²² Gooberman et al, *The decline of Employers' Associations in the UK, 1976 – 2014*, Cardiff University

Other sectors that were particularly reduced in size include textiles, print and shipbuilding sectors.

In order to represent the change in workforce representation, Gooberman et al analysed the proportion of workforce jobs within high level Standard Industrial Classification (SIC) codes against the proportion of active sector EAs in 1979 and 2013-14. The positive figures denote over-representation, the negative ones, under-representation. Declining sectors tend to be over-represented, like Group A and B, Agriculture, forestry and fishing and Mining and quarrying, together with Manufacturing.

Share of workforce job and EA by SIC code, 1979 and 2013-14



Source: ONS (JWR series), CO, calculations by Gooberman et al

Note: SICs with no EAs in both 1979 and 2013-14 are excluded

4.2 Privatisation

Privatisation of industries has exposed firms to increased **product market competition**, except for industries with natural monopolies, like railways, water, gas, electricity. Where competition exists the same decline in collective bargaining is observed post privatisation.

The main contributing factors were **privatisation of government run industries and services**, the emergence of new industries leading to a larger proportion of smaller organisations and increased competition, particularly in a more global market. Consequently, the decentralisation to local pay decisions has been most **prevalent in the private** sector through the 1990s, with many public sector employers continuing trade union recognition.

4.3 Private versus public sector changes in UK

By contrast pay bargaining in the public sector was progressively replaced by pay review bodies in which EAs were one of the represented parties (White and Hackett, 2003)²³ in addition to their role in voluntary collective bargaining, where the rules were agreed between unions, and employers without any state intervention.

²³ White G and Hackett A, *The pay review bodies in Britain under the labour government*, 2003, Public Money & Management 23(4): 237–244.

Union recognition by employers declined by half between 1984 and 1998 (Brown et al, 2009)²⁴ as **newer employers**, largely in the **private sector**, gradually reduced their engagement with trade unions (on a range of issues).

4.4 Competition

Tougher competition in the product market poses a fundamental challenge to collective bargaining. Brown et al (for NIESR, 2008) suggest that “a local product market remains a sizeable and statistically significant support for collective bargaining” based on calculations that use of collective bargaining was around 11% to 12% higher amongst employers facing local competition.

Although **foreign competition** sounded the death bell for many British industries, like textiles, ship-building, coal-mining, footwear, and steel-making, the NIESR discussion paper²⁵ argues that international competition has been no more detrimental than national and regional competition since the proportion of private sector workplaces covered by WERS²⁶ who were competing abroad has not substantially changed. They claim the major factor is dominance of **product market competition**, citing the fact that the fall in employers using collective bargaining was double that where the organisation faced competition from six or more competitors.

Percentage using collective bargaining	1984	2004
Workplaces dominating their marketplace	50%	31%
Workplaces with six or more competitors	51%	15%

4.5 Profitability

Further, combining the WERS data with the EU KLEMMS project database²⁷ enabled Brown et al (NIESR 2008) to conclude that collective pay bargaining was more likely to flourish, or at least persist, in organisations which maintained a healthy profit over the period, and less likely to in low-profit industries. Where **change in profitability was observed**, those with declining profitability experienced a more dramatic drop in collective bargaining.

4.6 Political changes in the UK

Freeman and Pelletier's²⁸ (1990) business cycle model attributes the decline to **industrial relations legislation in the UK** as the political landscape was less benign under Conservative governments. However, other countries have witnessed similar changes in trade union membership without similarly restrictive legislation, but the UK may have simply reversed a trend where unionism and the closed shop had been overly protected.

The Conservative government sought to change the approach to pay bargaining to achieve the “flexibility essential to employment growth” in their 1988 White Paper²⁹, which argued that more emphasis should be placed on **performance** and **ability to pay** than on the *going rate, comparability* and *cost of living increases*. The White Paper welcomed the move from multi-employer to individual firm bargaining, focussing on the local labour market rather than a national pay rate, in a bid to tackle local unemployment. The government clearly hoped

²⁴ Brown W, Bryson A and Forth J, *Competition and the retreat from collective bargaining*, 2009
In: Brown W, Bryson A, Forth J, et al. (eds) *The Evolution of the Modern Workplace*, Cambridge: CUP, Cambridge University Press, pp 22–47.

²⁵ Brown W, Bryson A and Forth J, *Competition and retreat from Collective Bargaining*, NIESR Discussion Paper No 318, 2008

²⁶ Workplace Employment Relations Study

²⁷ EU KLEMS, *Productivity in the EU*, 2003-2008

²⁸ Freeman, Richard B. and Jeffrey Pelletier; *The Impact of Industrial Relations Legislation on British Union Density*, 1990, British Journal of Industrial Relations, 29 (2), 141-164,

²⁹ Department of Employment, *Employment in the 1990s* Cmd 540, 1988, p23

that decentralisation of pay bargaining would lead to regional variations in pay and attract more employers to areas like the north-east.

The post-1979 transformation in the UK is cited as a “striking example” of the role of States as “midwives of institutional change” by Baccaro and Howell³⁰.

4.7 Legislative changes 1980 - 93

As a quid pro quo for union involvement in a voluntary incomes policy, the Labour government passed the *1974 Trade Union and Labour Relations Act* (amended in 1976) which protected the closed shop or union membership agreements (UMA) by making it impossible to claim “unfair dismissal” for non-membership. The *1975 Employment Protection Act* introduced arbitration, where trade unions could call on Advisory, Conciliation and Arbitration Service (ACAS) to insist the employer recognise the union, and to extend terms and conditions of collective agreements to comparable workers, under Schedule 11.

The Conservative government of Margaret Thatcher was characterised by a “total aversion to collective bargaining”³¹ and the government informally pressurised the Engineering Employers Federation (EEF) to end the engineering collective agreement in the 1980s. The government also introduced a number of changes: wages and incomes policies were abandoned. Wages councils gradually lost power in the 1980s and were abolished. Encouraging the growth in private enterprises by reducing regulation had the effect of increasing competition.

The Thatcher government began to reverse the impact of union legislation in the *1980 Employment Act*, restricting UMA to new applications (and subject to 80% ballot approval), removing union “immunity” when organising “secondary” strikes, making it illegal to picket unless it was their place of work and introducing “voluntary” secret ballots, and funds to hold them. The *1982 Employment Act* required all UMAs to pass the 80% threshold, discrimination against non-union members was prohibited and contracts could no longer specify union-only labour be used. It removed immunity for damages for industrial action which led to 201 legal actions against unions between 1980 and 1995³². The *1984 Trade Union Act* required secret ballots be held prior to industrial action, for election of officials and for the political levy. Around a third of injunctions since 1980 who based on balloting procedures (McKay, 1996, p16).

The *1988 Employment Act* made any form of industrial action to establish or maintain a closed shop illegal, and dismissal for non-union membership became “unfair”. The protection for non-union memberships was extended to new hires, unions were held liable for unofficial action, unofficial strikers could be dismissed, and secondary action was outlawed by the *Employment Act 1990*. Lastly, the *1993 Trade Union Reform and Employment Rights Act* allowed membership of any recognised union in the workplace (overriding the Bridlington rules on poaching other unions’ members), tightened rules on ballots for industrial action and abolished Wage Councils.

The Labour government from 1997 largely accepted the evolving approach to collective employment relations (Baccaro and Howell, 2011).

³⁰ Baccaro L and Howell C, *A common neoliberal trajectory: The transformation of industrial relations in advanced capitalism*, 2011, *Politics and Society* 39(4): 521–563.

³¹ Gooberman et al, Interview with British Ceramics Council (BCC) representative, 20 Nov 2013

³² McKay, Sonia, *The Law on Industrial Action Under the Conservatives, 1996*, London: Institute of Employment Rights, pp 11,14.

Union Legislation 1973 - 1999	
Legislation	Content
1974 and 1976, Trade Union & Labour Relations Acts (TULRA)	Repealed the right <i>not</i> to be a union member (except for genuine religious belief). Where a firm and a union negotiate a union membership agreement (closed shop), dismissal of workers for non-membership of union deemed fair. Also, worker had no right to appeal to Industrial Tribunal when dismissed for non-membership in union.
1975, Employment Protection Act	Tightened unfair dismissal rights. Established a Trade Union Certification Officer to certify union independence from management. Established an Advisory, Conciliation and Arbitration Service (Acas) to investigate, report, and make recommendations for union recognition. Also set up Central Arbitration Committee (CAC) with enforcement role in recognition procedure and to hear claims from unions in support of extension of terms and conditions of collective agreements.
1980, Employment Act	Statutory union recognition procedures abolished. New union membership agreements required to be approved in secret ballot by at least 80% of those entitled to vote. Immunity from damages in tort withdrawn from union officials in cases of secondary industrial action, including action to compel union membership. Fund established to reimburse unions for postal secret ballots on industrial action and union elections. Picketing away from own workplace made unlawful.
1982, Employment Act	All union membership agreements required to be approved in secret ballot every five years, again by not less than 80% of those entitled to vote, or 85% of those voting. Punitive compensation of up to £20,000 to be awarded to workers unfairly dismissed on grounds of non-membership in unions. Contracts requiring union-only labour to be unlawful, as well as tenders awarded on a basis of union-only labour. Trade union funds no longer automatically sheltered from liability for damages in tort with narrowing of immunities. Damages in any proceedings set at up to £250,000 for unions with more than 100,000 members. Fair Wages Resolution (requiring government contractors to pay union rates) rescinded.
1984, Trade Union Act	Secret ballots (either postal or workplace) required prior to industrial action; postal ballot expenses to be reimbursed by the Certification Officer. Also secret ballots required for union executive elections every five years and political funds every ten years.
1988, Employment Act	Established a Commissioner for the Rights of Trade Union Members (CROTUM) to assist union members with advice and in applications to the High Court. Union members given the right not to be disciplined by their union for failure to support industrial action. Remedies available to union from their union set at up to £8,500. It became automatically unfair to dismiss a worker for non-membership of a union irrespective of whether the closed shop had been supported by a ballot. Industrial action to impose a closed shop lost immunity from tort liability.
1990, Employment Act	It was now unlawful to discriminate against non-union members (or union members) at the time of recruitment. Job advertisements could not specify union membership. Any practice under which employment was afforded only to union members presumed to be discriminatory. Unions had to repudiate unofficial industrial action; unofficial strikers could be summarily dismissed; and immunity for industrial action in support of dismissed strikers removed.
1993, Trade Union and	No union could refuse to accept anyone into membership (or expel anyone) unless on grounds of the individual's conduct. The union dues

Employment Rights Act	check-off to be authorized in writing by each member every three years. Established a Commissioner for Protection against Unlawful Industrial Action (COPUIA) to advise and finance individuals claiming to have been affected by unlawful industrial action who could apply to the High Court for an order against the union to discontinue that action. Tighter restrictions on strike ballots. Wages Councils abolished.
1999, Employment Relations Act	Establishes a statutory union recognition procedure for firms employing more than 20 workers; makes it automatically unfair to dismiss strikers during first 8 weeks of industrial action; weakens strike balloting rules; and gives the right to be accompanied by a union official in disciplinary interviews. The penalty for unfair dismissal also raised from £12,000 to £50,000. CROTUM and COPUIA abolished.
Information and Consultation Regulations (ICE), 2004	The ICE Regulations 2004 (Statutory Instrument 2004 No. 3426) came into force on 6 April 2005, giving employees a formal right to information on employment prospects and consultation on all contract and workplace changes. Initially the right could be triggered by 10% of employees if organisations with 150 employees had not volunteered, and the threshold was lowered to 50 in 2008 (see Section 5.3).
Trade Union Act, 2016	Extra requirements concerning taking Industrial Action (IA) - minimum turnout of 50% (special provisions for important public services), 2 weeks' notice given to employer, IA must be taken with 6 months of ballot (or 9 with agreement). New information requirements to members and Certification Officer (CO), who is granted extra powers, rule changes on payment of subscriptions and TU obligation to appoint suitable picket supervisors.

4.8 Individual rights

It is worth remembering that historically terms and conditions of employment differed markedly for “white collar” and “blue collar workers”, with the former afforded paid holidays and sick pay in their contracts, while such benefits were absent for “blue collar workers”, many of whom were still paid weekly in cash into the 1980s. There was therefore a role for trade unions in negotiating with employers to improve the conditions of manual workers, with the aim of achieving parity across the workforce.

Much of this inequality in terms and conditions was resolved by separate legislation alongside campaigning by financial institutions and the media (e.g. the Daily Mirror’s “The Great Unbanked”) to challenge the resistance to monthly, direct-to-bank remuneration.

Individual workplace rights were progressively strengthened, reflecting other societal changes in attitudes to the rights of women and to different sections of society. During the 1960s and 1970s “homosexual acts” were partially decriminalised, abortion was legalised, local authorities were required to register disabled people and provide services for them in 1970, with cash benefits improved by 1975. A raft of legislation, from the Race Relations Act, 1965, the Equal Pay Act, 1970, through to the Disability Discrimination Act 1995 outlawed direct or indirect discrimination based on protected characteristics.

The Employment Rights Act 1996 granted the right to leave for childcare, and the right to request flexible working patterns. The Working Time Regulations 1998 accorded the right to 28 days paid holidays, breaks from work, and attempts to limit excessively long working hours and the National Minimum Wage was introduced in April 1999. The Work and Families Act 2006 set out further workplace rights, while 116 pieces of legislation were merged into the Equality Act 2010 setting out an extensive series of workplace rights and duties.

As legislation improved the terms and conditions of “blue collar” workers it could be argued that part of the mission of trade unions was reduced until it became negligible. However, there were also instances where trade unions were motivated to continue pushing for

enhancements over and above the legal standard for workers' rights which accumulated over the years. The same effect can be seen with minimum or living wages, whereby the legal position is viewed as a baseline by trade unions (and presented as "negligible" or "derisory") and in need of challenge and improvement.

Improving workers' rights set up greater responsibility for trade unions to represent individual causes and issues rather than group representation in collective bargaining. The Workplace Employment Relations Study (WERS) 2011 showed that union officials spent most of their time supporting individual members with discipline and grievance issues, not on negotiating pay and conditions.

Collective bargaining could be viewed as more efficient in terms of representation, with a small number of union officials able to achieve results for a large workforce. It also required a different skillset from the focus on negotiating skills to the broader remit of mediation, and preparation for legal challenges. This had the capability of producing uneven results in outcome for individuals, which could also affect the perceptions of the success of trade unions, and the value of union membership.

4.9 Living and Minimum wages

Set by the Low Pay Commission and enforced by government, the National Minimum Wage (NMN) has ensured a legal floor for hourly pay since 1999.

In order to "improve productivity and tackle in-work poverty", the Conservative government introduced a 'National Living Wage' (NLW) for adults 25 and over in April 2016, with the ambition of reaching a target rate of 60% of median earnings by April 2020. This has led to significant annual increases in the legal wage floor for adults over 25 which have been well ahead of inflation and average earnings.

The Conservative Party pledged in its 2019 manifesto that it would raise the NLW to £10.50 or two-thirds of median earning by 2024. From April 2021 the NLW requires employers pay an hourly rate of £8.91 aged 23 or older, with the NMN retained for younger workers.

4.10 Voluntary decline of unionisation

Despite this period of Industrial Relations (IR) attracting great academic attention, there is still a multiplicity of explanations for the decline of collective bargaining.

Bryson and Blanchflower contend that the demise of trade unionism (representation in collective bargaining) was essentially **voluntary**³³. They dismiss the idea that structural changes in the economy, or regional effects on the south-east, have much impact on unionism, claiming the consistent factor is that **larger workplaces have higher unionisation** than smaller ones. This is certainly reflected in the HE sector, as most HEIs are substantial employers, with staff accounting for 59% of total costs, in 2018-19.

They cite Bryson et al, 2004, in contending that the decline is largely due to **employers simply turning their back on trade unions**, quoting the fact that only a third of the 28 percentage point decline in private sector union recognition between 1980 and 2004 is attributable to changes in workplace characteristics, such as the decline of heavy industry.

The shift in the coverage and content of collective bargaining has been reflected in a considerable **reduction in industrial action** since the 1980s. In 2018, there were 273,000

³³ Bryson, Alex; Blanchflower, David; *The end of trade unionism as we know it?* CentrePiece Autumn 2008

working days lost due to labour disputes, the sixth lowest annual total since records began in 1891³⁴.

Addison and Siebert³⁵ argue that **compositional factors** (such as female membership) in trade union membership are unlikely to be a contributory factor as these developed in tandem during a period of growth in membership in the 1960s and 1970s. They consider that **macroeconomic factors** and the **business cycle** were secondary factors as the downturn in union recognition reflects an **inability to organise unionism in new establishments** rather than any process of derecognition (Machin, 2000).

4.11 Change caused by compositional factors

Competition and retreat from Collective Bargaining, (Brown et al for NIESR, 2008) estimate³⁶ that the probability of workplaces using collective pay bargaining declined 29% between 1984 and 2004, at a rate of 8% per annum. Brown et al ran multivariate analysis of the changes over this period to throw light on the main causes, with the conclusion that:

- Industries consistently differ over the time in terms of collective bargaining:
 - with Energy and Water, followed by Transportation and Communication were more likely to use collective bargaining
 - Distribution, Hotels and Catering were least likely.
- Workforce size in the private sector:
 - Workplaces with 500 employees 20% more likely than those with 50 or less.
 - Workplaces with 10,000 employees 30% more likely than workplaces with 1,000 or less
 - Multi-site firms 8% more likely than single site firms.
- The date of incorporation influences proportionate use of collective bargaining
 - In 1998:
 - 45% of firms started in the 1940s
 - 23% of firms started in the 1960s
 - 12% of firms started in the 1980s.
- Type of employee:
 - The decline in manual as opposed to non-manual occupations being represented by trade unions.
- Region:
 - In 1984 employers in Wales, the West Midlands and Yorkshire and Humberside were all more likely than the South East to have pay set by collective bargaining
 - By 1990 the regional differences had disappeared.

NIESR reject the hypothesis that **compositional change** has led to the decline in collective pay bargaining and assert that foreign ownership was not a significant factor either.

As in many other Western European countries' trade union membership tends to be skewed to older employees, with 39.8% of members over 50 although this age group only accounts for 28.8% of employees. In summary, trade union membership is in long-term decline in the

³⁴ Suff R, *Employee Relations: an introduction*, CIPD, March 2020

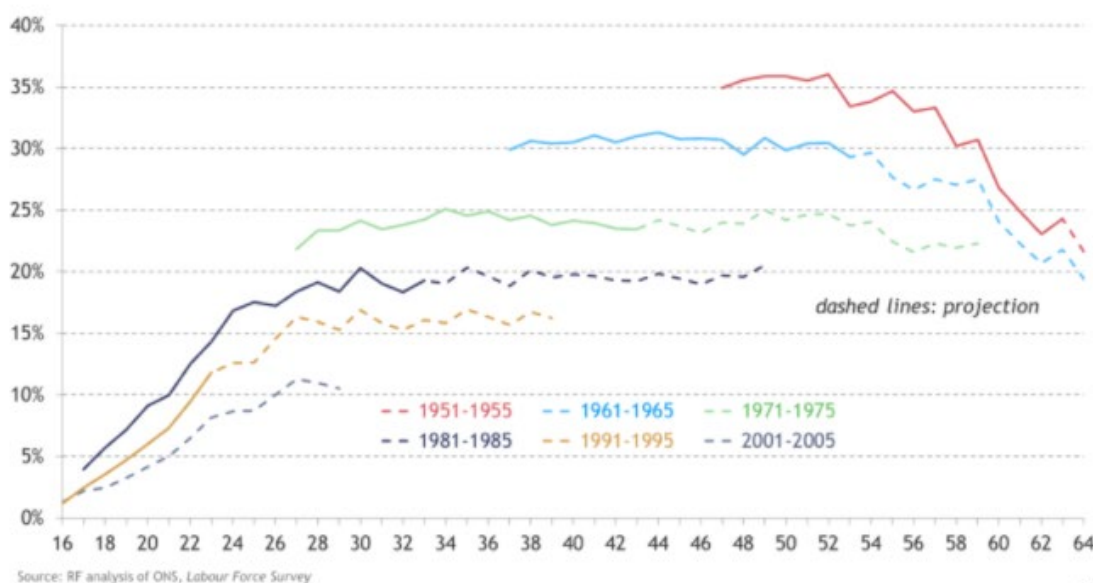
³⁵ Addison, John; Siebert, W Stanley; *Changes in Collective Bargaining in the UK*, The Institute of the Study of Labor (IZA) Discussion Paper 562, August 2002

³⁶ Brown W, Bryson A and Forth J, *Competition and retreat from Collective Bargaining*, NIESR Discussion Paper No 318, 2008

UK with a much lower percentage of employees in the private sector in a trade union (13.5%) against the public sector (51.8%)³⁷.

Analysis by the Resolution Foundation (RF)³⁸ shows that despite small recent improvements, trade union membership had been declining with each passing decade's cohort of union members. By projecting each cohort's membership figures out to 2030, RF estimate that union membership will fall as low as 16% of the workforce as the older cohorts retire and are not replaced by the equivalent numbers in more recent cohorts.

Trade union density by age and cohort, actual and projected: UK



Source: Tomlinson, D. *More than we bargain for*, 2019, [Resolution Foundation Briefing Note](#)

³⁷ Brandl, Bernd; Kildunne, Anne (2018) *Outsourcing and collective bargaining in the UK*, The Country Report – RECOVER project. [<https://ddd.uab.cat/record/202076>]

³⁸ Tomlinson D, *More than we bargain for*, 2019, [Resolution Foundation Briefing Note](#)

5. The transition from multi-employer to single firm bargaining

The assumption that collective bargaining was the dominant model in the 1950s and 1960s was challenged by The Royal Commission on Trade Unions and Employers' Associations³⁹ (also known as the Donovan Commission) in 1968.

This inquiry into the system of collective UK labour law expressed the idea of two systems:

- 1) the formal system – centred on national multi-employer bargaining capable of imposing the decisions across the sector
- 2) The informal system – consisting of locally based understanding, custom and practice, involving shop stewards and local management in individual workplaces

National multi-employer bargaining was concerned with the minimum rates of pay, while being supplemented by informal local agreements, such that “the gap between industry-wide agreed rates (of pay) and actual earnings continues to grow”.

A decade later Brown et al⁴⁰ (1981) observed the diversity in pay bargaining, from Wages Councils setting legally enforceable pay rates nationally to terms and conditions of employment being predicting a mixture of multi-employer and single employer pay bargaining for the foreseeable future. Nonetheless the transition had commenced, single employer bargaining had become the norm for two-thirds of manual workers and three quarters of non-manual workers.

Collective bargaining reduced dramatically after 1979. Compared to the mid-century levels of 60% of the workforce being covered by **multi-employer** pay bargaining, the decline in multi-employer agreements fell from 15% in 1985 to one per cent in 2004 amongst single, independent employers⁴¹. This also reflected the proportion of private sector establishments that reported being members of employers' associations fell from 31% to 13% over the same period.

Amongst single, independent private sector workplaces, the proportion where management fixed pay autonomously at the workplace level, rose from 59% in 1984 to 92% in 2004. And in organisations with multiple workplaces the trend to determine pay away from the workplace doubled over the same timeframe⁴².

5.1 Advantages of control and flexibility

Brown and Walsh (1991) commented on the extent to which decentralisation of pay bargaining had led to more emphasis on **local labour market conditions**. Earlier we cited the Conservative government's 1988 aspiration that pay bargaining would be based on **performance** and **ability to pay** rather than the **cost of living** or **parity of pay** and that regional variations might address regional differences in business and employment.

³⁹ The Royal Commission on Trade Unions and Employers' Associations, The Donovan Commission (1968).

⁴⁰ Brown W, *The Changing Contours of Industrial Relations in Britain* (1981) Oxford: Blackwell

⁴¹ Brown W, Bryson A and Forth J, *Competition and retreat from Collective Bargaining*, NIESR Discussion Paper No 318, 2008

⁴² Brown W, Bryson A and Forth J, *Competition and retreat from Collective Bargaining*, NIESR Discussion Paper No 318, 2008

Purcell and Ahlstrand (1988)⁴³ pointed to the emerging emphasis on the performance of the business, and the creation of profit centres and profit management for the decentralisation of pay negotiations. They attributed this to the desire to **control the business**, and the need to be **seen to control costs**, even if the pay settlements did not differ from collective bargaining.

Devolved bargaining is also more likely to be tailored to the specific needs of the organisation, and its business strategy. It is based upon the desire to achieve “**something for something**” bargaining or **improvements to productivity**. Purcell produced a checklist under three main headings: corporate strategy and business organisation, labour markets and industrial relations to direct the best approach to pay bargaining⁴⁴. Similarly, Booth summarised the contemporary view of the determinants of bargaining structure, and level, although some, like Jackson might disagree about the importance of the size of firm or the density of unionisation.

5.2 Level of negotiations

Purcell and Sisson (1983) suggest some of the considerations or mechanisms determining the level of negotiations

- Economies of scale for smaller establishments dealing with unions collectively
- Standardisation of conditions in each workplace
- Impact of trade union on the workplace is reduced

Local bargaining has **resource implications** for both employers and the trade unions. For unions there is the perception of the loss of influence of the full time official with decentralisations, while the multiplication of bargaining units may stretch resources and need for more negotiators. With local negotiations, the idea was that the managers negotiating the pay deals would also be responsible for their implementation.

The first three Workplace Industrial Relations Surveys (WERS) for 1980, 1984 and 1990 illustrate the steady increase in the proportion of pay decisions that were not based on collective bargaining, reaching 52% in the case of manual workers and 57% for non-manual workers. Multi-employer bargaining declined to around a quarter for both manual and non-manual workers by 1990. Increasingly, management at the establishments were making the decisions – 31% for manual workers and 37% for non-manual workers.

⁴³ Purcell J and B. Ahlstrand, *Employee Relations Strategy in the Multi-Divisional Company*, 1988, Personnel Review Vol 17, No 3

⁴⁴ Purcell J, *How to manage decentralised bargaining*, 1989, Personnel Management

Basis of most recent pay increase, all sectors, 1980,1984, and 1990 (%)

	Manual employees			Non-manual employees		
	1980	1984	1990	1980	1984	1990
Result of collective bargaining	55	62	48	47	54	43
Most important level:						
Multi-employer	32	40	26	29	36	24
Single employer, multi plant	12	13	13	11	13	15
Plant / establishment	9	7	6	4	4	3
Other answer	1	1	2	2	1	1
Not result of collective bargaining	44	38	52	53	46	57
Locus of decision about increase:						
Management at establishment	" "	20	11	" "	30	37
Management at higher level	" "	11	15	" "	15	17
National joint body	" "	5	4	" "	2	5
Wages Council	" "	3	2	" "	1	*
Not stated	" "	1	*	" "	*	*
Base: establishment with employees named in column heads						
<i>Unweighted</i>	1899	1853	1831	2034	2010	2058
<i>Weighted</i>	1823	1749	1697	1988	1985	1992

Source: M Millward, M Stevens, D Smart, WR Hawes, *Workplace Industrial Relations in Transition*, 1992

5.3 Setting pay using Information and Consultation arrangements

Without union representation in the workplace, pay setting may be determined by the management, with or without consulting an in-house “employer forum”. Local representation or “Employee relations” reflects the increasing individualism of the workplace rights as well as the decline in the density of trade unionism⁴⁵. CIPD reports general satisfaction levels with “Employee relations” from both the employer and the individuals.

A commitment to “citizenship at work” underpins models of employee engagement that are commonplace in Europe, for example the widely quoted works councils of Germany. However, various attempts to democratise British workplaces, most notably the 1977 Bullock Report on industrial democracy, have failed to gain traction.

In the UK, employees have a statutory right to ask for information and consultation arrangements in their workplace, governed by the Information and Consultation of Employees (ICE) Regulations 2004. Philip Sack, the civil servant responsible for the drawing up of the regulations described it as “an idea without a constituency”⁴⁶ as it met with resistance from both the CBI and the trade unions.

There were only 45,000 non-union worker representatives in 2011, a similar number to 2004 according to Workplace Employment Relations Study (WERS) 2004 and 2011. According to a CPID survey in 2019, only 46% of workplaces have any kind of formal workforce consultation arrangements⁴⁷.

⁴⁵ Suff R, *Employee Relations: an introduction*, CIPD, March 2020

⁴⁶ Hall M and Purcell J, *Consultation at work: regulation and practice*, 2012, Oxford University Press.

⁴⁷ CIPD survey of 251 people, conducted September 2019

An amendment to these regulations, passed in 2019, effective from 2020, lowers the threshold of employees needed to trigger a formal request to set up ICE arrangements in their workplace from 10% down to 2%⁴⁸.

5.4 External economic conditions

Regardless of the decision-making process for pay setting, it will always be moderated by the prevailing economic circumstances of the time. Brown and Walsh (1991)⁴⁹ present a table of upward and downward economic pressures on the level of pay awards throughout the 1980s. The upward pressures will be familiar to any negotiators: cost of living, ability to recruit and retain staff, profits, productivity and order levels. The downward pressures contain many of the same headings: price constraints, profit levels, cost of living, risk of redundancy and order levels. In terms of external comparability, pay awards in the same location, the same firm, the same industry and national pay rises were used.

The most interesting observation is the extent to which these influences on the amount of pay awards changed year by year, presumably because of the economic conditions of the time. For example, inflation was high at the beginning of this period, while the economic recession of the early 1980s appears to have reduced concerns about recruitment and retention.

Pressures on pay settlements reported by employers in manufacturing, 1979-89

	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
<i>Very important' upward pressures</i>											
Cost of living	60	47	45	36	40	45	38	26	23	59	66
Recruit/retain staff	22	7	6	5	9	12	14	14	22	30	31
Profits	11	11	16	19	21	23	17	20	25	20	13
Productivity	n/a	n/a	n/a	n/a	n/a	n/a	17	15	19	17	15
Order levels	n/a	n/a	n/a	n/a	n/a	n/a	11	11	15	11	7
<i>Very important' downward pressures</i>											
Price constraints	38	56	52	52	51	43	43	42	36	38	36
Profit levels	45	62	60	53	45	40	32	27	20	19	26
Cost of living	n/a	n/a	n/a	n/a	n/a	n/a	10	18	11	4	5
Risk of redundancy	20	43	35	27	21	17	16	16	10	10	9
Order levels	n/a	n/a	n/a	n/a	n/a	n/a	15	13	9	9	15
<i>External comparability</i>											
Same locality	27	17	15	14	18	19	22	20	25	35	31
Same firm	24	23	23	24	21	23	18	19	19	18	20
Same industry	21	12	13	15	17	18	18	18	19	22	22
Pay rises nationally	26	16	16	18	19	20	16	19	16	24	26

W Brown and J Walsh, *Pay Determination in the 1980s: the Anatomy of Decentralisation*, Oxford Review of Economic Policy, Vol 7, No 1, p52, Spring 1991

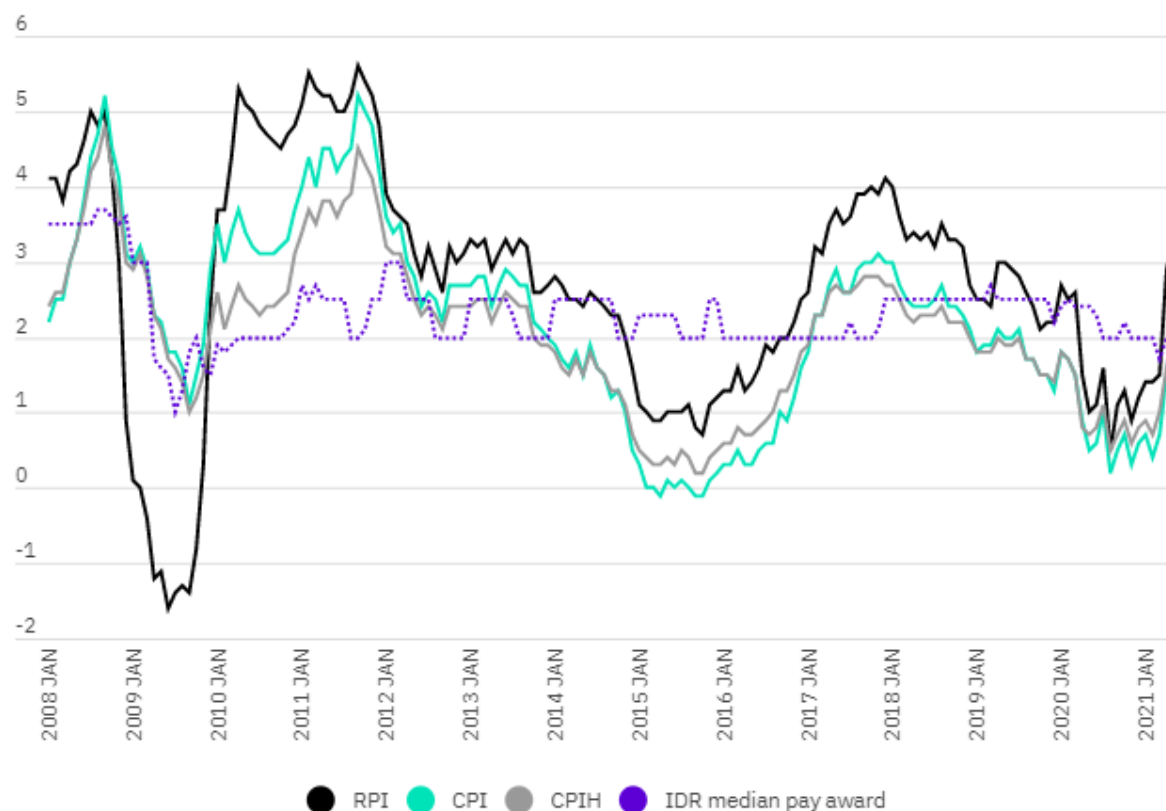
⁴⁸ Taylor M, *Information and Consultation of Employees (ICE)*, CIPD, March 2020

⁴⁹ Brown W and J Walsh, *Pay Determination in the 1980s: the Anatomy of Decentralisation*, Oxford Review of Economic Policy, Vol 7, No 1, p52, Spring 1991

It goes without saying that there will always be a time lag between observable public reference data and the pay award decisions. For this reason, increases in pay are shown to lag improvements in productivity⁵⁰ (See 3.3: Productivity growth and wages).

Bringing us up to date, IDR helpfully track various inflation indicators (RPI, CPI and CPIH) alongside median pay awards since 2008.

Pay awards versus inflation measures 2008 to present



Source: ONS, IDR

⁵⁰OECD Jobs Strategy, *The Role of Collective bargaining (for good labour market performance)*, 2018

6. Case studies: Experience of decentralisation of pay bargaining

As described in Section 3, the period leading to the early 1990s witnessed the most substantial fall in union membership and the most significant changes in industrial relations. As a result, this period provides several examples of employers experimenting with departures from centralised collective bargaining systems.

Jackson et al⁵¹ (1993, p159) used case studies to examine the experience of withdrawal from collective bargaining, for the firms / industries, and the remaining sector organisations – in foods retailing, and hosiery and knitwear and local government. In all cases the decisions were taken by management to meet **business strategy** needs, and all were opposed by the unions involved. Some may question the relevance of these case studies, which occurred some time ago in industries that have been greatly reduced in the UK, like British Steel and the knitwear and hosiery industry. However, there are some underlying principles in their experiences which are still applicable today.

The five case studies provide some useful lessons for the HE sector:

- 1 Coats Viyella PLC withdrew from Knitting Industries Federation (KIT) agreement with the National Union of Hosiery and Knitwear Workers (NUHKW) negotiated in the national Joint Industry Council for the Hosiery Trade from 1988.
- 2 Some 30 District and Borough Councils, mainly located in the south-east of England withdrew from collective bargaining for their administrative, clerical, technical and professional staff.
- 3 Tesco withdrew from multi-employer bargaining to adopt single employer bargaining with USDAW, leaving a number of smaller employers to reform and reengage in multi-employer collective bargaining.
- 4 The British Steel Industry was privatised and decentralised pay bargaining to business, or plant level.
- 5 The Water Industry abandoned multi-employer bargaining in favour of single company bargaining to meet the interests of newly privatised companies.

6.1 Employer motivation for change

Both Coats Viyella (CV) and the restructuring of British Steel plc were prompted by the move to profit centres. The newly privatised water companies wanted to “be seen” to be acting independently. Tesco wanted to position itself as a retailer of choice whose recruitment and retention strategy involved paying top wages. However, they had no desire to negotiate pay regionally and essentially operated as a single employer. These **business strategy** decisions could be categorised by the desire of managers to control pay decisions.

CV was seeking to create profit centres and with pay comprising 30% of the costs, pay bargaining was devolved to this level. However, that did not prevent the unions arguing that the overall success of the PLC meant they could afford higher settlements even if the profit-centre was operating at a loss.

The water industry was being privatised, which gave it the impetus to change the structure of pay bargaining, despite not really being in a truly competitive situation, as all the water companies effectively held local monopolies.

⁵¹ Jackson M, Leopold J and Tuck K, *Decentralisation of Collective Bargaining*, 1993, The Macmillan Press

6.2 Union response

The democratic decision-making structures of trade unions concentrated on annual, national pay rounds and the move to local negotiations threatened the organisational and procedural structures that the balance of responsibilities and power between the lay and full-time officials was built on. The pay negotiations took place in different locations, and often on a different basis, which created challenges in terms of skillsets, and the broad spread of union representatives skilled to conduct negotiations. The perceived need by many union officers to defend national collective bargaining conflicted with the need to be represented in local negotiations so as not to lose out.

In each of these case studies the trade unions responded differently; NALGO (now part of UNISON) organised a national strike in 1989 against a two-stage pay deal, before accepting increased local flexibility. The NUHKW (now part of Community) **set their pay policy** for the industry at their conference and continued basing the Coats Viyella claim on this. Within USDAW all the negotiations in the retail foods sector were conducted by the same union official so that the ability to transfer knowledge from company to company, and continuing negotiations through the Allied Trades Wages Council (ARFE) and the Wages Council were enhanced.

Unions had two key concerns: 1) continued recognition and 2) the outcome of pay talks. The **“rate for the job”** where the same work received the same reward wherever it was done, was self-evidently in conflict with the drive towards **local labour market conditions**, and also with **performance related pay**. Referring to Jackson et al (1993)’s case studies, derecognition did not occur in British Steel or at CV as both simply moved to “single-table bargaining”, whereas some local authorities moved to non-negotiated pay determination, which effectively sidelined NALGO. Similarly, two of the newly formed water companies replaced union-based pay negotiations with an employee-based company council.

There was a “tendency by all unions to seek to preserve the notion of a national claim” by submitting the same or **“common core claim”** to the decentralised bargaining units. In the water industry NALGO abandoned the idea of a “core claim” and focussed on circulating information about claims and outcomes to negotiators, creating a **“climate of expectation”**, usually based on **RPI** (at that time), and **“leapfrog bargaining”**. NALGO successfully used the 9.5% settlement at Yorkshire Water in 1991 as a target for other negotiations.

6.3 Implications for staffing and skills

With the loss of two large employers – Tesco and CV – from their respective industries, what happened to sector multi-employer bargaining arrangements? In both cases, the factors identified as determinants of multi-employer pay bargaining prevailed; the remaining companies were smaller firms which lacked the resources to employ their own specialist negotiators to conduct local pay bargaining but wished to benefit from removing labour costs from competition and mitigating trade union resistance in the workplace.

Jackson et al, (1993) observed that responsibility for negotiations largely lay with industrial relations or negotiating specialists, even if more profit centre managers were involved. Tesco did involve a wider range of personnel and operational managers, and in local government, elected members became negotiators.

The smaller companies faced a **skills challenge**; in the water industry former employers’ side secretary of the national negotiating bodies was employed as a consultant. The smaller retail food companies, reforming an employers’ association engaged the person who had previously been secretary of the disbanded multi-employer negotiations. In the hosiery and knitwear industry, multi-employer bargaining continued because the smaller companies

could not individually afford to employ personnel experts. In all the companies moving to single employer bargaining, **training** was required to upskill the managers involved in union negotiations.

Crucially, a **co-ordination of information role**, or proactive watching brief was required in the profit centre / business division-based bargaining of single companies to protect companies from “**leapfrog bargaining**”: The group employee relations director at Coats Viyella disseminated information on pay claims, negotiating progress and outcomes, while British Steel’s employment development team had a co-ordinating role.

6.4 Influence on the level of pay awards

Jackson et al sought to examine whether the pay outcomes differed as a result of moving to single employers bargaining, as comparisons were facilitated by the parallel continuation of multi-employer bargaining in hosiery and knitwear, foods retailing and local government. In hosiery and knitwear, the single union in the industry (NUHKW, and later NUKFAT) used the national industry settlement as a benchmark, refusing to settle below that, and forcing CV to improve its offer at a loss-making profit centre under threat of strike action.

For Coats Viyella (CV) it took three or four pay negotiations rounds before the settlements were markedly different from the KIF settlement. In fact, Metcalf⁵² referred to higher pay rises amongst the private sector in the 1980s as evidence that decentralised bargaining was a success for the workers.

Notwithstanding the lack of substantial difference in the headline level of the pay agreement, CV argued that the “**on costs**” were lower because of the “**quid pro quos**” that had been achieved in the local negotiation. Managers in the water industry and working for Tesco also justified their settlements because of the “**something for something**” nature of the agreements, gaining control over the hours of work in the water industry, incremental pay scales in the water industry and local government, “tea breaks” in retail foods, and piece rate times in hosiery and knitwear. Driven by their business strategy rather than their industrial relations strategy, managers in local negotiations secured substantial changes to the organisation of work in exchange for higher wages. In this way they gained more control over their productivity and profitability, even if there were diminishing returns over time.

Although in practice the level of pay awards was similar CV argued that they had achieved “**something for something**” concessions in terms of working practices and flexibility, which led to improved productivity and lower costs. Managers at CV were required to report the something for something concessions alongside the pay settlement. The “something for something” concessions at CV would arguably have been difficult to secure as part of multi-employer collective bargaining, both in getting agreement from other employers as well as the unions. Parallels can be seen in HE where the trade union claim for a standardised 35-hour working week was rejected by nine out of ten HEIs operating longer working hours.

In foods retailing the continued existence of the Retail Food and Allied Trades Wages Council (ARFE) set a minimum standard of pay, which the single union, USDAW used effectively to set “**Wage Council Plus**” settlements. Although there are several trade unions operating in the HE sector, it is not a given that such an approach might not be used against HEIs if they chose not to participate in New JNCHES.

The fact that it was upward pay pressure and competition to recruit staff in the south-east that caused some 30 small District and Borough Councils to breakaway from national

⁵² Metcalf D, *British Unions: Dissolution or Resurgence?* 1991, Oxford Review of Economic Policy, Vol 7, No 1.

employer bargaining, it was always unlikely to produce any savings for them in terms of local pay rates.

As seen earlier NALGO successfully used “**leapfrog bargaining**” to keep settlements high in the Water industry. At British Steel the early ambition to successfully establish settlements in different businesses, divisions or plants meant that parity prevailed for a number of years before settlements started to diverge in 1992. Nonetheless, devolving pay settlements to division and plant levels facilitated decisions based on “**ability to pay**” and “**productivity**”.

6.5 Performance related pay

Radical changes have been introduced for white-collar workers in local authorities and the water industry where traditional public sector-based systems of seniority, incremental progression and annual pay increases have largely been replaced with more market-oriented, performance-base pay. Individual performance related elements and formal profit-sharing schemes or performance related pay would not have been possible under national bargaining and may even be rejected by employees under company bargaining. Most of the case studies also featured changes in job evaluation, pay grades, incremental scales and payments by results systems. These may evolve as planned changes in working practices meet employee resistance, or managements attempt to “buy-out” other working practices or pay schemes to improve productivity or lower costs.

6.6 Evolution in pay bargaining structures

Beaumont 1990⁵³, p112 advocates using the most appropriate structure for pay bargaining, stressing that there is no universal best-practice system. He also argues that these decisions are “contingency-based” rather than the result of any single set of factors, and as such, they may evolve over time. The timing of Jacksons’ case studies also hints that pay bargaining is still subject to external economic conditions, with pay settlements being larger in the good times of the late 1980s, and lower during periods of recession or high unemployment, as experienced at 1992.

⁵³ Beaumont P, *Change in Industrial Relations*, 1990 London: Routledge

7. Use of Collective bargaining in other countries

Levels of collective bargaining are comparatively low in the UK compared to Europe, where almost all employees in Austria and Belgium, around nine out of ten employees in France, eight out of ten employees in Italy and half the workforce in Spain are covered by collective agreements⁵⁴. The scope of the UK collective agreements may be more limited as well.

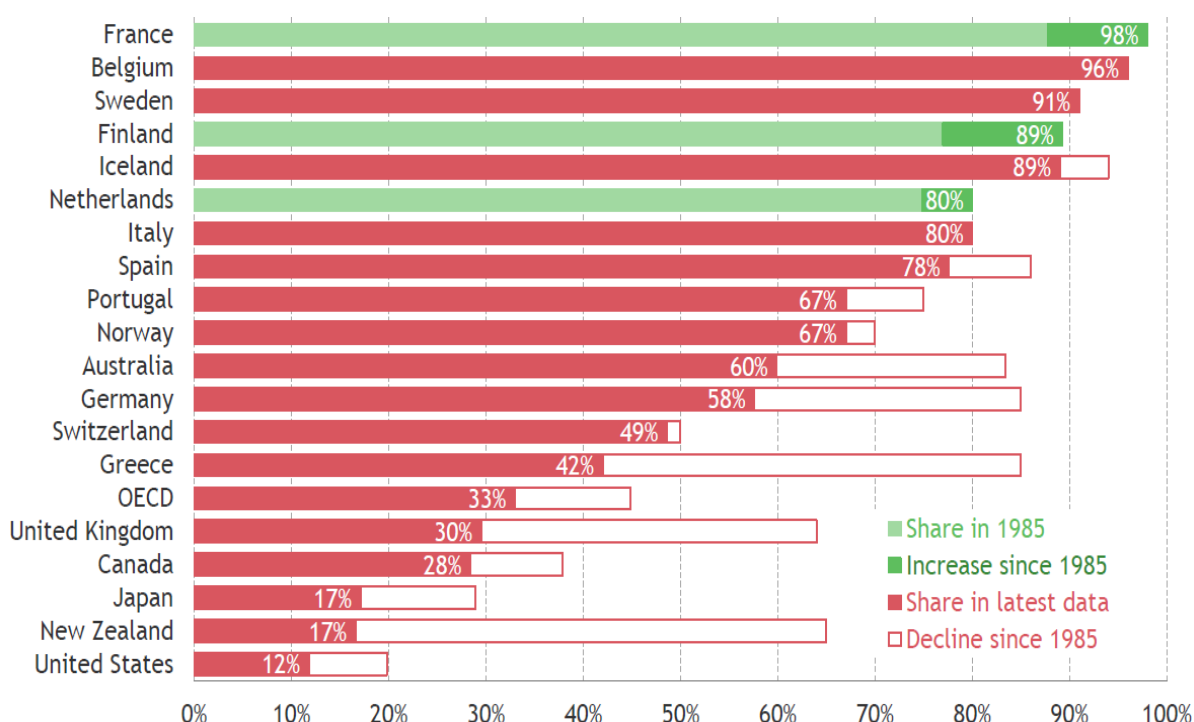
In France and Spain, the “erga omnes extension” mechanism or regulations imply that agreements extend to all companies, and voluntary extension mechanisms are common in Scandinavia⁵⁵.

7.1 Decline of collective bargaining in other countries

The UK’s fall of 54% (from 63% in 1985 to 30% in 2015) is overtaken by the decline of 74% in collective bargaining in New Zealand (from 65% in 1985 to 17% in latest data). This is attributable to the 1991 Employment Contracts Act in New Zealand which shifted the basis of pay bargaining from the collective industry level to the individual level. In both New Zealand and the UK the state has a role in setting some minimum standards; for example, the wage floor, minimum holiday and break entitlements and rates of maternity, paternity and sick pay.

By contrast, the United States level of bargaining also declined but from the lower level of 20% to just 12%. The US has the lowest rate of collective bargaining coverage and the lowest rate of trade union membership among advanced economies. In the private sector, just 7% of US employees are covered by a collective agreement.

Proportion of employees covered by a collective agreement, by country, 1985 and latest data



Source: Resolution Foundation analysis of OECD, *Employment Outlook 2017*

Notes: Latest data from either 2013, 2014 or 2015 except Italy (2010) and France (2012). Historical data for Iceland is 1993, rather than 1985.

⁵⁴ European Commission, 2015

⁵⁵ Traxler F, 2000, *Employers and employer organisations in Europe: Membership strength, density and representativeness*. Industrial Relations Journal 31: 308–316.

Despite also experiencing a decline since 1985, twice the proportion of the Australian workforce (60% vs 30%) are covered by either enterprise agreements (38% of employees⁵⁶) or a powerful wage board system, called Modern Awards (20% of employees).

7.2 Other country models

The Resolution Foundation presents some alternative models from around the globe in their Briefing Note: *More than we bargain for*⁵⁷.

Australia, for example, has a hybrid system in which a wage board sets 122 detailed industry level “Modern Awards” covering 20% of employees. These awards are then supplemented by firm-level bargaining covering a further 40% of employees, meaning that in total six-in-ten Australian employees have their pay shaped by collective institutions of some sort. Modern Awards detail minimum rates of pay that vary by skill level and also specify rules around many other features of employment contracts including breaks, hours of work, shift patterns and overtime rates – and not just for the lowest-paid workers but also at different pay bands within each industry. This institutional framework is likely to be a factor in Australia’s relatively compressed wage distribution.

The “Modern Awards” were introduced by the Labor government in 2009, replacing 1,560 state and federal awards. But they are not really “bargaining” as we know it, as unions and employer groups submit proposals to the Australian Fair Work Commission for consideration, but rather a set of industry-specific skill-varying wage floors. These include very specific rates of pay, hours and allowances depending on the nature of the work, the time of the work and the personal characteristics of the workers e.g. age, length of service, fulltime / part time status. Many of these are supplemented by firm level agreements. If parties cannot reach agreement, the Fair Work Commission will determine the award.

In New Zealand, a new system of sectoral collective bargaining is currently being considered by the government⁵⁸. An independent commission has proposed that so called Fair Pay Agreements (FPAs) would be bargained for in industries in which at least 1,000 or 10% of workers are in favour of bargaining being initiated. FPAs would cover similar ground to Australia’s Modern Awards, with the addition of minimum standards on skills and training. The New Zealand government has not made clear precisely how it will proceed with FPAs, though the indications are that their initial focus will be targeted at a few key low-paying industries.

In the US, sectoral collective bargaining has been prohibited under federal law since 1935 in favour of individual workplace level agreements. The unequal distribution of pay, declining power of workers and the lack of real pay growth over several decades for lower-paid and “middle class” US workers gave rise to 2020 Democratic presidential candidate, Elizabeth Warren (alongside Bernie Sanders and Cory Booker) setting out their support for sectoral collective bargaining⁵⁹ and a federal minimum wage of \$15 an hour.

Economists have started to interrogate the practicalities of rolling out such policies, as well as the potential impact of the introduction of systems such as industrial wage boards⁶⁰. These would potentially include “contract extensions” where a smaller agreement would be extended to cover all workers in a sector, as well as wage boards.

⁵⁶ Australian Government, Attorney-General’s Department, *Trends in Federal Enterprise Bargaining Report*, July 2019

⁵⁷ Tomlinson D, *More than we bargain for*, 2019, Resolution Foundation Briefing Note

⁵⁸ www.labour.org.nz/jobs, accessed: 11 October 2019

⁵⁹ Warren, Elizabeth; *Empowering American workers and raising wages*, October 2019

⁶⁰ Dube A, *Using wage boards to raise pay*, December 2018, Economists for Inclusive Prosperity

It's worth noting that many countries with more extensive pay bargaining receive some form of state support, either through regulation or subsidy. Fiscal incentives to promote trade union membership in Norway, which increased from 7% of the average membership fee in 2001 to 21% in 2012, was successful in slowing the decline in union density. In Finland union membership fees and employer confederation fees are tax-deductible, and Sweden has recently reintroduced a subsidy for union members after abolishing it in 2007.

Strengthening the bargaining power of low-wage workers is one of the core missions of collective bargaining, which is measured by “earnings dispersion”. The OECD Jobs Strategy reports that on average, earnings dispersion is lower with collective bargaining, when accounting for compositional differences (age, gender, education, firm size, contract type, years employed in the firm, industry and occupation). OECD measure “compressed wage distribution” using the ratio of decile five earnings (the median) to decile one earnings (highest pay): Australia (1.66), UK (1.72), Germany (1.88), US (2.09) which illustrates the extent of fair pay in these economies⁶¹.

7.3 Comparative analysis of different pay bargaining systems

The Role of Collective bargaining, OECD 2018⁶² sets out to shed light on the link between bargaining systems and employment, wages and productivity by examining country-level data on labour market outcomes in 45 OECD countries between 1980 and 2016. The OECD claims that co-ordinated collective bargaining systems are associated with higher employment, lower unemployment, a better integration of vulnerable groups and less wage inequality than fully decentralised systems.

In countries where there is wage co-ordination, it tends to be strongly supported by employer associations, since it contributed to moderate wage growth, and trade unions, since it has ensured high levels of employment.

At the individual level (within countries), there is a **wage premium** for employees who are covered by firm-level bargaining compared with those not covered or those covered only by sectoral bargaining. Moreover, wage dispersion is smallest among workers who are covered by sectoral bargaining and greater in systems with no collective bargaining, or where firms set wages independently.

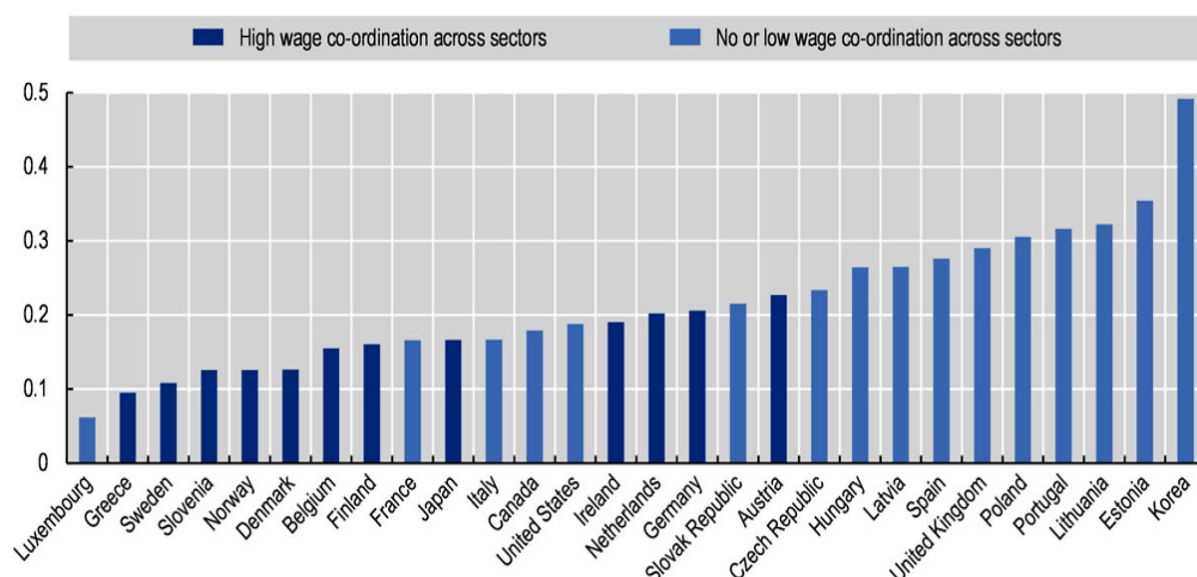
Their results suggests that the **lack of flexibility** at the firm level, which characterises centralised bargaining systems, may come at the expense of lower productivity growth. By contrast, higher co-ordination in systems that are not centralised is not found to have adverse effects on productivity. The flexible labour market in the UK has contributed to current record employment highs and unemployment lows⁶³.

⁶¹ OECD Statistics, *Decile ratios of gross earnings*

⁶² OECD Jobs Strategy, *The Role of Collective bargaining (for good labour market performance)*, 2018

⁶³ Tomlinson D, *More than we bargain for*, 2019, [Resolution Foundation Briefing Note](#)

Elasticity of wages to productivity across sectors by country



Source: OECD Jobs Strategy, 2018

7.4 Level of bargaining agreements

In their study, centralised pay bargaining has a tendency to depress wage difference, weakening the link between individual performance, wages and working conditions (OECD, p12). Unsurprisingly, in the context of firm-level bargaining, overall firm performance necessarily becomes the main reference for negotiations on pay, and in the sectoral bargaining context it is the overall industry performance that is the main reference, rather than individual performance.

Since 2000, negotiated wages have grown at a lower rate than actual wages and labour productivity in the euro area, and only tend to follow productivity with some time lag (p28).

There are three levels of bargaining: sector-level, firm-level and no collective bargaining. The countries with three bargaining types are Australia, the Czech Republic, Germany, Luxembourg, Portugal, the Slovak Republic and the UK. The countries with two bargaining types are Canada, Estonia, Hungary, Korea, Latvia, Lithuania, Mexico, Poland and the US.

The objective of **pattern bargaining** is to support macroeconomic performance based on international competitiveness, both in good and bad times. A concrete example of pattern bargaining is Sweden, where the tradable sector (mainly manufacturing) sets the “cost mark” (an increase in the wage bill for that year), looking at productivity and wage developments in other countries. The cost mark represents a reference ceiling for the other sectors, while the distribution of wage increases is decided at firm level. Pattern bargaining, in different forms, is also present in Austria, Denmark, Germany, Japan, the Netherlands and Norway.

The “**organised decentralisation model**”, notably present in Germany and Austria, is resonant of the JNCHES arrangements in HE. Sectoral agreements set the standard terms of employment and allow for exceptions via opt-out or derogation clauses. These clauses, often also known as competition, hardship or opening clauses, allow company-level agreements to deviate downwards from wages and working conditions set in a sectoral agreement. Traditionally, such clauses were intended to apply to companies in serious economic problems for a temporary time period under predefined conditions.

Since 2004 in Germany, opening clauses have been used more generally by companies to reduce labour costs. Some clauses allow companies to postpone or cancel parts of the

sectoral agreement, notably wage increases, depending on the type or economic situation of the company.

- Companies have to disclose their financial information to justify a derogation;
- Parties at the company and industry level need to have the time to scrutinise the company's financial status and the measures taken;
- The duration of the derogation should be limited to ensure terms and conditions will return to the standards in the sectoral agreement;
- Derogations are conditional on the safeguarding of jobs or investment plans to make the company more viable.

8. Implications for collective bargaining in HE

This paper shows that many of the characteristics and conditions that benefit collective bargaining apply to the HE sector. The majority of HEIs are large employers, and since the staff costs comprise over half of total costs there is an obvious interest for sector employers in “taking wages out of competition”.

HE is not normally considered a competitive sector in the normal sense of the word, and its main funding sources are restricted by government policy. HE lacks the ability to pass on additional costs to students in the way that these can sometimes be passed on to customers in other sectors. This presents a challenge in terms of “ability to pay” the “rents” sought by trade unions. Having said that universities with greater resources may have a greater ability to pay.

As we saw with the experience of case studies of companies leaving collective bargaining agreements, both the employer and trade union sides used information about comparable sector awards as reference points for their bargaining positions. This frequently led to the phenomenon of “leapfrog bargaining”, which had the capacity to force higher settlements than individual companies could afford. This is a very real consideration for HE. If better off institutions could afford a higher settlement, it would be extremely difficult for other HEIs not to follow suit. In essence New JNCHES currently compromises between the affordability for the wealthier institutions with those of more limited means. While there might be some gains from the trade union perspective, it would undoubtedly lead to greater fragmentation in the HE sector.

New JNCHES currently offers the benefit of a high level of information and co-ordination in terms of pay negotiations. If institutions were to negotiate separately the case studies above suggest that they would need to replace this function of New JNCHES if nothing else. Even with perfect, and swift information, it is likely that individual institutions would need to invest in substantial additional resources, which might not be as efficient a model as collective bargaining. Again, the case studies pointed to considerable resource implications, where staff may face skills challenges without additional training.

It is possible that some individual HEIs might benefit from an individual “something for something” type negotiation to remove any unproductive working practices. But participating in New JNCHES does not preclude that possibility. New JNCHES still affords the autonomy for HEIs to determine their own grading structures, policies regarding the Voluntary living wage and other terms and conditions.

Clearly having a constructive relationship between employers and trade unions is important, and our lack of agreement over recent years threatens that continued equilibrium. The time is right to reflect on the value of collective bargaining for HEIs. On the one hand UCEA recognises that the HE sector is well positioned to use internal mechanisms - Information and Consultation of Employees (ICE) - to consult staff regarding pay and conditions, and some HEIs do reach their own pay settlements. But there may still be process efficiencies and a sense of coherence in the sector’s collective stance to pay bargaining to date. The sector may consider that the best way to continue to achieve this is through a single national table, such as New JNCHES. Equally, it may be possible for collective bargaining in the sector to take place through different tables based upon groupings of staff or HEIs. Hybrid arrangements of local and national collective bargaining may also be possible. Exploring these and all other options is the essence of what UCEA wishes to debate in our national conversation on the future of collective pay bargaining in HE.

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