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*Innovations in Conflict Management*

*Research Papers*

**Research Paper 5**

## **Ambivalent Responses: Trade Union Officials**

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## **Introduction**

This paper examines the views of trade union officials concerning their experiences of the incidence, operation, genesis and effects of innovations in the management of conflict in organizations. In cases where they were directly involved in the processes, their own roles are also considered. The paper draws upon two sources of data: the first is a telephone survey of union officials, the second comprises a focus group discussion. The focus group consisted of officials of the Irish Congress of Trade Unions (ICTU) and of a number of individual trade unions in the retail, financial services, and communications sectors, as well as one large general trade union. Finally, staff of a semi-autonomous and specialized institute within a general union, with a focus on innovation in manufacturing, participated.

The first section of this paper outlines the methods used to gather the views of trade union officials. This section also deals with the initial indications from the telephone survey that trade union officials have little knowledge of innovations in conflict management in Ireland and even less experience of, or involvement in, such innovations. The sections that follow report on the focus group, with direct quotations from the discussion where they are illustrative of the views expressed. The final section presents a series of conclusions, drawing out the main themes from the paper.

## **Surveying Union Officials**

Other papers in this series rely upon focus groups as data sources but it was decided to conduct a telephone survey of trade union officials for this paper. This was because, uniquely, this group of informants has not been surveyed previously. There have been surveys of employers and of the employee population in general but not of union officials. The conduct of this survey therefore helps to locate the focus group outcomes within the context of a broader statement of views and experiences.

The survey process relied upon the websites and internal telephone directories of Irish-based trade unions to identify full-time industrial officials engaged in the organization and representation activities of the unions concerned. From these sources, a list of 157 potential respondents was drawn up. Full-time officials were selected because, although the activist layer of the trade union movement remains a significant force in unionized organizations in

Ireland, it is unlikely that lay activists would engage in a formally innovative conflict management process without the participation of officials. Similarly, officials at the grade of Assistant Industrial Organizer were excluded because, while they might engage in such processes, it would only be with the knowledge and agreement of an official at the Industrial Organizer grade. Officials who dealt exclusively with the rights-focused institutions, such as the Employment Appeals Tribunal, which have well-established mechanisms and quasi-judicial functions, were also excluded.

Because areas of innovation in the public service are clearly identifiable – some of these provide the focus for case studies of innovation in other papers in the series – not much was to be gained from including public service union officials in the survey. Much less is known about innovative conflict management in the private sector, where a wider range of variation might be expected in the postures and experiences of firms and trade unions. For these reasons, it was decided to focus in this paper on the unionized private sector. Public service unions and, in other unions, sections or officials known to deal exclusively with public service employees were excluded. A list of 86 officials remained.

Between February and May 2013, contact was made by phone and email with these officials. In addition, a member of the research team attended a conference of SIPTU's Manufacturing Division in April 2013 to search out officials who had not already been contacted. In these ways, 72 trade union officials (84% of the target population) participated in telephone interviews. The organizations from which those participants were drawn are listed in the table overleaf.

<b>Organization</b>	<b>Respondents</b>
Communication Workers' Union	1
International Transport Workers' Federation	1
Irish Bank Officials' Association	4
Irish Congress of Trade Unions	1
MANDATE	15
National Bus and Rail Union	1
National Union of Journalists – Irish Section	2
Operative Plasterers and Allied Trades Society of Ireland	1
Services Industrial Professional Technical Union	41
Technical, Electrical and Engineering Union	3
UNITE	2
<b>Total</b>	<b>72</b>

*Characteristics of Trade Unions Represented:* Officials of eight trade unions, one national federation (Irish Congress of Trade Unions, ICTU) and one international federation (the International Transport Workers' Federation, ITWF) contributed views through this process. The ICTU representative contacted is responsible for trade union organization in the private sector; reports from other sources indicated that he was involved in an innovative conflict management process, to be discussed below. The ITWF official, meanwhile, is the Irish representative of an organization which deals with seafarers and their employers in an international labour market. The characteristics of the trade unions are as follows.

The Communications Workers' Union (CWU) specializes in representing workers in the telecommunications sector. The Irish Bank Officials' Association (IBOA) represents members in the banking and financial services sectors. MANDATE Trade Union represents workers at all grades in the retail trade. It has a regional office structure, identifying Dublin North, Dublin North-West, Dublin South-West, Wicklow-Dublin South, Western, North & Western, Mid-West, South-East, Southern, North-East and Midlands as regions. It also has a national organizing department. The National Bus and Rail Union (NBRU) specializes in representing workers at all grades in the transport sector. The National Union of Journalists (NUJ) is a UK-based craft union, representing journalists engaged in all forms of media, including newspapers and broadcasting. The Operative Plasterers and Allied Trades Society

of Ireland (OPATSI) is a craft union, representing plasterers. Its head office is in Dublin and it has representatives in Cork, Limerick and Kilkenny. Services, Industrial, Professional, Technical Union (SIPTU) is a general union which operates an explicitly 'organizing' model through a divisional structure. Staff in national divisions organize members at all grades in manufacturing, services, health, public administration and community, and utilities and construction. The Technical, Electrical and Engineering Union (TEEU) was formed by the merger of a number of craft unions representing electricians, engineering technicians and plumbers. In recent decades, its remit has been extended to take in other workers who are associated with those craft grades. It also has a regional office structure, with regions identified as Dublin North-East, Dublin South-East, South-East, South-West, Mid-West, North-West and ESB (Electricity Supply Board, a major employer for electrician members). It has an organizing official with national responsibility for the construction industry.

Telephone interviews were conducted with these 72 officials from a broad range of trade unions. As shown above, they included general, craft and white-collar unions with members in construction, banking and finance, retail, transport and utilities. The interviews were semi-structured in form and lasted between 45 minutes and one hour in duration. Respondents were provided with a brief outline of the subject and focus of the study, then invited to discuss their knowledge of innovative conflict management and asked questions covering innovative processes for individual grievance handling and collective dispute resolution.

With regard to individual grievance handling, officials were asked if any of the companies they dealt with used practices that differed from conventional mechanisms such as procedures involving union-management meetings and reference to the Rights Commissioners or the EAT in the event of failure to agree. Specifically, they were asked about mediation, arbitration, internal review panels, ombudsmen, umpires and independent facilitators.

With regard to collective dispute resolution, they were asked a similar question focusing specifically on topics such as independent mediation or facilitation, internal adjudication panels, interest-based bargaining, brainstorming and arbitration.

*Outcomes from the telephone survey:* The general view of trade union officials emerging from this survey is that traditional conflict management processes remain – and are effective

– in firms where there is trade union organization. A number of respondents referred to a tendency on the part of aggrieved employees, including trade union members, to consult solicitors, a trend which they considered to be unwelcome. Apart from this, they observed little generalized innovation in either individual grievance handling or collective dispute resolution, and they were directly involved in even less. Three broad sets of reasons were suggested for the perceived low levels of innovation.

Some trade union officials reported what they saw as conservatism among managers and employers. In some cases, officials reported that they themselves had suggested innovative approaches such as joint training, brainstorming, interest-based bargaining, etc. but had been rebuffed by managers seeming to prefer tried-and-trusted methods. At the most immediate level, these methods included informal and formal attempts to resolve issues between union activists or officials and supervisors or managers. At the level most remote from the dispute itself, they included reference to the standard formal state agencies.

Others argued that the tried-and-trusted methods were preferred by employers not because the managers were conservative but because the methods remained effective, flexible and trustworthy. They recognized that they, their members and the managers they dealt with, were sometimes frustrated by delays in having issues heard by the state agencies. However, they said there was such a high level of confidence in those agencies that the wait was worthwhile. In addition, the extra time was often useful in clarifying issues, allowing cooling-down periods and sometimes providing them the space to intervene and resolve the disputes.

Still others were highly suspicious of the types of innovations outlined above and saw them as elements of a union avoidance strategy. Therefore, if there was any suggestion of such innovative approaches from any source, they would be inclined to discourage them.

*Changing sources of conflict:* Officials identified change when it came to discussing causes or sources of conflict. One of the major areas of comment fell clearly within the realm of individual grievance handling. This concerned the growing incidence of externally sourced mediation in interpersonal disputes between employees, or between managers and other employees, concerning allegations of bullying and harassment. The growing use of mediation for this purpose was cited more frequently than any other innovation in conflict management.

As to why external mediators were used in this area, rather than having matters dealt with by a trade union official in direct communication with a manager, the main reason given was that only external mediators could investigate such allegations and offer solutions without appearing to take sides in such a way as to damage their relationships with one or other party. The bullying and harassment theme was discussed at length in the focus group and is reported more fully later in this paper.

A further source of innovation in conflict management arose from the introduction of individual performance management. Here there appears to have been a change in HR management more generally, leading to the migration of an issue from the collective to the individual sphere. In traditional collective bargaining, individual performance management was uncommon. Typically, negotiated agreements provided for annual incremental pay increases which applied to all employees at particular grades unless, in individual disciplinary cases, action was taken to 'freeze' such increases temporarily. Disciplinary action then became a matter for negotiation between union and management and referral to a third party if required. In recent decades, however, various forms of individual performance assessment have been introduced widely in Irish employment relations and, in the unionized private sector, the processes and outcomes have sometimes been challenged by those assessed. As in the cases concerning bullying discussed above, union officials have tended not to become involved. In this case, their exclusion was not by choice, they simply had not been consulted about either the introduction of performance management or its implementation. The process had been treated by employers, including many of those in unionized environments, as the prerogative of management. Typically, an employee who feels that s/he has been unfairly treated in a performance assessment process is expected to approach the relevant manager, appeal through the management line and, if not satisfied, to seek trade union representation in appealing the matter. In most cases, such appeals are resolved by internal processes, although external appeals may be available on a one-off basis. In one drinks company, an innovative joint management-worker review panel to deal with individual appeals under a performance-related pay system has been found to be effective. However, there is no indication that this was part of a strategic initiative on the part of the employer; it simply appears as a managerial adaptation to a strong trade union presence.



Regarding collective disputes, trade union officials reported little or no experience of process innovation. They observed that the substance of negotiations had changed. They were often engaged in negotiations to save or secure jobs, which might involve reductions in take-home pay or increases in work intensity and productivity. In many cases too, they were simply negotiating redundancy packages. However, although the substance was different from their traditional areas, and they were engaged in what some called concession bargaining, they saw little innovation in the processes through which they worked. There was little experience of ombudsmen or other innovative mechanisms. One retail chain had developed an internal review panel for dealing with individual grievances. The trade union official concerned was satisfied that this worked well but emphasized the importance of a good working relationship between employer and union prior to the introduction of such an approach.

In general, apart from the initiatives discussed above, respondents expressed satisfaction with the traditional methods for dealing with a wide range of issues. These methods included direct contact between union representatives and management as well as the established third-parties identified above. Respondents were often suspicious of suggested innovations in these areas, considering them to be attempts, usually by US-based multinational corporations, to undermine unions and thereby deprive employees of effective representation. However, some of them considered innovations they had observed or experienced to be of value in dealing with difficult issues, such as bullying and harassment, as discussed below. Any trade union official participating in this telephone survey who reported knowledge of or participation in innovative conflict management was invited to participate in a focus group discussion of the topic and we turn now to a report of that discussion.

### **Focus Group Participants**

Twenty-six trade union officials agreed in principle to participate in the focus group and seven took part. As discussed above, potential participants were selected through the telephone interview process. All officials who were aware of the use of innovative conflict management were invited to contribute to the focus group; others were not. The reduction from a potential 26 to 7 actual participants was due to the inability of the others to attend at the scheduled time and place. However, they had already contributed their views, albeit in a shorter format, in the telephone survey, and those who participated in the focus group

expressed views that were consistent with the outcomes of that survey. As a result, there are grounds for confidence that the trade union officials participating in the focus group were broadly representative of the population of officials who had been involved in innovative conflict management. These included officials of SIPTU, dealing with private sector employers, a divisional organizer for a geographical area of MANDATE, an official of the IBOA, a CWU official and an ICTU organizer, dealing with the private sector. The focus group discussion lasted approximately two hours and ranged over a number of relevant topic areas.

## **Forms of Innovation**

### **The resolution of individual grievances**

Focus group members discussed the association between innovations in conflict management at the individual level and features of HRM policy regarding bullying and harassment or dignity at work. Apart from this area, they took the view that individual grievances in general were dealt with through traditional procedures, which they considered to include elements of flexible adaptation to meet particular needs.

Quite frankly I'm a sceptic, I think it's all rubbish and I think it's all overstated and what's useful in it isn't new and what's new in it isn't useful.... Usually in a unionized company you'll have an already agreed procedure for dealing with complaints and grievances. And almost inevitably there'll be no mention of mediation. It'll usually be the LRC and the Labour Court and the other things then become add-ons when you're sort of in the middle of it. I wouldn't believe, I could be corrected, but I wouldn't believe that there's a grievance procedure in a unionized environment that specifies mediation as an option.

***Bullying and harassment:*** Focus group participants observed that innovations in this area had been influenced by legislative codes of practice issued by three separate institutions mentioned in the telephone survey, the Health and Safety Authority, the Equality Tribunal and the Labour Relations Commission, all of them suggesting mediation as an option. It appears that bullying and harassment were in some sense non-traditional issues for trade union officials. They came to be seen as matters of concern to workers at around the same time that they began to attract academic and institutional interest. Following a report of a task force in 2001, procedures for dealing with these issues were adopted in 2002.

Dignity in the Workplace rules and guidelines and all of that, which probably do mention mediation now that I think of it, came about specifically as a result of that HSA initiative.

Trade union officials were aware that many employers had adopted or adapted procedures in accordance with these codes of practice. They reported a range of one-off approaches under the rubric of bullying and harassment. In some firms, management unilaterally introduced policy changes to deal with such cases, and unions adapted to these changes. However, the union officials said they preferred not to become involved in cases where one member of the union accused another of bullying. In such instances, an official would try to avoid adopting a position in favour of either the alleged bully or the alleged victim, since that might lead to divisions among the membership. They suggested that neither they nor the managers they dealt with wished to get caught up in the processes of claim and counterclaim they experienced or anticipated in such cases.

When we developed the concepts such as sexual harassment and bullying, suddenly the relationship – the conflict – wasn't between the management and the worker any more, it was sort of worker on worker, supervisor on worker. The old systems we had, our conciliation service, our direct negotiation and Labour Court and all the rest of it – and our skillset – wasn't suited to deal with those sort of conflicts. So when mediation raised its ugly head for the first time we were all delighted because it got the problem off our desk... we didn't have to deal with it anymore. To that extent the mediation stuff proved useful... that if you'd a bullying or a sexual harassment case you could get it off your desk and into some procedures, you took the monkey off your back and put it onto somebody else's.

Those who had experienced such cases expressed a strong preference for steering clear of any future involvement in them. As a result, while there were often innovations in these areas, trade union officials had little to do with them. It appears that both they and the managers concerned were glad to refer bullying and harassment issues to trusted independent third-parties. Trade union officials were satisfied to have them handled by state agencies but recognized that employers often preferred alternatives for two reasons. First, there might be delays in securing hearings with state agencies due to staffing and workload pressures. Secondly, those agencies had the potential to make binding decisions, leaving the parties with less room for manoeuvre than they might find convenient. In general, officials saw

independent mediation as an effective way of dealing with conflicts which might otherwise have been seen as irresolvable within the firm.

*Innovation as a feature of collective bargaining agreements:* In addition to the adaptations to new regulations and codes of practice; as discussed above, focus group participants reported that, in some rare cases, union-management agreements provide for a nominated mediator or panel.

So, built in within our agreements procedures and our disciplinary procedures, before we would ever go through the LRC or to the Labour Court or anywhere like that, ... for both collective and for individual cases, we would have use of an independent third party.

In some sectors, the cost of independent mediation was seen as presenting a significant obstacle to an agreed process and the employer might introduce a process unilaterally, leaving the union official little choice but to cooperate.

I mean we're [representing members in] small companies that operate on the bottom line and so the luxury of getting sort of agreed mediators in is very unusual.... There was one company I was involved in that do operate a mediation service.... I was dealing with a case where somebody complained about the attitude of a supervisor and felt they were being unfairly picked on, and in that case the company offered mediation. I found out that the only alternative to that would be going to a third party, and to appear before a third party having turned down mediation might well tell against us. So we availed of the offer albeit it was the company who was going to pay for it, etc. with all the problems that you sometimes associate because 'he who pays the piper calls the tune', but the member found it useful.... They came back to me and said they found the mediator to be very helpful. Now I don't sit in on the mediation, right, it's done on a one-to-one basis.... Obviously if the member came back to me and said that's a load of rubbish, you know, then it would have been on to a third party but I just felt from a tactical point of view and maybe from a practical point of view it was worth exploring without turning down point blank.

*Innovation within a narrow range:* It appears that with respect to individual grievances trade union officials observed quite a narrow range of innovations in mechanisms for dealing with workplace conflict. Managers adapted to changes in the regulatory environment concerning issues around dignity at work, equality, harassment and bullying, by introducing either in-

house or external mediation. In doing so, it appears that they did not consult trade unions, perhaps in part because the codes of practice placed the responsibility for dealing with these issues squarely upon the managers. Trade union officials meanwhile displayed an even narrower range of modes of adaptation to these innovations. They welcomed processes by which they could distance themselves from difficult issues such as bullying but, even while doing so, they were not unaware of the risks of referring issues to a third party who, although nominally independent, was selected by the management team.

A traditional collective bargaining view of the employment relationship appears to act as a guiding light for many trade union officials. In that context, union-management agreements provided for internal processes such as shop stewards discussing individual grievances with line managers or full-time officials discussing them with HR managers. If these processes did not lead to resolution, they were referred to the Conciliation or Rights Commissioner services of the LRC, with the Labour Court as a final option. However, the traditional practices did not cope well with concerns such as dignity at work, equality, bullying and harassment. Especially in these areas, employers were under pressure from legislation to introduce new mechanisms. Third-party mediation, where third parties came from outside the formal structures provided by the State, was introduced for cases of bullying and harassment. Union officials adapted to this and saw it as a welcome development. Referral to such third parties then became an option for managers dealing with other forms of grievance, and union officials went along with this development too, albeit with less apparent enthusiasm.

*From joint management to advocacy:* As a result of these developments it appears that, except in rare cases, union officials have been gradually dislodged from their role as ‘managers of discontent’ in cases involving individual grievances. Traditional collective bargaining mechanisms saw them located at the core of grievance resolution, where they negotiated the design and implementation of processes and then participated as advocates on behalf of aggrieved members. In the current forms, if trade union officials are involved at all, it is in a more peripheral capacity. While managers in unionized firms continue to deal with them, it is mainly as advocates working within a management-designed process, rather than as designers and managers of the process.

We have seen that in some cases trade union officials were quite pleased with the new options, particularly those that arose for dealing with difficult issues such as bullying and harassment. However, whether welcomed or not, the officials had little choice but to adapt to these managerial initiatives. In the area of collective dispute resolution, to which we now turn, they appeared also to have been a mixed blessing.

### **The Resolution of Collective Disputes**

Informal methods of mediation, which sometimes involved independent third-parties and sometimes the LRC Conciliation Service acting pro-actively, were occasionally used to address workplace problems of a collective nature, before they were referred formally to LRC.

It has been very useful, I think, as an additional dimension in dealing with IR issues that are non-standard, and it has been useful in that way.... I do think there is a space and a relevancy for mediation to have a very real place in collective issues currently, because I believe the current stuff in terms of the old adversarial stuff no longer works in the way it used.

This position was partly due to two significant changes in the environment within which collective bargaining might be carried out. The first concerns the ability and willingness of trade union members to engage in industrial action; the second concerns a perceived shift of focus in management from employees to other issues.

With regard to the first of these changes, trade union officials reported finding that they had less influence in the collective bargaining process than they had had previously, because the members they represented were less inclined than in the past to engage in industrial action.

On occasion, our own members don't always want to go the final mile and have you issue strike notice because they can't, because they're living from pay cheque to pay cheque and the reality is they must continue to be paid every week. They can't discommode the employer for fear of future job security.

While trade union members were characterized as being less assertive than traditionally, employers appeared to be more so. The combination of the immediacy of problems and the need for immediate solutions, with the option in many cases of relocation, lent an assertiveness to employers and managers which the union officials found difficult to

confront. Focus group members saw this expressed in the downgrading of the human resource management function in organizations they dealt with.

I think a lot of companies, certainly in [a particular sector], have downgraded HR functions, that going back years it used to be a fairly senior position in that the HR person within an organization carried clout, could get things done etc. Now it's been downgraded, just a line function, a lot of it to do with payroll, ordinary run of the mill stuff. So trying to get somebody who is just involved in that to get themselves involved in mediation, I often find that it's impossible.

Some organizations were thought to leave conflict resolution to 'some line manager who has no training whatsoever in it and who generally makes a pig's ear [of it]'. Focus group members saw this as a reflection of a reduction of their bargaining power rather than as indicating a strategic approach to conflict resolution on the part of employers.

If they perceived us as having the bargaining power that we once had in certain unionized environments they wouldn't do that. They'll do that in a situation where they can and where they can is where they don't really think there's going to be any bad occurrences for them doing it. I mean a mirror image of it might be certainly the rumour around, it's not a rumour, it's a fact, it's about to become a fact, is that IBEC as an organization have hugely downgraded their IR function for exactly the same reason, because they don't see us as the important part of their business anymore and that's because they're looking at the situation as it is now and they don't really have the corporate memory to realise that the situation as it is now isn't going to be like this in 3 or 4 years' time when there could be quite a crisis. But I do think there's a very definite downgrading of the IR function by managements all over because they perceive us as being weak.

The recognition that the current business environment does not support traditional collective bargaining methods was expressed more specifically in discussions on the forces prompting innovation.

***External drivers of innovation:*** As perceived by trade union officials, companies might be driven towards innovation in order to comply with regulatory requirements or might be concerned primarily with drawing upon the skills and commitment of the workforce.

My experience is that most [innovation] has been driven by dire need rather than any voluntary embracing of a new world. It's usually triggered by a 30

day consultation period or lack of investment in the facility etc. My experience has been very few parties want to embrace a new view of the world without something triggering that, some kind of event, be it good or bad, triggering that.

As suggested, EU-driven legislation and regulation is a significant force. In one case, a trade union official was able to take advantage of an opportunity arising from the implementation of EU directives to introduce an innovative process. Here, a UK-based MNC had won a large, long-term contract that would involve amalgamating 40 existing smaller companies. This would give rise to redundancies and the EU directives on collective redundancies and transfer of undertakings would apply. Such directives require member states to enact legislation but do not prescribe its terms precisely. Irish legislation, while similar to that of the UK, is not quite the same, and the trade union official was able to negotiate with UK-based managers from a position of expertise. In both the UK and Ireland, an employer who proposes collective redundancy must consult employee representatives at least 30 days before the dismissals take effect, and the trade union official involved in this case was able to guide the process.

We did a collective agreement within 30 days. The consultation process was and is 30 days and entering into it you couldn't think that you could do it in 30 days. In actual fact we did it in 30 days and we brought about a collective agreement that had redundancies included in it. The number of redundancies that they were seeking at the time was 60 but we drastically reduced that; it ended up with only 27 redundancies. Similar to what others have said here that's our bread-and-butter really, to start off trying to reduce that, and retain as many jobs as you possibly can. But... apart from having all the terms and conditions that you'd expect to have in a collective agreement, we set up what we call an industrial relations forum and representatives, equally represented from the management side and ourselves.

This industrial relations forum deals with issues of all kinds, including work practice change as well as individual grievances and collective disputes. In practical terms, however, what this participant calls the 'bread-and-butter' was a driving factor for many union officials. From their point of view, the more run-of-the-mill experience is one of finding themselves in circumstances where there is little new in terms of conflict resolution except the need to adapt to concession bargaining.



My sense of it is that it's, I mean I'm in very restricted areas, construction and other areas.... I'm nowhere near the pharmaceutical industry but my perception is the only thing that's really innovative is, well there's still collective bargaining in the old way except we used to be bargaining for advancements and we're now bargaining, concession bargaining all the time, trying to keep places open, trying to keep the show on the road but I mean we're not using any specifically new techniques. I mean yes there's more involvement of facilitators but we always had facilitators. The only thing really that's different is I'm negotiating pay cuts and job losses instead of pay improvements.

A more positive force for innovation, as perceived by trade union officials, is the managerial awareness of the importance of harnessing tacit knowledge, particularly in companies using sophisticated production processes to manufacture items that are strictly regulated, such as pharmaceuticals and medical devices.

I think that the more enlightened companies and the better resourced ones... have begun to understand that there is a wealth of knowledge held by the operator grade that can help in terms of minimising waste, increasing production etc. I suspect it's not for the love of us that they're now engaging with it but they do see a merit and a real benefit in engaging at ground level with the members.

Threats to the survival of a facility in a particular location can be a significant factor in the development of union-management cooperation for innovation. While international capital may, in principle, be footloose, and while mobility is a feature of global production, both production workers and local managers of facilities in Ireland recognise their interdependence in maintaining production where they are, and are often strongly motivated to find any mechanism, innovative or otherwise, to manage conflict. In one case cited in the focus group, a French MNC announced that an Irish facility would be closed unless savings of €375,000 could be found. The managing director said this was impossible.

He would not entertain a notion that we could look and find savings. You know the optics of things are very important and he took out his handkerchief and he said we have wrung every saving out of this organization and he put his handkerchief back in his pocket! Within two and a half weeks and maybe 15 meetings in the canteen we had a list, I think it was 78 items. So there are ways and means but there was a vested interest there from the management side, from senior managers. Now there were some middle managers who saw

themselves as heirs apparent and they were allies that sort of rowed in with us but it was an example, it is an example of where if there's a burning platform and if there's the right people with the right attitude you can re-examine things.

*Innovation as a union initiative:* One innovation, promoted by a general trade union and operated on a number of manufacturing sites, involved the establishment of joint committees. In most cases, when this union could secure management agreement to do so, the parties set up a committee known as a joint union-management steering group (JUMSG). These groups have narrow agendas and, unlike the industrial relations forum mentioned above, do not deal with issues in respect of which there are active union-management disputes. However, they are seen to operate flexibly and the union officials involved seek to anticipate disputes and head them off in advance.

This is about focusing on what we need to focus on.... We're working with [a German MNC] and you know [a location identified] has been decimated from a manufacturing point of view. There the joint statement that the joint steering group put together said, the first line was 'we want to be operating profitably ... in 2020.' Like, to me, that's a serious statement of intent and everyone needs to be doing whatever we need to do to be delivering that for ourselves.

In another case in the South of the country, a company's site was 'was attracting all the wrong attention'.

It was on the radar for all the wrong reasons and I was asked to go down. I've been down there over 5 years now at this stage and it was in all our interests that we got them off the radar.... The amount of issues going outside and issues on the table were dramatically reduced as a result of working together. Now the problem that happened there was that this, if you like, when we got to that level, that new level, low level of problems there was an automatic sigh of relief from everyone and everyone sort of backed off.... So while you can make one step forward it's very hard to sustain. It's very hard to keep it going.

This initiative appears to have many characteristics in common with the 'workplace partnership' experiments of the 1990s and the similar 'participation forum' initiatives of the 1980s. Promoted by certain trade union officials, they sometimes attract the enthusiasm of individual managers and are often viewed with a degree of scepticism by others within both management and the trade union movement. In the case of the latter, this is often due to a fear of union displacement.

*Fear of being sidelined:* While they were willing to promote innovative approaches to collective bargaining in general, focus group members appeared to be quite sensitive to the possibility that mediation, facilitation or similar innovations in respect of collective issues could be used as a means of jettisoning traditional mechanisms entirely.

I would have concerns about the use of, in certain circumstances, an open door policy in unionized environments because sometimes employers will use that as a way of circumventing the collective.... In some of the employments I have had where you got the employer to buy into the notion of a mediation panel they had a distinct preference for keeping it internal and picking who would be the would-be mediators themselves. So obviously then that left us with a dilemma. Some of the employers would quite happily use open forum and town halls as a way of reducing, I think, the collective power that we would have within employments as well. So it's a two edged sword but there are enlightened employers there now and we've had them where it has been highly adversarial previously and that stuff hasn't worked because all we've done is meet frequently a third party and resolve very little. We're now in a different space where we engage at local level and we try and put in creative mechanisms to resolve our collective difficulties.

More so than with individual grievance handling, trade union officials appear to hark back to the traditional collective bargaining model as their preferred option, while recognizing that it may be unattractive to employers and less than optimal in recent and current circumstances.

*Unwelcome innovation – the move towards legal advisors:* Focus group members expressed concern that both aggrieved employees and employers in some sectors tended to seek legal advice rather than having matters dealt with through the more flexible mechanisms of industrial relations. In one case, a trade union official was approached by a number of people whose employer had changed their terms and conditions of employment without consultation or agreement. Seeing an opportunity to build the union organization, this official tried to engage with the company, which did not respond, and he then referred the dispute to the Labour Court.

We got to the Labour Court and unfortunately we found that when we got there we were told by the people they'd already engaged a solicitor and the company, again to the solicitor, we've engaged with these people already, the

solicitor, all these people have signed the letter and we were left there like monkeys.

In this case, the legal advisor engaged by the aggrieved workers had arrived at an agreement on their behalf with the company and, as a result, there was no dispute to refer to the Labour Court. In dealing with another MNC, a trade union official found that the company's lack of expertise in dealing with industrial relations institutions led them to take legal advice. This was not always to his disadvantage.

We have people called 'policy and advice' in [the company]. They're based in [another country]. So if we've a disciplinary, even if it's a case going on in the Republic of Ireland, the people who are making the decisions, making the advice are [in the other country], no idea of the Irish legislation and everything else. What's worrying as well is litigation is becoming more and more problematic as well. I went twice to the Rights Commissioners in recent times and went up and both [companies] had a solicitor at the time as well. It's a great thing because as soon as the Rights Commissioner sees solicitors like they're on your side straight away, they don't want to be seeing a solicitor inside in the room either. But I think it's a worrying trend.

## **Conclusion**

This paper has reviewed innovations in conflict management as perceived by trade union officials. Results from both the survey and the focus group show that there has been little innovation in conflict management processes in the unionized private sector. Independent external mediation has been introduced to deal with individual grievances concerning bullying and harassment and, separately, there has been a tendency for union members and employers to take legal advice on matters that would previously have been dealt with through established methods of collective bargaining. With regard to collective disputes, some unions have sought opportunities to develop joint approaches such as the industrial relations forum and a joint union-management steering group as discussed above.

In response to these developments, the trade union posture has been ambivalent. With regard to individual grievances, when it came to bullying and harassment, trade union officials appear to have been glad to 'get the monkey off their backs' through the greater use of mediation. However, they were not unaware that, in doing so, they were moving from the

centre of the conflict management process – in which they had traditionally acted as co-managers of discontent – to its periphery. Meanwhile, they were unable to gain purchase on the individual performance management process, which may be a source of more conflict as performance management processes become both more common and more rigorous. In both of these areas, union officials found themselves working to a greater extent from the sidelines. In other areas of concern too, it appears that there was a tendency for both employers and aggrieved employees to take a more legalistic view of the employment relationship than would facilitate voluntarist collective bargaining approaches and associated modes of conflict resolution, conventional or innovative.

With the exception of issues concerning bullying and harassment, trade union officials appear to have been guided by a belief that traditional collective bargaining methods, in which they played a central role, were for the most part adequate to the task of individual grievance handling and collective dispute resolution. There appears sometimes to be a harkening back to a golden age of trade union activity, an age which they think has passed but which they perhaps still hope may return. In the small number of cases where trade union officials were able to achieve agreement with managers on innovative methods, these appear mainly to have been modified forms of collective bargaining, in which collaborative approaches to problem-solving and trouble-shooting have been promoted to save jobs by improving productivity. In other cases, where trade union activity continues, it is at present in the form of concession bargaining, with little evidence of other innovation.

Such innovation in conflict management as the trade union officials observed appears to have been driven by external forces and concerns rather than being an outcome of strategic intervention by managers, focused upon conflict management itself. The adoption of codes of practice with regard to bullying, etc. was, by and large, a process of compliance with externally imposed regulations. The adoption of individualized performance management, while it may have had the effect of displacing the mechanisms of collective bargaining, was driven by broader strategic human resource concerns.

Overall, the picture that emerges shows little if any evidence of strategic or systemic approaches to conflict management by employers in unionized firms in Ireland. In no instance was there mention of unions being involved in any strategic initiatives to change

conflict management approaches, nor indeed of any strategic conflict management initiatives whatever on the part of employers. Such initiatives exist, as outlined and explored in other papers in the series. However they have clearly failed to register to any pervasive or significant degree in the experiences of trade union officials representing members in the private sector.