CHANGING ORGANIZATIONAL FORMS AND THE EMPLOYMENT RELATIONSHIP*

JILL RUBERY
JILL EARNshaw
MICK MARCHINGTON
FANG LEE COOKE
STEVEN VINCENT

Manchester School of Management, UMIST, UK

ABSTRACT

This paper draws upon new research in the UK into the relationship between changing organizational forms and the reshaping of work in order to consider the changing nature of the employment relationship. The development of more complex organizational forms – such as cross organization networking, partnerships, alliances, use of external agencies for core as well as peripheral activities, multi-employer sites and the blurring of public/private sector divide – has implications for both the legal and the socially constituted nature of the employment relationship. The notion of a clearly defined employer–employee relationship becomes difficult to uphold under conditions where employees are working in project teams or on-site beside employees from other organizations, where responsibilities for performance and for health and safety are not clearly defined, or involve more than one organization. This blurring of the relationship affects not only legal responsibilities, grievance and disciplinary issues and the extent of transparency and equity in employment conditions, but also the definition, constitution and implementation of the employment contract defined in psychological and social terms. Do employees perceive their responsibilities at work to lie with the direct employer or with the wider enterprise or network organization? And do these perceptions affect, for example, how work is managed and carried out and how far learning and incremental knowledge at work is integrated in the development of the production or service process? So far the investigation of both conflicts and complementarities in the workplace have focused primarily on the dynamic interactions between the single employer and that organization’s employees. The development of simultaneously more fragmented and more

Address for reprints: Mick Marchington, Manchester School of Management, UMIST, PO Box 88, Manchester M60 1QD, UK (mick.marchington@umist.ac.uk).

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networked organizational forms raises new issues of how to understand potential conflicts and contradictions around the ‘employer’ dimension to the employment relationship in addition to more widely recognized conflicts located on the employer–employee axis.

MULTIPLE EMPLOYERS: A MISSING CONCEPT IN THE DEBATE ON THE CHANGING NATURE OF WORK AND CHANGING STRUCTURE OF ORGANIZATIONS

There is a burgeoning literature on both the changing nature of work and employment and on the changing nature of organizations. Both sets of literature, from different starting points and perspectives, have in our view failed to deal adequately with the links between changing organizational forms and changing employment relationships.

Within the employment and work-orientated literature, there has been a widespread debate on the ending of the standard employment contract and associated changes to notions of job security, fuelled by the proliferation of contractual forms and uncertainty over employment status and the destabilization and reshaping of bureaucratic organizations (Burchell et al., 1999b; Cappelli, 1997; Casey et al., 1997; Gallie et al., 1998; Peck and Theodore, 1998; Rodgers and Rodgers, 1988). The focus of employment law has been expanded, in parallel with this development, from a narrow concern with employer–employee relations to a broader concern with employer–worker relations with the term ‘workers’ used to include a wider range of employment relationships than direct employees. This focus on more flexibility in careers and contracts has coincided with an increasing emphasis, however, on the importance of commitment to the organization and on the psychological contract with the employer as critical factors in enhanced competitiveness (Guest, 1998).

Within the human resource literature there has been very limited analysis of the impact of inter-organizational alliances, networks and partnerships. By way of contrast, these new organizational forms have provided a dominant focus in recent literature in the fields of organizational analysis, industrial organization and innovation theory (see Oliver and Ebers, 1998, for a survey of the field). Much of the discussion of flexibility within the work organization and employment literature has been limited to flexibility within single organizations. It has only usually been expanded to include the use of subcontracting and temporary employment agencies as a substitute for direct employment. With the possible exception of work by Hunter et al. (1996) and Scarbrough (2000), there has been little examination of partnership and network arrangements that organizations develop. More unstable career patterns and the increased passing-on of risk to employees are recognized to be creating problems for organizational commitment and for the trust relation at the heart of the psychological contract. Yet the implications of cross-organizational relationships and partnerships for organizational commitment, as well as for both the psychological and legal contracts underlying the employment relationships, have been largely ignored.

A similar lacuna can be identified within the organizational and innovation literature. Much has been written on the factors driving trends towards more
permeable organizational boundaries, including the changing nature of transaction costs (Schendel, 1995; Semlinger, 1991; Williamson, 1985), the search for flexible and low cost ways of expanding the resource base of organizations (Montgomery, 1995; Stinchcombe, 1990) and the increasing need to generate opportunities for learning and sharing of knowledge (Matusik and Hill, 1998). Many of these factors implicitly depend on the nature of employment relations and on the capacities of employees both to respond to learning opportunities and to resist temptations for opportunistic behaviour. Despite the centrality of employment to these developments, detailed and direct consideration of employment issues is rare, except through stylized analyses based on assumptions that it is possible to predict and control the likelihood of opportunistic behaviour through appropriate management tools and incentives (Matusik and Hill, 1998). For the most part, these permeable organizations are still referred to as if they consist of a single entity with single interests. The success of the joint venture, alliance or network is identified as dependent both upon appropriate management tools and the establishment of trust relations. The development of inter-firm trust relations is conceived and discussed as if they are independent of trust relations within employment relationships.

The aim of this paper is to address the missing links in these various literatures. We identify the key areas where the permeable nature of organizations and the development of multi-employer relationships introduce new problems and ambiguities, both into the employment relationship and into the potential gains and ‘efficiencies’ to be derived from partnerships and networks. The first part of the paper focuses on the lack of consideration of multi-employer relationships in these various debates and literatures and identifies the potential significance of filling such gaps. The second part addresses the issue of managing employment relationships in a multi-employer context. Here we identify the scope for mixed messages and conflicts and contradictions in, for example, reward systems, performance objectives and organizational commitment. Conflicting pressures also apply to the choice of mode of employment organization and management. Multi-employer relationships can be identified as simultaneously creating impulses towards the use of more intense and direct forms of control associated with the notion of contract, and also towards increased reliance on autonomous, empowered and motivated employees.

Employment relations have traditionally and typically been conceived as involving a single employer–employee relationship. The complexities in the relationship are seen to derive from the social, legal and institutional conditions which embed and surround the employment relationship and which derive from considerations both internal and external to the organization. Accordingly, conflicts and contradictions between the objectives of the employer and the broader social and legal context are well known and discussed. The argument made here is that conflicts and contradictions arise also out of inter-organizational relationships which create confusions and ambiguities in the shaping of the employment relationship in both its legal and its social, institutional and psychological form. In the next two sections, we look at this argument from the perspective of employment law issues, and follow it up with a discussion of the implications of the development of permeable organizational boundaries for such key concepts as organizational commitment and organizational learning.
The contract of employment can be regarded as being the cornerstone of the employment relationship (Deakin, 1986). In the UK, by statute (Employment Rights Act 1996) an ‘employee’ is defined as a person who works under a contract of employment, the tacit assumption being that ‘the employer’ is the other party to the contract. In the 1970s the importance of being regarded in law as an employee of a single employer was brought sharply into focus by the introduction of employment protection based on a model of permanent, full-time employment for a single employer. On the whole, these new rights were available only to employees and acquired by completion of a continuous period of two years’ employment, working at least 16 hours per week for a single employer. Individuals working under a ‘contract for services’, i.e. the self-employed, were excluded because their relationship with their employer or employers was not seen to be one of dependency.

Over time there has been a move to broaden the application of employment rights for two main reasons. Firstly the application of the single employer–employee definition proved to be more difficult in practice than was anticipated as there was no simple bilateral divide between the two forms of contractual relationship, and the most that courts and tribunals could do was to pin-point whereabouts a given individual fell along the spectrum of dependency. Secondly, during the 1980s, the growth in ‘atypical’ employment (Felstead and Jewson, 1999; O’Reilly and Fagan, 1998; Rodgers and Rodgers, 1988) and in particular the various forms of ‘dependent’ self-employment, meant that the distinction between employment and self-employment became increasingly blurred and less easy to distinguish. Moreover an increasing proportion of the workforce fell outside the safety net of employment protection (Leighton and Painter, 1987). In consequence, new pieces of protective legislation since the early 1990s have not been limited to ‘employees’. Instead, their benefits have been conferred on ‘workers’, defined as:

Those who undertake to do or perform any work or services for another party to the contract whose status is not, by virtue of the contract, that of a client or customer of any profession or business undertaking carried on by the individual. (see e.g. section 230, Employment Rights 1996)

In particular, it has been the use of this term[1] in the UK Working Time Regulations 1998 and the National Minimum Wage Act 1998 which has highlighted the government’s recognition of the inadequacy of the term ‘employee’ as defined in case law, to cover the sort of relationship under which many individuals now work. Research by Burchell et al. (1999a) suggested that up to 5 per cent of all those in employment could be affected by an extension of existing employment protection rights to ‘workers’, and a provision was subsequently included in the Employment Relations Act 1999 giving power to the Secretary of State to do so at a future date.

However, just as there has been an increasing mismatch between the definition of an ‘employee’ and the reality of modern-day working patterns, so too the devel-
Development of more complex organizational forms leads to a questioning of the notion of who is the employer, and a perception that the legal framework of the employment relationship may need to be adjusted to take into account the way in which work may be organized in the future. Table I provides some illustrative examples of the problems which these types of organizational forms may generate for the maintenance of a concept of a single employer.

Under the Health and Safety at Work Act 1974 the ‘overall’ employer has responsibility for health and safety, not only in relation to its own workers, but also to employees of sub-contractors and to non-employees who may be affected by its operation (including the public). Where health and safety are dependent upon appropriate knowledge and training of employees as well as on appropriate management of workers on site, the implications for who is to take responsibility for the employer-type responsibilities that ensure health and safety are ambiguous. In the case of PFI (private finance initiative) agreements to build, for example, new hospitals and to transfer ancillary staff to the private consortium, the ultimate responsibility for quality and performance still lies in the hands of the Hospital Trust, even though the activities of the ancillary staff are germane to the achievement of quality and performance. The position of agency workers provides a further example: regardless of the way in which an agency worker is managed on a day-to-day basis by the client organization, the agency, not the client, is the legal employer of the worker (who is almost invariably regarded as being self-employed under a contract for services with the agency, despite the agency being required

<table>
<thead>
<tr>
<th>Organizational arrangement</th>
<th>Ambiguities in control and performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dependent self employment and sub-contractors</td>
<td>Main ‘employer’ responsible for health and safety for all on site (overlapping with responsibilities of subsidiary employers).</td>
</tr>
<tr>
<td>Temporary agency workers</td>
<td>Agency, as the employer, not able to control the work or to verify basis for discipline cases.</td>
</tr>
<tr>
<td>Franchise</td>
<td>Franchisor may control work processes through contract and/or issue grievance/discipline framework to franchisees.</td>
</tr>
<tr>
<td>Multi-employer site</td>
<td>Third party may be affected by performance of contract between two other parties and may be involved in monitoring performance of companies/employees employees with which/thom it has no contract.</td>
</tr>
<tr>
<td>Partnerships and supply chain relationships</td>
<td>Partners may either request that specific employees are deployed on partnership activities or require information on the qualifications, experience, training etc of the partner’s employees.</td>
</tr>
<tr>
<td>Outsourcing (whether within or outside TUPE)</td>
<td>Outsourced employees may have work checked/verified by managers in client company if latter retains authority/knowledge.</td>
</tr>
<tr>
<td>Outsourcing under TUPE</td>
<td>Terms and conditions of transferred employees may be preserved but frozen; differ from those left behind and from other employees in company to which they are transferred.</td>
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to deduct tax and National Insurance contributions). There is no contractual relationship between the client and the worker, and UK law has never attempted to create one.\textsuperscript{[2]} However, the agency is not in a position to undertake some of the key tasks associated with an employer’s role, for example, controlling the work process or even being in a position to establish and verify the circumstances which may lead to disciplinary issues. Similarly, whilst in law the staff at a franchised outlet are employed by the franchisee rather than the franchisor, the franchisor may still exert considerable control over the franchisee’s operation, including specifying through the contract a detailed work process or providing a framework for discipline and grievance for the franchisee to use for its employees.

Multi-employer sites may also lead to monitoring of performance of workforces by organizations where there are no direct contractual relationships; for example, where the ‘owner’ of the site or facilities is affected by the performance of other companies on site, it may monitor performance of a contract to which it is not directly a party. These performance indicators may be used in the appraisal or discipline of individual employees or teams of employees employed by another organization. In another example of indirect control by a non-employer, organizations involved in a partnership or supply chain relationship may influence the deployment of staff in the partner organization by making explicit requests for certain individuals to be assigned to the tasks. This external control of the employees’ work may have subsequent implications for, for example, promotion opportunities or even decisions over compulsory redundancies. However, these requests may be made on only partial information concerning the efficiency of the employees concerned, perhaps based mainly on knowledge of the preferred individual, while the other employees are rejected simply because the partner organization has no direct knowledge of their work. Partner companies may also request detailed information on qualifications, training and experience of the workforce deployed on their contracts. Indeed, this form of control over the quality of work is explicitly encouraged in the relational contracting literature, but again these quality indicators may lead to discrimination against potentially equally productive employees who lack formal qualifications.

Under some forms of outsourcing, there may be even more direct control by the external client organization of work undertaken by the employees of the sub-contracting company if the client company retains a role in checking and verifying work. This may apply particularly where there remains a legal or statutory duty on the client firm to ensure the quality and accuracy of the service provided by the subcontractor. Indeed, to an increasing extent, arrangements arising out of transfers of undertakings are producing situations in which there is an artificiality in the notion of a single employer–employee relationship. In its simplest form, a transfer of an undertaking occurs where one employer sells his or her business to another. To protect the transferor’s employees in such a situation, the Transfer of Undertakings (Protection of Employment) ‘TUPE’ Regulations 1981 require that, in effect, the employees are to be treated as part of the business and transferred with it on their current terms and conditions. When this occurs, the transferee becomes the employer of the transferred employees and the transferor then disappears from the picture. However in reality, the TUPE Regulations have featured most prominently in situations in which the transferor maintains a connection with the undertaking transferred, a situation which particularly applies to the transfer of services from the public sector. Even when the main services transferred have
been ancillary services, such as cleaning or catering, which in a sense could be
divorced from the transferor’s main business operation, there is a need for con-
tinuing coordination between transferor and transferee. What we are now seeing,
for example in the case of PFIs, is a remaining close alliance between the trans-
feror and transferee after the transfer. Although the transferee becomes in law the
employer of the staff transferred, they remain on the premises of the transferor
and work ‘with’ staff who have not been transferred. Moreover, although the trans-
ferred employees retain their terms and conditions of employment, they are not
fully integrated into the new organization and may continue to have quite diver-
gent terms and conditions, both from new direct recruits and from pre-existing
employees in the outsourcing company. Nor do they retain the right to have their
terms and conditions upgraded along with the employees who remain with the
old employer and with whom they may continue to work alongside in the same
workplace.

From these illustrative examples of different multi-employer contexts, we can
identify the following areas of employment law and practice where the existence
of multi-employers or the absence of a single employer can be identified as
creating ambiguities. This is summarized in Table II.

<table>
<thead>
<tr>
<th>Employment issue</th>
<th>Ambiguities in the employment relationship</th>
</tr>
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<tbody>
<tr>
<td>Supervision and control</td>
<td>Employer not present at workplace or more than one ‘employer’ present. Employee on loan/on secondment to another ‘employer’.</td>
</tr>
<tr>
<td>Discipline</td>
<td>Differences in rules between ‘employers’; who is responsible for monitoring performance, identifying disciplinary issues, initiating actions, verifying information.</td>
</tr>
<tr>
<td>Grievance</td>
<td>For example, duties not to harass staff apply to contract staff, not just direct employees; can employees have a grievance against employer if harassed by manager/employee of another organization?</td>
</tr>
<tr>
<td>Terms and conditions – equal pay issues</td>
<td>TUPE and outsourcing may result in different pay for work of same or broadly equivalent value for either employees of same organization or employees of different organizations but working side by side in same workplace.</td>
</tr>
<tr>
<td>Health and safety responsibilities and other legal/statutory obligations</td>
<td>Responsibility for health and safety of workers/general public lies with main employer/owner of site, but can managers of main employer instruct employees of other employers not to behave in ways which endanger health and safety?</td>
</tr>
<tr>
<td></td>
<td>Main employer may have responsibility for overall delivery of service (e.g. hospital); responsibilities indirectly enforced on non-employees through performance-related contracts with other employers.</td>
</tr>
<tr>
<td>Loyalty and confidentiality</td>
<td>Duties of loyalty and confidentiality to employer may be difficult to interpret where conflicts of interest arise between own employer and those of the employer in the workplace where the employee is located.</td>
</tr>
<tr>
<td>Trade union recognition</td>
<td>Multi-employer relationships may complicate the definition and constitution of appropriate bargaining units for trade union recognition.</td>
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Supervision and control issues arise when the ‘employer’ is not physically present at the workplace. These problems apply in a range of circumstances, for example with salespeople or employees who provide care in the community, and there are various management devices used for controlling effort levels and quality of work in these circumstances, from performance incentives to random inspections. However, in the context of multi-employers, the issues are more complex as there are potentially other ‘employers’ present at the workplace who may exercise their own control over the work process. Discipline is another thorny area, for although the employer, for example a temporary agency, may have its own disciplinary procedures, it is hard to see how these can be operated in isolation from those of the particular client firm in which a worker is placed. At the most basic level, questions arise as to whose rules apply as well as how discipline can be initiated and by whom. What would happen in a situation in which the worker commits an act which is regarded as misconduct by the client firm but not (or not to the same extent) by the agency? It may be the case, for example, that a certain type of conduct is regarded by the particular client as gross misconduct warranting summary dismissal, but attracts only a warning in the agency’s procedure.\[3\]

Tricky questions may also arise in relation to grievances, for instance where an agency worker is subjected to harassment by the manager of the client firm. In this case, it is important to note that the Sex Discrimination Act 1975 and the Race Relations Act 1976 specifically cover discrimination against contract workers (see Harrods Ltd v. Remick (1997) IRLR 583), thereby establishing duties from managers in multi-employer situations towards those who are working for or associated with but not employees of the organization. Nevertheless, there remain major problems with inconsistent application of procedures which are exacerbated in situations where the rules are laid down by more than one employer.

The setting of terms and conditions creates further problems in multi-employer situations. The TUPE Regulations represent an attempt to protect employees against changes in employers but are not able to deal effectively with the complexity of situations which can arise. TUPE potentially leaves employees in a kind of limbo, cut off from their previous employer and the right to maintain terms and conditions in line with that employer, but also separated from and not integrated into the new employer’s systems and structures.\[4\] It also creates ambiguities with respect to equal pay issues and more general questions of fairness and hierarchy in reward systems. Equal pay laws were formulated with a single employer in mind and the focus of any claim is on comparators within the same employer. Working alongside people of the opposite sex on different terms and conditions in the same workplace poses a challenge to equal pay laws which may yet be taken up in amendments to European law to make wider comparisons possible. Even within the current law the situation is unclear. If a transferee does bring about harmonization of terms and conditions and, for whatever reason, no claims for breach of contract are brought, there remains the question as to whether there would be the possibility for the transferred staff to make equal pay claims using their former colleagues in the transferor organization as comparators. Such a possibility may occur particularly to individuals who have been the subject of job evaluation schemes whilst working in the public sector and who will therefore know the jobs to which their own have been ‘rated as equivalent’ (see section 1(2)(b), Equal Pay Act 1970). In fact such a claim was successfully brought at the ‘halfway stage’ where a local authority formed a Direct Service Organisation (DSO)
so that it could itself tender for the provision of cleaning services (see the case of
N. Y orks C.C. v. Ra diffe (1990) IRLR 399).

Statutory responsibilities – for health and safety of employees and non-
employees on a multi-employer site or for performance of a public service – often
extend beyond the boundaries of an organization’s direct employment responsi-
bilities. These responsibilities bring the organization into direct or indirect rela-
tions with non-employees. This involvement may include monitoring the activities
and performance of non-employees by requiring them to behave in a particular
way or requiring them to take orders from someone who is not a manager from
within their own organization if this is necessary to protect health and safety of
members of the public or other workers on site. Problems of a disciplinary nature
may occur where an employee commits a breach of rules and regulations which
have no counterpart in the disciplinary rules and procedures of their own
employer. Moreover, different employers may take different approaches to disci-plining the same offence.

The ambiguous nature of the employer–employee relationship in these sorts of
complex organizational forms means that not only may employees find it difficult
to adapt to the culture of the organization which is legally their ‘employer’, but
that they may experience conflict in relation to duties of loyalty and confiden-
tiality. Since such duties normally arise by virtue of an implied term in every con-
tract of employment, it follows that they are owed to the ‘legal’ employer. Yet if
individuals are working on the premises of another employer or in some sort of
joint venture or other alliance with such an employer’s staff, it is not difficult to
see that issues involving a conflict of interest may arise. The employee of one of
the collaborating employers may come across information as a result of their sec-
ondment to the other ‘employer’ which is of direct relevance to his or her legal
employer; for example, information concerning the future of the collaboration, or
information that was withheld before the collaboration was established but might
be of material relevance to the decision to set up the alliance or partnership. It is
difficult to see how, in this situation, the ‘non-legal’ employer could impose any
kind of confidentiality clause on the individuals who may gain access to informa-
tion (which may be of interest to their own employer). Presumably these would be
matters which would have to be covered at contractual level in any agreement
between the two employers. Awareness of these potential conflicts of interest could
lead to contractual arrangements based on low trust and limited disclosure of
information which would restrict the efficiency of the partnership or alliance.
These issues are recognized in the organizational literature on networks and
partnerships, with a focus on actions taken to prevent the imitation or adoption of
valuable resources. However, this discussion is not extended to consider the role
of employment law in such conflicts of interests, or the more general issues of duty
and loyalty which may arise when the employees concerned normally have limited
access to knowledge which organizations wish to withhold from competitors.

A final example of potential complications arising from multi-employer rela-
tionships relates to trade union recognition law and in particular the difficulties
which multi-employer situations may present for defining bargaining units in a
meaningful sense. Issues could arise where workers are employed by different
organizations on the same site but happen to belong to the same union. Com-
parisons between employers are inevitable in these circumstances, especially if
employees work alongside each other at a particular establishment and worker
representatives discuss problems with one another. The linkage of bargaining units to the legal employer could also result in the involvement of multi-unions alongside multi-employers, or more likely, the recognition of unions for some workers in the workplace but not others. Employees may belong to a particular bargaining unit for pay and conditions purposes but the relevance of the bargaining unit for issues such as discipline and grievance or hours of work may be reduced because the employees are located in workplaces where the rules of other employing institutions tend to dominate. Moreover, situations may occur where, for example, previously union-free private sector organizations recognize trade unions for bargaining purposes at a workplace following the outsourcing of public sector activities. First line managers and supervisors may therefore find themselves moving between unionized and non-union workplaces as part of their career progression, and from situations where their peers may or may not belong to unions. This could result in the proportion of workers in a particular bargaining unit who are union members varying substantially over time.

BLURRING THE BOUNDARIES OF THE ORGANIZATION: THE NEGLECT OF EMPLOYMENT RELATIONS

In contrast to other literature, the fields of organizational analysis, industrial organization and strategic management have taken up the issue of changing organizational forms and the associated trend towards permeable organizational boundaries as a major area of research focus (see Oliver and Ebers, 1998 for a survey). This focus is clearly linked to concerns over the role of knowledge and learning in competitive strategies, and the implications of new technologies for organizational forms. However, missing from these analyses is an explicit and developed discussion of the employment relationship and how this may both shape the initial decisions to open up organizational boundaries and how the networks and alliances are operated in practice. Moreover, the predicted gains from such arrangements may be critically dependent upon the actual roles that employees of both organizations play in implementing partnerships, joint ventures or outsourcing arrangements. Some authors do make reference to the need for those involved in alliances and networks to be embedded in high trust systems or to be ‘empowered’ workers, not subject to tight direct control if the expected learning synergies are to materialize (Anand and Khanna, 2000; Kale et al., 2000). However, while trust relationships refer both to relations between companies and to employer–employee relations, the potential for complementary or conflicting interactions between these two dimensions is not fully analysed.

There are three main arguments that have been developed to explain the growth of these complex or permeable organizational forms. First there is the notion of transaction costs, traditionally used to explain the development of the bureaucratic organization. Changes to the level of transaction costs, associated in particular with information technology, is seen as one factor explaining trends towards less integrated firms (Schendel, 1995; Semlinger, 1991; Williamson, 1985). The opportunity to develop virtual organizations based on complex network and subcontract relations has been considerably enhanced by the development of ICT although complex ‘putting out’ systems are not dependent on ICT and predated the integrated organization (Marglin, 1976). New technologies do provide new oppor-
tunities for control or surveillance by the contracting employer, thereby countering the argument put forward by Marglin and others that integrated workplaces were needed to establish control over the labour process. However, these control systems may also have their own built in rigidities. Inter-organizational relationships and partnerships may require, at least in the initial bedding down period, the exercise of initiative to cope with areas of uncertainty surrounding the inter-organizational partnerships.

Second, the resource-based theory of the firm (Montgomery, 1995; Penrose, 1959) suggests that organizations compete through the development of firm-specific assets and knowledge. This may lead both to the outsourcing of stable activities which are not central to the development of the resource base and to the formation of joint ventures or alliances when organizations seek to expand into new or novel areas (Coombs and Battaglia, 1998; Coombs and Ketchen, 1999). This approach complements the resource-based theories of human resource management (Boxall, 1996) but does not address directly the complexities of managing relationships across organizations as a factor which may inhibit the development of dynamic efficiencies, particularly if organizations make ill-judged decisions as to which of their activities should be considered key competencies or which activities are better developed internally or through alliances. A top down view of organizational effectiveness may lead organizations to overlook the significant role played by relatively low paid workers in the maintenance, for example, of customer relations and company image (Fearfull, 1992).

According to the third approach, permeable organizations may provide an effective means of learning and knowledge acquisition in situations where these are significant factors in competitiveness. Some of the literature combines this approach with the resource-based theory of the firm. Distinctions are thus made between conditions under which it is – or is not – in the interests of an organization to open up its boundaries to knowledge acquisition and learning. Organizations with significant firm-specific knowledge on which they base their competitive strengths may tend not to open up their boundaries unless these assets can be protected against imitation by competitors. However, given the growth in these network arrangements and in the apparent importance of firm-specific knowledge in competition, recent work has sought to find explanations as to why these arrangements may still come into play. Organizations with specific-knowledge assets may still be interested, Coombs and Ketchen (1999) argue, in networks and partnerships involving other organizations with similar stakes in company-specific knowledge. If both sides have interests in ring-fencing their resource base of specific assets, it may be possible to enter into partnership arrangements where these assets are protected. Implicitly such arguments identify power relations between organizations as important factors in determining whether or not new organizational forms will emerge.

By and large, however, these analyses focus only on inter-organizational power relations on the assumption that asset specificity takes the form of organizational routines and knowledge which is independent from the specific skills, knowledge and behaviour of individual employees. Exactly how agreements to protect asset specificity are translated into behaviour by employees and exactly how the learning from the partnerships and network arrangements occurs is for the most part left unspecified. Where attempts are made to make these processes more explicit, the effect is to reveal a rather simplistic and stylized approach to employment relations. For example, Matusik and Hill (1998) suggest that it is wrong to argue that
firms for which private knowledge is important will not use contingent workers (such as consultants) for fear of leakage of their private knowledge base. In dynamic changing markets these firms need to find cheap and effective ways both to update their public knowledge base – that is, knowledge in the public domain – and to encourage a creative fusion between new public knowledge and the private knowledge base. However, to achieve these twin objectives they are reliant on their employees in two ways: first on their loyalty and commitment to guard against contingent workers gaining access to specific knowledge, and second on their motivation to learn from the contingent workers. The loyalty factor is effectively taken for granted and motivation is believed achievable through the adoption of a formal strategy valuing knowledge acquisition and the development of appropriate structures such as teamworking or advice networks. However, a cursory examination of human resource management in practice reveals that the adoption of formal policies and practices does not necessarily generate desired levels of loyalty or motivation. This may be particularly the case where employees of the organization are expected to develop a heightened commitment to the interests of the organization, in opposition to the interests of contingent workers, yet are still expected to work alongside contingent workers in teams, sharing ideas, insights and knowledge. The reliance on these motivational techniques and structures reveals the uncertainty of actual outcomes and the significance of employment relations to the decisions to open up organizational boundaries. Anand and Khanna (2000) implicitly reinforce this point by referring to ‘unobserved heterogeneity’ as an important factor in creating value added learning within joint ventures. Despite a more extended discussion of the situations where learning may or may not take place than in other analyses, this unexplained heterogeneity is not explicitly attributed to a characteristic of the employment relationship. Barley (1996) has recognized the need to ‘bring work into organizational studies’ but by and large this plea has gone unheeded.

To take this analysis a little further, we examine some of the key employment aspects which are missing from most of the analyses of different organizational forms. First, the current interest in networked organizations is based on the notion that this is an effective way to gain access to skilled labour. Yet there is little analysis of how skilled labour is provided and reproduced. If the responsibilities for training and learning are passed to individuals, then this may critically affect the ways in which individuals operate within the network (Cappelli et al., 1997). Their main concern will be to use their skills and learning for developing their own careers, and this factor may inhibit or change the process of sharing knowledge and learning. Where employers take responsibility, their concerns may be to prevent those employers who fail to contribute to the pool gaining access to the skill base.

Within outsourcing decisions there are also concerns relating to the skill base and its reproduction. Short term cost reductions can be achieved either through reducing training costs or by simplifying work procedures to reduce skill input. These strategies may work in a situation of outsourcing in the short term if there is a plentiful supply of trained labour and if the client firm retains managers with wider skills and knowledge, enabling them to supervise and manage the outsourcing relationship. Yet in the longer term, the wider skills base of the client firm management may diminish if there is no longer direct experience of the process in-house and there is a fall in the overall supply of skilled labour in the external

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market. Even outsourcing of low paid and apparently routinized work may run
into problems where either the outsourcer fails to provide a competent service or
where the process of outsourcing requires the development of a close relationship
between the client company and the outsourcer to maintain a ‘seamless’ image
and good customer relations. These problems are exacerbated where there is no
clear focus of responsibility and lengthy disputes arise over which party needs to
take action or bear the cost to solve unanticipated problems. A clear example of
this is where large organizations decide to focus on their core competencies and
outsources responsibility for dealing with customer complaints.

Joint ventures, alliances and partnerships are often entered into with the explicit
aim of expanding the dynamic capabilities of the firm based on the acquisition of
knowledge and the sharing of learning (Coombs and Batteglia, 1998). However,
the embodiment of knowledge and learning within individuals creates problems
for dividing the spoils of such ventures. These problems go beyond the simple
derivation of formulae for rent sharing which dominates the strategic alliance lit-
erature. Knowledge and learning belongs to individuals and has to be incorpo-
rated into the behaviour of others in the firm if it is to have more general effects.
The likelihood of this taking place will depend inter alia on the employment
relationship. Furthermore, individuals cannot divide their own knowledge and this
may lead to different rates of return to the collaborating organizations, dependent
upon whether it is their employees or those of the other organization who have
acquired most knowledge and learning. Heterogeneous employment systems have
been identified as conducive to learning among individual employees (Anand and
Khanna, 2000), but these systems may not be well orientated towards passing on
that learning and knowledge to other individuals or groups, or incorporating it
into the normal functioning of organizations. This may be particularly the case
where organizations function on the basis of relatively autonomous individuals or
teams. Table III summarizes the major issues in relation to efficiency and employ-
ment relations in a number of different organizational forms.

While these potential difficulties are recognized within some parts of the
organizational literature, the focus again tends to be on the need to develop par-
ticular systems or management styles to overcome these problems. Employee moti-
vation may not be as easily manipulable as this focus on management techniques
suggests. Moreover, the very development of permeable boundaries to organiza-
tions calls into question issues of organizational commitment on which the effec-
tiveness of many of these management techniques appear to rely. However, while
organizational analysis perhaps takes a too simplistic approach to the management
of employees, the literature which focuses directly on employee motivation and
commitment – the human resource management literature – has perhaps paid too
little attention to the development of permeable boundaries to organizations.

HUMAN RESOURCE MANAGEMENT: BOUNDED BY NOTIONS OF
THE SINGLE EMPLOYER

In recent years, the human resource management literature has expanded greatly,
typically around the distinction between so-called ‘soft’ and ‘hard’ versions of
HRM (Legge, 1995; Sisson, 1994; Storey, 1995, 2001).[3] The former has also been
referred to as high commitment management (Wood, 1999) or ‘best practice’
HRM, and it has been fuelled by contributions both from the USA (Pfeffer, 1994, 1998; Walton, 1985) and from the UK (Guest et al., 2000). The basic argument is simple: organizations need to invest in a range of human capital-enhancing practices, such as extensive training and learning, teamworking and employee involvement, and high levels of pay in order to capture and mobilize the contributions of employees. The notion of employer and organization is treated as unproblematic within this approach, and the techniques that are adopted for identifying which human resource practices have been adopted by an organization rely typically on a single response from a single respondent. Recent work by Guest (1998) and Guest et al. (2000), which is based on responses from employees to a CIPD survey, typifies this sort of analysis. Employers are categorized and differentiated according to the number of specified HR practices that are present at the workplace. There is no opportunity to examine differences within – as opposed to between –
workplaces, even though some surveys ask about the proportion of workers covered by various practices, thereby implicitly making allowance for internal variation (Huselid, 1995). Accordingly, it is not possible to differentiate between different groups of workers at establishments that are home to multiple employers or include employees working for a range of different employers at the same workplace. All are treated as if they receive the same set of benefits.

Those studies that draw upon the ‘hard’ or contingent approaches to HRM specifically relate the choice of human resource strategies and practices to the peculiar features of the firm and its environment, and they have also featured prominently in recent analyses (Purcell, 1995, 1999; Boxall and Purcell, 2000). Unlike the ‘soft’ approaches that seek to identify particular sets of HR practice that may be able to enhance performance in all workplaces, these studies argue that different HR practices may be appropriate in different organizations. The choice of which HR practice to adopt depends on factors such as product or labour market circumstances, size or technology employed. However, as with the ‘best practice’ approaches, the contingent explanations have not been applied to network organizations, alliances or partnerships. In particular, they are bound to be limited in seeking to explain how two different organizations in quite different market situations can agree to adopt a coherent approach to human resource management. In a similar vein, contingent explanations may have difficulty in understanding how workers from different organizations – such as an employment agency and a local authority – who operate alongside each other can be subject to different terms and conditions.

Both approaches have been subject to extensive critical comment, in particular in relation to the universal applicability of the ‘best practice’ approach (Marchington and Grugulis, 2000) and the methodological base upon which it is built (Purcell, 1999). It has been difficult to assess whether or not the contingency approaches apply in practice, and there are doubts about whether or not grand strategic visions can ever be achieved in reality (Storey, 1995; Marchington and Wilkinson, 1996). In addition to these problems however, neither perspective provides a framework which is adequate to take into account the complexities introduced by the permeable organization when systems of HRM and performance management operate across organizational boundaries. First, both implicitly assume that managers are able to adopt certain sets of HR practices that are likely to be acceptable to what are essentially seen as ‘passive’ employees. The management of people is treated as if it were a technical function performed on human resources in much the same way that capital and land are treated. Coff (1997) is one of the few to recognize that there are likely to be substantial problems in putting HR practices into effect because employees have ‘independent wills’. This is something that is also almost unheard of in the ‘best practice’ approaches.

Secondly, both are built around notions of employees showing commitment and loyalty to a specific organization, and the emphasis is on organizations developing particular cultures that are likely to appeal to employees. As Guest (1998, p. 42) notes, ‘the concept of organisational commitment is at the heart of any analysis of HRM’. However, it is acknowledged that commitment is notoriously hard to define, and we need to be clear whether or not the reference is to the employing organization (locally or at corporate level), the work group, the trade union or the occupation, or indeed something else. In situations where the notion of the single employer is open to question – such as in the case of multiple employers on a
single site, or when call centres are staffed with people from agencies who work alongside those from the ‘host’ employer, or in the case of a PFI – the problem is further compounded. As no distinction tends to be made between different categories of worker in most surveys, it is inevitable that variations in practice and other complexities in the employment relationship are ignored. Even studies that might be expected to differentiate amongst those working at a particular site, such as when there is likely to be a high utilization of temporary and/or agency labour, seem to assume that one set of HR practices is common to all employees. For example, Hoque’s (1999) study of hotels did not specifically mention any differences between permanent and temporary labour despite the fact that this sector is renowned for the high usage of the latter. Hutchinson et al.’s (2000) study of an RAC call centre dealt in terms of common HR practices that made up high commitment management approach despite the fact that this establishment made extensive use of temporaries, mostly students, at certain times of the year. Similarly, Gittell’s (2000) study of relational co-ordination during flight departures at an airport only made reference to cross-functional as opposed to cross-organizational links. Airports are characterized by significant inter-employer relations, and many workers may actually have changed employer during recent times.

When attempting to analyse HRM and performance, it seems strange not to consider inter-organizational relations in a study such as this. One potential solution to the problem of organizational commitment in a context of uncertainty and fragmentation is to look to a trade-off between short term organizational commitment (Rajan, 1997) in return for transferable skills offered through experience with the employer. Employees’ desire for transferable skills may provide an alternative motivational carrot to long term organizational career structures (Martin, et al., 1998). However, as Cappelli et al. (1997) point out, although, under these kinds of arrangements, compliance with organizational goals may be achieved, workers lack any real identification either with the organization or its strategies. Moreover, the offer of transferable skills does not overcome the problems of potential conflicting organizational commitments in a multi-employer setting.

Thirdly, both approaches operate on the assumption that employers are seeking sustained competitive advantage through the use of a consistent and ubiquitous management style. The likelihood of a sustained and consistent approach diminishes the more that employees come into contact with other organizations and their employees, as strong and consistent policies may in fact hamper rather than assist in the process of managing cross-organizational relationships.

Finally, both approaches refer to employees as opposed to workers, so discounting implicitly those people who work at the organization on a range of temporary contracts, perhaps supplied by an agency. Given recent changes in the law, which now refer to workers rather than employees, it seems time to shift our analysis to take note of this. The management of employment consists of attempts to elicit worker commitment to organizational goals and enhance their contribution, but it also comprises efforts to discipline and control what is felt to be unacceptable behaviour by workers. This becomes particularly pertinent when people employed by different organizations or on different forms of contract face disciplinary action for committing similar offences, especially if different rules and procedures are in place.

Recently, partnership agreements between employers and trade unions have been added to the raft of human capital enhancing HR practices that are used by

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employers committed to the notion of ‘best practice’ HRM (see Guest and Peccei, 1998; Marchington, 1998). Since these, like the other HR practices in the mix, rely on employees (or unions) demonstrating their commitment to mutuality, and viewing other organizations as competitors to be beaten, this makes it very difficult to conceive of relations across organizational boundaries. Moreover it is rarely made clear whether or not the partnership agreements cover all the activities of the organization including its subcontracting, joint ventures and alliances. If not, the trade unions may find themselves involved in managing an ever smaller core of activities, or indeed residing over the transfer of perhaps the main parts of the activity to other organizational arrangements.

MIXING THE MESSAGES: CONFLICTS AND CONTRADICTIONS IN THE EMPLOYMENT RELATIONSHIP IN A MULTI-EMPLOYER ENVIRONMENT

In this section our attention turns to considering the potential for multi-employer relationships to introduce yet further tension and indeed conflicts and contradictions into the employment relationship, over and above those that are already present in a straightforward single employer–employee relationship. There are many potential areas where such contradictions and ambiguities may arise, but here we focus on just three: pay, performance management and organizational commitment.

Pay and Conditions
Pay systems within organizations are notoriously subject to conflicting pressures and influences and reflect as much past history as current needs and realities. The main sources of influence on pay are the need to recruit and retain workers, to relate pay to accepted skill and supervisory hierarchies, and to provide incentives for, or at least to avoid disincentives for, activities consistent with the overall business strategy or goals of the organization. Each organization will make different compromises between these potentially conflicting objectives (Rubery, 1997). Moreover, organizations have different abilities to pay and have experienced different trajectories and histories relating to pay bargaining and pay determination. By and large, pay systems can only evolve gradually because of resistance to real cuts in money wages; as a result changes normally come about through differential rates of increase, not through complete restructuring of pay relationships. This fine and often delicate balance between different functions of the pay system is clearly open to disruption from the introduction of influences from the pay systems and structures of other organizations.

If the main arena for comparison is the workplace and individuals working alongside other individuals in similar or comparable jobs, then the introduction of multi-employer relationships based on different pay structures has considerable potential to disturb and disrupt. In some cases the introduction of multiple pay levels for the same job is an explicit part of management strategy, for example the use of temporary agencies to supply workers on different terms and conditions from permanent staff. This can be considered a multi-employer disruption which has the approval of the main employer and is designed to cut costs. However, even here the disruption to notions of a fair rate for the job may not be sustainable in the longer term, at least not without some modifications to the policy (Grimshaw
et al., 2001). Often organizations feel obliged to offer direct contracts to long-standing temporary staff as wide pay differentials based solely on employment status and not skill levels may become unsustainable over time. Wide wage disparities may also encourage high rates of turnover among temporary workers, thereby reducing the effectiveness of the strategy. Moreover, over time organizations may try to pay lower wage increases to permanent staff and so move their rates closer to temporary workers on the grounds that the existence of differentials suggests they are paying over the market rate. Alternatively, they may move towards using temporary staff mainly as a screening process for entry into long term jobs.

Other pressures may arise at multi-employer sites that are less planned and may cause disruption to relationships in ways not anticipated by employers. For example, those collaborating in joint ventures, project teams or alliances may find themselves working alongside similar or more junior colleagues who are rewarded at higher rates. Staff of franchisees may be sent on training courses covering both direct employees of the franchisor and employees of other franchisees only to find that their terms and conditions differ widely from those doing comparable work under the same brand name. Here the differences emerge out of the decentralization of pay decisions to the franchisee. Further complications arise where an organization which is providing outsourcing facilities to clients is under pressure to offer different terms and conditions to fit the requirements of the client; here we can point to the example cited by Scarbrough (2000) of a supply chain relationship resulting in internal differentiation. The client company tried to persuade the organization to establish a different set of conditions for employees working on a dedicated line but this led to resentment among other staff who were less favourably treated.

The most clear cut problems arise for staff affected by a TUPE transfer. In these circumstances the employees still retain their terms and conditions set by their previous employer but this may result in disruptions to pay hierarchies and systems for a number of reasons. First of all, although pay rates may be preserved, the transferred employees may find themselves subject to a harsher performance regime, thereby disrupting or reneging on the implicit wage-effort bargain. This may create particular problems if they continue working side by side with non-TUPE transferred staff from the previous employer. The introduction of TUPE transferred staff into an outsourcing organization may also create disruptions within its pay system. The TUPE transferred staff may have different pay rates and holiday and other entitlements from the direct non-transferred employees and this could cause resentment if they work alongside each other doing similar jobs. If the outsourcing organization has a variety of TUPE transferred staff from a range of contracts, it may have an equally wide range of terms and conditions. The legal position with respect to the time period over which harmonization may take place is unclear and the only practical solution may be to maintain staff in different workplaces. This creates further problems if staff need to be redeployed across workplaces due to business fluctuations or for promotion. The outsourcing organization may have to require staff to change contracts as well as workplaces if they transfer on a voluntary basis to other sites. Differentials between workplaces are not in these circumstances in any sense systematically related to skill and job content. Furthermore, the range of pay systems in place may create problems if the outsourcer wishes to establish an effective pay system for supervisory and man-
agerial staff as unless the supervisory staff are also specific to each workplace, the notion of fair differentials between supervised and supervisor might have to be considered with respect to the highest rather than the lowest paid workplace.

These variations in pay levels and systems introduced through multi-employer relationships may also serve to highlight the absence of a link in general between pay and skill. However, equal pay legislation provides, under certain circumstances, for this link to be introduced. While currently multi-employer relations are not normally subject to equal pay legislation where the jobs span more than one employer, individual employers may face difficulties in adjusting their pay structures in line with equal pay law if they also wish to adjust pay systems to take into account multi-employer influences. Moreover, the sense of grievance that pay is not related to skill may be enhanced when employees work side by side with other workers doing similar jobs for higher pay even if they are not able currently to translate that grievance into an equal pay case.

**Performance Management**

A major trend in recent years has been the development of performance indicators and performance management, and this to some extent reflects the shift towards permeable organizational boundaries; performance criteria form an important part of the detailed specifications in the contracts between organizations and these in turn may provide the basis for employee performance targets. For example, it has been suggested that there is a direct relationship between the tightness of contract specifications and ‘the harshness of the employment regime that may follow’ (Kessler et al., 1999, p. 5). The responsibility for setting performance standards for groups or even individuals may lie not with the direct employer but with the client. Moreover, the client may be involved in actually monitoring performance and passing information back to the direct employer, to provide the basis for either positive or negative appraisals. In the case of the latter, the employer may in some cases rely entirely on third party provided information as the basis of discipline and even dismissal. This is almost always effectively the case where the worker concerned is not under the direct control of the employer but of the client, as with temporary workers, but it could apply more widely. Franchisors may effectively specify and monitor not only the performance of franchisees but also of their employees where the specifications which bind the franchisee also relate to aspects of the work process of those employed by them. One organization may collect information on the performance of other organizations at the same site even though it does not have any direct contractual link with them because their performance may have an impact on demand for its services. At an airport, for example, there may be concern about the activity of baggage handling companies because performance in these key services affects the overall demand for airport services. Such information may well be used as the basis for inquiring into performance of particular shifts or even individual groups and employees. Where disciplinary issues arise there is sometimes a need for joint action by, effectively, two employers. For example, this could apply at an outsourcer using temporary workers supplied by an agency with whom they had entered into a partnership arrangement and where managers from the agency were always present on-site. If a disciplinary matter arises, action would need to be taken jointly and/or in parallel by the managers of the site and the temporary agency managers. In other cases, this neat solution to the division of responsibilities and rights
as employers and clients would not be possible because of physical distance and separation.

While the involvement of third parties and multi-employers, directly or indirectly, in monitoring, appraising and disciplining employees certainly adds a layer of complexity and ambiguity into the standard employment relationship, other problems arise when the performance of an employee or group of employees is critically dependent on the action and behaviour of an organization, or employees from an organization which is not their employer. Many outsourcing relationships rely for successful operation on cooperation and exchange of information between organizations but this cooperation and information sharing may be limited and even deliberately withheld, leading to problems of how to assess the actual performance of the employees affected by the breakdown of relationships. In the context of the NHS, Deakin and Walsh (1996, p. 37) comment that ‘the purchaser is often dependent on the provider for knowledge of what has to be done, or even what should be done, so that information becomes a key battleground in service management’. In an outsourcing company, problems can arise due to unforeseen difficulties in dealing with customer enquiries in a context, for example, where customers are annoyed after having been sold unsuitable contracts. The contract setting up a call centre operation may provide tight specifications for numbers of calls to be dealt with per hour but these may not be achievable in unanticipated hostile environments. In this case, the call centre company had to resort to a renegotiation of the contract to ensure appropriate staffing levels and try to appease temporary staff who feel they have been placed under undue pressure to sort out problems which were not of their making and which were not taken into account in their job specification.

**Organizational Commitment**

As stated above, notions of organizational commitment lie at the heart of human resource management literature and in the rhetoric of practitioners. This focus on organizational commitment, however, sits uncomfortably with the shift to new forms of organization and partnerships, and with the increasing use of outsourcing. This paradox can be resolved to some extent in the public sector where there is a more explicit policy of using partnerships and networks to change organizational culture. In this context, the rhetoric of commitment is still used, but this is commitment to public service provision and not commitment or loyalty to a public service organization. However, the impact of policies which are destabilizing workplaces and employment relationships on commitment to service delivery is often not called directly into question. Many of the organizations which are engaged in multi-employer relationships are using a variety of techniques to attempt to overcome the confusion between the identity of the employer and the identity of the organization with which the employee is supposed to show some form of commitment. For example, organizations which are outsourcing their customer focused operations are spending time and energy in training call centre and temporary agency staff in aspects of their brand or organizational image. Here the client is taking on a major part of the training role as it is arguably only the client who can impart the information on the company image and brand. Limits to company loyalty soon emerge, however, when problems are encountered in maintaining good customer relations due to factors outside and beyond the control of staff; we have already mentioned above the case of high labour turnover rates when staff
are faced with hostile customers over events which were not the responsibility of the temporary agency staff or even of the organization in whose premises they were working.

Organizations are sometimes very aware of the contradictions between using a fragmented employment system and attempting to develop a strong brand name or to present a seamless image to customers. In one case, this awareness led to a requirement that freelance staff operating as trainers on behalf of the organization should give the impression to clients that they were full-time permanent employees of that organization, an impression bolstered by the issue of personal business cards in the organization’s name. Further problems arise over mismatches between the apparent goals of organizations working in partnership and the performance goals assigned to individual managers. For example, if an organization splits its training arm from its main operations but explicitly intends the training organization to provide the in-house training needs of the main organization, this arrangement is unlikely to work unless individual managers within the main organization are provided with incentives to use this preferred supplier rather than using cheaper sources of training cheaper elsewhere. Thus, organizations have not only to agree on joint goals and aims but also have to develop incentive structures down the hierarchy which reinforce these organizational goals. Similar problems can arise within integrated organizations, of course, but where these are fragmented and operate as separate businesses, the incentive structures for successful partnerships may need to be more explicitly developed.

**TOWARDS CONTRACT OR STATUS; CONFLICTING PRESSURES FROM MANAGING MULTI-EMPLOYER RELATIONSHIPS**

So far we have considered the conflicting signals that arise in multi-employer situations and the problems these can create for human resource policies and practices. In this section, we address the issue of how these multi-employer relationships are likely to impact upon the form of the employment relationship and on management’s approach to employment relations and control. Even within unambiguous single employer organizations there are recognized to be fundamental problems in managing the employment relationship. These problems arise out of the tensions between controlling and monitoring the employment relationship on the one hand, and seeking to use the employment relationship to confer comparative advantage on the organization by capturing the capacities of the employees to contribute to effective performance. These conflicting tendencies lead to alternative modes of managing employment, referred to by Streeck (1987) as contract and status. In short, contractual approaches to management provide opportunities to specify the quantity of employment and the minimum services to be provided in return for the wage in a context of essentially low trust. In contrast, management through status focuses on encouraging workers to provide ‘extra-functional’ contributions as a consequence of voluntary commitment engendered through high trust relationships. Status relationships, according to Streeck (1987, p. 293), involve ‘the replacement of specific contractual obligations as the main mechanisms of controlling the exchange between workers and employing organisations, by general, unspecific and long term commitments on both sides to cooperation.’

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The paradox, according to Streeck, is that the development of new ways of managing employment in the 1980s and 1990s led to both an expansion of contractual relations and an expansion of status. Both provide different ways of managing uncertainty. The same paradox appears to apply to situations of multi-employers; on the one hand, the very fact that there is no single unambiguous employer tends to lead to a proliferation of monitoring and control systems and a tightening of contractual conditions. On the other hand, the entry into multi-employer partnerships and networks is critically dependent upon the development of successful collaborative relationships, often based on personal capacities and on the provision of extra-functional contributions by the workers concerned. Research into inter-organizational contracting has indeed revealed that, contrary to perhaps a priori expectations, business partnerships tend to be underspecified in contractual terms, for a variety of reasons (Deakin and Michie, 1997). In particular it is found that contractual relationships based on trust are more likely to provide a basis for realizing synergies and sharing information and knowledge while protecting against opportunistic behaviour, than arrangements based on tightly specified contractual obligations which cannot anticipate all the potential areas of conflict or all the areas where unanticipated solutions will be required. Moreover, by concentrating on actions needed in the event of failure, such contractual approaches may undermine the relationship before it has even been established (Deakin and Michie, 1997). This focus on trust has by and large been considered with respect to trust between organizations, although trust relationships are recognized to be forged in practice by individuals, most of whom may be in an employment relationship. Trust in an inter-organizational relationship is thus also dependent upon trust within the employment relationship itself, and it may be extremely difficult, for example, for an organization to rely on its employees to forge a trust-based partnership while moving towards a more contract-based management of the employment relationship with its own employees. Such paradoxical tendencies cannot always be avoided, however, and the use of outsourcing may lead to ‘new problems such as transaction costs, erosion of trust between principals and agents, and rent seeking’ (Boyne, 1998, p. 695). The breakdown of trust may lead agents to ‘work to contract’, a sure sign of inefficiency and failure within contracts in general and within the employment relationship in particular (Boyne, 1998).

Sometimes these problems arise out of the nature of regulatory or statutory duties. The development of some forms of outsourcing, for example housing benefit, requires the development of effective working relations between the outsourcer and the remaining workers in the council as the latter have to authorize the payments processed by the outsourcer. Those transferred to the outsourcer now have to have their work checked by council employees. This has introduced more direct control over their work process, since previously, as council employees, they were able effectively to authorize their own work. It also brings in a second agent or a second ‘employer’ to the control and monitoring of the work process as the council is the ultimate arbiter of whether or not the processing of the claim can be considered correct. Thus, the division of responsibilities between different employers leads to the need for new monitoring and control systems and to the involvement of both organizations in the monitoring of the work. At the same time, the interrelationships between the outsourcer and the council means that the operation will function effectively only if employees on both sides collaborate with
each other and forge close working relationships. The problems in finding an appropriate balance are summed up in the way that KPIs (key performance indicators as specified in the contract) operate in practice. Flaws in the setting of KPIs can soon become apparent, with the implication that it is impossible to achieve the targets on the whole range of KPIs.

These contradictions to some extent follow the dual trends towards both more autonomy and more control within employment in general, associated with the use of new technologically-based control systems. In some respects the problems addressed are similar; the problem of how to manage dispersed workers using telework has parallels with the problem of how to manage workers located in other organizations outside the direct control of their main employer. The difference is that here we are not only concerned with the conflicts between the interests of employees and their own employers but also with the need for employees to act as agents for their main employers in the forging and managing of cross-organizational partnerships and relationships. This addition of third party interests, beyond those of the employer and the employee, adds further layers of uncertainty into both performance under the employment contract and perfor-

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<th>Return to contract</th>
<th>Extension of status</th>
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<tr>
<td>Performance</td>
<td>Strict contractual requirements between partners related to task performance</td>
<td>Reliance on employees’ initiative and tact to manage relations between partners, to share knowledge; to ‘chart unknown territories’</td>
</tr>
<tr>
<td>Autonomy</td>
<td>Strict regulation of responsibilities/allocation of authorization duties</td>
<td>Use of new forms to grow the business, develop spin-offs/synergies – reliance on self-motivated workers</td>
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<tr>
<td>Job content</td>
<td>Emphasis on codified knowledge/processes as a means of control of labour process/brand image</td>
<td>Need to update knowledge/retain exclusive access to knowledge as basis for partnerships/efficiencies</td>
</tr>
<tr>
<td>Recruitment and selection</td>
<td>Use tight contractual control rather than personal selection and development of trust relations</td>
<td>Use professional status/qualification/experience as basis for selection for temporary/short term assignments</td>
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<tr>
<td>Training</td>
<td>Narrow task specific training; company branding</td>
<td>Training from multi-employers; broadening of range of tasks/experience; use of training and qualification as quality indicator; reliance on self-trained/self-motivated workers</td>
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<tr>
<td>Time</td>
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mance under the inter-organizational contract. Employment relations play a key role in developing the trust needed to achieve closer contractual relations between organizations.

CONCLUSIONS

Filling in the missing links between the literature on new organizational forms on the one hand and the employment relationship on the other should serve a dual purpose. First, it makes more explicit how the causes of uncertainty and ambiguity are related to the performance and efficiency gains to be derived from new organizational forms. The organizational literature has recognized the dependency of the new forms on, for example, the realization of the potential gains from learning; according to Huber (1991, cited in Matusik and Hill, 1998) organizational learning cannot be assumed to be an automatic outcome of networks and partnerships. While there is recognition of this ambiguity, the resolution is seen to lie first in establishing such networks and partnerships only where the objective conditions are right for them to yield net gains and secondly in adopting appropriate management styles and techniques. However, as we have argued above, there also needs to be considerably more attention paid to the predictability of these potential gains if they are primarily dependent upon human agents than if these processes were integrated into in-house operations. ‘Unobserved heterogeneity’ in the outcomes of partnerships needs to be tied much more closely into the analysis of how these systems are put into place and operationalized as part of a labour process and employment relationship, and not treated simply as a relationship at an abstract level between organizations. Much of the current interest and activity in networking and partnerships may be based as much on acts of faith as on fully considered analyses of how these arrangements will actually benefit the participating organizations. Greater awareness of the risks involved and of the preconditions for success, such as highly developed trust within the employment relationship, might act not as barriers to growth and modernization but as cautionary reminders of the possibilities of failure as well as success.

Introducing notions of multi-employer relationships into the literature on the employment relationship also calls into question the single employer assumptions underpinning both the approach to employment law and employment rights and to the management of the employment relationship. The questioning of the appropriateness of the assumption of a single employer in employment law adds a further dimension to the debate about how to provide effective protection for employees in a period of diversifying employment statuses. That diversity can be seen to include complex multi-employer relationships and not simply issues of atypical employment contracts. The recognition of multi-employers and multiple organizations also adds a further complexity to the notion of organizational commitment, a concept already under pressure due to increased job insecurity and the growing likelihood of boundaryless rather than bureaucratic careers as the dominant employment form of the future (Arthur and Rousseau, 1996). Here the problem is not just one of short time commitment to an organization but of the presence of multiple employers leading to potentially contradictory pressures for organizational commitment. In these circumstances, it would be sensible not to place too much faith in the power and pervasiveness of notions of commitment,
as evidenced in the doctrines of human resource management. The introduction of multi-employer relationships calls into question any notion of a single best way or best approach to employment management. Employment law in the future may have to take into account these multi-employer relationships, thereby creating problems for individual employers establishing ‘best practice’ routines or systems designed to ensure against any need for direct recourse to the law for individual employees. Where employment relationships span more than one employer, such systems may be more difficult to design and implement. Similarly, in the field of human resource management, it may be impossible for managers to avoid making more use of direct contractual systems of control while at the same time increasing the autonomy of employees to take charge of and manage complex relationships. Information technology can only provide at best a partial solution to these control problems. It is possible that inter-organizational relationships will continue to depend upon a dual approach, based both on contract and on status.

NOTES

*The three-year research project associated with this paper is funded by the UK Economic and Social Research Council Future of Work Programme, grant number L212252038. The project is investigating ‘changing organizational forms and the reshaping of work’. It involves a number of in-depth case studies of a variety of organizational forms, including franchises, employment agencies, private finance initiatives, partnerships, supply chain relationships, and outsourcing.

The full research team is Mick Marchington, Jill Rubery, Hugh Willmott, Jill Earnshaw, Damian Grimshaw, Irena Grugulis, John Hassard, Marilyn Carroll, Fang Lee Cooke, Gail Hebson and Steven Vincent.

[1] Those familiar with the progress of legislation will be aware that the definition of ‘employment’ in the Sex Discrimination Act 1975 and Race Relations Act 1976 covered a similar category of individuals and that the Wages Act 1986 used the term ‘workers’.

[2] Note, however, the recent case of Motorola Ltd v. (1) Davidson and (2) Melville Craio Group Ltd [2001] IRLR 4, in which the Employment Appeal Tribunal upheld the decision of the employment tribunal that in this particular case, the client had sufficient control over the worker for him to be regarded as their employee.

[3] The client cannot ‘sack’ an agency worker, but can it insist that the agency does so? In fact, since it is highly unusual (though not unheard of, see the case of McMeechan v. S.S. for Employment (1997) ICR 566) for agency workers to be regarded in law as employees of the agency, ‘dismissal’ is not an appropriate term to use, and although the agency may well be able to ‘redeploy’ the worker onto another contract, it has no obligation to provide the individual with work.

[4] The recent case of Wilson v. St Helen B.C. (1998) ICR 1141 has ruled that a variation is ineffective if it is ‘connected with’ the transfer even if employees ‘agree’ to the proposed changes to their terms and conditions. Whilst this judgment reflects a concern that transferred employees should not be pressured to ‘agree’ simply because they may be in a position to do little else, there remains considerable uncertainty as to how long after a transfer consensual variation of terms and conditions is possible.

[5] The resource-based view of the firm has also entered analyses of HRM through, amongst others, the work of Boxall (1996) and Boxall and Purcell (2000). However, as we have examined this literature in the previous section, we will not address it further here.
REFERENCES


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