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# Trade union representation of contingent workers in further education in the UK and Austria

Susanne Pernicka\*

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## Summary

*The subject of this article is trade union strategies for contingent workers. On the assumption that trade unions' strategic responses vary in accordance with their national institutional contexts, we compare Austria and the UK in the area of further education. In both countries, we found various trade union strategies for dealing with the growing heterogeneity of members and potential members of trade unions in further education. From a cross-country perspective, however, we found some evidence that the spread of contingent work might lead to a convergence of union strategies and a reduction of the influence on their behaviour of national institutions.*



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## Sommaire

*Cet article a pour thème les stratégies des syndicats relativement aux travailleurs en situation atypique. En partant de l'hypothèse que les réponses stratégiques des syndicats varient selon le contexte institutionnel national, nous comparons l'Autriche et le Royaume-Uni dans le domaine de l'enseignement post-scolaire. Dans les deux pays, nous avons observé différentes stratégies mises en place par les syndicats pour répondre à l'hétérogénéité grandissante des syndiqués (potentiels) dans l'enseignement post-scolaire. D'un point de vue transnational, certains éléments laissent cependant à penser que le développement du travail occasionnel pourrait conduire à une convergence des stratégies syndicales et à un affaiblissement de l'influence des institutions nationales sur leur comportement.*



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## Zusammenfassung

*Dieser Beitrag befasst sich mit gewerkschaftlichen Strategien für Zeitarbeitnehmer. Ausgehend von der Annahme, dass die Gewerkschaften je nach ihrem nationalen institutionellen Kontext unterschiedliche Strategien anwenden, wird ein Vergleich*

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*zwischen Österreich und dem Vereinigten Königreich im Bereich der Weiterbildung vorgenommen. Der Vergleich zeigt, dass in beiden Ländern unterschiedliche Gewerkschaftsstrategien im Hinblick auf die wachsende Heterogenität der bestehenden und potenziellen Gewerkschaftsmitglieder im Bereich der Weiterbildung angewandt werden. Bei der Betrachtung aus einer länderübergreifenden Perspektive sind jedoch Anzeichen dafür zu finden, dass die Zunahme von Zeitarbeit zu einer Annäherung der gewerkschaftlichen Strategien und zur Abschwächung des Einflusses nationaler Institutionen auf ihre Handlungsweisen führen könnte.*



**Keywords: contingent work, trade union strategies, further education, UK and Austria**

## Introduction

Over the last two and a half decades, trade unions have been confronted by multiple challenges. One such challenge is the ongoing changes in the composition of employment, including the feminisation of paid work, the spread of non-standard employment – such as part-time or agency work, hourly-paid and dependent self-employment – and an increase in individualisation (Dølvik and Waddington 2002; Heery 2005; Heery and Abbot 2000; Zoll 1998). Partly as a result of these developments the unions are seeking to represent workers in increasingly heterogeneous constituencies. It is also widely asserted that trade unions require new capabilities and strategies to reconcile the diverse interests of those they seek to represent in order to achieve a collective identity and thereby solidarity (Hyman 2005).

In this article we look at how the trade unions are responding strategically to the growing number of temporary or contingent workers, whose working conditions largely deviate from those of standard employees with open-ended contracts and fixed workplaces, such as economically dependent self-employed, part-time or agency workers. Our considerations are framed primarily by strategic choice theories (Child 1972; Child 1997: 45; Kochan *et al.* 1986), which perceive unions and their leaders as having some room to manoeuvre. In this regard we emphasise the reflective nature of union action, particularly in times of socio-economic transformation (Hyman 1994: 132). At the same time, we are aware of the institutional and normative restrictions on such behaviour. Accordingly, union strategies in different countries are assumed to vary due to their respective institutional contexts in the area of industrial relations (Frege and Kelly 2003: 12). However, over the last two decades social and economic changes (deregulation, privatisation and liberalisation) have, among other things, led to the growth of flexibility in the labour market. These developments may in turn have diminished the influence of existing institutions, such as labour market regulation. As a consequence, trade

unions are assumed to have lost part of their institutional powers and therefore need to draw on their prime power resource, their membership. In this regard, trade unions in different countries are expected to encounter similar problems in organising and representing contingent workers and to pursue similar strategies to address these problems.

This hypothesis is in line with conventional industrial relations theory that acknowledges some convergence between institutions and organisations, and between domestic systems, but maintains that socio-economic changes may simultaneously be promoting ‘tandem divergence’ (Katz and Darbishire 2000). For our purpose we develop a ‘convergence-divergence’ hypothesis, which recognises the path-dependent institutional structures, but also acknowledges trends of convergence in union strategies due to the spread of contingent work. Taking a country-comparative perspective, we argue that the spread of non-standard forms of work may pose a challenge to domestic labour market institutions and inherited national characteristics.

We carried out a cross-country comparison of Austria and the UK. The two countries’ institutional settings and industrial relations systems differ fundamentally. In terms of the varieties of capitalism literature, Austria is a coordinated market economy with highly centralised bargaining structures, while the UK is perceived to be a liberal market economy combining weakly institutionalised settings with more decentralised bargaining structures (Soskice 1999). In comparing specific trade unions in two different institutional settings, we take account of a central methodological premise of conventional comparative research: cross-national comparison is perceived as functionally analogous to experimentation in the natural sciences (Hyman 2001: 208). By identifying similar conditions and developments (the growth in contingent employment in a particular sector) while ‘varying’ the institutional frameworks we intend to test whether these conditions have an impact (converging strategies) or not (differences remain). However, it must also be noted that the findings are not necessarily generalisable beyond the chosen sector to unions in the countries as a whole.

We investigated a sector – further education – in which there is significant heterogeneity in terms of employment relationships. In both countries the further education sector contains a high proportion of contingent employees in relation to total employment. In this regard further education provides a useful sector for observation in order to evaluate our central hypothesis. The further education sector delivers courses above secondary school and below university level in colleges and other adult education institutions – for instance, adult vocational training. The article draws on field research conducted in Vienna and London. During a three-month academic visit to the LSE in 2006, the author was granted access to the National Association of Teachers in Further and Higher Education (NATFHE), which later in the year merged with the Association of University Teachers (AUT) to become the University and College Union (UCU). We conducted four qualitative, semi-structured interviews with union officials and branch organisers in further education, and one interview with an official of the ‘Organising

Academy' of the Trades Union Congress (TUC) (for a detailed description see List of interviews). We were also provided with written material published by NATFHE, such as its newspaper *The Lecturer*, and a recent research report, as well as a follow-up report on part-time lecturers in further education (Hillier and Jameson 2004, 2006). An investigation of the union's websites completed the data collection.

The exploratory fieldwork in Vienna was carried out in two consecutive phases. In May 2002 the author was granted access to the Union of Salaried Employees (GPA, since 2007: GPA-djp), which covers further education and a number of other sectors in Austria. After the GPA had set up a special section for dependent self-employed workers in 2001 (interest group work@flex), a federal committee was elected by the union members who had subscribed to the group. The author ran for election two and a half years ago and has since held the position of a federal committee member. In the course of her investigation, she took part in numerous internal discussion fora, collected published data from official GPA union committees, such as the federal forum and the executive board, and attended regular meetings with self-employed ordinary union members (Pernicka 2006). In a second stage, three interviews were conducted with GPA union officials who are in charge of the interest group work@flex at different hierarchical levels. In addition, one works council member and one lay representative of the work@flex group, who also works as a lecturer in further education, were interviewed (for a detailed description see List of interviews). All interviews were tape recorded and transcribed.

The main body of the article is structured as follows. First, we review the relevant literature in order to frame the research question theoretically. We continue by drawing on national statistics and estimates to indicate the distribution of self-employed and other contingent employment categories in further education. A comparison of the industrial relations systems and employment regulations is presented, with special reference to further education in Austria and the UK. The trade unions' strategic approaches to contingent employees in the sector are described. The article concludes by assessing whether growing labour market flexibility represents a challenge to existing institutional frameworks and so is leading trade unions in different countries to pursue similar strategies.

## Theoretical perspectives

The assumption of strategic choice as a dependent variable requires that we identify factors that may influence union behaviour. Based on their reading of the comparative literature on unions' strategic choices, Frege and Kelly (2003: 12) suggest five determining factors for trade union action:

- (a) social and economic change;
- (b) institutional differences;

- (c) differences in employer, political party or state strategies;
- (d) internal union structures; and
- (e) various framing processes (union identities, repertoires of contention).

Rather than treating these factors as alternative and independent explanations, we consider their interrelationships as essential in influencing trade unions' strategic choices.

As regards union identities, it is clear at the outset that inherited traditions and behavioural norms strongly affect internal union structure and are in turn affected by long-term socio-economic developments and the institutional environment. When looking at membership heterogeneity one must keep in mind that the unity of working class interests and identity has always been a powerful myth rather than an objective fact (Hyman 2005). However, trade unions have been quite successful in creating a sense of commonality and collective strength by building their internal structures and representational systems on the basis of functional and fixed categories, such as class, sector and occupation (Schmitter 1994: 160). Hence, unions' strategies and structures can be viewed as having largely been adjusted to the requirements of the prevailing – sector- and occupation-related – collective bargaining structure (Clegg 1976). Historically, unions have adapted their organisational boundaries either to small groups of skilled craftsmen (craft unionism) or to the main body of – unskilled or semi-skilled – workers (Müller-Jentsch 1997). While in the former case earnings were kept high by creating a collective identity as skilled professionals or craftsmen, and so by excluding the unskilled, in the latter case organisational power was achieved primarily by the sheer 'mass' of workers, many of whom identified themselves with the notion of the working class.

Until the 1980s trade unions' organisational principles were largely adapted to the structure of hierarchically organised large industrial companies, with a high degree of internal standardisation and mass production. Since this corporate structure encouraged a particular type of worker solidarity (Hyman 2005), unions adopted similar standardised and bureaucratic forms of employment regulation and employee representation. The underlying normative model of work in both countries assumes as the standard form of employment the full-time standard, typically male manual worker with a stable place in the internal labour market. However, since the 1980s the trade unions have increasingly been confronted by, among other challenges, an increasing number of female – but also male – potential members whose interests cut across the old rigid categories.

Industrial restructuring, company downsizing, neoliberal government policies and rising levels of unemployment have contributed to massive membership losses and the growing heterogeneity of union constituencies in both countries. Moreover, the spread of non-standard or contingent forms of work, such as dependent self-employment, temporary agency and part-time work, requires union action that goes beyond

traditional recruiting and organising strategies. Since non-standard work occurs sporadically and in different locations, recruiting such workers requires that union structures be modified to represent the job territory rather than as a function of the collective bargaining system (Heery *et al.* 2004: 31). If this holds true, a central hypothesis asserted by corporatist and institutional theories – namely that the institutional environment largely determines the means and objectives of collective action and also the collective interests themselves (Scott 1991; Streeck 1987, 1994) – falls short as a substantial explanation of union recruiting strategies directed towards contingent workers. In order to meet the needs of this relatively novel group, and in light of their partial exclusion from labour law and social protection regulations and their flexible working conditions, unions need to adopt new organisational principles of recruitment and representation. Workplace unionism is perceived as ill-suited to the needs of mobile workers hired on a short-term basis or for a limited number of hours a week (Heery *et al.* 2004: 20). Non-standard or mobile workers, it is argued, require a different and specific form of trade unionism whose locus of operations lies not in the workplace but rather in the sector (Cobble 1991).

## The incidence of dependent self-employed persons and other contingent employment in further education

A comparison of the aggregate levels of self-employment in the UK and Austria shows that the respective proportions of self-employed in total employment in 2007 were very similar, at 12.9% and 11.9% (Eurostat 2008). Moreover, in recent years both countries have experienced marked increases in self-employment compared to full-time dependent employment. These developments are due largely to growth in the banking, finance and insurance sector and also to increases in self-employment in a broad range of occupations, including IT and construction. Since these sectors are expected to grow further we assume that the rise in the number of self-employed workers represents an enduring trend rather than a short-term phenomenon (Macaulay 2003; Pernicka and Muehlberger 2009).

Between mid-2002 and 2003 the number of self-employed people in the UK increased by 8.9%, a growth rate higher than at any time since the late 1980s (Lindsay and Macaulay 2004). Between 2003 and 2007 there was a further increase of 1.6 percentage points (Weir 2003; Eurostat 2008). In Austria, self-employment grew by 2.5% between 1990 and 1998, while total employment rose by only 1.2% (OECD 2000). Between 2004 and 2007 the proportion of self-employed workers in total employment rose by 1.9 percentage points. In 2004, education (including further education) – among other industries, such as financial services and construction – was reported to have experienced the largest increase in the number of self-employed people in the UK, though some of them are assumed to be ‘disguised’ employees or ‘bogus’ self-employed.

British further education lecturers are mainly part-timers or hourly-paid workers, both categories covered by social security benefits or some aspect of labour law since 2000. Self-employed staff (often provided by an agency) provides another alternative that is less costly for the employer than full-time employees. The total number of staff in further education (including management and administrative staff) in 2002/2003 was 238 525, of whom 136 961 – or 58% – were part-time employed and 6351 (3%) were self-employed (Hillier and Jameson 2004: 60). The proportion of part-time workers in further education increased slightly, from 54% or 117 679 in 1995/96 to 58%. The total number of further education part-timers rose by 16%. There are no figures on changes in the number of self-employed workers. In Austria, the total number of freelance contractors (*freie Dienstnehmer*) and ‘newly self-employed without a trade licence’, whose statutory employment relationships come closest to the definition of dependent self-employed workers given above, added up to about 90 000 in 2004 (Pernicka and Stadler 2006). Longitudinal data are available only for the first category – freelance contractors – whose number grew by more than 64%, from 15 052 in 1998 to 23 675 in 2003 (Austrian Ministry of Economy and Labour 2004). About a tenth of the 90 000 dependent self-employed workers – or 9 000 – are estimated to work in further education (KEBÖ 2006).

## **Industrial relations systems and the regulation of further education in Austria and the UK**

Since further education in both countries is financed primarily by public spending rather than by private market transactions, the state determines the main developments in further education. Until the early 1990s further education in the UK was provided by local authorities. In 1993, however, the Conservative government took further education colleges out of local authority control and turned them into independent corporations (interviews 1, 2, 3). This led to the break-up of the former national employers’ group and the abolition of the national collective agreement – the so-called ‘silver book’ – leaving the unions without a collective body of employers to negotiate with. After a while, the unions started to negotiate on the terms and conditions of employment college by college, but they could not prevent lecturers from being dismissed and re-employed under less favourable conditions (interviews 1, 2). Under these circumstances NATFHE could not prevent an increase in self-employment and in some cases earnings reductions (interviews 1, 3). In 1996, an employers’ organisation – the Association of Colleges (AoC) – was formed to promote the interests of further education colleges. However, only in 2007 did a UCU campaign for ‘pay parity’ succeed in persuading 73% of colleges in England to implement – or at least talk about – the pay deal negotiated with AoC (UCU 2007). Most collective bargaining remains informal.

Turning to labour and social security regulations, in 2000 Britain adopted the European Directive on part-time work, which gives part-timers the right to treatment



no less favourable than that of comparable full-time workers (DTI 2000). As a result, the cost of employing part-time workers increased and many employers have substituted part-timers with self-employed agency staff in order to circumvent employment rights (interview 3). In contrast to part-timers, hourly-paid lecturers work variable hours and, like the self-employed, are entitled to fewer holidays and less access to training than permanent employees and have almost no career prospects (Hillier and Jameson 2006). In Britain some part-time further education staff work through agencies. Since staff in this position are often not classified as employees of either the college or the agency, workers have no right to claim unfair dismissal or statutory redundancy payments (NATFHE 2006). However, the EU Temporary Agency Directive (Directive 2008/104EC), which has not yet been implemented in the UK will change the situation. According to an agreement between the TUC and the Confederation of British Industry, agency workers will be entitled to equal treatment (at least as concerns the basic working and employment conditions of permanent staff) after 12 weeks in a given post (BIS 2009).

In Austria, the implementation of the EU public procurement directive in 1997 intensified competition between further education institutions, which previously had been dominated by two organisations, WIFI (Institute of Economy Promotion) and BFI (Vocational Training Institute Austria). The BFI, with its regional associations, is the vocational adult learning institution of the Chambers of Labour and of the Austrian Trade Union Federation. The WIFIs (WIFI and its *Land*-based regional associations) are service institutions of the Economic Chambers. While public funding of active labour market policies in further education had divided financing between these two organisations, in the wake of the directive public procurement processes had to be much more open and to allow all interested companies to tender.

This led to a marked increase in the number of small, privately owned further education firms and, as a consequence, to fierce price competition, putting the two social partner organisations under enormous cost pressure (Adam and Pernicka 2007). In order to save personnel costs, further education companies and even the trade union-backed BFI started to engage freelance and self-employed lecturers to circumvent labour law and social security contributions. However, since many of the self-employed lecturers work under their employers' control, in the sense that their discretion as regards working hours is rather limited, some lecturers have successfully appealed before the labour courts to gain employment status, thereby becoming entitled to sick pay, holidays and a vote in works council elections.

In response some employers persuaded their 'falsely' self-employed lecturers to apply for a trade licence, which automatically gives them true self-employed status (interviews 6, 10). As regards sectoral collective bargaining, in contrast to NATFHE the Austrian GPA benefits from its institutional embeddedness and the fact that almost all private sector employees are covered by collective agreements negotiated between

employers' associations and the unions (Traxler and Behrens 2002). In 2005, the Austrian GPA successfully concluded a sectoral collective agreement in further education. However, as the majority of lecturers are self-employed, labour law restrictions mean that they are not covered by the agreement.

## **Traditional methods of recruitment and organisation under challenge**

One distinct difference between the Austrian and British industrial relations systems is that in the latter, the unions are heavily dependent on membership recruitment and organisation in order to (re)gain power for collective action against employers and the government, while the Austrian unions still rely largely on their institutional embeddedness (Traxler *et al.* 2001). In Austria, established institutions, such as sectoral bargaining, provide structural power resources and legitimacy irrespective of membership rates. Despite these differences, the increase in the number of dependent self-employed workers and part-time staff has presented British and Austrian unions with comparable problems.

At workplace level, Austrian and British unions face similar challenges in that union representatives and works councils, which represent the key recruiting mechanisms in both countries, are often reluctant – or simply unable – to represent non-standard workers in further education. In Austria, the works council is the main representative body and is in fact formally independent of trade unions. Despite this dual-channel system of interest representation, the majority of works council members elected are union representatives (Traxler *et al.* 2000). In the largest Austrian further education providers the proportion of works council members who are union members ranges from 90 to 100% (interviews 6, 9). However, dependent self-employed workers can neither elect nor be elected as a works council member, nor, due to existing labour law restrictions, do they enjoy a formal right of representation. In the UK, a voluntary system of workplace and lay union representatives act on trade union members' behalf in industrial relations matters at the organisational level. The 325 colleges in England and Wales have a large number of active representatives who used to be full-time staff. However, many of them are reported to be reluctant or simply unable to represent contingent employees due to their flexibility, whether in terms of working time or place of work (interviews 1, 3).

## **Trade union strategies**

One of the most significant challenges to confront the unions since the 1970s is the increasing heterogeneity of the labour force. This has created a 'crisis of interest aggregation' (Müller-Jentsch 1985). However, it was only in the 1990s that unions operating in the further education sector began to open their doors to and represent

dependent self-employed workers and self-employed agency staff in further education and beyond (Heery and Abbott 2000; Heery *et al.* 2004; Pernicka 2005, 2006). Previously these groups had barely existed. The inclusion in the unions of the self-employed and their interests has posed a series of challenges to trade union identity and organising capacities. Some union officials in the GPA, for instance, regarded self-employed workers as a kind of ‘petty bourgeoisie’ or ‘small capitalists’ with interests different from or even opposing those of employees (interview 6). The often poorly paid dependent or even bogus self-employed workers in particular, as well as other casual employment relationships, were perceived as a threat, undermining existing labour and social security regulations (*ibid.*). As outlined above, dependent self-employed workers and (hourly-paid) part-timers are mobile and irregular workers who are hard to recruit by union representatives, who are enterprise-based.

However, both unions changed their strategies, from exclusion to organisation. We suggest that three internal strategies can be distinguished that both unions have used to address the flexible workforce:

- (a) the ‘exclusion strategy’;
- (b) the ‘servicing model’; and
- (c) the ‘organising/participating model’.

Three further, so-called ‘external’ strategies are aimed at addressing the broader public, employers and the government or legislative bodies:

- (i) ‘public relations’;
- (ii) ‘collective bargaining’; and
- (iii) ‘lobbying’.

These strategies are linked only indirectly to (potential) members in that they are aimed at creating similar working conditions and thereby collective interests for further education workers that might motivate them to join the union.

### **Three internal strategies to address flexible workers (exclusion, organising and servicing)**

Until 2000, by excluding self-employed workers, the Austrian GPA retained its structure and strategies of interest representation for dealing with the diminishing proportion of standard further education employees. It must be noted, however, that the Austrian Trade Union Federation (ÖGB), to which the GPA belongs, changed its constitution formally to include self-employed workers without employees of their own as early as 1991 (ÖGB 1991, 2003). As the proportion of self-employed further education lecturers rose above 50%, growing pressure on the GPA’s standard

employee membership and internal struggles finally induced it to launch internal reforms and to adopt a new structure in order to include self-employed workers (Pernicka 2005).

The reforms were aimed at establishing a modern and flexible structure so that the union could react more quickly to new developments in the labour market, and to recruit dependent self-employed workers beyond the enterprise. Special interest groups were developed to recruit and represent specific occupational interests, irrespective of employment status and sector, such as lecturers in education, including further education (the work@education group) or IT workers (the work@it group). In addition, an interest group – work@flex – was established to represent the individual and collective interests of dependent self-employed workers. This strategy was aimed at enabling the union to go beyond traditional enterprise-based recruiting methods and to utilise occupational networks to gain members. Developing these interest groups was also aimed at encouraging intra-organisational participation by ordinary union members. This strategy represented a major paradigm shift for the union, whose elected officers were traditionally recruited almost exclusively from works council members. Since self-employed workers are legally excluded from works council representation, this approach provides an alternative way of including dependent self-employed and ordinary members in the democratic structure of the union. This strategy can be regarded as partly successful in that their inclusion has contributed to their visibility within the union. In contrast to 2001, when the interest groups were established, by 2006 nearly all works council members who were union representatives in further education at least knew that work@flex existed (interviews 6, 7, 8). Although many works council members are not willing or able to represent self-employed lecturers collectively at workplace level, they now refer them to the GPA interest groups and to their interactive internet fora.

In the UK, the former NATFHE became very keen on the idea of the ‘organising model’ (Dølvik and Waddington 2002, 2004; Heery *et al.* 2000b; Waddington 2000), which is aimed at ensuring that as many members as possible are engaged in union activities in the workplace and beyond. Between 1998 and 2000 four regional and national officers responsible for further education at NATFHE, as well as lay representatives were trained by the ‘Organising Academy’ (Heery *et al.* 2000a: 402), which was established in 1998 by the Trades Union Congress (TUC). The approach is aimed both at creating a sense of collectivity among groups of workers and between these groups and their workplace representatives, and at training people to help themselves at branch and ordinary staff level. In this regard it also represents an attempt to revive a long tradition of workplace trade unionism in the UK within the framework of which lay activists and ordinary union members themselves decide how to deal with workplace problems (interviews 1, 2, 3). However, the flexible working conditions of the dependent self-employed (often provided by agencies), part-timers and hourly-paid employees make it difficult to bring them together and to establish common ground. Therefore, in

addition to trying to convince full-time, permanently employed workplace representatives to represent the interests of hourly-paid and self-employed staff, the former NATFHE – now the UCU – has been very active in organising meetings, conferences and issue-oriented campaigns that reach out beyond the enterprise or branch level (interviews 2, 3). These meetings provide (potential) members with opportunities to exchange information and develop networks. In the words of one union official (interview 4): ‘It is no longer: the union has a policy and send it out, yes of course we do that, but also it is the networking, we live next door to each other, can we get in touch, can we develop links and work together?’ However, the problem of contacting hourly-paid workers who work only a few hours a week cannot be solved even by careful choice of organising methods.

The further education colleges and other institutions of adult education in both countries exhibit most of the characteristics of the so-called ‘flexible firm’ (Atkinson 1985). The majority of lecturers are women, whose working conditions are highly flexible, and more than 50% of the lecturers work part-time (in the UK) or on a dependent self-employed basis (in Austria), and some are even provided by agencies. Since the majority of workers are highly qualified, one tends to suppose that substantive interests in terms of decent earnings and working conditions might be achieved by a qualitative, profession-oriented and exclusive union approach rather than by the ‘power of the masses’. However, the above-mentioned government actions – deregulation and imposing competition – shaped collective interests and their prospects, in particular diminishing expectations of earning as much as school and university teachers.

Besides organising, networking and campaigning beyond the confines of the enterprise, unions in both countries therefore pursue a ‘servicing strategy’ in order to recruit both standard and non-standard employees as members. The servicing strategy is supposed to facilitate the recruitment of self-employed and other non-standard employed members by offering them both traditional services, such as information and individual legal representation, and special servicing packages tailored to their particular needs, including a variety of insurance products, advice on intellectual property issues or individual wage negotiation. Unions that organise also freelance workers, such as NATFHE (now UCU), tend to recruit members at the point of entry to the occupation or at the point of job search, and retain members by providing benefits and a subscription policy that accommodates discontinuous employment (Heery *et al.* 2004: 31). After becoming a member and coming into closer contact with the union, contingent workers are expected to develop a more collectively oriented approach or at least to retain their membership. At NATHFE, lecturers were reported to be very loyal to their former union, even when moving to another occupation (interview 4). One interviewee told us that ‘we have people teaching in schools who still ring for advice and support. We are not recognised to do collective bargaining there, but they remain with NATHFE’ (*ibid.*).

As regards the effects of the two strategies – organising and servicing – the picture seems relatively clear. While organising is necessary to get into contact with potential member groups, services are considered to be vital in recruiting and in retaining membership. The Austrian GPA, in particular, reported obtaining members among self-employed lecturers largely by offering legal representation in situations of false self-employment. Persons who become union members were supported in filing an appeal to the courts in cases when employers try to avoid a regular employment relationship in order to save on non-wage labour costs.

Self-employed workers got to know about these services via networking and organising strategies. In 2005, the interest group *work@education*, which represents permanent and self-employed lecturers in different sectors, had 816 registered members, of whom 331 pay subscription fees to the union. According to the estimate of one union official about one-third of subscribers are self-employed lecturers. The remainder consists of standard employed members, some of whom were already union members when they registered at an interest group (interview 7). The *work@flex* group, comprising dependent self-employed throughout the private sector, listed 1373 registered members and 754 paying union members. Moreover, according to one interviewee the interest groups, in contrast to other union sections, are the only organisational units within the GPA that show continuous membership growth (interview 7).

Turning to NATFHE (now UCU), in 2006 the number of members reached about 47000 or one-third of all employees in further education, according to one official (interview 1). According to a NATFHE respondent, this relatively high membership density can be attributed to a number of reasons. For one thing, standard and part-time employees who are members seem to be quite loyal to their union and retain their membership even if they change their working time or occupation, while the proportion of hourly-paid part-timers among members – in particular those working only a few hours a week – remained low (below 3%), despite organising efforts (interview 2).

## **External strategies: lobbying, collective bargaining and public relations**

While servicing and organising beyond the enterprise is aimed at directly encouraging further education lecturers to join the union, external strategies address employers and the state and may enable unions to recruit new members indirectly. These strategies – such as lobbying, collective bargaining and public relations – are considered vital in order to create and sustain a normative link between unions and their (potential) members by promoting the interests of the latter. Moreover, success and visibility are essential for unions in these areas in order to create a feeling of commonality and so solidarity, and may induce workers to join the union. While public relations strategies are aimed at making the union known to a wider public, and at creating an image and

collective identity with which dependent self-employed, part-timers and full-time workers might identify, collective bargaining and lobbying are directed towards reducing competition between different groups of lecturers and pursuing their interests. NATFHE in particular used the issue of service quality to put pressure on the government to impose regulations on the labour market for contingent workers in further education. However, respondents at both unions – the former NATFHE and the GPA – complained that the media are often simply not interested in industrial relations issues. NATFHE nevertheless found an interesting approach to deliver its message by building up networks with other organisations in the further education sector, such as the National Institute for Adult and Community Education (NIACE), thereby receiving more extensive press coverage. In addition, both organisations cooperate very closely on professional issues and campaigning (interview 3). Another important practice directed towards clarifying and extending the legal protection of contingent workers under consideration in both countries is the use of test cases. In the late 1990s, for instance, NATHFE mounted a major test case on the rights of part-time workers supplied by agencies (*Allonby vs Accrington and Rossendale College*). Although the case was not won it is widely seen as an important attempt to put an end to prevailing employer practices, such as ‘wholesale sackings’ of part-time workers and their re-employment under worse conditions, that is, self-employment (Colling 2006: 151).

Looking at collective bargaining, in contrast to NATFHE the Austrian GPA still benefits from its traditional multi-employer sectoral bargaining. Although a collective body of employers (AoC) was set up in the UK in 1996, collective bargaining with AoC has remained informal and collective contracts have to be enforced college by college. In the case of further education, however, the Austrian GPA too has been confronted with rather unusual circumstances. There was no employers’ group until recently, and the newly founded group, the BABE, covers less than 50% of all further education employers. As a result, the collective agreement concluded in 2005 cannot be extended to all employed lecturers in the field. Instead of minimum pay scales for self-employed lecturers, informal advice on usual pay rates in the sector prevails. In addition, and more importantly, dependent self-employed workers – who constitute the majority of further education lecturers – are not covered by the agreement.

One might suppose that this development would deepen the conflicts of interest between self-employed workers and employees. However, one works council member told us that many self-employed lecturers would not accept working as employees under the terms and conditions stipulated in the agreement because they perceive their individual contract for services to be more beneficial (interview 9) (though a proper calculation of their real pay, which does not cover holidays, sick pay, unemployment benefit, and so on, shows them to be worse off than employees). This leads to the conclusion that the GPA simply does not have the power and membership strength to achieve a decent compromise with the employers’ side, although only a minority of further education lecturers are covered by the agreement. One of the key

issues the unions are nevertheless pursuing is dependent self-employed workers' entitlement to unemployment benefits and sickness pay, and more generally the revision of legislation in such a way that all economically dependent workers would be covered by labour law and social security protection. Concerning further education more specifically, the GPA is demanding a law that stipulates professional standards and qualifications for lecturers in order to prevent further wage dumping and so reductions in earnings.

In the UK, lobbying seems to be an effective means of collective action since member unions of the TUC are affiliated to the governing Labour Party and the TUC has formal dealings with the Labour leadership (for example, the Warwick agreement in 2004, a deal at Warwick University between the government and the unions over Labour policy and trade union law, for further details see *Guardian* 2005). However, NATHFE was unable to achieve much in either higher education, involving universities, or in further education (interview 3). NATFHE and the TUC nevertheless demanded that the Part-time Directive should be implemented in such a way as to cover all part-timers, including the dependent self-employed, which was finally implemented by the Labour government in 2000. Concerning self-employed lecturers provided by agencies, unions are still waiting for implementation of the EU Directive on temporary agency work, which would enhance the terms and conditions of agency staff both in further education and in general.

## Conclusion

The purpose of this article is to explore how trade unions in further education have responded to the spread of contingent work. The evidence confirms our core hypothesis that increasing flexibility in the labour market might lead to a convergence of union strategies across countries. While there are still differences in approach that reflect the different institutional contexts in the UK and Austria, we also identified similarities in strategic union behaviour that can be traced back to the rising number of contingent workers in further education and to public policies of deregulation and liberalisation in both countries. These developments have diminished the importance of existing institutions: in Austria, self-employed further education lecturers cannot easily be integrated into existing institutions, such as sectoral collective bargaining; in the UK trade unions have lacked any institutional backing in collective bargaining since the early 1990s.

Our findings coincide with the extensive research on contingent work in the UK done by Heery *et al.* (2004) in that union recruiting and retaining strategies in further education are more or less directed beyond the enterprise, at least as far as self-employed and other casual workers are concerned. This finding can partly be transferred to the Austrian situation since works councils are not legally obliged to represent self-employed workers – the largest group among further education lecturers in Austria.



Hence, the relevant unions in both countries, the GPA (now GPA-djp) and the former NATHFE (now UCU), have pursued recruiting strategies directed beyond the enterprise. As regards members' participation, both unions tend to complement their prevailing 'command and control' strategies with horizontal, network-oriented approaches. Participation in union governance has been opened up to ordinary members in the Austrian GPA via so-called interest groups. These sub-units cut across sectoral organisation and encourage ordinary members to participate in union activities. The organising approach in the UK aims primarily at training people to help themselves at branch level, thereby somewhat loosening the hierarchical relationship between unions and workers. Apart from their organising and participatory approaches, both unions provide their members with individual services, tailored to their specific needs, including a variety of insurance products, advice on intellectual property issues or individual wage negotiations that support casual workers in their mobile careers.

As regards the external strategies pursued by the trade unions in the selected countries, it is clear that multi-employer bargaining prevails in Austria. However, in the case of self-employed lecturers in further education it falls short. This group does not come under the purview of the relevant collective agreement due to labour law restrictions. Therefore, informal advice on the usual pay rates in the sector prevails. In the UK, the former centralised bargaining structure was abolished in 1993, when the public colleges became independent corporations. Ongoing collective bargaining with the employers' association AoC has remained informal and has to be enforced college by college. The developments in both countries have led to the dilution of institutional frameworks and increased competition between further education providers and hence growing pressure on wages. This in turn has compelled unions in both countries to turn to their own power resources, namely their members. But in both countries such resources are lacking in relation to the political and collective enforcement of the interests of freelance, part-time and agency lecturers. Although the majority of workers in the field are highly qualified, unions are not able to pursue a professional strategy to obtain decent earnings due to the actions of the state (deregulation, public procurement).

While institutional frameworks of industrial relations established either by law or by 'historic compromises between organisations of workers and employers' (Sisson 1987) are widely perceived to persist we have found some counter evidence to this divergence hypothesis. The spread of casual work, as well as state and employer policies in both countries, have driven unions to make strategic choices that are partly at odds with their traditional behaviour. In targeting employment groups with similar characteristics trade unions in both countries have pursued almost identical strategies that provide some evidence for our hypothesis that there are also converging trends in trade unionism across countries.

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### List of interviews

#### In London (former NATFHE):

- Branch organiser in further education, conducted 24 April 2006 (interview 1)
- National official on industrial relations in further education, conducted 24 April 2006 (interview 2)
- National official in the colleges department, conducted 9 May 2006 (interview 3)
- Regional official for further education, conducted on 9 June 2006 (interview 4)
- TUC Director of the 'Organising Academy', conducted 31 May 2006 (interview 5)

#### In Vienna (GPA):

- National official in charge of work@flex, conducted 13 January 2005 (interview 6)
- National official in charge of all interest groupings, conducted on 3 February 2006 (interview 7)
- Head of department for industrial relations, conducted 21 April 2005 (interview 8)
- Works council member at the BFI, conducted 17 November 2005 (interview 9).
- Lay trade union official and further education lecturer, conducted 17 March 2004 (interview 10)