

# **Organising to beat the Trade Union Act (2016) voting thresholds: a case study of organising and tactics from the University and College Union**

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## **Abstract**

**Purpose:** A retrospective action-research case study of one branch of the University and College Union (UCU) is used to show how threshold requirements of the Act can be systematically beaten.

**Design/methodology/approach:** The paper responds to calls for “best practice” on how trade unions may react to member voting threshold requirements of the Trade Union Act 2016 (the Act). A broader aim is to make a theoretical contribution related to trade union organising and tactics in “get the vote out” (GTVO) industrial action organising campaigns.

**Findings:** Findings are presented as a lead organiser’s first-hand account of a successful GTVO campaign contextualised in relation to theories of organising. The findings offer ‘best practice’ for union organisers required to beat the Act’s voting thresholds and also contribute to theories surrounding trade union organising tactics.

**Research limitations/implications:** Further development and adaptation of the proposed model may be required when applied to larger bargaining units and different organising contexts.

**Practical implications:** The findings can inform the organising practices/tactics of trade unions in relation to statutory ballots. The findings also allow Human Resource (HR) practitioners to reflect on their approach to dealing with unions capable of mounting successful GTVO campaigns.

**Social implications:** The findings have the potential to collectively empower workers, via their trade unions, to defend and further their interests in a post-financial crisis context and in the shadow of the Covid-19 pandemic.

**Originality/value:** This is the first known empirical account of organising to exceed voting thresholds of the Act, providing practical steps for union organisers in planning for statutory ballots. Further value lies in the paper's use of a novel first-hand account of a GTVO campaign, offering a new and first, theoretical model of organising tactics to beat the Act.

**Key words:** Trade Union Act 2016; Case Study; UCU; Organising; Tactics; Collective bargaining

**Paper type:** Research paper

## **Introduction**

There have been over 50 years of UK governments seeking to increasingly constrain, rather than positively reform, trade unions. Such a long-term control project has been referred to of late as the 'kettling' of trade unions (Tuckman, 2018). The control or 'kettling' project began with failed attempts under four Wilson/Callaghan governments (1964-1970 and 1974-1979) and a Heath-led Conservative government (1970-1974), but achieved substantial success with

four consecutive Thatcher/Major Conservative governments passing seven acts between 1979 and 1997. Such a project involved legislation explicitly designed to curb the operations and influence of UK trade unions (Pyper, 2017). Despite the UK having historically low levels of strike activity, with the years 2017 and 2018 associated with the lowest number of stoppages since records began in 1930 (ONS, 2019) the Trade Union Act 2016, enacted after the Conservative party's first majority government in nearly 20 years sought to further restrict unions' ability to hold lawful industrial action and leading a number of academic commentators concluding that current UK strike laws are draconian (Duke and Kountouris, 2016), constrain human rights (Ewing and Hendy, 2016) and authoritarian (Bogg, 2016).

Despite significant membership decline and low levels of strike activity, Theresa May's Conservative government introduced the Trade Union Act 2016 (the Act), an act with canny resemblance to the failed 1997 Industrial Action and Trade Unions green paper requiring majority voting as a legal basis for industrial action. The May government predicted the Act would reduce strike action by 35% in important public services, prevent 1.5 million working hours being lost to strike action, boosting the economy by £10 million a year (GOV.UK, 2017). The Act coincided with the acceleration of the Government's austerity programme which would see extensive and ongoing cuts in public sector funding. Requiring unions to meet a higher standard of 'democracy' than any other social institution, with a minimum 50% turnout and 50% in favour of action, the intention was clear, to limit the possibility of effective trade union opposition.

The Act was met with broad, yet contradictory agreement from employers (Carro, 2017), but faced substantial opposition, most notably from the Trades Union Congress (TUC), the UK's national trade union federation. The TUC ran a 'Kill the Bill' campaign, successfully lobbied on

a few wider areas of the Act, such as the holding of an independent review on e-voting in ballots (TUC, 2017)<sup>1</sup>, but voting threshold requirements remained. The Act is not applicable in Northern Ireland, the Scottish Government objected to the Act, but labour law is not a devolved matter, and, in Wales certain parts of the Act related to public services were dis-applied (Davies, 2016).

The Act adversely affects unions across a range of key areas beyond industrial action, including application of funds for political objects, facility time, check-off, and new powers of the Certification Officer. More specifically, the Act is likely to cause most damage where trade unions have limited 'grassroots' capacity to organise campaigns requiring much larger or even unprecedented participation in ballots surrounding industrial action. Ultimately, it is the introduction of balloting thresholds which have rightly attracted most critical attention, an attempt to limit the bargaining capacity of trade unions by making it harder for workers to engage in lawful industrial action and further reducing their voice at work (Jeffries et al., 2017).

Since its ascension, the Act has generated a limited, yet informative range of literature. Some focus on ways to circumvent it, such as unions leveraging other forms of protest (Ford and Novitz, 2016). A strong political critique of the Act is evident in others, with emphasis on its ideology (Bogg, 2016), human rights implications (Ewing and Hendy, 2016) and administrative burden (Cavalier and Arthur, 2016). Such contributions call to continue to fight the legalities and practicalities of the Act post implementation.

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<sup>1</sup> The outcome of the independent review involved a trialling of e-balloting but as 2021 the UK government had not responded to such recommendations (see TUC, 2020).

Whilst recognising the long-term need to repeal the Act, a more immediate concern for unions should be to develop effective organising strategies to beat its intention today. To date little attention has been paid as to how unions may do so, in order that taking industrial action remains possible. Indeed, Gall (2017) largely stands alone in asking ‘what can be done?’ in terms of organising and calling for the sharing of case studies of ‘best practice’. This paper takes up Gall’s challenge and is based on a retrospective action research case study (Coghlan and Brannick, 2014) of one higher education institution (HEI) branch of the University and College Union (UCU); HEIUCU’s approach to organising against the Act. The case is of significance since between its formation in 2006 and 2017 UCU never achieved a 50% turnout for a national ballot, yet HEIUCU managed to do so twice in one year<sup>i</sup>, achieving the highest turnout in UK-wide disaggregated industrial action ballots that year, with a turnout of 76% for a pensions dispute and 64% for a subsequent pay dispute.

The paper should appeal to a wide audience albeit for differing reasons as the Act represents a further key development in industrial relations in the UK. Clearly, the paper is of relevance to industrial relations academics and trade unionists, not least because the Act may, ironically, afford an opportunity to revitalise the fortunes of UK trade unions. For instance, better organised trade unions are likely to hamper Human Resource Management (HRM) agendas designed to further marginalise pluralistic/collective industrial relations systems and replace them with individualised and unitarist approaches. There is also likely to be value in the paper for HRM practitioners seeking to update their knowledge and awareness of how trade unions are responding to the Act and reflecting on their own tactical responses.

First, organising literature is discussed, identifying theoretical and tactical means for unions to succeed in statutory ballots. Secondly, research methodology, plus case context and details

are presented. Next, the findings follow, focusing on the organising strategies and tactics deployed during the autumn 2018 'Get the vote out' (GTVO) organising campaign at HEIUCU. The paper ends with a discussion of an organising model derived from the findings, consideration of the study's contributions, limitations, identification of further research and conclusions.

### **Organising and tactics, statutory ballots and the Act**

This section covers two themes; firstly, trade unions' experiences of organising under the Act and consideration of their 'successes' and 'failures' and secondly, a theoretical basis for organising, including tactics, is discussed.

#### *Organising industrial action ballots under the Act: the story so far*

Previous research notes the implications and likely consequences of the Act at both trade union leadership and workplace levels. Firstly, in terms of leadership, early research recommended unions avoided ballots based on large, dispersed bargaining units, simply because smaller, and more discrete, single workplace and local ballots routinely attract higher turn outs (Darlington and Dobson, 2015). Similarly, Darlington and Dobson, (2015) suggest post-Act balloting should be given careful thought in instances where unions had recently made half-hearted calls for action. Porter et al. (2017) moreover, predicted unions who have tended to service, rather than organise members, were likely to be disproportionately affected by the Act, as it would reveal disconnects between leadership and members. Finally, Ford and Novitz (2016) and Tuckman (2018) suggest that legal challenges or lobbying activities against the Act may redirect critical resources away from local organisers and thus undermine union efficacy.

Regarding the Act's challenges for workplace level organising, Darlington and Dobson (2015) highlighted that in many workplaces insufficient representatives exist to sufficiently carry arguments and mobilise members during GTVO campaigns. Even where they do exist, there remains the danger of inadequate training or motivation to effectively organise, or members being too busy or insufficiently motivated to vote. For Porter et al. (2017), the Act will reveal weaknesses in workplaces where union activism is conducted by a small number of organisers, where members join a union as a form of insurance, and where representative visibility is low.

The Act's challenges for unions therefore are significant. When considering its impact on industrial action, Darlington and Dobson (2015), having retrospectively applied the 50% threshold requirement to a sample of 158 ballots conducted 1997-2015, found 48% of ballots did not reach the 50% threshold, hypothetically denying 3.3 million out of 3.74 million workers the opportunity to strike. When considering the actual impact of the Act for unions though, the picture has been mixed. Gall (2017) found 9 out of 13 ballots resulted in turnouts more than 50%. Pensions disputes saw a national late 2017 Communication Workers Union ballot turnout of 73%, while the vast majority of HE UCU branches (61/66) achieved a high enough turnout in early 2018 to take legal industrial action. In this instance, a disaggregated ballot averaged out at 58% turnout. In contrast, a UCU ballot late 2018, this time on pay and equality matters, led to just 8 out of 147 branches reaching the Act's threshold (UCU, 2018). Despite re-balloting members on an aggregated basis, the turnout was again below the minimum threshold for industrial action (UCU, 2019a).

### *Organising theory*

The theorisation of contemporary union organising, including that required in GTVO organising, can be linked back to Kelly (1998), who set out a framework which analysed the processes by which employees acquire a collective definition of their interests in response to employer-generated injustice. Indeed, a key facet of Kelly's work is how to get employees to act collectively, whether directly facing the injustice or not, a situation requiring organisers to develop tactics capable of cultivating high levels of group cohesion and identity. For the case in question, the injustice was ongoing pay degradation and inequalities, grievances commonly, but unevenly faced by HE employees. The problem, however, was how to organise a sense of group cohesion and identity, especially when it may have been something historically in short supply, the situational context of the dispute mitigates against collective identity and restrictions regarding ballot thresholds imposing such a high legal threshold of evidence. In this paper it is proposed that the group cohesion and solidarity required to confidently campaign and beat the voting thresholds of the Act can be built on an organising theoretical framework discussed later, but also augmented by a range of more specific organising tactics (see next sub-section).

Research suggests a wide-range of means to build cohesion in the context of union organising. In the main, the key to achieving such cohesion is through building positive in-group behaviour of the union and establishing the negative out-group behaviour of the employer/senior management (Burchielli et al., 2008). Simms and Dean (2015), moreover, highlight how group cohesion comes from collectively defined interests, which could be a basis and/or an outcome of industrial action. For Lévesque and Murray (2013) group cohesion is achievable in situations where there are appropriately developed levels of internal organisational resources or density of mechanisms the local union can draw on, augmented

ideally by links between the local union and other levels of the wider union. Group cohesion is also attained where members have frequent and wide opportunities to discuss workplace issues (Badigannavar and Kelly, 2005) as well as situations where local leaders/ reps are seen to be responsive to the interests of members (Buttigieg et al., 2008).

Group identity is generated and maintained in a range of broadly similar ways. For example, group identity can be built around member participation in the union (Johnson and Jarley, 2004), situations that probably only happen if local organisers generate lots of interest in, as well as opportunities to, engage in union activities. Similarly, Buttigieg et al. (2008) found group identity is all about members' belief in the union as a key means of achieving employee objectives. Furthermore, Simms and Deans (2015) established group cohesion as dependent on members seeing themselves as having a separate or opposite sense of identity to management. Indeed, Cregan et al. (2009) found a strong group identity requires transformational leadership, conditions achieved by a local leader/rep working with members to create a vision for change. Lévesque and Murray (2013) further extend how union group identity can flourish. In this instance, local union leaders/ reps foster group identity by creating narratives based on values, shared understandings, stories and ideologies.

### *Organising tactics*

Embedded within organising, especially in the case of campaigns, is a need to deploy a range of specific tactics. When considering the tactics unions can apply to best get messages across, research suggests humour helps create and sustain countercultures (Taylor and Bain, 2003), something likely to be important when encouraging members to vote in high numbers. Further, Wood (2015) found density and variety of communications to be effective tactics in

getting key messages to members, messages in this case to encourage voting in a ballot. Furthermore, Pliskin et al.'s (1997) found direct and universally available forms of communication, such as email, provided opportunity for regular communication between organisers and members, thus minimising the risk of disconnection. As such, it is suggested here that utilising a universal form of communication, maximising connection between organisers and members, is a tactic likely to benefit a GTVO campaign. Gajewska and Niesyto (2009) believe a key organising tactic is for messages conveyed to members which help them overcome fear of their employer. Finally, Burchielli et al. (2008) found 'mapping' the membership to be critical where workers are not located in a single workplace, may work shift patterns, be mobile during the day or work from home. Mapping the membership could represent an essential tactic in a successful GTVO organising, as it may help inform critical decisions based on how, how much and when to communicate with members.

### **The research: a case study of HEIUCU's GTVO campaign**

Having established a means to theoretically frame the study ahead, this section concentrates on key methodological, case, and contextual details. The study is a retrospective action-research case study (Olsson et al., 2008), where a case study is written and used to design an intervention to be used by the organisation in the present (Coghlan and Brannick, 2014). The current study represents a retrospective account and analysis of HEIUCU's autumn 2018 GTVO organising campaign for a pay and equalities ballot, revealing a wide array of organising tactics. Action research is rare in trade union research (e.g. Burchielli et al., 2008), but case studies less so (e.g. Lopes and Hall, 2015; Simms and Dean, 2015). Methods typically used have included interviews with managers, organisers, and trade union officials (Lévesque and Murray, 2013), observations of activist meetings (Taylor and Bain, 2003) and ethnography

(Wood, 2015). However, the current research surrounds an analysis of records based on organising tactics taken by the GTVO organiser at HEIUCU (the lead author), the 'chief architect' of two very successful GTVO campaigns. As a branch which twice achieved ballot thresholds significantly higher than required of the Act, HEIUCU provides a prescient example of Gall's (2017) notion of case studies of 'best practice'.

The study's principal strength is the first-hand data generated by an organiser on the front line of a GTVO campaign, doing and then capturing minutiae of a successful GTVO campaign, coupled with an analysis of the organising literature to facilitate the generation of a model of effective GTVO practice. The account of the campaign was written by the GTVO organiser in November 2018, shortly after the balloting window closed and was divided into five sections: aims of GTVO at HEIUCU, what information was available to HEIUCU, resources available, details of GTVO campaign, and lessons learnt from the campaign. Such an approach extends Pliskin et al.'s (1997) analysis of hundreds of emails exchanged between organisers and members of an academic trade union during a two-and-a-half-month-long strike, by accounting for campaign design and organising activities and tactics before, during and after the balloting window. Data was analysed using an inductive qualitative approach, based upon key themes arising from organising and tactics literature, as well those emerging from the data itself (see Figure II).

#### *Case overview: HEIUCU*

The study concerns the UCU, the UK's largest trade union for academic and related staff in tertiary education. UCU represents all academic and senior academic-related staff employed by UK universities. UCU was formed in 2006 through the merger of the Association of

University Teachers and the National Association of Teachers in Further and Higher Education. and presently has 147 HE branches. The study is of one pre-92 HE institute branch of the UCU (HEIUCU). The density of membership at HEIUCU is modest, yet commensurate with the wider UK HE sector. Membership grew approximately 20% early 2018 with the onset of a pensions dispute, but no substantial change was noted at the time of the ballot which is the focus of this paper. In operational terms, HEIUCU has a branch committee that meets monthly, although some positions remain vacant or relatively inactive. Aside from national disputes, HEIUCU has been increasingly active as a branch, mainly due to several significant local organisational change programmes in recent years, collectively representing situations where local reps are required to be more responsive to member interests (Buttigieg et al., 2008).

*Case context: working in UK higher education*

There exists an expansive body of literature considering how work in the Academy has changed over recent decades, establishing critical organising and tactics-related information. Generally, while recognising there is widespread dissatisfaction and disillusionment amongst HE workers, Barcan (2018) found academics typically continue to see their work as a vocation, suggesting many members may need significant encouragement to participate in statutory ballots, something supported by historically low turnouts within the sector. Paradoxically, research points to widespread resentment (Vostal, 2015), unmanageable stress (Ogbonna and Harris, 2004) and of work in HEIs becoming increasingly soulless (Sutton, 2017). A challenge remains therefore: how organisers should frame narratives to unite members in such circumstances (Lévesque and Murray, 2013), place blame on employers (Badigannavar and Kelly, 2005) and organise membership (Darlington and Dobson, 2015). Finally, given an independent, secret postal-ballot is required by statute, a significant tactical challenge for

GTVO organisers is how to know whether the campaign is working, as there is no way to know until the ballot is closed.

*Case context: the ballot(s)*

There have been several national conflicts in the UK HE sector over the past decade or so, rarely ending successfully for UCU members, suggesting challenges in regard of building group cohesion and identity (Kelly, 1998). The one exception perhaps is the (ongoing) dispute between UCU and Universities UK over the Universities Superannuation Scheme. The 2017-2018 dispute was the third pensions dispute in less than 10 years but differed markedly from previous ones. Of note is how UCU leaders and officials successfully managed to pin the loss of pensions benefits on the negative and out-group behaviour of university leaders (Burchielli et al., 2008), convincing members to take an unprecedented 14 days of strike action in early 2018. HEIUCU figured prominently in the pensions strikes with members striking and picketing in levels never seen at the university. The strikes certainly created ample opportunities for members to discuss workplace issues (Badigannavar and Kelly, 2005). It is during this dispute the GTVO strategy discussed in this study and subsequently applied to the pay and equalities ballot was developed.

When the annual pay round involving UCU, four other recognised unions and Universities and College Employers Association (UCEA) broke down in spring 2018, UCU declared an intention to run a consultative ballot for industrial action on two issues: the pay offer and UCEA's refusal to joint work to ameliorate the increasing casualisation of HE workforces, workload issues and gender pay inequality. The case for a 'yes' vote, or strong sense of collective injustice (Kelly, 1998) was apparent, with members facing a 21% real-terms pay cut over the last decade, on

average worked two days unpaid every week, with wide reports of unmanageable workloads (UCU, 2016a), a gender pay gap of 12% (UCU, 2017) and more than half employed on insecure contracts (UCU, 2016b).

Based on a 48% turnout for a consultative ballot, 82% rejected the offer and 65% indicated a preference for industrial action (UCU, 2019b). In the summer of 2018 UCU, along with other HEI unions, declared a trade dispute with UCEA, with ballot notices served on 147 UK HE employers in early August. The individual strike ballots opened across 147 branches on 30th August and closed 19th October. Branch members entitled to vote were more likely to be male than female (58%/42%), the vast majority were on open-ended contracts (80%), nearly two-thirds were academic (63%) and just over one-third, academic related (37%) and average length of membership was approximately 10 years. Despite the ballot window coinciding with the start of the academic year, a range of UCU lay official elections and a consultative ballot on Brexit, the relatively high turnout and strong evidence of collective grievances, increasing membership and a well-supported course of industrial action earlier that year, UCU leadership seemed confident of gaining a mandate for action. However, with no long-term history of full nationwide ballot turnouts commensurate with the voting levels required of the Act, effective national and branch-level leadership and organising was likely to be needed to ensure sufficient branches beat the Act's voting threshold.

### **Getting the vote out at HEIUCU**

The pay and equalities statutory ballot results were announced on 22nd October 2018. There was an aggregated turnout of 41% nationally, with 69% voting for strike action and 80% for action short of strike action. Whilst attaining evidence of a clear collective grievance towards

pay and equalities matters, only eight branches<sup>ii</sup> beat the Act's voting threshold required for industrial action. The turnout at HEIUCU (64%, with 68% voting for strike action) exceeded the next highest branch turnout by eight points, the next comparably sized HEI branch by 12 points and the sector average by 23 points. As this was a secret ballot, no information is available to ascertain the profile of which members were more likely to or not take part in the ballot, as well as how they may have voted at such times.

Drawing upon the analysis of the organiser's retrospective tactical account of the campaign, this section chronicles how HEIUCU achieved such a high turnout and in doing so, provides a prescription for others to take in their own union's GTVO campaigns. This section considers the aims of the campaign, knowledge of members, campaign resources, GTVO campaign design, details of the campaign itself and key lessons learnt, with the findings contextualised in relation to the organising theory and tactics literature.

#### *Part one - aims of the campaign*

Part one of the GTVO campaign involved setting the following aims:

- Convert everyday staff dissatisfaction into dissatisfaction at the ballot box
- To repeat the success of the pensions dispute
- To work with/alongside the national GTVO campaign
- Surpass the 50% turnout threshold

The aims were largely modest, particularly observing the national campaign and aiming to replicate the approach taken earlier in 2018. How the aims fit with campaign design and the wider GTVO model can be viewed later in the paper (Figure II).

#### *Part two - knowledge of membership*

Having considered aims of the campaign, the next stage was to consider what key information regarding HEIUCU membership was required to maximise effectiveness of communication tactics. In the aggregated consultative ballot, although members rejected UCEA's offer, the turnout was below 50% and HEIUCU received no information on how many branch members had voted. Furthermore, the consultative ballot was electronic, yet the statutory ballot would be by post, less convenient than voting by clicking on a web-link. Meeting the threshold could not be taken for granted, although an active campaign based on effective framing and attribution of the grievances (Kelly, 1998) at local and national employers was likely to resonate with members. Given the level of support for industrial action was known by the branch already, through the consultative ballot, tactics were principally about variously encouraging members to vote.

At the local level, steps were taken to collate knowledge of members, knowledge beyond job roles and numbers. As such, HEIUCU membership was mapped out (Burchielli et al., 2008). Mapping tactics involved gathering extra occupational and workplace information, allowing a chance to identify barriers and enablers to voting, tactics required to build a strong sense of identity distinct from vocational identity (Barcan, 2018). The results of the member mapping exercise revealed the following membership characteristics:

- Very busy, especially with start of term
- Fragmented - based largely in individual offices in large, multiple campuses and with no/limited communal space
- Atypical working hours and location, including domestic and international travel
- High job engagement and strong occupational identity
- Many with limited experience of ballots whilst others suffering ballot fatigue
- Most effectively contacted via email, phone or internal mail

This knowledge was critical because GTVO tactics would need to be designed to overcome expected barriers to voting. Further, if a campaign was to be successful it needed to be communicated to members through multiple means and often (Woods, 2015). With an extended balloting period and at a time of many competing priorities, communication tactics needed to involve more than simply carrying an argument (Darlington and Dobson, 2015). How mapping fits with campaign design and the wider GTVO campaign design are noted in Figure II.

### *Part three - resources*

With aims and key information noted, the next tactical step was to consider how HEIUCU could deliver an effective campaign. The simple issue at this stage of the campaign was to determine what resources the branch possessed in terms of communication technologies and organising capacity. To reflect this the GTVO organiser identified the following branch resources:

- Membership details including location and contact details mostly current
- Details of main staff mailrooms locations
- HEIUCU Organiser who designed and ran pensions GTVO campaign
- Active Branch social media feeds
- A small number of active branch officials and activists with a private email group
- A secure all-members email group

Resources, or ‘density of mechanisms’ designed to build group cohesion (Lévesque and Murray, 2013), were considered in relation to campaign design as follows. Firstly, HEIUCU had access to three direct and universal means of communicating with members. Secondly, HEIUCU had developed a social media presence through Twitter, facilitating wider

opportunities for members to be made aware of and therefore, more likely to discuss key dispute issues among colleagues (Badigannavar and Kelly, 2005), as well as creating links between members and the local branch, and the wider branch network and higher levels of the union (Lévesque and Murray, 2013). Thirdly, and perhaps most importantly, HEIUCU had access to a UCU organiser who had displayed effective organising skills in a recent dispute. This third and final part of the campaign design is noted in Figure II.

#### *Part four – the GTVO campaign*

As seen in Table I (below), HEIUCU's campaign tactics were divided into three stages, pre-GTVO, GTVO and post-GTVO. Table I shows the campaign was five weeks longer than the actual seven week and two days balloting window. The five extra weeks included two weeks for pre-GTVO campaigning and three weeks post-GTVO for reflection on campaign lessons.

#### **TABLE I GOES ABOUT HERE**

The **pre-GTVO stage** utilised five communication tactics (Table I), three attempts to prevent ballot papers arriving with no or little notice and three attempts to connect local members with official grievances, the first of several attempts by HEIUCU to highlight the importance of voting under the Act, anticipating fears the membership may have (Gajewska and Niesyto, 2009) and reminding members of the ability of unions to change situations. An example of the tactics HEIUCU used to help members overcome fears associated with the dispute is

detailed in an excerpt below from a pre-GTVO email (EM1) sent to all members before the balloting window opened (also see Table I):

**Please note:** the initial intention of the ballot is for bargaining purposes, i.e. an affirmative and unequivocal vote for industrial action may lead to a renewed offer from the employer organisation UCEA, which may be acceptable to the UCU membership. (EM1, emphasis original)

Given members experienced 14 days of strike action earlier in the year, and incurred a heavy financial penalty for doing so, the message was designed, tactically, to help members see the ballot as a bargaining strategy, rather than necessarily resulting in more industrial action. However, a tactic of this kind is likely to come with limitations, simply because the employer could call the union's bluff on industrial action planned based on even the most successful GTVO campaign.

At the **GTVO stage**, the number of specific communication tactics expanded to 14 (see Table I) although many were routine or repeated from the pre-GTVO stage. New at this stage though were campaign updates for members along with explaining how to order a replacement ballot form and towards the end of the campaign, thanking members. Each tactic was intended to maintain group cohesion and identity (Kelly, 1998). Four core tactics (see Figure II) however, figured prominently at the GTVO stage, practices receiving scant, if any, attention in organising literature thus far. The first core tactic was communication at the beginning of week two of a strategy to count the number of members who had voted, a means to generate data feeding back into the GTVO campaign (see Figure II). Vote counting was explained as part of a wider email sent to individual members in week four:

You are receiving this email as we as a branch are trying to establish the level of voting on the pay ballot, i.e. we need a turnout of at least 50%.

**Please simply reply with a “Y” or a “Yes” if you have voted (and I will also stop sending you emails on this matter!).**

I don't want to know what you have voted for, just that you voted. (EM4, emphasis original)

Turnout was measured at eight stages of the GTVO campaign (see Figure I) resulting in critical live information for HEIUCU (see Figure II) to guide the nature, form, and intensity of the GTVO campaign and selection of tactics. As per Figure I, at the end of week four of the ballot only a third of members had voted. Importantly, staff at HEI were at that time in the midst of a new academic year and tactics to raise the turnout needed to consider this reality.

### **FIGURE I GOES ABOUT HERE**

Figure I also highlights the core campaign tactics relating to density and variety of communications (Wood, 2015). At the pre-GTVO stage key information was communicated to members via posters, leaflets, and a general email. However, the second stage of the campaign extended the range of communication tactics to include a varied assortment of emails (general, individual, some with attachments or embedded graphics), business cards (week three), voicemails (very brief reminder messages left at the weekend on members' work voicemail in week five) and postcards (week six) (see Table I and Figure I). Communication became denser (core tactic 2) and more varied in the second half of the campaign, principally to prevent turnout flat-lining and failing to reach 50% (see Figure I).

Although humour as a core tactic was used sparingly during the campaign, mainly given the gravity of the dispute, it proved helpful in maintaining a subculture (Taylor and Bain, 2003) or at least a sense of different identity from management (Simms and Deans, 2015). Where humour was used, it was kept simple as it was not initially known how members would respond. Aside from glimpses of sarcasm in HEIUCU emails, humour was mainly kept to

physical campaigning materials, such as the use of ‘smiley’ emoticons (see Figure II) and as a smiling pillar box for the postcard distributed to those known to have not voted by week six (see Table I). However, humour was used strategically in the form of an email attachment in week six (see Figure II) to better inform those unfamiliar with postal voting, whilst not patronising those more experienced.

The fourth core tactic involved relating official campaign grievances to local conditions, whilst also framing the union as key to resolving them (Buttigieg et al., 2008). HEIUCU used such techniques to encourage busy, distracted or unmotivated members to vote. Firstly, official campaigning grievances were given a local twist. The ‘localising’ of national grievances began as early as week three (see Table I) in the form of widely distributed business cards (Figure II).

The ‘localisation’ of national grievances was conveyed via a range of emails, one sent in week five and one at the beginning of week seven (see Table I). Importantly, the two following email extracts specifically frame HEI as a source of pay and equality grievances. The first is a critique of the decision of HEI to follow UCEA advice to impose the disputed pay award and the second reflects a critique of a HEI student-focused marketing materials concerning future salary expectations:

**Reason to vote 5:** The Principal earns approximately £[XXX]k per year (headline pay and not including wider benefits). While most staff at [HEIUCU] will be lucky to get an extra £40-50 in their salary each month, the Principal will receive a £[X]. [X]k increase this year just from national bargaining alone. (EM5, emphasis original)

**Just in case you have missed it, the [HEI] has been placing a range of communications around the main areas (see attachment – taken outside [XXX]) clearly showing on the one hand a very high interest in the salaries of our graduates, but on the other being completely silent for years on the salaries of the very people who create such success stories (EM10, emphasis original).**

A further tactic to bolster turnout later in the GTVO campaign (see Table I) involved refreshing and revitalising the essence of the official grievances. An example (from week six – Table I) can be seen in the following campaign email:

**We must vote simply because, as many will know already, HE employers (collectively or individually) seem only willing to engage with their employees when there is pressure or legal obligation to do so, i.e. this ballot is one of those critical moments.** (EM9, original emphasis)

With a week of the ballot to go, the vote counting exercise suggested HEIUCU would comfortably exceed the statutory threshold (see Figure I) with a turnout of around 60% predicted. Given the intensity and demands of two ballots in one year, a tactical decision was made to end the GTVO campaign with nearly a week to go.

After GTVO came post-GTVO, the phase after the ballot closed. Post-GTVO was disappointing for HEIUCU, as they were one of a very small number of branches to exceed statutory voting thresholds. Despite it being probable that the dispute would be ended, due to the inability of the union to be able to take national action, HEIUCU invested in a three-week post-GTVO campaign. The post-GTVO campaign involved a range of elements (see Table I), including sharing local and national ballot results and conveying disappointment at the result to the membership, effectively designed to maintain group cohesion and identity while national union decisions regarding the ballot were made. However, most importantly given HEIUCU had a hard-won statutory right to take industrial action, members were consulted on what HEIUCU should do next. Secondly, given a third of members did not vote and HEIUCU held data on who had not, a non-voter survey was run to help better understand why many had not voted. Thirdly, a tactical decision was made to record the campaign so that effective practice developed by HEIUCU was not lost and could be used to further build branch strategic

capabilities (Lévesque and Murray, 2013) and share with fellow organisers. This final stage of the campaign and its importance is detailed in Figure II.

*Part five – lessons learnt*

Two main tactical lessons were learnt from the campaign. Firstly, is how HEIUCU could have achieved an even higher turnout. HEIUCU could have drawn on traditional, yet often labour-intensive organising tactics, such as phone banking and door knocking.

Secondly, is the identification of three types of members noted by HEIUCU's GTVO organiser:

- 30% of membership: *Low hanging fruit* – active members who need little or no encouragement to vote
- 40% of membership: *Encourageable* – active members, but who need to be encouraged/reminded to vote for a wide-range of reasons
- 30% of membership: *Hard nuts* – choose to sit it out, excessively busy, never voters, vote in extreme situations, joined trade union as an insurance policy (GTVO document, emphasis original)

Although organisers need to appeal to all members when campaigning (Simms and Deans, 2015) it is the middle group, the *Encourageable*, that GTVO tactics should be mainly focused on. Indeed, analysis of findings suggests that this 'group' should feature heavily in GTVO tactics because, as depicted in Figure I, voting levels may tail off below the threshold requirements of the Act otherwise. Of final note is how GTVO organising and tactics are not isolated activities. Rather, wider analysis of the case suggests lessons from successful campaigning can be fed into refining GTVO and wider union organising and campaigning activities, thus having the potential to grow and deepen union cohesion and identity.

**FIGURE II GOES ABOUT HERE**

## **Theoretical contributions and further research**

Figure II summarises the analysis of data and the most significant finding to come from this GTVO case study, a prototype model for GTVO organising. The figure captures the organising tactics used by HEIUCU to beat the voting thresholds required by the Act, as well as enhancing its bargaining strength. Less obvious from Figure II is the time taken from a national decision to ballot members for industrial action (31 May 2018) (UCU, 2019b) to when, under the Act, lawful industrial action could take place (5 November 2018), a period of over five months. The findings exemplify the magnitude of challenges posed by the Act and the drain on union resources, supporting Tuckman's (2018) 'kettling' thesis. However, the case also demonstrates to less experienced or strategic organisers how effective tactics to beat the Act can be developed, through acquiring a better understanding of relevant information to collect, approaches to communication and how the nature of contemporary employment and workplaces should inform organising campaigns.

Overall, the findings appear to make a specific, yet important contribution to Kelly's (1998) ground-breaking work on industrial relations. The essence of the findings compliment Kelly's work and of those who carried his work forward (e.g. Johnson and Jarley, 2004; Simms and Dean, 2015), exploring ways and means union organisers can cultivate high-levels of group cohesion and identity among memberships, so as to strengthen collective bargaining strength. However, the findings add to such theory principally because the study is set and aimed at a critical time and situation all unions face – a time and situation made extra difficult due to the demands of the Act; the point where a collective dispute emerges and unions need to deliver and raise the confidence

of members in their ability to achieve the objectives surrounding the dispute (Buttigieg et al., 2008).

The findings also contribute to debates deeply critical of the Act (e.g. see Boggs, 2016; Duke and Kountouris, 2016; Tuckman, 2018). More specifically, findings clearly highlight the many practical and often hidden injustices of the Act, a process requiring many months of intense planning across branches and the national union, planning and effort that can be completely negated in the time it takes to open a ballot box and count the votes. Moreover, the findings strengthen those of others highlighting how the Act is likely to cause significant organising challenges for public sector and large generalist unions (Darlington and Dobson, 2015) which have multiple sites, plus further degrade the bargaining capacity of units, regardless of their size and nature, with low numbers of workplace representatives (Darlington and Dobson, 2015). That said, whilst the findings consolidate, strengthen and advance what is known already about the Act in practice, the findings add to organising literature, debates and theories, by demonstrating most of all how the Act can be successfully and continually beaten by a range of tactics that any organiser can learn, adapt and put into action. Importantly, if the organising and tactics discussed here achieved such impressive results in a situation where participation in statutory ballots had been historically low, it seems reasonable to suggest the approach has the potential to considerably enhance union collective bargaining power in disputes elsewhere too. As such, more research is required to evaluate the effect of such enhanced power following successful GTVO campaigns and whether members are more likely to take part in industrial action on the back of the strategic approach to GTVO organising discussed here.

However, it is recognised that the study has a number of limitations. Firstly, the case is based on a single, medium sized branch of a much larger national trade union. At present it is unclear whether the model developed could be applied in larger and/or qualitatively different bargaining units, such as the private sector or to disparate workforces such as those in the 'gig economy'. Similar research, but applied in a wider range of workplace contexts is needed to address such a limitation. Further, it seems likely the study would have benefited from input from members and perhaps an observational ethnographical account of GTVO campaigning. Together, data of such kind, would have the potential to refine and extend the validity of the GTVO model proposed in Figure II.

To compensate for a lack of input from trade union members in the study, further research should aim to better understand members' views, whether they voted or not, through a wider range of methodological approaches. Should resources permit, further research could make more use of action research, and in doing so follow Burchielli's (2008) example of action research teams based on researchers and grassroots organisers, with live case studies written up by researchers and organisers as they unfold. From a practical perspective, unions should, as Gall (2017) suggests, establish a 'clearing house' (or even a 'community of practice') so that effective organising practices and tactics can be shared across the labour movement, possibly on an international basis, including areas where union influence has substantially diminished in recent decades, such as the private sector, or where it is currently emergent, such as the case of gig and platform work.

Practical implications for unions and HR practitioners

The findings support research calling for better training of organisers in relation to GTVO campaigning (Darlington and Dobson, 2015), the value of consultative ballots to test the strength of grievances (Gall, 2017), varying density and content of messages during campaigns (Wood, 2015), and using humour to grow and sustain countercultures (Taylor and Bain, 2003). Further noteworthy examples of successful GTVO organising to emerge from the findings are as follows. Firstly, the findings provide evidence to suggest the need for unions to improve organisers' understanding of information management and the nature of contemporary employment and workplaces. Secondly, the findings suggest the importance of local organisers 'localising' and revitalising grievances determined at a higher level of the union, representing a practical recommendation and theoretical contribution to organising theory. Such a suggestion is unlikely to be onerous for local organisers but it is advised to pursue such activities via the use of small sub-groups of branch committees. Thirdly, the findings support further additions to GTVO organising and tactics, such as running surveys to understand why members do not vote, a strategy that could reveal critical information to strengthen future GTVO organising. Likewise, union branches would benefit from developing ways to record details of their campaigns in order to prevent the loss of expertise acquired through GTVO organising and tactics, especially related to effective ways of tracking the number of votes cast during such a campaign.

There are also implications to arise from the research for HRM practitioners. The findings act as a warning to organisations that recognise unions to not underestimate a trade union that is investing time and resources in developing organising tactics around statutory ballots. It would be unwise to view the Act as the end of industrial action or as placing insurmountable

obstacles in its way. The case of HEICU has shown that despite numerous factors potentially impeding group cohesion amongst members, through the deployment of strategically designed interventions thresholds for lawful action were exceeded with some ease. An obvious practical implication therefore, is to invest more energy and considered action in negotiations with recognised trade unions, building meaningful working relationships in order to avoid disputes occurring in the first place.

Looking forwards, a priority for the UK labour movement should be to continue lobbying for e-voting in statutory ballots. E-voting would significantly lighten organisers' workload, shorten balloting windows, and combined with enhanced GTVO organising capabilities, lead to increased turnouts for all types of industrial action ballots, as well as truly enhancing the democratic processes of unions in doing so. On a final note, while the paper heeded Gall's (2017) call for case studies, the findings suggest other unions should develop GTVO organising tactics, alongside seeking the repeal of this and other anti-union legislation. In other words, *both* are critical in the struggle to 'unkettle' UK unions. As such, UK trade unions, as well as international unions similarly affected by restrictions on strikes, should invest in research to better understand and strategically manage GTVO organising tactics. Finally and ironically, it may also be in the interests of HRM practice for the Act to be repealed, for there is evidence presented in this paper, and available more generally, to suggest the Act has not achieved what it set out to do, and unions appear to be starting to get to grips with the voting threshold challenges it created.

## **Conclusion**

The primary motivation for this paper was Gall's (2017) challenge to develop model organising tactics to beat new voting thresholds of the Act. As such, it seemed apt to start with a case where unions have historically had low turnouts in statutory ballots. Such aims have been variously met, with the study advancing organising theories, tactics and practice in a range of ways as well as highlighting practical implications for unions and HR practitioners alike. Crucially, such contributions were made in a novel and empirical manner, providing a first-hand account of replicable tactics organisers can apply when faced with a GTVO campaign. Indeed, the findings have the potential to be useful in contexts where industrial relations systems are by nature adversarial, that is where a clear signal of union power is critical in terms of bargaining strategy. The findings could also have some validity in a range of international contexts, contexts where governments restrain trade union collective bargaining powers by continually tightening mandatory requirements for lawful industrial action.

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<sup>i</sup> Postnote: In late 2019, HEIUCU achieved a 70% turnout in a further national pay, equalities and pensions disaggregated ballot, again the highest across all 147 branches. Further, a local dispute in 2020 involving HEIUCU led to a 66% turnout. The organising model discussed in this paper formed the basis of a third and fourth successful attempt to beat the Act, with the latter campaign adapted to reflect working from home during the Covid-19 pandemic.

<sup>ii</sup> A further three branches based in Northern Ireland did not make the 50% threshold, but as noted earlier in the paper, are not subject to the threshold restrictions of the Act.