

# The impact of UK I&C Regulations on the practice of consultation

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## The 2004 Regulations and their 'reflexive' design

- **10% 'trigger': if employees don't ask for I&C do nothing, or**
- **Opt for a 'pre-existing agreement' (PEA). No form of I&C specified so choose to suit local requirement. Needs employee approval but reps have no avenues of redress, or**
- **Design a 'negotiated agreement' to suit local requirements but the agreement is enforceable**
- **Only if negotiations fail will the 'standard' (default) Regulations apply which specify the content and process of consultation.**

## Consultation for all?

- ⌘ **Fully in force from April 2008 covering all enterprises with 50+ employees**
- ⌘ **No comprehensive survey evidence yet, but general view is low take up and ‘a cool response’ to the ICE Regulations.**
- ⌘ **Little enthusiasm from employers. Trade unions either hostile or apathetic, with a few exceptions, very few cases of 10% trigger. Management left free to design consultation to suit their needs, or do nothing.**
- ⌘ **Some evidence that MNCs are more active in promoting non-union consultative bodies, or ‘hybrid’ union, non-union forums, or variations across sites**

## The Research 2006-2010.

- ❖ **Longitudinal case study research in 25 organisations over 2 years (or one year in the 4 smallest organisations) all with recently established I&C. Focus on 13 with 150+ employees.**
- ❖ **Semi-structured interviews with lead managers, employee representatives and union officers where relevant + document collection**
- ❖ **6 recognised trade unions, 2 recognised unions in some sites but not others, 5 non-union.**
- ❖ **6 had 'hybrid' I&C bodies,**
- ❖ **8 were PEAs, 4 introduced unilaterally by management, 1 had a negotiated agreement.**

## Consultation benchmark for research

- ⌘ **EU focus has been on information provision and consultation on business decisions and the management of change. Standard provisions of ICE Regs set out content and process of consultation.**
- ⌘ **Information to be given on recent and probable developments/activities; consultation on employment developments especially on decisions likely to substantially impact on work organisation and contractual relations.**
- ⌘ **Reps to be able to meet appropriate management in good time, have opportunity to consider a response which is given serious consideration and in substantial changes consultation with a view to reaching agreement**

## Two management approaches.

- ▣ **Active consulters. 5 cases. Management adopts a pro active approach to consultation on strategic issues + regular information provision. Special meetings held and information provided in confidence. 2 cases where consultation with a view to reaching agreement took place, one non-union (mobile phone), one unionised hybrid body. Evidence of employee influence less in 3 cases but discussion held on big issues.**

- ❑ **Communicators 6 cases. Strategic issues rarely raised and only after decision taken. Role of reps, as envisaged by management, to communicate decision to workers and report back. Dominance of housekeeping issues and social activities. Emphasis on direct communication crowds out the I&C body – no distinctive voice**
- ❑ **Defunct 2 cases. Management withdrew active support, no further meetings held. Incompatible expectations and preference for direct communication with workforce.**

## Organisation of the representatives

- ⌘ **Active consulters.** Symbiotic relationship between management active consultation which required and drove effective body of representatives: pre-meetings, resources, training and development activities helping to develop collective employee voice and confidence. Two most active had full-time employee reps.
- ⌘ **Communicators.** Employee side weak. Few pre meetings, low level of networking between meetings of I&C body. Reps were ‘interested individuals’ with little experience of collective endeavour and scant opportunity to develop it. High turnover of reps, problems finding replacements. Attempts to revitalise through training.

## Explanations for the variety.

- ⌘ **Management support? In all cases except two where the I&C body became defunct, management supported I&C: regular meetings, senior management attendance. No problems with time off, training provided in most cases.**
- ⌘ **Union avoidance? Mobile phone keen to show effectiveness of I&C body after union recognition campaign – led to high trust relations and recognition of value of meaningful consultation. Collective bargaining not withdrawn in other cases.**
- ⌘ **Union support? Unions in hybrid cases generally weak, low membership (but two exceptions). One case where union tried to colonise body.**

## Management values concerning consultation (1)

- ⌘ **All I&C arrangements designed and implemented by management with little involvement from employees and unions. Reap what they sow.**
- ⌘ **The two most active consulters were in MNCs, both had EWCs and were committed to consultation. All had big issues, eg on restructuring, to discuss and concerned with successful management of change. Good experience in consultation mutually reinforcing.**

## Management values concerning consultation (2)

- ⌘ **Among the communicators management either not prepared or did not see it necessary to consult in advance, viewed consultation as a means for employees to raise issues/concerns. Low effectiveness of reps reinforced lack of interest in strategic consultation often viewed as ‘step to far’. But could be effective as a communication body.**

## Conclusions (1)

- ❑ **The Regulations were only a secondary influence on management decision to create consultation bodies in these cases. Generally the Regulations seem to have had limited impact.**
- ❑ **PEAs have no institutional security as seen in default cases.**
- ❑ **In the minority of cases where management chose to be an active consulter, to varying extents, the experience has been positive once a coordinated employee side emerged, with managements' assistance.**

## Conclusions (2)

- ⌘ **Among the communicator group little seems to have changed from Marchington et al's research 20 years ago: 'employee involvement was typically management initiated with the intention of enhancing employee commitment but had nothing to do with increasing employee influence'**
- ⌘ **Events and personalities can shift consultation from one form to another.**