

**BIS** | Department for Business  
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**EMPLOYMENT RELATIONS  
RESEARCH SERIES NO. 117**

**Information and Consultation  
under the ICE Regulations:  
evidence from longitudinal  
case studies**

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UNIVERSITY OF TECHNOLOGY

DECEMBER 2010

**IN PARTNERSHIP WITH**



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BY

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Labour Market Analysis & Minimum Wage is a multi-disciplinary team of economists, social researchers and statisticians based in the Employment Relations Directorate of the Department for Business, Innovation & Skills (BIS).

Our role is to provide the evidence base for good policy making in employment relations, labour market and equality and discrimination at work. We do this through:

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- Commissioning external research reports
- Conducting in-house research and analysis
- Assessing the regulatory impact of new employment laws
- Monitoring and evaluating the impact of government policies

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## About this publication

The project manager for this report is Dr Hülya Hooker in the Labour Market Analysis & Minimum Wage Team.

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URN 10/1380      ISBN 978-0-85605-763-2

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# Foreword

The Department for Business, Innovation and Skills (BIS) is working to build a dynamic and competitive UK economy. To achieve this it will foster an open global economy and foster world-class universities. The work involves creating the conditions for business success – including a flexible labour market; promoting innovation, enterprise and science; and by giving everyone the skills and opportunities to succeed.

As part of the work to create the conditions for business success the Labour Market Analysis branch of the Employment Relations directorate of the Department manages a research and evaluation programme on employment relations. The aim is to help to improve both policy making and delivery in order to allow both businesses and individuals to prosper. Amongst the subjects covered by the programme are employment relations and employment law, how labour markets function, equality and discrimination at work.

The project on which this report is based is funded under this research programme, and co-sponsored by Acas and the Chartered Institute of Personnel and Development. The research was commissioned to investigate organisational responses to the Information and Consultation of Employees Regulations 2004.

This is the final report of a project based on longitudinal case studies carried out between 2006 and 2010. It analyses and accounts for the differing experiences of information and consultation bodies in 25 private and voluntary sector case study organisations over the four -year period, highlighting the key factors shaping developments.

We hope you find it of interest. Electronic copies of this and all other reports in our Employment Relations Research Series can be downloaded from the BIS website. A complete list of our research series can be found at the back of this report.

Please contact us at [labourmarket.analysis@bis.gsi.gov.uk](mailto:labourmarket.analysis@bis.gsi.gov.uk) if you wish to be added to our publication mailing list, or would like to receive regular email updates on Labour Market Analysis research, new publications and forthcoming events.

The image shows three handwritten signatures in black ink. From left to right: 'W. E. Wells', 'John Taylor', and 'Ben Willmott'. The signatures are written in a cursive, personal style.

Bill Wells  
Deputy Director,  
LMA & MW

John Taylor  
Chief Executive, Acas

Ben Willmott  
ER Adviser, CIPD

# Acknowledgements

The four year research programme, for which this is the final report, was made possible by joint funding from the then Department of Trade and Industry, now the Department for Business, Innovation and Skills, Acas and the Chartered Institute for Personnel and Development. We are grateful to these organisations and to their senior staff who constituted the Advisory Panel which helped guide the research activities. We are very grateful to the 25 organisations which agreed to take part in the research and wish to thank the many managers, employee representatives and trade union full-time officers who were interviewed for as many as three times. We also thank the 1730 employees who completed our attitude survey at the beginning and the end of the research period.

# Contents

Foreword.....	iii
Acknowledgements.....	iv
Executive summary.....	1
1. Introduction .....	9
2: Influences on the adoption and structure of I&C arrangements .....	18
3: Evaluating the role and impact of I&C in practice.....	23
4: The dynamics of I&C – the ‘active consulters’ and ‘communicators’ compared.....	30
5: Trade union attitudes and the operation of ‘hybrid’ I&C bodies.....	50
6. The impact of the legal framework.....	54
7: Conclusions and implications.....	58
References .....	65
Annex 1: The employee survey – methodology and forms of analysis .....	68
Annex 2: Case study summaries .....	79

# Tables and Figures

Table 1 Key characteristics of the case study organisations and their I&C arrangements.....	15
Table 2 Patterns of I&C in the case study organisations.....	27
Table 3 Factors shaping the experience/development/sustainability of I&C bodies .....	31
Table 4 Helpfulness of three opportunities to express views in the workplace .....	37
Table 5 Measures of possible outcomes of the information and consultation process: Active consulters and communicators compared (mean scores) ....	47
Table 6 Measures of possible outcomes of the information and consultation process: Hybrid I&C bodies and non-union I&C bodies compared (mean scores) .....	49
Table A. Employee perceptions in final survey: Group A – ‘active consulters’ .....	72
Table B Employee perceptions in final survey: Groups B and C – ‘communicators’ and ‘defunct’ .....	75

# Executive summary

*This is the final report to present findings of longitudinal research in 25 organisations looking at employee consultation practice in the light of the Information and Consultation of Employees Regulations 2004. Despite being established around the time the Regulations came into force, the reasons for establishing information and consultation (I&C) arrangements were most often attributed to internal factors concerned with the management of change. Management was, in all cases, the instigators of I&C and they dominated the operation of I&C bodies. Two distinct categories were identified. 'Active consulters' provided information on strategic issues and consulted over these. 'Communicators' used I&C to listen to employee views and gain reaction to management decisions after they had been announced. Employee representatives in 'active consulters' were better organised and more stable than in their 'communicator' counterparts. Where unions were recognised they generally took part in I&C bodies alongside non-union representatives. There is no evidence of management using I&C to derecognise unions, but some set up I&C as a means of avoiding unions. The impact of the Regulations on the practice of I&C was low.*

## Background

This is the final report from a four year study investigating organisational responses to the Information and Consultation of Employees (ICE) Regulations. The research involved longitudinal case studies in 25 organisations. Four of these declined take part in the second round of research. The main body of the report covers the remaining 21 organisations. These were drawn from the private and voluntary sectors. Key managers, employee representatives and, where appropriate, trade union officers were interviewed in the first and second years of the project. Telephone interviews were conducted mid-way through the research except in the four smallest organisations. Sixteen organisations allowed an employee survey to be conducted at the beginning and again at the end of the research.

The most common type of I&C arrangements, found in 14 organisations, was for the I&C body to be elected by all employees. Trade unions were recognised in around half of the organisations and in 11 took part in the I&C bodies alongside non-union representatives. These are termed 'hybrid' bodies. In two cases I&C took place through the recognised union. In the case of two multi-plant organisations different arrangements pertained in different establishments.

The Regulations allow for I&C bodies to be constituted as 'pre-existing agreements' (PEAs), negotiated agreements or, where no agreement is reached, standard arrangements. It is also possible for employers to determine the consultative arrangements unilaterally outside the scope of the Regulations. In the research the great majority of I&C arrangements



were either subject to voluntary agreement between management and employee representatives (i.e. potentially PEAs) (12 cases) or were introduced unilaterally by management (11 cases). One company had an agreement which was intended to have the status of a negotiated agreement.

### ***Influences on the adoption and structure of I&C arrangements.***

All but one of the I&C bodies had been established, or significantly revamped, around the time that the Regulations progressively came to force. The research explored the hypothesis that the Regulations had been a major influence. This proved not to be the case. In no organization did employees even begin to gather the 10% of signatures necessary to trigger negotiations for an agreement. Trade unions played no part, directly or indirectly in calling for and encouraging the formation of an I&C body. This meant that management were free to choose what form the I&C arrangements should take. The impact of the Regulations was often seen in the way the constitutions of the I&C bodies were framed, especially in large organisations.

None of the managers interviewed said that their adoption of I&C was to comply with the Regulations. In 11 organisations it was said that the Regulations had a catalytic effect in helping shape the design of the initiative and secure top management support. In four large organisations, three of them multinationals, the Regulations were an important, but not a determining, influence since there was a felt need to comply with the legal provisions. Elsewhere the Regulations were only a background influence.

Other factors specific to the organisations were more important. Six were in the non-profit sector as charities or housing associations where the community service ethos favoured staff participation. Five organisations had come out of the public sector and felt the need to move away from the perceived adversarial traditions of union based employment relations. Eleven establishments were multi-plant companies and eight were multinationals. The corporate offices, while rarely directing compliance, did often establish a corporate ethos toward I&C. Four of the multi-nationals already had a European Works Council.

These structural factors were less important in initiating I&C than the experience of organisational change which often stretched existing communication channels. In 15 organisations the adoption of I&C was associated with newly appointed senior managers, often in HR. Their wider remit often revolved around the perceived need to improve employee understanding of and response to organisational change and to build employee commitment. The adoption of I&C was one part of a wider programme of communication and engagement.

Managements were inevitably influenced by the existence of recognised unions or the threat of union campaigning. In two cases of high union membership the union dominated the I&C body but was prepared to work alongside the minority of non-union representatives. Where union membership was low the recognised union was usually offered a seat on

the I&C body. This offer was refused in two cases. In no case was any union derecognised when an I&C body was formed or thereafter. In two cases, management chose to recognise the union as the I&C representative body. It was reasonable clear in four cases that fear of union encroachment led to the adoption of I&C arrangements as a means of union avoidance.

### ***Evaluating the role and impact of I&C in practice***

Any evaluation of consultation and information sharing must be against a benchmark. Given that the research was explicitly concerned with responses to the I&C Regulations the benchmark chosen was the standard provisions concerning the content and process of information and consultation. The research addressed how far the practice of I&C differed from the standard and with what effect? Under the standard provisions information on the undertaking's activities and economic situation must be provided and consultation should take place on probable developments in employment. Where decisions are likely to lead to substantial changes in work organisation consultation should be 'with a view to reaching agreement'. Procedurally, consultation is defined as a sequential process, allowing representatives to formulate and express an opinion, meet with management and obtain a response.

Using evidence from the 21 organisations a threefold categorisation is used.

- 'Active consulters': managements which consulted on strategic issues often before the decision was taken and where there was a degree of employee influence over decisions (8 organisations).
- 'Communicators': managements which used the I&C bodies essentially for communication purposes, rarely placed strategic issues on the agenda, and then only after the decision had been taken. Representatives were expected to communicate the decision to employees and feedback views, and raise issues of concern (12 organisations).
- 'Defunct': I&C bodies no longer operate (2 organisations).

### ***The dynamics of I&C – the 'active consulters' and 'communicators' compared.***

Although research in the 12 largest organisations had finished before the recession, in all of them significant business issues had impacted on employment and work organisation. The medium and small sized organisations were studied at the time of the recession which did affect some of them. The experience of major change can provide an opportunity for consultation, while in cases where little change takes place the subject matter can be attenuated, especially if management chooses not to discuss policy options with the I&C body, as was the case in the 'communicators'.

The active consulters generally shared business information and consulted over business issues. In three cases this met the criteria of 'with a view to reaching agreement'. It was quite common for special meetings to be called and for discussions to be held in confidence prior to an announcement. The communicator companies did not generally hold special meetings or provide information in confidence.

Management had markedly different views about the role and purpose of I&C. The 'active consulters' were, generally, willing to share information and consult over issues such as business decisions and aspects of HR policy. In many of the 'communicator' companies the purpose of the I&C body was to give an opportunity to staff to raise issues with senior management via the representatives. Employee representatives were also expected to be a communication bridge telling employees about company policies and bringing back concerns to the I&C body. In some cases the limited role of the I&C body was exacerbated by management's emphasis on direct communication with their employees either bypassing the I&C body or raising matters after direct communication. In some 'communicator' cases I&C worked well when first established as it dealt with an accumulation of issues but tailed-off subsequently. The more successful communication bodies were able to filter out 'trivial' issues and management placed items on the agenda, often to do with aspects of HR policy.

In the employee survey 54% of the respondents in the 'communicator' organisations did not know how helpful their representative was in expressing their views, or said there were no representatives. The comparative figure in the 'active consulter' group of organisations was 47%. Low response rates in some of the organisations mean that these data should be taken as indicative of trends.

Senior managers in both groups regularly attended forum meetings and some form of training was often provided to new representatives. This common level of support reinforces the conclusion that differences in the practice of consultation emanate from active managerial preferences concerning the role of I&C. The only cases where management support was withdrawn were in the two organisations where the I&C body became defunct. Managers in the 'communicator' companies often wanted representatives to be proactive, taking part in discussions about the business as a whole, but in the absence of specific items concerning business or HR policy, representatives tended to raise housekeeping matters to the general dissatisfaction of all involved. In some companies efforts were made to revitalise the body through further training, a change in chairmanship, placing HR issues on the agenda and renewing efforts to publicise the work of the forum.

One distinctive difference between the types of consultation was the way the representatives were organised and conducted themselves. In the 'active consulter' organisations it was often the case that representatives would hold 'pre-meetings' among themselves to discuss agenda items and how best to respond. It was rare for this to happen among the 'communicator' companies even though in a number of the constitutions it

was allowed for. In these companies contact between representatives outside meetings was rare. Two of the three organisations with the most advanced form of active consultation had a full-time representative. In two others an external union full time official was a member of the I&C body. Representatives in the 'active consulter' companies tended to stay in post for longer than their counterparts in the 'communication' companies. In the latter it was often harder to find people to stand for office. One effect of this is the better accumulation of experience and growing self confidence among representatives in the 'active consulter' organisations.

It is difficult to assess the outcomes of consultation. Consultation was not seen to be a topic that needed to be evaluated. Frequently management explained that consultation and listening to staff views was something they did as a matter of course. Among the 'active consulter' companies the research was able to identify instances where consultation had had an impact on management decisions concerning work reorganisations, including redundancy and on pay or pay systems. No such outcome effects were noted among the 'communicator' organisations. There was some indication from the employee survey that satisfaction with levels of involvement was higher in the 'active consulter' companies and among those with a 'hybrid' bodies compared with those which were exclusively non-union.

### ***Trade union attitudes and the operation of 'hybrid' I&C bodies.***

Trade union ambivalence towards the Regulations at the national level was also reflected in the organisations covered in the research, at least initially. In only one case of the 12 where unions were recognised did they show any interest prior to management initiating the formation of I&C bodies. Suspicion of managements' motives was greater where union membership was low. Here unions sought to protect their collective bargaining rights. In practice, no management sought to use the I&C arrangements to de-recognise unions and collective bargaining continued to be the preserve of the unions. Unions were usually offered membership of the I&C body. Union concerns about I&C were not borne out in practice. In some cases management favourably compared the quality of the union representatives to their non-union counterparts. With experience, the barriers between union and non-union I&C body members dissipated and the 'hybrid' bodies worked well, for the most part. One advantage for the union participating in I&C is that it provides access to senior management and, in the 'active consulters', the range of topics discussed is wider than those considered in collective bargaining. There was no evidence that union participation in 'hybrid' I&C bodies led to changes in union membership.

### ***The impact of the legal framework***

The statutory framework emerged as a factor of only limited significance in the case study organisations. Employees did not utilise their rights to 'trigger' the Regulations and management, in most cases, did not regard their decision to introduce I&C arrangements as compliance driven. Although in a minority of cases an agreement was signed by employee

representatives in only a few of these cases did management explicitly regard the agreement as a PEA. It was internal employment relations considerations which predominated.

One area where the Regulations did appear to have some influence was the provisions and wording of the agreements or constitutions underpinning the ICE arrangements. This was particularly the case in larger organizations, where more formalisation can be expected. However, these constitutions were sometimes ignored, especially in the 'communicator' organisations and one of the 'default' companies. There is little evidence that the Regulations had shaped managerial approaches to consultation, nor had they been widely used by representatives as a point of reference.

This finding can be seen as being consistent with the Regulations' policy of maximising the flexibility of response available to organisations and the broad definition of consultation. Aspects of employment law which did impinge more directly on consultation related to transfers of undertakings and collective redundancy.

### ***Conclusions and implications***

1. There is a crucial difference between the operation of I&C arrangements in organisations where management use the I&C body as a forum for providing strategic, information and consulting on proposed business changes, and those where the forum is used as a communication bridge with the workforce. The two approaches to consultation have very different operational requirements.
2. In 'active consultation' management willingly consults before decisions are taken. To do that successfully there needs to be an effective body of employee representatives. Often special meetings of the I&C body are called with discussions held in confidence. It is common for HR policies to be discussed, and for representatives to raise housekeeping matters. Relationships are typically of high trust and informal discussions held between lead employee representatives and management outside formal meetings.
3. 'Communication' bodies can suffer from a mismatch of expectations. Management want representatives to see 'the bigger picture', while I&C body employee members are often uncertain about their role beyond bringing housekeeping matters to the agenda. The more successful 'communication' bodies discuss HR policy, trivial items are filtered out and the work of the forum is widely publicised.
4. Management is the dominant partner in consultation, and it was their choices which determined how I&C operated. Where managements were prepared to engage in meaningful consultations the outcomes were viewed favourably. Where management supported the I&C body but did not provide information or discuss operational or HR policy matters it moved towards the edge of failure.

5. It is time for trade unions to reappraise their ambivalent approach to ICE. Fears of loss of recognition for collective bargaining and declining membership have not been borne out in the research. The operation of 'hybrid' I&C bodies has generally been effective, subject to management willingness to consult, and has provided unions with access to senior management.
6. The Regulations played only a secondary role in the formation and operation of the ICE bodies in the organisations covered in the research. This reflects the flexibility built into the Regulations and the fact that no groups of employees had sought to 'trigger' negotiations.
7. The establishment of 'dialogue' can best be achieved when there is an organised and functioning employee representative body able to articulate employees' interests. This is associated with being able to hold pre-meetings, the provisions of training and, in larger organisations, facilities. None of these are specified in the Regulations and their provision is dependent on management good will or enlightened self interest.

## **Aims and objectives**

The Information and Consultation of Employees (ICE) Regulations 2004 established a general statutory framework giving employees the right to be informed and consulted by their employers on a range of business, employment and restructuring issues. The legislation has applied since April 2005 to undertakings with at least 150 employees, since April 2008 to those with at least 100 employees and since April 2008 to undertakings with 50 or more employees. The Regulations provide considerable flexibility of response, and enable the adoption of organisation-specific information and consultation (I&C) arrangements.

- The research investigated organisational responses to the Regulations, paying particular attention to:
- How the strategic choices of management, employees and trade unions (where present) determine the organisation's approach to I&C;
- The key features and practical operation of organisation's arrangements and
- The impacts of I&C practices on management decision-making, employee commitment, employment relations climate and organisational effectiveness.
- The report is based on data derived from the whole research project carried out over 24 months in the large and medium sized enterprises with a 100 or more employees and over 12 months in the smallest.

## **About this project**

The research method used was that of longitudinal case studies, tracking developments in each of the case study organisations over a two year period. The case studies involved semi-structured interviews with senior management, trade unions (where present) and employee representatives, analysis of documents such as the constitutions of I&C bodies and minutes of meetings and an employee survey where possible. During 2006, case studies began in private and voluntary sector organisation with over 150 employees. In 2007 a second wave of case studies began in organisations with 100-150 employees. A third and final wave of case studies started during 2008 in organisations with 50-100 employees.

This final report uses data collected in 21 of the 25 organisations in the study at all stages of the research in order to provide a comprehensive assessment of I&C from the formation of the I&C bodies to their operation two years later, or in the case of the smallest organisations, one year later. Four of the organisations withdrew from the research after the first round of interviews.

## **About the author(s)**

Mark Hall, John Purcell and Michael Terry are members of the Industrial Relations Research Unit at Warwick Business School. Susan Hutchinson is at Bristol Business School and Jane Parker is at Auckland University of Technology.

# 1. Introduction

This is the final report to be published from a research project, co-sponsored by BIS, Acas and CIPD, investigating organisational responses to the Information and Consultation of Employees (ICE) Regulations 2004. Its aim is to present the principal findings and conclusions from the project as a whole. In particular it extends the analysis of the operation and impact of information and consultation (I&C) bodies in the first wave of larger case study organisations (Hall et al. 2009) to I&C developments in the medium-sized organisations covered by the second and third waves of case studies in which fieldwork has since been completed. The main focus is on the factors underlying the different approaches to I&C identified among the participating organisations, in particular the central role of management. Other key issues analysed include trade union attitudes to, and involvement in, I&C arrangements and the impact of the ICE Regulations.

## 1.1 Background

The ICE Regulations have applied since April 2005 to undertakings with at least 150 employees, since April 2007 to those with 100-150 and since April 2008 to those with 50-100. They constituted a significant change in the context within which employers develop their information and consultation (I&C) practices. Intended to implement the 2002 EU I&C Directive, the Regulations established for the first time in the UK a general statutory framework giving employees the right to be informed and consulted by their employers on a range of key business, employment and restructuring issues.

At the same time, the legislation allows employers considerable flexibility of response, both procedurally and substantively. The Regulations are a prime example of 'reflexive' employment law<sup>1</sup> whereby 'the preferred mode of intervention is for the law to underpin and encourage autonomous processes of adjustment' by the parties to the employment relationship (Barnard and Deakin, 2000: 341). Under the Regulations, employers need not act unless 10% of their employees trigger statutory procedures intended to lead to negotiated agreements. Moreover, voluntary, 'pre-existing agreements' (PEAs) may effectively pre-empt the use of the Regulations' procedures. Under either route there is considerable latitude to agree enterprise-specific I&C arrangements. Only in the event that the Regulations' procedures are triggered but no agreement is reached are 'standard' or default I&C provisions enforceable.

To date, there has been little systematic evidence on how employers, employees and trade unions are responding to the changed legal environment. Prior to the commencement of the ICE Regulations, it was

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<sup>1</sup> For an extended analysis of the ICE Regulations 'reflexive' character see Koukiadaki (2009).



suggested that their main impact was likely to be 'legislatively-prompted voluntarism' (Hall and Terry, 2004: 226), with the new legislation driving the diffusion of organisation-specific I&C arrangements. The findings of the 2004 Workplace Employment Relations Survey (WERS 2004) showed that the then imminent prospect of the ICE Regulations had not resulted in an upturn in the proportion of workplaces covered by joint consultative committees and that, on the contrary, the previous downward trend had continued (Kersley et al, 2006). Since then, a number of smaller, less comprehensive surveys have suggested that the Regulations have prompted increases in the incidence of I&C arrangements and modifications to existing arrangements. For example, the CBI's annual employment trends surveys showed an increase in employers reporting permanent mechanisms for informing and consulting employees from 35% in 2002 to 57% in 2006 (CBI, 2006). An IRS survey found that around one-third of management respondents had made changes to their information and consultation arrangements in the previous two years, mostly in response to the new legal framework (IRS, 2006). In an LRD (2006) survey of union representatives, one-third of respondents reported having information and consultation arrangements that had been drawn up, amended or reviewed in the light of the Regulations. Finally, a 2006 survey of UK operations of multinational companies found that the ICE Regulations had prompted substantial change in arrangements for employee consultation with over 40% reporting new or modified I&C arrangements over the previous three years (Marginson et al, 2010). This may indicate that the Regulations have stimulated some increase in the adoption of I&C but we will not know conclusively until the next WERS in 2011.

Other research also suggests considerable employer-led activity in terms of reviewing, modifying and introducing I&C arrangements (Hall, 2006), but there is currently no data available on the incidence of 'pre-existing agreements' or 'negotiated agreements' as defined by the Regulations. An early assessment, one year on from the commencement date of the Regulations, noted that relatively few companies were reported to have put formal PEAs in place, despite the protection they offer against the Regulations' statutory procedures being invoked by employees, and that negotiated agreements appeared to be extremely rare (Hall, 2006). Trade unions have generally adopted a defensive approach to the Regulations, reflecting concern that the introduction of workforce-wide I&C arrangements could potentially undermine or marginalise union recognition where it exists (Hall et al 2008b). Moreover, with some exceptions (notably in the printing/paper and information technology sectors), unions have not generally sought to use the Regulations to strengthening their influence in workplaces where they are not recognised. While little litigation through the Central Arbitration Committee (CAC) has yet arisen under the Regulations (31 cases in 19 organisations over the five-year period 2005-9), the leading case, *Amicus and Macmillan*

Publishers Ltd,<sup>2</sup> demonstrates the potential for employees and unions to use the law effectively against defaulting employers.

## 1.2 Objectives and research design

Against this background, and in the light of the legislation's 'reflexive' design, the research aimed to explore:

- the strategic choices of the key actors (management, employees and trade unions where present) in determining the organisation's approach to designing and introducing systems of I&C, taking account of both the internal organisational context and the external legal environment;
- the practical operation of I&C arrangements, including the respective roles and approaches of the key management/employee participants and the relationships between them, the issues most commonly dealt with and the nature of the processes used; and
- the impacts of I&C practices in terms of quality of management decision-making, employee commitment, employment relations climate and organisational effectiveness.

The research programme was overseen by an advisory group consisting of representatives of the three research sponsors.

The method adopted to carry out the research was that of longitudinal case studies in most cases over a two year period to enable the researchers to track developments and behaviours after the I&C bodies had been established. Reflecting the phased implementation of the ICE Regulations, the research involved three 'waves' of case studies. Case studies begun in 2006 in 13 private and voluntary sector organisations with 150 or more employees were completed in late 2008/early 2009.<sup>3</sup> A second wave of case studies began in 2007 in eight organisations with 100-150 employees, and a third and final wave of four case studies started during 2008 in organisations with 50-100 employees. These were concluded in late 2009/early 2010.

Developments in 'wave 1' and 'wave 2' organisations were tracked over a two-year period. An initial research visit was made to each organisation and repeated some two years later, with telephone updates in the interim. In-depth semi-structured interviews were held with senior management, employee representatives and trade unions (where present) at each stage, supplemented by documentary analysis (agreements/constitutions underpinning I&C bodies, minutes of meetings etc) and an employee survey conducted at the beginning and the end of the research period. For

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<sup>2</sup> Central Arbitration Committee case IC/8/(2006), 16 February 2007; Employment Appeal Tribunal case UKEAT/0185/07/RN, 24 July 2007

<sup>3</sup> This meant that final research interviews in a number of 'wave 1' cases took place before the full implications of the onset of recession had become apparent.

'wave 3' case study organisations, a shorter, two-stage research programme was undertaken: the initial research visit was followed by a final update one year later, with an employee survey conducted after both these stages.

Interviews were based on topic guides developed by the research team and discussed with the advisory group. Interviews were recorded and, along with relevant documentary material obtained, formed the basis of case reports and subsequent updates drawn up in respect of each participation organisation. Drafts of these were shown to the respondents for comment and clarification. Each organisation where the employee survey was carried out was provided with summaries of key findings. Published overview reports from the project – of which this is the final one – have been based on the research team's analysis of the case reports, survey results and other documentation collected during the research process.

Identification of the case study organisations was primarily via Acas. Acas assisted by identifying potential cases from its advisory work databases and from information provided by senior advisors in the regions and by then seeking permission from the organisations concerned to release contact details to the research team. Access in other cases resulted from leads provided by the CIPD, the Involvement and Participation Association (IPA) and the National Council for Voluntary Organisations (NCVO), or through IRRU's existing contacts.

The choice of case study organisations was not, of course, representative in a sample sense. All were studied because they had relatively recently introduced or relaunched I&C bodies (or 'employee forums' – terms used interchangeably in this report), and because they were prepared to take part in the study, unlike many more which were approached but refused. This may mean that the organisations studied were likely to be examples of good or better practice in this area and in people management in general. This would appear to be borne out by comparisons between employee survey responses in the case study organisations and the national picture provided by the Workplace Employment Relations Survey (WERS) 2004 where measures of employee commitment are generally higher than found nationally (see Annex 1).

The I&C arrangements in the great majority of the case study organisations were either the subject of a voluntary agreement between management and employee representatives (i.e. potentially PEAs) or introduced unilaterally by management. Although the research team sought more such examples, it identified only one organisation whose agreement was intended to have the status of a 'negotiated agreement' reached via the Regulations' statutory procedures. This appears to reflect experience under the Regulations more widely, with very few 'negotiated agreements' being reported. In terms of the nature of the I&C arrangements introduced by the case study companies, the great majority were either I&C bodies representing and elected by all employees, or 'hybrid' I&C bodies involving both representatives elected by employees and representatives nominated by recognised trade unions. Given the

scope under the Regulations for organisations to rely on direct I&C methods only, the research team sought to include examples of this approach too in the research. Although exploratory discussions were held with three organisations with such arrangements they declined to take part.

Four of the 25 case study organisations dropped out of the research after the initial stage. In one case, the company concerned had gone into administration. The withdrawal of the three others appeared to reflect in part the growing sensitivity of the issues under investigation in the organisations concerned. In a number of cases, organisations declined to take part in the employee survey, variously citing factors such as substantial restructuring, survey 'fatigue' and the likelihood of adverse results as a consequence of recent developments within the organisation. Surveys following both the initial and final interviews were carried out in 16 of the case study organisations.

### **1.3 The case study organisations and their I&C arrangements**

Table 1 provides brief details of all the 25 case study organisations that took part in the project.

- All the case studies were drawn from the private and voluntary sector, with considerable variation in their spheres of activity. The public sector was excluded since it was felt that high unionisation and the traditions of consultation would be likely to mean there were fewer new organisational responses following the enactment of the Regulations. In practice, a number of the organisations studied had recently come from the public sector.
- Workforce size (at the start of the fieldwork) ranged from over 6,200 in the largest wave 1 organisation to 40 in the smallest wave 3 organisation.
- Fourteen of the case study organisations recognised trade unions for the purposes of collective representation in at least some parts of the organisation.
- The most common type of I&C arrangements – present in 14 organisations – was that of I&C bodies elected by all employees. Eleven of the unionised organisations had 'hybrid' I&C bodies (involving both union and non-union representatives – shown by WERS 2004 to be the most common type of consultative body in workplaces with at least some union representatives present) and two organisations informed and consulted via recognised trade unions. Two organisations used different types of I&C arrangement at different sites.
- In terms of the basis/status of the I&C arrangements, the largest group of organisations (12, eight of which were larger, wave 1 organisations) comprised those with a voluntary agreement or PEA

that had been signed by employee representatives, closely followed by 11 where the I&C arrangements had been introduced unilaterally by management. As already noted, there was one example of a negotiated agreement under the Regulations. In two cases, I&C was via union representatives, anchored in a union recognition agreement. At one organisation, the formal basis of the I&C arrangements differed between sites.

Annex 2 contains individual case summaries for each of the 21 surviving participant organisations, giving more detail about nature and operation of the I&C arrangements introduced.

## **1.4 Structure of the report**

Chapter 2 reviews why the participating organisations initiated (or, in some cases, revamped) I&C arrangements, analysing the key influences shaping the decision. Chapter 3 assesses the different patterns of I&C activity observed over the period of the research and applies a three-way categorisation of the case study organisations based on the role and impact of their I&C bodies. Chapter 4 discusses the range of factors whose interplay has shaped the experience, development and sustainability of the I&C bodies, before assessing outcomes of the consultation process. Chapter 5 reviews trade union attitudes towards – and engagement with – I&C bodies, while chapter 6 focuses on the (limited) impact of the legal framework. The concluding chapter highlights the key themes to have emerged from the project.

**Table 1 Key characteristics of the case study organisations and their I&C arrangements**

Case study wave	Organisation / sector	Workforce size (at start of fieldwork)	Union recognition	Date I&C arrangement set up	Type of I&C arrangement			Basis/status of I&C arrangements			
					I&C bodies elected by all employees	'Hybrid' I&C bodies (involving both union and non-union reps)	I&C via trade unions	Voluntary agreement / PEA	Negotiated agreement under the Regulations	Introduced unilaterally by management	Union recognition agreement
1	Engineering company	4,500	✓	2005		✓			✓ (draft)		
1	Infrastructure contractor*	2,500	✓	2005		✓		✓			
1	Electronics company*	620		2005	✓			✓			
1	News agency	1,700		2003	✓			✓			
1	Urban housing association	750	✓	2006		✓ (union seat left vacant)				✓	
1	Rural housing association	275	✓	2004		✓				✓	
1	Seaside housing association	240		2003	✓					✓	
1	Mobile phone company	6,200		2003	✓			✓			
1	National charity	3,500		2005 (relaunch)	✓			✓			

1	Care services company	500	✓	2006		✓		✓	
1	Cosmetics company**	1,300	✓ (at one of two sites)	2006 (relaunch)	✓ (non-union site)		✓ (unionised site)		✓ (non-union site) ✓ (unionised site)
1	Financial processing company	2,000	✓	2005	✓			✓	
1	Diversified technology company	3,500	✓ (at some sites)	2003-4	✓ (at two sites researched )	✓ (at one site researched )		✓	
2	Bathroom manufacturer**	160 (plus 20 sub-contract workers)	✓	2003		✓			✓
2	Hospice	150		2007 (relaunch)	✓				✓
2	Law firm	130		2007	✓			✓	
2	Northern housing association	170	✓	2007			✓		✓
2	Pharmaceuticals company**	160 (on site researched . Two further sites acquired subsequent	✓ (for consultation purposes)	2006 (relaunch)		✓			✓ (but employee input to redraft of constitution)

		ly)						
2	Professional association	150	✓	2007		✓ (union seat left vacant)	✓ (but no detailed constitution)	
2	Regional airport	125	✓	2005		✓		✓
2	Regional charity	100		2006	✓		✓	
3	Theatre	60 (+ 150 casual staff)	✓	2006		✓		✓
3	Safety company	40		2000/1	✓			✓
3	Snacks company	100		2007	✓		✓	
3	Marine services company**	70		2007	✓ (employee members of employee benefit trust)			✓

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\* I&C body now defunct.

\*\* Dropped out of research after initial phase.



# 2: Influences on the adoption and structure of I&C arrangements

This chapter summarises the factors and influences that led to initiation of I&C bodies in the 25 organisations studied. With one exception, that of the very small safety company, all of the I&C bodies were established, or in a few cases revamped at a time when the ICE Regulations were being actively considered or had been implemented. Six were formed in 2003 or 2004 while eight of the organisations with 150 + employees came into being in 2005 and 2006, at or just after the time the Regulations came into force for larger undertakings. In April 2007 the Regulations were extended to cover undertakings with 100 + employees. Of the eight organisations with between 100 and 150 employees studied seven established their I&C body in 2006 or 2007. The final incorporation of small undertakings, those between 50 and 100 employees, took place in April 2008. Of our four cases in this size range two I&C bodies were set up in 2007 and one in 2006. The research set out, among other things, to explore the hypothesis that the Regulations were likely to have been a major influence in the establishment of the I&C bodies. This was not the case in most organisations. This chapter looks at the key influences as described by the managers and representatives we interviewed.

## 2.1 Legislative background

The ICE Regulations were designed to give management and employees significant flexibility in the way arrangements for information sharing and consultation were to take place, as described in the previous section. Employees have the right to seek to negotiate on the establishment of an I&C body if 10% of the workforce ‘trigger’ a request. In practice this happens very infrequently and in the 25 cases only one manager felt there was even a remote possibility that employees would exercise their rights. Virtually all of the employee representatives interviewed were either wholly unaware of the Regulations or had only heard of them during training once the I&C body had been set up. Trade unions have no special rights under the Regulations yet they can seek to encourage employees to initiate negotiations. The CAC case involving Amicus and Macmillan Publishers, cited in chapter 1, concerned such an instance. Generally unions have not chosen to organise for the establishment of I&C bodies and in the unionised cases studied the full-time union officers were often ill-informed about the Regulations. In only one case did a union ask a company, where it was recognised, what action management intended to take in response to the Regulations. The effect of employee indifference or ignorance and union abstentionism was to leave the

way open for management to design and implement I&C arrangements to suit their needs. This management freedom of action was evident in the choice to establish an I&C body unilaterally without explicit employee endorsement (11 cases) or as a 'pre-existing agreement' (PEA) (12 cases). Under a PEA the structure and constitution of the I&C body, which must cover all employees, needs to be endorsed by the representatives or via a ballot. It was often unclear how systematically this had been done where management claimed to have a voluntary agreement, the necessary prerequisite for a PEA. In only one case was there a plan to give the I&C arrangements the status of a 'negotiated agreement' under the Regulations. This was done at the behest of the recognised unions to provide legal enforceability.

This management freedom of action did not mean that the Regulations were of no influence. First, the design of the constitutional arrangements, especially in the larger companies with more formalised arrangements, often drew on the Regulations' default provisions in identifying topics for I&C. Most also echoed the Regulations by including provisions on confidentiality and time off with pay for representatives. Second, the Regulations did have a catalytic effect in 11 of the cases, helping to shape the design and providing a platform for gaining top management support for the initiative. In four further cases the Regulations were seen as a critical influence, in part because of a felt need for large undertakings, especially multi-nationals, to be seen to adopt legal provisions and be 'good corporate citizens'. The Regulations were only a background influence, according to the managers interviewed, especially in the smaller organisations, in seven cases, being used to provide support to the decision making process.

## **2.2 Management and structural factors**

The organisations that agreed to take part in the research, from the many that did not, could not be chosen on a scientifically random basis and, as such, are not representative of the private sector. Yet it is clear that some structural influences did help shape managements' actions. It was particularly evident that an unusual number of the case study organisations were in the 'not for profit' or voluntary sector such as the two charities, four housing associations and the professional association. In these, especially the housing associations and charities, the community service ethos and a board structure where trustees were influential meant that employee involvement was seen as important and in line with the service orientation. Five of the organisations had recently come out of the public sector and there was felt management need to modernise and adopt a more inclusive management style seeking to involve all employees. There was a felt need also to move beyond public sector collective bargaining values, which were seen as adversarial, to new cooperative arrangements. Eleven of the case study organisations were owned by larger companies. Of the eight multinational companies four already had established a European Works Council and thus had experience of I&C. In some cases the influence of the corporate office was explicit in pushing for I&C arrangements, as in the engineering company,

the diversified technology company and the regional airport. In other cases this influence was more muted but local initiatives to develop I&C arrangements were seen to fit with wider corporate values, as in mobile phone.

Organisational size had a strong influence since larger companies, especially the very large, tended to opt for more formal and tiered arrangements of I&C bodies, in some cases linked to collective bargaining with trade unions at plant level and EWCs at the supra national tier as in the engineering company and in parts of the diversified technology company. The news agency had four I&C bodies at the regional level while the mobile phone company and the national charity had multi-tier, national and divisional or local I&C bodies (although in the national charity the regional bodies were later dismantled). Most organisations had single I&C bodies based at the head quarters and some had difficulty in getting dispersed staff to participate. The smaller organisations tended to be less formal in not rigidly following constitutional arrangements and often had less resources to support representatives yet in all cases meetings of the I&C bodies did take place and in most minutes were taken and publicised.

The most common reason given for embarking on I&C arrangements was the experience of organisational change which strained and highlighted inadequacies in existing communication arrangements. Before the recession the most common problem, seen in 15 of the case studies, related to rapid growth including mergers and acquisitions. In seven other cases, especially in the not-for-profit sector and in the three companies reliant on contract work, it was the loss of contracts, sometimes leading to plant closures or redundancies, which led to efforts to improve communication with the workforce and discuss the implications. Ownership changes were influential in two other organisations. An extra dimension in some companies, as part of the modernisation agenda, was to gain accreditation either to Investors in People or to the sector quality agency. These did not require the adoption of I&C arrangements but were concerned with the quality of management and communication with the workforce. The adoption of I&C arrangements was part of the modernisation agenda.

Part of the aim in adopting I&C arrangements was to improve staff responsiveness to change and the quality of decision taking while frequent mention was made of the need to inculcate an understanding of company vision and values or goals and mission in line with modern management parlance. This was often the responsibility of a newly appointed HR manager or senior manager. These new 'champions' of a better way of managing people, including I&C arrangements, were found in 15 of the organisations studied. At the time of the initial research the term 'employee engagement' was not as ubiquitous as it is today but this neatly sums up what many of the organisations were seeking to gain. It was hoped this would occur through the implementation of I&C arrangements in association with much greater emphasis given to direct communication and involvement of the workforce,

especially in the larger organisations, using a battery of techniques. I&C initiatives were thus part of wider efforts to improve communication and build employee engagement. This has implications for the evaluation of the success or otherwise of consultative practices. At the time of the first employee survey in 19 organisations only four had a climate of employee relations worse than the national average while ten were better and in 16 of these companies managers were rated better than the UK average in providing information with only one below<sup>4</sup>.

This managerial agenda reflected the dominant, if not exclusive, role that management played in establishing the I&C arrangements. Information sharing and consultation before decisions are taken, as envisaged in the standard provisions of the Regulations, were very much secondary considerations.

### **2.3 Trade unions.**

Managements were inevitably influenced in their choice of I&C arrangements by trade unions. Where trade unions were already recognised for collective bargaining purposes for part of the workforce, as in 12 of the organisations, the question was how this could be accommodated in the I&C arrangements covering all employees. In two cases where union membership was high, as in one of plants in the diversified technology company and in the engineering company, the union dominated the I&C body but accepted non-union representatives from parts of the workforce beyond the scope of collective bargaining. In neither case did the union initiate the formation of the I&C body but they were involved in discussions on its form. In other cases, often where union membership was below a third of the workforce, the recognised union was offered a seat on the I&C body and/or observer status. Management often wanted a unified body but the unions were wary of losing their exclusive right to collective bargaining. In one case, the regional charity, the union had been derecognised before the I&C body was established while in another, the northern housing association, management opted to recognise the union as the representative body for I&C arrangements. In no case did management use ICE to derecognise the union preferring to have both collective bargaining and I&C arrangements. In two cases the union did not take up the offer of a seat in the I&C body. In only one case, that of the financial processing company, was a recognised union, albeit with only 15% membership, not given a dedicated seat at the I&C body. We report on the operation of these 11 'hybrid' (union and non-union) I&C bodies later.

In four cases there was reasonably clear evidence that management embarked on the creation of an I&C body in part, at least, as a means of union avoidance. This was very clear in the case of the mobile phone company since the unions had mounted a bid to gain recognition but lost in a

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<sup>4</sup> Comparisons were made with 2004 Workplace Employment Relations Survey by using identical questions.

workforce ballot; management proposed the establishment of the I&C body during this period. Elsewhere in the electronics company, the news agency and the seaside housing association, while there was no particular union pressure on these companies, the possibility that there might be at some time in the future did influence managements thinking. At the bathroom manufacturer and the regional airport union recognition came after the establishment of the I&C bodies.

# 3: Evaluating the role and impact of I&C in practice

The nature, extent and impact of the consultation process varied markedly between our case study organisations. The three-way categorisation presented below is based on the research team's assessment of the longitudinal evidence from each completed case study (a total of 21 organisations). It takes account of a variety of indicators, in particular:

- the nature of the I&C body's agenda (strategic issues v housekeeping);
- the extent of the I&C process (consultation v communication); and
- its influence, if any, on management decision-making.

Our criteria for making this assessment are informed by the provisions of the ICE Regulations. Although in legal terms the Regulations' default I&C provisions apply only where an employer fails to initiate negotiations following a valid employee request under the Regulations, or where the parties fail to reach a negotiated agreement, they nonetheless provide a public policy benchmark, reflecting the requirements of EU law, against which to assess organisations' I&C practice.

Reflecting the EU Directive, the default I&C provisions envisage that the subject matter of consultation is business decisions and the management of change. This is very much in line with the established tradition of consultation found in earlier EU Directives (on collective redundancies and business transfers) and in national works council systems in, for example, Germany and the Netherlands under which 'consultation is generally regarded as a right to be informed of planned measures in advance and to have an opportunity to express an opinion prior to implementation' (Budd and Zagelmeyer 2010: 492).

Substantively, the Regulations' default statutory provisions (Regulation 20(1)) specify I&C (to varying extents) on:

- 'the recent and probable development of the undertaking's activities and economic situation' (information only);
- 'the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, in particular where there is a threat to employment within the undertaking (information and consultation); and

- ‘decisions likely to lead to substantial changes in work organisation or in contractual relations’, including collective redundancies and transfers of undertakings (information and consultation ‘with a view to reaching agreement’).

Procedurally, the meaning of ‘consultation’ is defined in fairly broad terms by the ICE Regulations and the Directive as ‘the exchange of views and establishment of dialogue’ between management and employee representatives. However, the Regulations’/Directive’s default provisions set out a more specific, phased consultation procedure. Under Regulation 20(3), information must be given ‘at such time, in such fashion and with such content’ as are appropriate to enable the employee representatives ‘to conduct an adequate study and, where necessary, to prepare for consultation’. Under Regulation 20(4) employers must ensure that consultation is conducted:

- ‘in such a way as to ensure the timing, method and content of the consultation are appropriate’;
- on the basis of information supplied by the employer to the employee representatives and any opinion which the latter express to the employer;
- in such a way as to enable employee representatives to meet with management at the appropriate level depending on the subject under discussion and ‘obtain a reasoned response to any such opinion’;
- ‘with a view to reaching agreement’ in the case of ‘decisions likely to lead to substantial changes in work organisation or in contractual relations’.

More generally, consultation has traditionally been defined as managers seeking and taking account of employees’ views before making a decision (Acas, 2005; CIPD, 2004). Case law reinforces this definition: consultation should occur at a point when proposals are still at a formative stage, giving those consulted a fair and proper opportunity to understand fully the matters about which they are being consulted and to express their views, which would then be given genuine and conscientious consideration by management.<sup>5</sup> However, responsibility for making the decision remains that of management.

With these considerations in mind, the I&C arrangements at the 21 surviving case study organisations can be grouped into three categories:

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<sup>5</sup> *R v British Coal Corporation and Secretary of State for Trade and Industry ex parte Price and others* – [1994] IRLR 72.

- **Group A – ‘active consulters’:** This group is made up of those case study organisations where there was I&C on ‘strategic’ organisational issues (e.g. restructuring) as envisaged by the ICE Regulations’ default provisions, a proactive approach in this respect by management and a degree of employee influence over outcomes, in some cases extending to consultation ‘with a view to reaching agreement’.
- **Group B – ‘communicators’:** Elsewhere, management used I&C bodies essentially for ‘communications’ purposes rather than consultation as such. ‘Strategic’ issues rarely featured on the agenda, and then only after decisions had been taken by management: representatives were expected to communicate the decision to employees and feed back their views. Otherwise, I&C bodies were primarily a forum for progressing staff-raised issues, typically HR policies, ‘housekeeping’ matters and social activities.
- **Group C – I&C bodies defunct:** In some organisations, the I&C bodies fairly quickly ceased operating.

This classification was first adopted in the December 2009 report (Hall et al. 2009) that followed the final phase of research in the wave 1 organisations. The present report extends the analysis of the operation and impact of I&C bodies in the first wave of larger case study organisations to I&C developments in the medium-sized and small organisations covered by the second and third waves of case studies in which fieldwork has since been completed.

Inclusion in a particular category reflects the organisation’s overall approach to I&C at the end point of the research. Certain cases might well have been categorised differently at an earlier stage in the research process, reflecting changing dynamics within the organisation. For example, some of the cases eventually categorised as ‘active consulters’ faced earlier teething problems: senior managers at the care services company commented in 2006 that they were ‘still driving the process’ and that it was taking a long time for employee representatives to ‘feel their feet’, whereas at the financial processing company an early Acas review of the I&C arrangements reportedly commented that the forum was not informed or consulted early enough in the decision-making process. However, subsequent developments in I&C practice were such that, by the end of the research period, they met the criteria for inclusion in group A. Conversely, of the four wave 1 organisations in which the I&C bodies were identified in our first report as having influenced specific management decisions, three – the news agency, the rural housing association and the two non-union plants at the diversified technology company - did not sustain this approach over the subsequent two years. At the news agency, despite the I&C bodies’ early influence over employee benefits and staff bonuses, restructuring issues were dealt with only to a limited extent, where raised by employee representatives. Management did



not put upcoming business decisions on the I&C bodies' agenda and continued to emphasise their communication rather than consultation role. The I&C body at the rural housing association too developed a predominantly 'communications' role, alongside the coordination of social activities, whereas at the diversified technology company management did not consider the employee representatives at two non-union plants to have gained sufficient experience to handle major changes.

Table 2 provides brief details of the overall approach to I&C observed at each of our 21 'surviving' case study organisations and, on that basis, their categorisation according to the scheme set out above. The reasons why the case study organisations' I&C arrangements have followed these differing developmental trajectories are the focus of the next chapter.

A substantial minority (eight) of our 21 surviving case study organisations were 'active consulters'. This category included three cases – the mobile phone company, the diversified technology company (at the unionised site researched) and the safety company – where management was proactive in discussing strategic organisational issues with the I&C body and engaged in extensive consultation leading to agreed outcomes. It also included five others where consultation practice was less developed, involving a degree of I&C on strategic decisions but with more limited evidence of employee views being influential. This was the case at the care services company, the financial processing company, the regional charity, the northern housing association and the theatre.

The largest group of case study organisations (12) fell into the 'communicators' category: the news agency<sup>6</sup>, the engineering company, the three housing associations (urban, rural and seaside), the national charity, the diversified technology company (at the two non-union sites researched), the hospice, the law firm, the professional association, the regional airport and the snacks company.

Finally, in two organisations – the electronics company and the infrastructure contractor – the I&C bodies became defunct after only two or three years in existence, albeit in differing circumstances.

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<sup>6</sup> In our previous report, confined to the wave 1 organisations, the news agency was originally classified as a group A 'active consulter' but further analysis alongside the wave 2 and 3 cases confirmed that the organisation is more appropriately included among the group B 'communicators'.

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**Table 2 Patterns of I&C in the case study organisations**

Category	Company/	Overall approach to I&C
Active Consulter	Mobile phone company	Management routinely initiated consultation and sought agreement with I&C bodies on business case for, and implementation of, restructuring, redundancies, outsourcing, staff transfers etc. Employee representatives usually put forward counter-proposals. Process described by management as 'effectively negotiation' and by lead employee representative as providing 'ability to influence' management decisions.
Active Consulter	Diversified technology company (at one site researched)	Extensive and detailed consultation on wide range of issues via union-based but 'hybrid' I&C body. Management 'always up front with us' and 'do take things on board' (union/employee representatives). Intensive consultation exercise during 2008 over major proposed redundancies amounted to negotiation rather than consultation, resulting in agreed measures to reduce redundancies while reforming work organisation
Active Consulter	Safety company	Regular business information and discussion of important issues, often on confidential basis and reaching consensus, e.g. enforced shutdown, pensions, holiday planning. Monthly representatives' meetings to allocate £2000 social fund and filter items to be raised with management. Seven ad hoc meetings held in 2009 to manage substantial cost reduction and redundancies. Plans and implementation influenced by representatives e.g. short-time working.
Active Consulter	Financial processing company	I&C body dealt with more meaningful issues following company's takeover by private equity group and changes in business volumes. Special meetings to discuss management changes, job losses and redeployment of staff, alongside separate consultation on handling redundancies with recognised union. Increasing number of issues were subject of consultation, not just information, including working parties on HR and reward issues.
Active Consulter	Care services company	'Hybrid' I&C body informed about strategic developments and consulted about changes to staffing structure. Special meetings held on care and support management restructuring proposals, in-house staff bank and annual pay increase. I&C body also asked to approve new HR policies. Neither managers nor employee representatives considered consultation process had significant influence on management decisions.
Active Consulter	Regional charity	Initially I&C body was 'top down' communications channel for organisational changes. But dissatisfaction voiced by staff representatives, review of function and major financial difficulties led to more active consultative role. Representatives' views increasingly influential, e.g. on new performance-related pay system and distribution of available salary pot. I&C body successfully sought more meetings, 'representatives only' period in meetings and new chair.
Active Consulter	Northern housing association	Quarterly meetings actively engaged in discussions about major changes required to reduce operating costs through office reorganisation and review of staff terms and conditions. Some key issues such as outsourcing of 'out-of-hours' cover subject to intensive consultation. Issues and outcomes generally effectively disseminated through weekly team briefings of staff. Process widely seen as facilitating employee acceptance of unpalatable change.
Active Consulter	Theatre	Bulk of agenda set by HR manager. Staff representatives raised mainly operational and staff benefits issues. No formal consultation procedure specified. Management's approach varied according to issue. Some important items discussed with I&C body, including pay-related matters. Staff feedback led management to drop proposed move from weekly to monthly pay for casual staff – a rare instance of I&C body influencing management decisions.

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Communicator	News agency	Restructuring issues dealt with only to limited extent, where raised by employee representatives. Questions about possible sale of a division prompted management commitment to schedule meetings of I&C bodies if sale proceeded, but business decisions not tabled in advance by management. Emphasis on I&C bodies' communication role rather than consultation. I&C bodies' early influence over staff benefits and bonuses a high point not subsequently sustained.
Communicator	Engineering company	Twice-yearly national I&C meetings rarely dealt with either strategic corporate issues or with matters directly relating to employment and contractual issues. Former were dealt with by company's European Works Council; latter by individual locations via their collective bargaining machinery. Instead, focus of national I&C meetings was on emerging corporate HR policy issues and promotion of good HR practice across locations.
Communicator	Urban housing association	Employee forum's agenda dominated by housekeeping issues raised by representatives, with items tabled by management for downward communication (e.g. relocation of head office) becoming increasingly rare. Advanced plans for a merger with another housing association were not raised with forum. Efforts to revitalise forum included discussion of issues such as sickness policy and employee 'well-being' agenda.
Communicator	Rural housing association	Employee forum initially discussed some major issues, e.g. changes to pay structure and pensions, with management (though not employee representatives) citing some impact on outcomes. Subsequent development of predominantly communications role, with forum acting as conduit to workforce for information about e.g. planned amalgamation. Forum coordinated calendar of social activities.
Communicator	Seaside housing association	Staff council's agenda included some strategic issues such as tenders won and lost but was dominated by HR issues. Main focus was on information dissemination by management. Some evidence of consultation, but limited to minor changes in HR policies and procedures. Council's effectiveness seen by management as fairly low. Proposals to withdraw from nationally-negotiated pay rates scheduled for discussion at time the research ended.
Communicator	National charity	Issues appearing on agenda of national employee forum (three lower-level business-line forums having been wound up) included restructuring, reorganisations and pay review guidelines, but primary emphasis was on 'two-way communication' (reflected in a shift in its full-time facilitator's reporting line from HR to communications). Diverse range of issues dealt with by sub-committees but with a high level of informality.
Communicator	Diversified technology company (at two sites researched)	Employee forums at two non-union plants much less developed than hybrid I&C body at company's unionised plant included in group A above and were not considered robust enough by management to handle major changes. Forums informed about redundancies only after individual discussion with those affected. Management briefed forums on business developments, but main role was dealing with housekeeping matters raised by employee representatives.
Communicator	Hospice	Initially, forum used working parties to tackle issues such as smoking ban but subsequent decline in forum's role. Strategic information and decisions not raised by management. Much of agenda tabled by employee representatives focussed on local housekeeping issues. Growth in communication channels also undermined role of forum. Terms of reference revised in 2008 and listed wide range of management issues for I&C but made little difference in practice.
Communicator	Law firm	Decrease in staff-raised agenda items – typically operational, staff benefits and housekeeping issues – but some 'bigger issues' raised, e.g. impact of recession on jobs, workload and morale. Also increase in number and significance of management-raised issues, notably HR policies. Some staff suggestions and views acted on but in general

		management used I&C body primarily for communications. Its role stopped short of formal consultation.
Communicator	Professional association	Staff forum's agenda largely limited to routine management report on organisation's main performance indicators, training and development plans and 'low level' housekeeping issues raised by staff representatives. Some substantial organisational initiatives not tabled by senior management for discussion (e.g. 2009 strategic plan). Neither management nor staff representatives interviewed thought that forum was influential.
Communicator	Regional airport	Most agenda items raised by staff representatives and generally concerned facilities or operational issues. Management consulted I&C body on draft HR policies emanating from group level. Major redevelopment of airport was subject of direct communications with staff but also featured on I&C body's agenda. I&C body's narrow role reflected management preferences for direct communication and recognition of two unions representing most airport staff.
Communicator	Snacks company	Relatively few issues raised by management ('We do not talk about plans'). Most raised by employee representatives and forum became bogged down with small housekeeping issues. Forum revitalised to some extent with pre-meetings to filter issues, better communication of outcomes and some discussion of bigger, management-initiated items e.g. training, new computer system. Recession-induced irregular cancellation of Friday shift not discussed with forum.
Defunct	Electronics company	I&C forum initially focussed on expansion plans and impact of cancelled orders. But key announcements made directly to workforce, reflecting management's traditional reliance on direct communications. Forum soon perceived as ineffective by both management and employee representatives and ceased to meet. Management felt that representatives made insufficient input, while representatives felt forum's agenda was controlled by management.
Defunct	Infrastructure contractor	Initial experience appeared broadly positive, involving dialogue on issues such as business strategy and restructuring. Extensive restructuring resulted in decision to split original forum, covering both road and rail businesses, into two but each new forum met only once. Continued structural change in both businesses contributed to this, as did absence of effective managerial support and of union/employee pressure for their continuation.

# 4: The dynamics of I&C – the ‘active consulters’ and ‘communicators’ compared

This chapter discusses the range of factors whose interplay has shaped the experience, development and sustainability of I&C bodies in the 21 case study organisations where the research was completed over the duration of the project. These are summarised in Table 3.

## 4.1 The economic and business context

The research in larger organisations, wave1, was concluded before the full effects of the recession began to be felt although in each of the 12 cases there were significant business issues which, actually or potentially, impacted on employment and work organisation. The final field work in the medium and small sized organisations, waves two and three, did take place when the recession was having an impact on some of them. In those organisations which were struggling to reduce costs there was potentially a major role for the I&C body to consider managements’ proposals and explore ways in which the cut backs could be achieved and implemented. The experience of major, and often painful change, can provide an opportunity for effective consultation to occur and, at times, flourish. This was particularly evident in the organisations where active consultation took place.

The active consulters generally did, by the end of the research, share business information on a regular basis and consultation did take place over strategic decisions with employment consequences. A good example of a growing awareness of strategic issues was the regional charity. Here the I&C body had originally been used by management as a communication body but the experience of economic difficulty in 2008 and the way it was handled led to a marked change in the role and effectiveness of the forum. In that year there were redundancies in March leading to job changes and a major restructuring of the top management team. These were not discussed at the forum but representatives were asked to communicate the changes to staff. The CEO was replaced in May and the new incumbent announced a review of the role of the staff forum. This was followed by further redundancies in September with an end to cost of living awards. These were discussed at the forum and three extra meetings were held. In this case it was both the experience of major and painful change and disquiet over the way it was originally handled which galvanised the representatives and led new management to reconsider the role of the I&C body.

**Table 3 Factors shaping the experience/development/sustainability of I&C bodies**

Category	Company / organisation	Economic / business context*	Collective bargaining	Type of I&C body	Management commitment and approach to consultation	Management support for I&C body	Organisation of employee representatives	Trade union engagement with I&C body
Group A	Mobile phone company	Highly competitive; extensive restructuring	No	Elected by all employees	Proactive; seeking agreement	Top managers attend; training	Strong	Indirect
Forum for active consultation	Diversified technology company(at one site researched)	Tough; offshoring leading to major redundancies	Yes	Hybrid	Proactive; seeking agreement	Top managers attend; training	Strong; union-based	Strong
	Safety company	Market collapse	No	Elected by all employees	Proactive; seeking agreement	Top manager attends; training	Informal but effective	N/A
	Care services company	Rapidly changing sector; expansion and internal reorganisation	Yes	Hybrid	Active; after decision taken	Top managers attend; training	Developing	Influential
	Financial processing company	Highly competitive; takeover and restructuring	Yes	Elected by all employees	Active; after decision taken	Top managers attend; training	Limited	None, despite union recognition
	Regional charity	Financial pressures; loss of contracts; restructuring and job losses	No	Elected by all employees	Emphasis on communications but increasingly significant agenda	Top managers attend; training provided internally	Increasingly assertive; new provision for period of 'reps only' discussion at meetings	N/A
	Northern housing association	Increasingly competitive financial environment; major cost savings	Yes	Recognised union	Proactive; seeking engagement	Top managers attend; union-provided training	Limited (dependent on FTO)	I&C body is union based

	Theatre	Some restructuring; major redevelopment	Yes	Hybrid	Proactive; seeking staff feedback on specific issues	HR manager attends; no training	No coordination	Union weak but has rep/members on I&C body
Group B	News agency	Some restructuring	No	Elected by all employees	Information sharing	Top managers attend; training;	Limited	N/A
Forum for communication and staff concerns	Engineering company	Stable; growth	Yes	Hybrid	Limited remit; active consultation in other forums	HR attends	Strong, union based	Strong
	Urban housing association	Stable; no change	Yes	Hybrid (but union seats left vacant)	Communication bridge with staff	Top managers attend; renewal	Weak; individualised	None, despite union recognition
	Rural housing association	Some loss of funding and internal reorganisation	Yes	Hybrid	Communication bridge with staff	Top managers attend; training; renewal	Limited	Participated
	Seaside housing association	Loss of some contracts; senior management changes	No	Elected by all employees	Communication bridge with staff	Top managers attend; training; renewal	Weak	N/A
	National charity	Internal restructuring	No	Elected by all employees	Informal; information sharing	Top managers attend; training	Weak	N/A
	Diversified technology company (at two sites researched)	Redundancies at both sites	No	Elected by all employees	Extensive information sharing	Site managers attend; training; renewal	Weak; individualised	N/A
	Hospice	Stable	No	Elected by all employees	Limited; communication only	Senior managers attend; training; renewal	Weak; individualised	N/A

	Law firm	Difficult trading conditions and falling revenues; job losses	No	Elected by all employees	Limited; communication only; largely staff-driven agenda	Top managers attend; initial training only	No coordination	N/A
	Professional association	Net growth in membership; balanced budget after period of financial stringency	Yes	Hybrid (but union seat left vacant)	Limited; communication only; largely staff-driven agenda	Senior manager attends; no training but in prospect	Limited	No direct involvement; but most reps are union members
	Regional airport	Major re-development but challenging economic context; pay freeze	Yes	Hybrid	Limited; communication only; largely staff-driven agenda	Top managers attend; training	No coordination	Limited; focus on developing recent recognition arrangements
	Snacks company	Declining demand; cutbacks	No	Elected by all employees	Limited; communication only; largely staff-driven agenda	Site manager attends; briefing notes of meetings	Short pre-meetings; some filtering of issues	N/A
Group C	Electronics company	Growth until onset of recession	No	Elected by all employees	Minimalist then avoidance	Withdrawn	Weak	N/A
Defunct	Infrastructure contractor	Extensive restructuring	Yes	Hybrid	Minimalist then avoidance	Withdrawn	Weak	Weak

\* Final research interviews in a number of 'wave 1' cases took place before the full implications of the onset of recession had become apparent.

Four case study organisations excluded: the cosmetics, pharmaceuticals, bathroom manufacturer and marine services companies as only one phase of research was carried out before they withdrew from the project.



The recession had a sudden and dramatic impact on the safety company when orders collapsed in March 2008 and continued at a very low level for many months. Prior to this regular meetings of the works council had taken place with minutes produced and a £2000 kitty to spend on social events. This formality was abandoned and seven ad hoc meetings took place to discuss, in confidence, how the factory could be saved and redundancies could be avoided by going onto short time working. This lasted for nine months before redundancies had to be made. This intense process of consultation was similar in the unionised plant of the diversified technology company where the works council, which included two non-union staff representatives, held many meetings to work out how best to reduce numbers of employees from 450 to 100 and redeploy remaining staff. This close working also took place in the mobile phone company. Less intense, but still meaningful consultation took place among the other active consulters as summarised in Table 3. In some cases joint working groups were formed to consider particular issues such as the cost reduction of call out arrangements in the northern housing association.

It was quite common among the active consulters for extra meetings of the I&C body to be held outside the normal, agreed cycle to consider strategic or important pressing matters and allow for debate. Where this was done, the information was often provided in confidence in advance of public announcements. In the mobile phone company there was a special 'non-disclosure' agreement while elsewhere in the larger organisations the constitution often included a confidentiality clause (Hall et al. 2007: 28-29). The requirement to keep information confidential, as well as the substance of discussion, until an agreed time can be challenging for representatives imbued with a belief that their job is to report back. This is discussed more in a later section of this chapter. It worth noting here that in no case was there any hint or accusation that confidences had been breached which speaks well of relationships established in periods of intense consultation.

In the 'communicators' group it was most unusual for extra meetings of the forum to be held and confidential information was rarely provided, or done so only a few hours before the public announcement. In some cases this may have been because there were no major issues of concern. A good example of the communicators group of organisations is the hospice. Here little strategic change took place and the I&C body had no strategic role. It lost its relevance as management did not share financial and business information with the forum. As a result it was left with raising housekeeping matters. At the end of the research both HR manager and the employee representative chair of the I&C body commented that trying to get the forum to be an effective body was akin to 'flogging a dead horse'. At the snacks company the recession did lead to some temporary cancellations of Friday shift working but nothing more than that. This was not discussed at the forum since management took the view that 'we do not talk about plans'. At the law firm, while recession had led to some redundancies, these had been handled through individual or departmental discussions, and not discussed directly at

I&C meetings. However, representatives on the I&C body did raise the broader effects of the recession on the firm's business and the impact of job losses on staff morale and the managing partner undertook a series of departmental meetings to discuss the challenges facing the firm with staff.

This lack of big issues in some of the communicators may explain why active consultation had not developed but it is not a complete explanation. At the urban housing association, for example, the HR manager said that she would discuss a big business issue at the I&C body but this would only be once the decision had been taken. The purpose of the discussion would be to brief the representatives so that they could communicate the decision to staff and get feedback.

## **4.2 Management commitment and approach to the consultation process**

The most notable defining feature of the 'active consulters' group of organisations was managements' willingness to share information and consult over issues such as business decisions and aspects of HR policy as shown in Table 3. For example, the northern housing association followed the list of issues specified in the standard provisions of the Regulations including business prospects, staff projections and bids for new work. At the regional charity, where the I&C body has been revitalised, information is now regularly provided on contracts tendered for, with subsequent information on the successes and failures. Management in these organisations also tended to place HR policy and practice changes and reviews on the agenda. This was done in the theatre (payment of casuals on a monthly basis, the payment of bonuses and absence procedures) – as well as in the northern housing association.

The position of other organisations, mainly in the consulters group, tended to be that only rarely was information provided in advance of wider announcements and prospective changes were not raised. In some cases this was because of managements' reluctance to do so, often stressing that the role of the forum was to be a place where staff could raise concerns. This was the case in the hospice and law firm, although in this latter case management did raise a pressing HR policy matter, namely absence payments in cold weather. In other words the consultative body was viewed as a means of ensuring upward communication from staff direct to senior management. A further explanation for the limited role of the I&C bodies in the 'communicator' and the 'defunct' groups is the priority given to direct communication to staff. In the electronics company senior management gave strong preference to direct communication to employees through team briefing and in staff meetings addressed by the CEO while the issues discussed in these fora were not raised in the I&C body either before or after. Elsewhere in some of the 'communicator' group of companies the plethora of communication channels tended to mean that the I&C bodies were crowded out as more effective means of communicating to employees were

developed. This was the experience in the airport, the theatre and the hospice. The I&C bodies had nothing distinctive to discuss and management communications had often been provided via team briefings before being raised at the I&C body. In contrast in the 'active' consultation companies the agenda for meetings, especially special meetings called to deal with 'big' issues, was distinctively different from items covered in monthly line manager briefing sessions and management briefings were able, subject to confidentiality, to show this. Many managements took care to ensure that the work of the I&C body was clearly communicated.

Management ambiguity about the role of the forum was also evident. At the airport management did not want to dominate the forum and thereby turn it into a management briefing body since, in their view, it is a staff forum where representatives should raise issues. The concern was that the representatives were only raising housekeeping and facilities questions, not bigger issues. It is now 'at risk of slipping into obscurity'. The decline in the forum at the hospice was for much the same reasons. Here the employee representative chairman of the forum observed that it was 'outside the normal communication channels. It is now difficult to say what its role is'. Where management expect the representatives to raise items, and rarely put anything on the agenda themselves, the tendency is for many items to be raised directly at the meeting without prior notice and for these to be small departmental issues which could be better raised with the line manager.

It was quite common, especially among the 'communicator' group of organisations, for the I&C body to be active when first established but to decline in relevance once the plethora of issues raised by representatives had been resolved. This was the case in the hospice where working parties of representatives had been formed to deal with contentious issues such as the smoking ban. Thereafter no further working groups were formed. This was the case in the three housing associations in the wave 1 group of companies and in the law firm and the snacks company in group 2.

It would be misleading to imply that the I&C bodies in the 'communicator' group of organisations had all lost effectiveness. It depends on the expectations that management and the representatives have of the role of such bodies. Where management took the view that the primary function of the I&C body was to be a forum where representatives could raise matters of concern, as opposed to a forum for the discussion of strategic issues, it could, in these terms, be termed a useful body. The snacks company is a good example of this. Efforts were made by the HR manager to improve the operation of the staff forum by producing minutes quickly and publishing them in bullet point form on a notice board in the canteen and reminding representatives, especially newly appointed ones, of the function of the forum. A 15-minute pre-meeting was held before each staff council meeting to weed out minor housekeeping items and, as before, representatives were paid £20 a month to attend. There was general satisfaction that the forum was working in the way intended.

The snacks company was the only organisation with relatively few other channels of communication between management and the work force. The semi-skilled workforce, paid at the national minimum wage, did not have access to computers so on line communication methods were not available and team meetings were sporadic. In the law firm it was the representatives who encouraged the managing partner to hold 'road shows' in departments to brief staff on the financial problems and cost reduction decisions brought on by the recession.

Our employee surveys in 16 of the 21 of the surviving organisations at the end of the research (see annex 1 for details of the methodology) provides clear evidence that direct forms of communication and involvement were much more likely to provide an opportunity for employees to express their views than via employee forums or employee representatives (Table 4). The survey asked 'how helpful do you find "team briefings with your manager", "joint consultative committees/staff forum/works council" and "union and other employee representatives" (among other options) in giving you an opportunity to express your views in this workplace'. Over three quarters of respondents found team briefings helpful compared with employee forums (one third) and representatives (just under a quarter in the seven 'communicator' organisations and nearly 30% in the eight 'active consulters'). The results must be treated with some care as in some organisations response rates were quite low but the findings are in line with previous research (Bryson 2004; Purcell and Georgiades 2006).

**Table 4 Helpfulness of three opportunities to express views in the workplace**

(% helpful; figures in () show % of respondents stating 'don't know' or 'not used here')

	Active consulters	Communicators
Team briefings	80.6 (5.9)	78.9 (7.2)
Employee forum	33.8 (43.7)	31.5 (41.43)
Employee representative	29.5 (47.4)	21.5 (54.0)*

\*significant at 0.05

Source: Warwick/UWE ICE survey – final year employee survey in 16 organisations with employee forums (n = 1730)

One explanation for the relatively low perception that employee forums or representatives provided opportunities for employees to express their views is that over half of the respondents in the communicator organisations either did not know of them or stated that they 'were not used here' (when, by definition, there were representatives). The awareness of forums and representatives were significantly higher in the 'active consulters' organisations but still quite low. This general lack of awareness is replicated in other research (Gollan 2006). This is understandable since employees have direct contact with their

line managers and team briefings usually take place between every two or four weeks, whereas representatives attend forum meetings which happen usually four to six times a year and, by definition, away from the shop or office floor. However, awareness of forums and representatives was higher in the active consulter organisations. There were some marked differences between organisations. These are shown in the Tables A and B in annex 1. In the two non-union sites at the diversified technology company, 62% of the respondents either did not know how helpful representatives were as a source of involvement ('helpfulness as a means of expressing views') or said that they did not exist in the company. In these two sites, in sharp contrast with the unionised site in the same company, management did not consult with I&C bodies before announcing large scale redundancies on the grounds that they doubted their capacity to deal with strategic consultation on such matters. Over half also said that they did not know of the employee forum. At the hospice over two thirds of respondents (69%) either did not know if representatives were helpful in letting them express their views or did not know there were any. This lack of knowledge had increased from the initial survey despite extensive efforts to publicise the work of the employee forum.

### **4.3 Management support for the I&C body**

It might be expected that one of the differences between the 'active consulters' and the 'communication' organisations would be differences in the degree of support provided by top management, seen, for example, in the attendance of senior management at forum meetings. This was not the case and across most cases it was common to find the top operations managers, including the facilities manager dealing with housekeeping matters, and the HR manager dealing with HR issues, in attendance. Usually it was the case that the most senior manager on site would attend some or most meetings. In the hospice the CEO began to attend meetings after the first round of research, perhaps influenced by data from other companies in the survey showing that senior executives do normally attend meetings. The only exceptions were at the engineering company where the national level I&C body focussed on HR matters and thus it was the HR director who attended, and the theatre where the HR manager was the only regular management attendee. Senior management attendance at, and organisational support for, the I&C body was generally strong whatever their conception of the I&C process. This reinforces the conclusion that differences in the practice of consultation emanate from active managerial preferences concerning the role of I&C rather than from inactivity and decline through neglect. The only clear evidence of a withdrawal of support came from the two organisations where the I&C forum became defunct before the start of the second year of the research. In both management just stopped holding meetings, an indication of just how central management are to the successful operation of I&C arrangements.

This support for the I&C bodies was matched by provision of paid time off for representatives to attend meetings. It was rare for problems of release from

normal work to be reported in part because the amount of time off needed was relatively small, being restricted in the main to attendance at forum meetings. As explained below, pre-meetings for representatives often did not take place despite being allowed for in the constitution. In four cases, all in the 'active consulter' group, a key individual on the employee side emerged as the dominant contact person with senior management and often informal discussions took place between meetings with these individuals. In the northern housing association and the care services company the regional union full-time officer was the contact point while in the unionised diversified technology company site and at the mobile phone company the lead employee representative worked full-time in this role, and both were active in other consultative fora such as the relevant EWCs.

When the forums were created, or revitalised, the provision of training for representatives was common but not universal, often provided by a third party like Acas and the IPA. The need for training was less obvious two years later except in the largest company, mobile phone, where some 70 representative elections took place at the end of two years. In some cases training lapsed even for newly appointed representatives, as in the urban housing association, while in others, especially among the smaller organisations, training meant a discussion with the HR manager and the provision of documents setting out the role and function of the forum and the responsibilities of representatives.

In some organisations, especially those which restricted the role of the I&C body to communication with the workforce, efforts were made to try to revitalise the forum. As noted above a common feeling was the representatives were not contributing effectively by being unable or unwilling to raise 'big' items at meetings. One response, as in one of the non-union plants of the diversified technology company and at the hospice was to invite Acas to provide further training. In other cases the appointment of another senior manager as chairman of the forum allowed for a reconsideration of the role and efforts to find items of substance for the forum to discuss such as the sickness absence policy at the urban housing association. In two cases, the hospice and the snacks company, the terms of reference of the I&C body were up dated and reissued. In regional charity, the revitalisation of the I&C body, following the 'crisis' of 2008, led to a change in the way the forum operated and a move from six-monthly to four-monthly meetings. Attempts were also made in some cases to improve the way the work of the forum was publicised. In general terms this was easier in the active consulters since they had more items of substance to report on and often used multiple channels including giving representatives the opportunity to report back at team briefings. At the theatre the HR manager sought to give credit to the work of the forum in her regular newsletter. This was the dilemma for some of the communicator organisations. At the airport management had set four benchmarks for success of the forum. There should be a 'lively debate, a proactive contribution by the representatives, a discussion of the business as a whole and a contribution to staff engagement", but this was not happening.

In the professional association the representatives wanted more guidance on their role from senior management but the senior manager's aim was 'to empower the staff forum to the extent that it decides what it wants to talk about. It is for them to decide'. This uncertainty about the role of staff forums was quite common among the communicator group of the organisations and less so in the active consulters. The dilemma was finding an effective role for the forum. Management genuinely wanted an active body to engage with but did not want to table business plans and prospects as agenda items, nor in some cases HR policy matters. It was the representatives' responsibilities to raise issues but, in the main the items that were raised were housekeeping matters, often at the request of their constituents.

#### **4.4 Organisation of employee representatives**

Active consultation requires specific behaviours from employee representatives, quite different from those involved in communication activities (and, indeed, from those required in 'traditional' collective bargaining or negotiation) and these in turn need material underpinning, almost always in management's gift. To participate effectively in consultation is often characterised as requiring: that employee representatives have sufficient time, facilities and opportunities for interaction to consider information given by management individually and, more important, collectively in order to discuss how to respond; that they have the expertise necessary to understand the information provided and to provide considered responses; and that they are seen by management, when necessary, as accurate representatives of employee opinion. By contrast in cases where management uses the I&C procedures largely as a means of information dissemination the same requirements do not exist; less time and expertise are perceived as necessary.

The precondition of effective employee representative participation in consultation is managerial commitment to the process as discussed above. Without management preparedness to provide appropriate information, allow appropriate time for response and take seriously any sensible employee responses there is little chance for effective employee side organisation to develop. Given the dominant role played by management in the establishment of new I&C arrangements this is unsurprising but it is important to note that there is no case of consultation being initiated or taken forward by employees or trade unions. The fact that all except one of the cases had arrangements that operated outside the statutory enforcement mechanisms of the ICE Regulations may be significant, since it is possible to imagine circumstances in which employees and or unions could use their statutory rights to come together and demand consultation, under which circumstances it is likely that they would have an effective system of employee representation prior to any managerial initiative or support. In the one case of a negotiated agreement (the engineering company) the strongly-established union had by the end of the study not chosen to use either its organisation

nor the legal provisions to press for effective consultation and preferred to use the I&C arrangements primarily for communication purposes.

Although managerial commitment may be seen as the necessary precondition for effective employee representation, other factors, as noted above, also played a part.

### ***Time, meeting and networking resources***

In very few cases, both among 'active consulters' and communicators, were there complaints of insufficient time to attend meetings or of inadequate resources to perform representative activities, although there were case among the 'communicators' such as the rural housing association where it was limited and, to some extent, restricted to attending scheduled meetings of the I&C body. In practice the extent and quality of such facilities varied between the two groups.

Two of the most effective cases of active consultation revolved around the activities of a full-time 'lead representative', both employees granted full-time exemption from normal duties by the company (one a trade union branch secretary, the other operating in a company where unions had no recognition for collective activities). In several other active consultation cases (e.g. the care services company and the northern housing association) the activities and support of external full-time union officials were relevant; in the latter case the official acted as the 'lead representative' on the I&C body. While not all their available time was spent on I&C activities, their positions enabled them not only to provide time to consider managerial proposals but to provide other support to the employee side, including training and induction support, the development of informal contacts with managerial counterparts and, in several cases, the organisation and conduct of pre-meetings of the employee side, important in building cohesion and allowing the employees, when necessary, to speak with one voice. Such meetings were a standard feature of two of the most effective active consulters, and in several others in this category, although in others pre-meetings were at best 'patchy'. But there was evidence of developments in organisations where initially no pre-meetings were found. One was at the care services company where by the end of the research pre-meetings were being held, for union representatives only. However, pre-meetings were not a universal feature of active consulter organisations; in particular there was little evidence that they took place in the smaller companies where, perhaps because of greater ease of informal contact, they were not seen to be necessary for employee side cohesion.

In the 'communicator' organisations, by contrast, such resources were more limited. We found no cases where 'lead' representatives had significant amounts of time to devote to their activities and in most cases it was not possible to discern the existence of such proactive 'lead' representatives, although in two cases – the hospice and the snacks company – the forum was chaired by an employee representative. Significantly, pre-meetings of representatives were rare, despite the occasional provision for such meetings



in agreements. This reflects the tendency of representatives in such organisations to be perceived by managers as agents of communication to employees and as individual 'sounding boards' for management proposals which, although useful to management, did not require a coherent and integrated employee opinion. When viewed in this way by managers, representatives themselves rarely felt the need to hold effective pre-meetings and tended to limit themselves at most to occasional informal contact, in face-to-face encounters or occasional e-mail exchanges. In two communicator companies – the urban housing association and the national charity – dedicated internet sites for representative communication were developed but fell into disuse. In the one case of the engineering company, where the facilities and resources for such meetings certainly existed through the strong trade union presence and was used for established collective bargaining it was not used as a means of resourcing effective consultation activities.

Such formal pre-meetings were often supplemented by informal networking between representatives (in the case of trade union representatives by existing union systems of meetings) through face-to-face meetings or telephone/internet contact and these also emerge as significant factors in building strong employee organisation. By contrast in some of the communicator companies, such as the rural housing association, pressures of work and managerial discouragement effectively prevented such informal contact, as did geographical dispersion in cases such as the news agency and the national charity.

### ***Training***

As discussed above, virtually all organisations provided induction training to new representatives throughout the research period although rather less systematically than when the forums were first established. Trade union representatives also were normally provided with training by their unions, although there is no evidence that this related specifically to I&C activities. Representative induction training was increasingly provided in-house, by HR managers, one re-using Acas training materials used in the set-up training programme. Overall, the more extensive and directed training was found among the active consulters rather than the communicators. In both the mobile phone company and the care services company such training provision was directed at employee representatives with an emphasis on specific skills needed for engaging in consultation, such as training in specific business matters likely to come up on the agenda. At the mobile phone company prospective candidates were briefed by the lead employee representative to ensure that they had realistic expectations concerning the role and at the unionised diversified technology company the non-union representatives who sat alongside the union in meetings requested specific training in the handling of redundancy.

Apart from these cases, specific training exercises were deployed in some communication organisations such as the urban housing association and at one the non-union sites of the diversified technology company as a means of

revitalising the declining activities of staff forums. Two of the non-union organisations provided training to representatives for a role in handling individual grievance and discipline cases although there is no evidence that it enhanced their collective representative activities; indeed, in the case of the national charity, individual casework rather than collective representation became their major role.

Given the importance of training for a new and in many cases unfamiliar role it is perhaps surprising that there were relatively few examples of representative training after the initial induction. It does not appear to have been a high managerial priority notwithstanding some managerial complaints about the perceived ineffectiveness of employee representatives, especially among the communicator organisations. In a minority of cases this was partly offset by the available expertise of union representatives. However, with the exception of one or two clear cases where appropriate training clearly contributed to active and effective consultation and a few others where its absence may have contributed to the weakness of employee organisation it is difficult to trace a clear pattern of relationships between training provision and the organisational strength of employees, despite the near-universal managerial formal recognition of the importance of training. In part, although there is only inferential rather than direct evidence for this, it may reflect a lack of managerial awareness in most cases that consultation (and indeed communication, in different ways) requires specific, directed training of representatives.

### ***Accountability to employees***

Virtually all the agreements studied contain procedures for the formal election of representatives. By and large, these were observed throughout, not least in the initial process of creating the new I&C bodies. But in several cases formal periods of tenure were not strictly observed and representatives remained uncontested in post after the formal expiry date. Further, perhaps most markedly in organisations where no union was present, formal election procedures were supplemented by other, informal, processes. This was seen in some form of direct or indirect 'sponsorship' or encouragement of certain individuals to stand when vacancies occurred, especially in organisations where replacement representatives were hard to find. Such encouragement came both from management and from other representatives. In such cases formal election procedures were rarely invoked since there was often only one candidate. There is nothing particularly unusual about such arrangements in the UK context. Similar processes are almost certainly characteristic of the emergence of, for example, trade union representatives within processes of traditional collective bargaining. This suggests, perhaps, that employees may judge the legitimacy and usefulness of representative systems more by their outcomes than by their democratic credentials. However, it is equally the case that employees may simply be unaware of and uninterested in the presence and activity of employee representatives and forums as our employee survey data indicated (see Table 4). Such a finding

is characteristic of most forms of employee representation in the UK over many years. One implication, reinforcing earlier points concerning the importance of managerial action, is that many employee representatives will draw confidence from managerial approval of their behaviour rather than employee endorsement.

This is not because employee representatives, usually with managerial support, do not seek and deploy a range of mechanisms for reporting back to fellow-employees. Many organisations had formal mechanisms for the regular dissemination of the outcomes of I&C activities including reports in newsletters, company intranet sites and so on. It was not possible to judge how widely and actively they were read; in a few cases they had fallen into disuse. Some organisations used management or team briefings of staff to flag up I&C activities. In other organisations representatives referred to their informal contacts with fellow employees on a daily basis as a means – sometimes, as in the case of the national charity the preferred means – of interaction. But it is not easy to discern any clear pattern of relationship between the effectiveness and nature of all such forms of report-back. The effectiveness of employee organisation appears to be more strongly related to representatives' own capacity for engagement than to other factors. Time, and perhaps in particular the use of time to hold pre-meetings and to deploy other methods of representative interaction, formal and informal, to develop coherent approaches, appears significantly more important among active consulters than communicators. Similarly, training, in particular developmental training after induction, combined in some cases with access to other sources of expertise such as trade union resources, appears also to be more strongly associated with active consulter organisations than with communicators. However, the third factor identified, which may be described as 'democratic legitimacy' is, at least as measured by active rather than passive participation by employees, appears to differ little between the stronger forms of employee organisation associated generally with active consultation and the weaker ones (as reported in Table 5). The clearest feature to emerge among employee representatives' involvement in active consultation is perhaps a growing confidence in their own abilities to perform this role. One striking finding was that representative turnover levels were in general significantly greater among 'communicators' than 'active consulters'. Whether this is cause or effect is difficult to say but it is clear that there is a clear relationship between a significant degree of representative stability and active consultation; a fact recognised in the mobile phone company's decision to extend representative tenure from two to four years. It is plausible, although impossible to prove, that employee representative tenure and effectiveness are closely related to managerial confidence in their abilities and preparedness to treat them seriously over matters of significance.

#### **4.5 Outcomes of the consultation process**

The assessment of outcomes associated with the I&C arrangements is not straight forward, either in theory or practice. The Regulations are not

predicated on the achievement of a particular outcome. It is the operation of the process of providing information and consulting on changes itself which is the end goal. Meaningful consultation of the type undertaken, to varying extents, by the active consulters does not have to lead to management changing their proposals since in consultation, unlike negotiation, the 'right of last say' rests with management. And, of course, the fact of choosing to consult employee representatives may lead management to structure their proposals prior to discussion at consultative forums to meet acceptance or achieve consensus. A measure of the extent to which consultation has led to changes in management proposals is useful but not sufficient. Many managements set out rather loose objectives when the I&C bodies were created or revitalised, as discussed in chapter 2. These covered such things as responsiveness to change, better productivity, understanding of company mission and improving management decision making. These are hard to measure. It is even more difficult to attribute successful outcomes to the consultation process given that I&C arrangements are only one element in the life of the organisation and can be expected to be of less influence on employees' attitudes and behaviour than direct forms of involvement, as shown in Table 4.

Acknowledging the difficulties in finding outcomes, we use three sources of data. First, we ask what evidence managements had collected to evaluate the I&C arrangements. Second, we look for instances where management plans or proposals, or the way they were to be implemented, had been influenced by consultation. Third, we use the survey of employees in 16 of the 21 companies to explore whether there are associations between consultation and five attitudinal outcomes which may be expected to be linked in some way to successful consultation. These are views on involvement, management behaviour, HR policies, the climate of employee relations, and organisational commitment, a key dimension to employee engagement.

In terms of the evidence systematically collected by management there was none. Not a single one of the organisations, including the two where the forum fell into disuse, had conducted an evaluation of the operation of the I&C arrangements nor collected information on either a regular or irregular basis. It was not that managements took the view that the collection of data or the effort involved in an evaluation were too expensive or costs would exceed the benefits. Rather, it was not seen to be a topic which needed to be evaluated. Frequently management explained that information provision, consultation and listening to staff views was something that they did as part of normal organisational life, or something which they believed they should do. The commitment of senior managers, especially the chief executive, meant that this commitment was rarely questioned, even when there were doubts about the operation of the forums, as in many of the communicator organisations. The task here was to find ways of making it better. Holding discussions about how this could be done is not the same as undertaking a systematic evaluation.

The evidence on the effect of the consultation on management decisions has been discussed in chapter 3 and shown in Table 2. There was clear evidence of influence in the mobile phone company, the unionised plant of the diversified technology company concerning redundancy and major changes to work organisation and in the small safety company where pay arrangements in short time working were influenced by the representatives, and, more importantly, a high level of partnership was achieved. Some influence on pay or pay systems was evident in the financial processing company, the northern housing association and the theatre. It is hard to find evidence of influence on management decisions among the 'communicator' group of organisations. This is not surprising since the forums are not used to consider management strategies and plans.

The employee attitude survey sought to tap the views of employees on a wide range of factors which could be influenced by consultation and employee involvement. Table 5 provides results from the final round of surveys in 10 areas showing the results in the 'active consulter' organisations compared with those in the 'communication' group. In judging these results it is important to bear in mind that the survey could not provide any control data from companies which did not have any I&C arrangements. Such a comparison would have been more meaningful than looking for variances between organisations with I&C arrangements. As discussed in chapter one, the fact that these companies agreed to take part in the research may mean that they are more likely to be exemplars of best practice. In some cases the response rate was low. The survey results are indicative rather than conclusive.

**Table 5 Measures of possible outcomes of the information and consultation process: Active consulters and communicators compared (mean scores)**

	Active consulters	Communicators
Satisfaction with your involvement in organisational issues+	1.97	2.11
Satisfaction with reps' involvement in organisational issues+	2.17	2.09
Satisfaction with your involvement compared with 12 months ago	2.00	1.94*
Satisfaction with reps' involvement compared with 12 months ago	2.01	1.87*
Overall satisfaction with amount of involvement in decision making	2.07	2.18
How effective are representatives+	2.45	2.30
How good are managers at involvement+	2.21	2.19
Satisfaction with HR policies+	2.39	2.47
Climate of employee relations	2.65	2.68
Organisation commitment+	2.84	2.96

Means constructed from 5 point scale answers. 5 = very satisfied/very good, 1= very dissatisfied/very poor. The higher the mean the greater the satisfaction.

\*significant at 0.05

+ means created by combining linked questions together. Details and Cronbach alpha scores are provided in annex 1.

Source: Warwick/UWE ICE survey – final year employee survey in 16 organisations with employee forums (n= 1730)

Rows 1-5 seek to show aspects of satisfaction with involvement. This would seem to be an obvious outcome measure since the aim of the I&C arrangements is to provide a means for employee views to be articulated via the employee representatives. The difficulty is that direct methods of employee involvement seen in team meetings will contribute toward the same goal, and indeed, as shown in Table 4 are by far the most effective means of doing so. If it is the case, also shown in Table 4, that over two-fifths of

employees don't know how helpful their representative is, or do not think the organisation has employee representatives (and in every organisation studied there were some), the distinction between the influence of direct and indirect forms of involvement is not possible to make.

An alternative view is to suggest that the existence of I&C bodies will contribute to the overall extent of involvement. Satisfaction with involvement in organisational issues (rows 1 and 2) are composite scores from seven topics such as 'future plans for the workplace' and 'changes to working practices' (full details are provided in annex 1). The next three rows (3-5) are single questions. The results are mixed. Employees in the 'active consulter' group are statistically significantly more likely to agree that that their involvement and that of their representative is better now than 12 months ago (showing, perhaps, that the I&C bodies recently established were having an influence). Satisfaction with representatives involvement in organisational issues (row 2) and the effectiveness of representatives (row 6: 'easy to communicate with', 'take notice of problems', 'taken seriously by management', 'make a difference') is also higher in the 'active consulter' group, although the differences are not statistically significant. There is no difference between the groups in the other questions.

It is not possible say that managers are more likely to engage in involvement activities (row 7: 'seeking views', 'responding to suggestions', 'allowing employee influence on final decisions') in one group more than another. This is case also for satisfaction with HR policies (row 8: nine practices were listed), and the climate of employee relations (row 9: 'relations between managers and employees here').

Table 6 paints a different picture. This contrasts those organisations with a 'hybrid' (mixed union and non-union I&C body) with those where the forum is non-union. Here all the variables, apart from organisation commitment, are statistically significantly better in the hybrid group. The possible explanations are explored in the next chapter but in general terms the hypothesis that a culture of involvement is more embedded in the companies with hybrid bodies perhaps because of the long run effect of trade unionism prior to, as well as after, the creation of the I&C body would seem to be supported.

**Table 6 Measures of possible outcomes of the information and consultation process: Hybrid I&C bodies and non-union I&C bodies compared (mean scores)**

	Hybrid I&C body	Non-union I&C body
Satisfaction with your involvement in organisational issues+	2.38	1.93*
Satisfaction with reps' involvement in organisational issues+	2.30	2.10*
Satisfaction with your involvement compared with 12 months ago	2.27	1.91*
Satisfaction with reps' involvement compared with 12 months ago	2.23	1.90*
Overall satisfaction with amount of involvement in decision making	2.45	2.03*
How effective are representatives+	2.59	2.36*
How good are managers at involvement+	2.49	2.13*
Satisfaction with HR policies+	2.65	2.36*
Climate of employee relations	2.83	2.62*
Organisation commitment+	3.01	2.85

Means constructed from 5 point scale answers. 5= very satisfied/very good, 1= very dissatisfied/very poor. The higher the mean the greater the satisfaction.

\*significant at 0.05

+ means created by combining linked questions together. Details and Cronbach alpha scores are provided in annex 1

Source: Warwick/UWE ICE survey – final year employee survey in 16 organisations with employee forums (n = 1730)



# 5: Trade union attitudes and the operation of 'hybrid' I&C bodies

Trade union ambivalence towards the Regulations is a key factor (Terry et al. 2009). Despite the Trades Union Congress's support for the Directive and involvement in the UK Regulations' design, unions have mostly adopted a defensive attitude to the legislation, reflecting continuing adherence to 'single channel' trade union representation and concerns that the introduction of universal, workforce-wide I&C arrangements could undermine or marginalise union recognition. Moreover, with some exceptions (notably in the printing/paper and information technology sectors), unions have not generally sought to use the Regulations to establish I&C bodies with a view to strengthening their influence in workplaces where they are not recognised. Despite this, the strong argument advanced by some leading national trade union figures is that the Regulations provide an opportunity for unions to extend both their organising capacity and the range of issues over which they may engage with management (Hall et al 2008b). This union avoidance of the Regulations, and with only very few examples of employees 'triggering' the 10% support threshold to set up I&C bodies, has effectively given management the freedom to determine the structure and process of consultation, or, as in many cases, to do nothing.

Such ambivalence emerges clearly from the research. Of the 25 cases originally covered 12 recognised trade unions for collective bargaining purposes with regard to at least part of their workforces, with membership densities ranging from 15-20% to 85% or more. In only one case did a trade union evince any interest in the ICE Regulations prior to management taking the initiative and in no cases did unions make significant contribution to the design and detail of new I&C systems, although in companies where they were recognised they were usually involved in discussion. In one case where unions were strongly organised, the formal approval of the new arrangements was delayed for up to two years by union head office insistence that it should take the form of a negotiated agreement but even then there was limited engagement with the detail. Trade unions have been signatories in their capacity as recognised unions in only two cases – the engineering company and the infrastructure contractor - but it can be assumed that they were closely involved in the design of I&C body at the diversified technology unionised plant. Elsewhere in unionised organisations, where agreements were reached they were signed by representatives on I&C body, including union ones.

On the basis of the evidence it is clear that union suspicions are at least partly justified; several large non-union companies clearly saw universalistic non-union systems as an important element in their strategy of union avoidance. In some others which recognised unions there was an implicit managerial suggestion that the new arrangements were part of a culture of 'modernising' employee relations away from an 'old-fashioned' reliance on union-based activity. It was clear in one case, the mobile phone company, that effective union avoidance may, in certain circumstances, require something close to collective bargaining.

Where unions were recognised there were no clear-cut patterns of response to managerial initiatives but some suggestive patterns emerge. Generally greater suspicion of managerial motives was found in organisations where unions were numerically and organisationally weak, with membership at or below 30%. This is unsurprisingly since it is clear from successive WERS that this is where unions and collective bargaining are most vulnerable. In such situations unions have insufficient power to resist or frustrate managerial intention and their immediate response is to seek to protect existing collective bargaining rights as in the cases studied. Managements, even those not overly sympathetic to unions, did not, however, seek to use the I&C arrangements as a means to destabilise or derecognise unions and collective bargaining.

Where unions were strongly entrenched – three cases –there were three very different responses, although none sought to use their strength to resist managerial proposals. One (the diversified technology company unionised site) was to embrace the new arrangements and to deploy existing union structures and expertise in support of I&C; unsurprisingly this was one of the two strongest 'active consulter' cases. A second case (the engineering company) saw the new arrangements as unthreatening but the union was largely indifferent, valuing the new committee largely as a medium of inter-plant union cohesion (a 'combine committee' of shop stewards, in effect). In a third (the professional association) the union has carried its formal insistence on its role in collective bargaining to a refusal to take up its 'reserved seat' on a new I&C committee. These cases suggest that where strong, unions can exercise a degree of strategic choice with regard to whether and how to participate in 'universalistic' I&C arrangements while maintaining their established role in collective bargaining. A further case – the regional airport – provides further points of interest as in this company the role and remit of the I&C arrangements shrank over time as management granted recognition successively to unions representing different occupational groups. It seems reasonable to conclude from these cases that well-established unions maintain their collective bargaining arrangements, to which all union continue to give primacy, but then may exercise discretion as to whether or not to engage in active consultation, alongside non-union representatives, or to pursue a more limited agenda with regard to the new arrangements.

Weaker unions generally have a more limited choice, if any. More concerned about the potential for new arrangements to undermine their established position, their responses ranged from cautious welcome to hostility but again stressed the overwhelming importance of maintaining the autonomy and scope of existing collective bargaining. In the great majority of such cases employer proposals for universalistic I&C bodies made provision for union-elected seats and in most cases these were taken up. One case where the union did not take up the proffered seat, the urban housing association, was because the union felt that the forum had become irrelevant. In another, the financial processing company, a weak union was simply 'sidelined' and excluded from the process. But apart from these instances in all cases where unions were recognised the most significant organisational development has been what are termed here 'hybrid' bodies containing members elected by and from unionised membership sitting alongside members elected by non-unionised groups.

Such hybrids may epitomise union fears about the universal I&C bodies; they appear to provide access to the benefits of information and consultation without the cost to employees of joining a trade union. They may thus be presented by managements, who wish to do so, as evidence of their willingness to act as guarantor of employee rights without the need for union intervention. Hence in large part there was at least initial union hostility or caution towards such hybrids, an insistence on union rights with regard to negotiation over pay and other aspects of terms and conditions for recognised groups. In the care services company the union went further than this and sought to 'colonise the forum', gaining agreement that pre-meetings were held for the union representatives on the forum.

The conclusion is that in the great majority of cases union concerns as to the damaging impact of working alongside non-union employee representatives have not been realised. Indeed there are cases where management has compared the quality of union representatives favourably to that of non-union counterparts (perhaps as a result of union representative access to union training and other support) and have, for example, requested union training and other support for non-union representatives. As representatives, both union and non-union, have gained familiarity with their roles, and self-confidence has increased, some of the barriers initially established to demonstrate formal separation between union and non-union business have faded, to the reported satisfaction of all and in several cases to participation in active consultation. The efficacy of hybrid representative structures, in contrast to those consisting solely of representatives elected by all employees, is reflected in strong findings from the employee survey where respondents rated both the employee forum and employee representatives as significantly more helpful in the former than the latter. It is tempting to hypothesize, but impossible to demonstrate unequivocally, that unions, even where weak, have gained a degree of organisational security and representative effectiveness through their participation in such hybrid systems.

On the larger but vital question as to whether union membership declines in workplaces where they are recognised as a consequence of the creation of new I&C arrangements our strong conclusion is that it does not, at least not during our period of observation, but nor does it expand. However, it should be noted that in one organisation – the mobile phone company – union membership and activity, relatively strong despite not being recognised for collective bargaining, both appear to have diminished. Both management and employee representatives interviewed indicated that this may well be attributable to the creation of a highly effective multi-level structure of non-union representation. In this company there was an advanced form of active consultation as well as extensive restructuring affecting previous areas of the business where union membership was concentrated. Other non-union organisations have been able to maintain this status; thus there is no evidence for a sometimes-voiced employer concern, that the ICE Regulations would have the effect of introducing unions through the back door.

Of our eight ‘active consulter’ organisations, five recognised trade unions possessing varying levels of organisational strength and membership density. Three of these developed hybrid representative bodies, a fourth provided I&C through a union partnership arrangement and the fifth sidelined the trade union which had no direct representation at I&C but maintained its collective bargaining relationship. A similar mixed pattern emerges among the five out of twelve communicator organisations. The conclusions with regard to the contribution unions may make to I&C, as established in the case study companies, are thus tentative and contingent. Unions may contribute to active consultation if encouraged and not threatened by employers and, where they are organisationally strong, choose to do so. But trade union presence is by no means a necessary condition of effective consultation. Unions may, through active measures or otherwise, use existing collective bargaining rights and decisions not to participate actively and thus limit the scope for consultation but this happens only where that is also the dominant managerial approach. Against this has to be set the argument that in many instances representatives had been exposed to a wide range of organisational and managerial issues. This point was made with particular force in the case of the care services company where the union full-time officer, who was an active participant, argued that the forum provided access to senior management and a broadening of topics in a way that collective bargaining did not.

# 6. The impact of the legal framework

Despite survey evidence noted in chapter 1 suggesting that the ICE Regulations have prompted an increase in the incidence of I&C arrangements, the statutory framework emerged as a factor of only limited significance in terms of influencing I&C practice in our case study organisations. This chapter briefly reviews our findings in this respect.

In all our case study organisations, the initiative to establish or relaunch the I&C body was management's (see chapter 2). In no case was the 'trigger mechanism' utilised by employees – nor was this considered by management to be a realistic possibility except in one case (the rural housing association) – and there was no evidence of employee/union pressure for new I&C arrangements more generally. Relatedly, in most cases management interviewees did not regard their decision to introduce or relaunch the I&C body as compliance-driven either. The Regulations were seen by management as having a 'critical' or 'significant' impact in only four of the 25 organisations. Most other organisations saw the Regulations more as a 'catalyst' – that is to say management already felt the need, for a variety of organisation-specific reasons, to introduce or relaunch I&C and the Regulations helped shape the initiative or provide external validation (e.g. providing the basis for gaining top management commitment to act). In the remaining cases the Regulations were said to be of 'background' importance at most. It is possible that our management respondents preferred to downplay the role of the law in prompting the establishment or relaunch of their I&C arrangements, preferring to stress internal organisational stimuli. However, the limited significance of the Regulations reported by our case study organisations is consistent with earlier suggestions by management consultants and employer representatives that where companies do move to 're-position' their I&C arrangements, this is typically driven by internal employment relations considerations, not compliance-led (Hall 2006: 465).

Turning to the status of the I&C arrangements introduced (see Table 1), in eight wave 1 organisations these were based on voluntary agreements signed by employee representatives (typically the initial cohort of representatives elected to the I&C body but in one case trade union officials). However, in few cases did management regard the agreement explicitly as a 'pre-existing agreement' under the terms of the ICE Regulations. Other organisations placed less emphasis on meeting the statutory criteria for PEAs. Their objective was securing broad workforce endorsement for the introduction of I&C arrangements. In four other wave 1 cases, the I&C arrangements had been introduced unilaterally by management. In practice this picture was less tidy than this implies. In some cases the terms of the

PEA were very much drafted by management, with only limited input from employee representatives, whereas employees arguably had more influence on the design of some of the I&C bodies whose constitutions were not formally agreed.

The smaller, wave 2 and wave 3 organisations sought the formal agreement of employee representatives for the establishment of the I&C bodies in only a minority of cases, and in none was the agreement seen by management as having PEA status. In two further cases, I&C was conducted via union representatives on the basis of a union recognition agreement.

Notably, in all but one of our cases, the I&C arrangements introduced remained outside the statutory framework providing for the legal enforceability of I&C rights. The exception was the engineering company where the I&C agreement was intended to have the status of a 'negotiated agreement' under the Regulations. This was insisted on by national-level union officials to ensure its enforceability.

One area where the Regulations did appear to have some influence was the provisions and wording of the agreements or constitutions underpinning the I&C bodies, particularly among the larger, wave 1 cases. This influence was most notable in terms of the subject matter identified for I&C (where a majority of the wave 1 organisations echoed the Regulations by specifying I&C on their activities and economic situation, employment developments and organisational change) but less clear cut in terms of the nature and extent of the consultation process (see Hall et al. 2007: 43-48). In practice, however, the scope of I&C process was often less extensive and formal than implied by the terms of the agreement/constitution, particularly among the group B 'communicators'. Thus, for example, at the urban housing association, the stated intention to inform the I&C body about business plans, financial performance and organisational change was largely unrealised, and the body's agenda was dominated by housekeeping issues raised by staff representatives. At the national charity, the agreement committed management to consulting before decisions were made and seeking the agreement of staff representatives, but in practice the primary emphasis was increasingly informal 'two-way communication'.

Among the wave 2 and wave 3 organisations, the influence of the Regulations on the terms of agreements/constitutions, though discernible in some cases, was less extensive than in the larger organisations, arguably reflecting the greater informality and more limited HR capacity associated with smaller organisations (Hall et al. 2008; 2009a).

Beyond this, there was little evidence from the completed case studies that the Regulations had shaped managerial approaches to the practice of I&C, nor that the Regulations had been widely used as a point of reference by employee representatives. Only at the mobile phone company had the Regulations been cited in a legal dispute over 'consultation failures'. On that occasion, multiple union-coordinated employment tribunal claims relating to

disputed changes to customer services staff's pay and reward arrangements were eventually withdrawn in the context of an agreement between management and the company-level I&C body on the formalisation of the consultation procedures that had developed within the organisation. More generally, the procedure used by the mobile phone company for consultation on restructuring proposals and other substantial changes in work organisation routinely corresponded to the phased consultation process specified in the Regulations' default provisions and consultation was explicitly undertaken with a view to reaching agreement. The mobile phone company's management reported that this had been motivated less by the provisions of the ICE Regulations than by internal industrial relations objectives, including the need to demonstrate that the company's non-union employee representation arrangements were an effective alternative to union recognition. But it seems clear that the need to meet the specific requirements of the separate legal provisions on redundancies and transfers of undertakings (see below) helped shape the advanced consultation procedures observed in this company.

This finding – of the limited 'normative' influence of the Regulations – can be seen as being consistent with the Regulations' policy of maximising the flexibility of response available to organisations, and with the broad definition of consultation embodied in the legislation. The more stringent consultation requirements contained in the Regulations' default provisions become enforceable only where the initiation of the Regulations' procedures fails to result in an agreed outcome. Their indirect influence on I&C practice among our case study organisations appears to have been negligible.

Perhaps unsurprisingly, the aspects of employment law that did impinge more directly on I&C practice were provisions requiring consultation with trade union or elected employee representatives over impending redundancies and transfers of undertakings. In particular, the redundancy consultation legislation provided the framework for handling major job losses via the I&C bodies at the mobile phone, diversified technology and safety companies. Earlier redundancies at the seaside housing association were also discussed with the I&C body there (see Hall et al, 2008: 13). Similarly I&C bodies were involved to varying extents in I&C concerning the inward or outward transfer of employees at the care services, financial processing and mobile phone companies. At the mobile phone company, the lead employee representative commented that the consultation process had gone 'much, much further' than the legal requirements of the TUPE Regulations. But there were examples too from early phases of the research of transfers of parts of businesses where senior management felt the move was too commercially sensitive to allow for early consultation and in some cases stock exchange rules were cited as an inhibitor. For example, at the urban housing association, a combined meeting of the recognised union and the employee forum was told of the transfer under TUPE Regulations of part of the business to a private sector company quoted on the stock market one hour before its announcement to staff and the media. The company believed (incorrectly)

that stock exchange rules prevented early information sharing and consultation.



# 7: Conclusions and implications

This unique study has traced the founding and subsequent operation of I&C arrangements in 21 organisations in the critical early period of operation of the ICE Regulations. A further four organisations were studied once but then withdrew from the research. This is the sixth, and last, report to encapsulate the experience of operating I&C bodies in these very varied organisations. In this concluding chapter we draw out the main themes but go further by suggesting the implications for the operation of I&C bodies, the dominant role of management, the approach of trade unions and the efficacy of the ICE Regulations.

## 7.1 The operation of information and consultation bodies

There is a crucial difference between the operation of I&C arrangements in organisations where management use the I&C body as a forum for providing high level, often strategic, information and consulting on proposed business changes which will impact on employment and work organisation, and in those where the forum is used as a communication bridge with the workforce. The former we term 'active consulters'. Three of our case study organisations falling into this category broadly met the requirements set out in the standard, or default, provisions of the Regulations which establish what consultation should be about and how it should be conducted, reflecting EU law. In our five other active consulters, consultation practice was less developed, involving a degree of I&C on strategic decisions but with more limited evidence of employee views being influential.

The second category of organisations we term 'communicators'. Here the much more limited type of activity echoed earlier research on UK consultative committees before the EU I&C Directive was formulated where, in many cases, 'employee involvement was typically initiated by management with the intention of improving communication and enhancing employee commitment but it had nothing to do with increasing employee influence' (Delbridge and Whitfield 2001: 475). Information sharing and discussion in these organisations tends to be on operational and facilities issues raised by employee representatives and, less frequently, the implications of business changes once decisions have been taken. The function of consultation, in these companies, is to gain employee understanding of the decision and sell it to the workforce. Both approaches are compatible with the Regulations as formulated since considerable leeway is given to management and employees – or, in the absence of employees triggering the Regulations' procedures, management unilaterally – to decide when and how consultation should take place.

The two approaches to consultation have very different operational requirements. In 'active consultation' the two key requirements, which are symbiotically interwoven, are for management's willing acceptance of consultation before decisions are taken and for there to be an effective body of employee representatives. Management commitment means bringing proposed changes to the attention of the consultative body in a timely way such that representatives have an opportunity to work through the implications, seek further information and make suggestions which are then discussed. These proposals are often well considered and advanced, and not just vague plans, but management is prepared to be persuaded to make changes in the light of the discussion or review how the changes will be implemented. Such business decisions are unlikely to be held back until the next meeting of the I&C body, and therefore 'active consulters' often held special meetings where plans were tabled in confidence. The 'active consulters' did not just consult on strategic business issues. In many cases developments in HR policy and in pay and benefits were discussed and representatives were able to raise 'housekeeping' matters of concern to their constituents. Given that strategic issues are not always in play, it is important that I&C bodies are also able to handle this wider range of issues on a regular basis.

Very little attention has been paid in previous research on joint consultation to the creation of an effective employee representative body which can gather and gauge employee opinions, has a capacity to understand the business issues and be able to articulate employee interests and concerns with confidence. In a study of works councils in Europe, Gumbrell-McCormick and Hyman (2010:305) suggest that 'first, a coherent employee "voice" has to be constructed from a multiplicity of interests, aspirations and grievances within the workforce; effective representation must be sufficiently detached to be able to filter and prioritize these ... ..Second, they need a strategic long-term perspective in order to assess costs and benefits, risks and opportunities of any course of action'. Management support in the creation of an effective employee body is necessary – from the active encouragement of pre-meetings of representatives, the provision of appropriate and continuing training and the release of representatives from their 'day job', to support in publicising the work of the ICE body through multiple media. It can help, too, if there is a lead employee representative who is trusted by management and with whom informal conversations can be held prior to formal meetings, and who can help recruit and train new representatives.

The conditions for the effective operation of a 'communication' body are less onerous but, despite this, many of the organisations with such a forum felt it was not operating properly. There was often a mismatch between the expectations of senior management, who wanted representatives to see the 'bigger picture' – and in many cases to accept the logic of strategic change and communicate it to fellow employees – and those of representatives who were unclear what their role was beyond bringing housekeeping matters to the attention of the forum. It was often the case that, as a communication

body, the forum was crowded out by managements' use of other more direct channels such as team briefings since the committees lacked a distinct agenda and role. This meant that the I&C bodies could not find a distinctive voice and many representatives became disillusioned. Not surprisingly, the turnover of employee representatives was much higher in the 'communication' than the 'active consulter' bodies. Where 'communication' I&C bodies were operating reasonably well, to the satisfaction of management and the representatives, it was usually because items were brought to the forum by management such as HR policy issues, a means had been found to filter out trivial matters and the work of the forum was widely publicised. Where the onus for making the forum successful was placed on the representatives, and management only responded to the matters raised, the outcome was never satisfactory for either party. A distinctive characteristic of non-union representatives, as most members of the I&C bodies we studied were, is that they have no sources of independent advice, expertise or external support to draw upon and few have previous experience in this role. As such, for management in 'communication' forums to rely on the representatives, to bring anything more than energy and enthusiasm to the forum is to expect too much.

## **7.2 The dominant role of management**

Managements, in the organisations we studied, had almost complete freedom to design the I&C arrangements and specify the way the I&C body operated. There is no reason to believe that the experience of these organisations was unusual except insofar as they had, at least, established an I&C body. This is confirmed by recent other case study research into the operation of I&C bodies (Bull (2010); Koukiadaki (2010); Sarvandis (2010) and Donaghey et al (2010)). More generally, what partial evidence there is suggests that many enterprises covered by the Regulations have chosen to do nothing and there is no evidence that employees have clubbed together to 'trigger' the statutory negotiating procedures except in a very few instances. This may be advantageous since it fits within the UK tradition of voluntarism or what Frege and Goddard (2010:544) call 'the British tradition of mutuality' which, they suggest, 'may prove sufficiently consistent with the British institutional norms to function effectively'. In effect, however, given union abstentionism and the lack of employee initiatives under the Regulations, the impact of the new legal framework has proved to be less 'legislatively-prompted voluntarism' (Hall and Terry, 2004: 226) than legislatively-prompted managerial unilateralism. Such freedoms come, as ever, with responsibilities. Management has to decide what it wants out of the I&C arrangements.

Those organisations which chose an 'active consultation' path did so because they wanted to. The I&C body may have been established as a union avoidance strategy initially or come about because of the values of the corporate owners or because it fitted the social purposes of the organisation. Having embarked on this path, none wished they had not and the experience was often viewed positively, especially in the contribution it made to the

successful management of change. In this sense I&C had become embedded as part of the wider organisational culture. In some cases, especially among the smaller organisations, an individual senior manager was influential in pushing for consultative arrangements and being prepared to share information and seek views. Where, as was the case in all but one of our case study organisations, the I&C bodies were not established under the statutory negotiation procedures, there is little institutional security. A company's management may choose to abandon the I&C arrangements, as two did, and there would be virtually nothing the employee representatives could do apart from collecting enough signatures to trigger a request under the Regulations.

Managements often had vague aims in establishing an I&C body. Many stressed what Gollan (2006:10) calls 'harmonious and less conflictual relations with the workforce . . . building and encouraging an atmosphere of mutual cooperation' but these can be 'soft on power sharing without offering any form of effective consultation in return' (Dundon et al 2006:509). 'Management clearly intends that these forms of voice will either lift productivity without challenging managerial power or provide consensus around the implementation of major workforce decisions' (Boxall and Purcell 2010: 43). This would appear to be the case in the 'communicator' organisations but not the 'active consulters'. In both groups management were very unclear how information sharing and consultation would, in practice, feed through into greater employee engagement and 'more harmonious relations'. It was very significant that top management generally continued to support the I&C body even when it appeared not to be operating very well, although it must be recalled that two such bodies did founder when management withdrew their support. None of companies had conducted any evaluation of the operation of their consultative bodies or sought evidence of a link with productivity or employee engagement. It is hard, without such conclusive evidence, to assess the impact of I&C arrangements but among the 'active consulters' especially, management and employee representatives, and union officers where they were involved, expressed satisfaction with the operation of the forums. The lack of evaluation was explained in terms of consultation now being an accepted part of organisational life and behaviour. Evaluation was irrelevant. The research was unable to provide a separate source of evidence beyond the attitude survey of employees. Given often low response rates this can only provide an indication of outcome effects on employee attitudes. There is some evidence, for example, from the perspective of the employees who completed the survey that 'hybrid' (union/non-union) bodies are more effective than non-union ones. It is safe to conclude that where management were prepared to engage in meaningful consultations the outcome was viewed favourably. In these cases, to use Cox et al.'s (2006) term, the arrangements were 'embedded'. Where the purpose was to give employees an avenue for raising matters of concern with senior management and to discuss operational and HR issues it worked well enough. But where management was not prepared to provide information or discuss policy matters it moved toward the edge of

failure. It may be, as Ramsay (1977) observed, that there are 'cycles of control' or waves of interest, coming and going, concerning management's commitment to consultation. It is quite possible to envisage that, in some organisations with a 'communication'-type I&C body that had little to do, in part because no great challenges have been experienced, radical organisational change will lead to a re-vitalisation of consultation. This was the experience in one of the organisations studied.

### 7.3 Union ambivalence

Trade unions have generally been ambivalent or, at times, hostile to the ICE Regulations despite the fact that the TUC was involved, as a social partner, in their design. This may be because the Regulations give unions recognised for collective bargaining no special rights to involvement in consultation, unlike the earlier legislation concerning consultation over collective redundancies and TUPE. Unions had legitimate fears that some managements would use the creation of I&C bodies to defuse actual or potential pressures for union representation, as was the case in four of the organisations studied, or that recognition for collective bargaining would be withdrawn while universal I&C arrangements were introduced. There is also the 'free rider' problem in that, where there is union involvement in a hybrid I&C body, employees may have no incentive to join the union.

The evidence from the research is mixed. In no case has management de-recognised the union either when the ICE body was created or subsequently and what evidence there is indicates no changes in membership levels in either direction. In seven of the ten cases where there was a hybrid body the unions were, in any case, in a relatively weak position with membership levels well below 50%. While collective bargaining continues it is often attenuated, being restricted in practice to the annual pay round and the representation of individuals in disciplinary and grievance cases, a role which non-union representatives generally do not undertake. Participation in the I&C body can provide a union some advantages, as in one of the cases, by giving regular access to senior management and broadening the scope of subjects discussed.

It may be time for unions to reappraise their approach to ICE. There is some evidence from the graphical, paper and media and IT sectors that, where the Unite union has actively promoted ICE, negotiated agreements under the Regulations have been reached and robust systems of I&C have developed. The union trains representatives and provides external advice to them and in some cases full-time officers take part in consultation<sup>7</sup>. The effect of the more typical approach of union abstentionism is to give management a free hand in designing the I&C arrangements to suit their needs and to opt for arrangements, either unilaterally introduced or based on PEAs, which cannot

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<sup>7</sup> Interviews with Unite officials, 2010.

be enforced via the Central Arbitration Committee. Had unions been more active in promoting ICE, it is most likely that there would have been more I&C bodies and more negotiated agreements under the Regulations and these would have been more likely to conform to the 'active consuler' mode of meaningful consultation.

## **7.4 The impact of the Regulations**

We will not know until the next definitive WERS in 2011 whether the incidence of I&C bodies has increased since the last survey in 2004, undertaken just before the Regulations applied to undertakings with at least 150 employees. The limited evidence available, cited in chapter 1, indicated some growth in the period immediately before and after the initial commencement of the ICE Regulations. However, evidence from Acas in relation to the number of enquiries and attendance at training programmes concerning ICE suggests that this may not have been sustained; the broadening of the coverage of the ICE Regulations to include undertakings with 50 or more employees in 2008 did not lead to any upsurge of interest. There is a marked lack of evidence in the companies studied here that employees wanted, or were prepared, to 'trigger' the Regulations and it is highly likely that most had never heard they had such an option. Very few requests have been made to the CAC enabling employees to collect signatures in confidence.

Considerable flexibility of response was built into the Directive and is not something unique to the UK (Carley and Hall 2008). Under the British Regulations, I&C requirements do not apply automatically. Employers need not act unless employees trigger the ICE Regulations' procedures. However, in all but one of our case study organisations, management either chose to set up the body unilaterally (meaning that it was outside the scope of the Regulations – something not envisaged by the EU Directive which specifies agreed I&C arrangements or adherence to regulated minimum standards) or opted for a PEA/voluntary agreement. In either case, the effect was that management was free to choose both the topics and the processes of information sharing and consultation. Under the Regulations, only 'negotiated agreements' reached via the Regulations' procedures and the standard or default I&C provisions are legally enforceable through the CAC. The European Commission's (2008) review of the application of the Directive appears to suggest that the lack of enforceability of PEAs may be a problematic area in terms of compliance with the Directive.

## **7.5 Implications**

Effective consultation requires management commitment to the process of consultation as part of wider organisational culture concerned with participative management. In particular, there needs to be a preparedness to discuss proposed management decisions which have implications for employment and employment policies in advance of the final decision. This

covers the strategic decision itself, its implications for employment and work organisation and the proposed means of implementation. This may well require use of confidentiality clauses. It is worth noting that in no case where these were used was there any evidence of a leak of information prior to a formal announcement. It has been said that it is not possible to have effective consultation without respect for confidentiality<sup>8</sup>.

There is clear evidence that the inclusion of HR policies and practices as topics of consultation is beneficial even although they are not specified in the Regulations. These were items which often generated more interest among employee representatives since they were of immediate concern and directly impacted on most employees. In some cases joint working parties can be established to review the options, as in the case of call out payments in one organisation. In others it was a focus on an HR policy, like sickness absence or cold weather payments which it was hoped would reinvigorate the I&C body. The clearest indication of a failure of consultation was the reluctance of management to table any policy items on the agenda of the consultative forum.

The establishment of dialogue – the term used in the Directive and the Regulations – can best be achieved when there is an organised and functioning employee representative body able to articulate employees' interests. Many managements with effective consultation provide for pre-meetings of representatives to consider how to respond to management proposals and to generate items for the agenda. They also provide training, or give paid time off for training and among the larger employers also provide office and communication facilities. None of these, beyond time off with pay, are specified in the Regulations. Trade union support for ICE bodies, in companies where they are recognised, would also help establish well organised and efficient employee representative bodies. Trade unions can provide informed external advice, as well as training, and full-time officers are sometimes members of the I&C body. It is worth emphasising that it is hard for management to benefit from effective consultation unless there is a trusted and competent employee representative body as a partner in the process. It is interesting to note in this regard that the 'recast' European Works Councils Directive<sup>9</sup>, applicable to large multi-national companies, provides EWC representatives with rights to paid time off and the necessary financial and material resources to carry out their duties, to undertake training, to call special meetings, to hold pre-meetings without management being present and to seek external advice.

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<sup>8</sup> Interview with Unite officials 2010

<sup>9</sup> The Transnational Information and Consultation of Employees (Amendment) Regulations 2010.



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# Annex 1: The employee survey – methodology and forms of analysis

The employee survey was designed to gather employee opinion toward a wide range of factors associated with the experience of employee involvement and participation<sup>10</sup>. Where possible it replicated questions taken from the 2004 WERS survey such that comparisons could be made and to ensure validated questions were asked. Elsewhere the research team had to generate the questions or take them from a previous survey undertaken at the University of Bath in 2000-2. The survey covered such topics as:

- Satisfaction with employment practices (9 items)
- Helpfulness of a range of practices/media in keeping you informed (15 items)
- Helpfulness of these practices/media in providing an opportunity to express your views (15 items)
- Personal participation in meetings (5 items)
- The adequacy of different means of communication and involvement (6 items)
- Satisfaction in the amount of involvement in organisational issues (7 items)
- Satisfaction with the degree of involvement of your representative in organisational issues (7 items)
- The quality of management in involvement activities (3 items)
- The trustworthiness and fairness of managers (4 items)
- The effectiveness of employee representatives (4 items)
- Extent of organisational commitment and engagement activities undertaken (7 items)

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<sup>10</sup> Copies of the questionnaire may be obtained from the authors.

- Single questions on: relationship between management and employees; overall satisfaction with involvement in decision-making; satisfaction with personal involvement, and that of your representative compared with 12 months ago
- Demographic and contextual data.

It was intended to conduct surveys at the beginning and the end of the research. Surveys were successfully undertaken in the first year of the study in different waves in 19 organisations. Three organisations subsequently withdrew before the final survey. The collapse of the employee forum in the infrastructure contractor, coupled with a radical restructure led to a decision not to proceed with the survey in the second year. The safety company, with only 19 employees left after the recession had dramatically impacted on orders, did not wish to repeat the survey in the second year. Trading difficulties in the law firm led the HR manager there to delay the survey and it was eventually abandoned.

Final year surveys were undertaken, following the final research visit, in sixteen organisations in which surveys had been undertaken as part of the initial phase of the research. Ten of these were wave 1 organisations, and six were wave 2 and 3 organisations. Discussions took place with all organisations on the best way to proceed with the survey and all were offered the opportunity to complete the survey on-line and/or as a postal version. Each participating organisation was asked to send a covering letter to each employee from the research team explaining the nature of the survey, including assurances on confidentiality, and that all returns would come directly to the research team. The HR manager, or equivalent, responsible for either mailing the questionnaire or attaching it electronically, was also asked to promote the survey. The survey team had no direct access to employees and were reliant on the named correspondent. Some were more helpful than others and this may well explain wide variations in the response rate. Where the response rate was very low there is some evidence that not all employees were sent a questionnaire as had been promised.

A total of 1730 responses were received by the end of May 2010 when this report was finalised. Response rates varied from 2% to 72%. The aggregated data presented in this report has not been weighted to take into account the varying responses or size of organizations. This limits the type of analysis possible and this should be taken into account when making comparisons between the groups (Tables 4, 5 and 6). An analysis of differences between the first and the second years did not generally show significant differences and these are not reported here. All the tables show data from the final year surveys since effects of I&C arrangements, if any, would be reflected in these data.

Tables A and B in this annex show the survey results from each of the 16 participating organizations. Where possible, comparisons are shown with some questions from the Workplace Employment Relations Survey 2004.

However differences in the timing of the surveys and the different economic conditions prevailing at the time should be borne in mind when making comparisons between this nationally available data set and the organisational survey responses

As indicated above in the list of questions a number used multiple response options to cover finer detail in the topic area. It has proved possible to combine these using factor analysis to provide an overall mean score for each factor. In every case the Cronbach alpha score is highly satisfactory indicating that the combined mean scores can be relied upon. These are shown below.

### **Satisfaction with HR policies (9 items)**

Cronbach Alpha 0.905

How satisfied are you with the following employment practices?

- *The training, coaching and guidance you receive*
- *Your performance appraisal/development review*
- *Your current career opportunities*
- *The pay you receive*
- *The recognition you get for your performance*
- *The information you receive to do your job*
- *The amount of influence you have over how you do your job*
- *The opportunity to express grievances and raise personal concerns*
- *The efforts your employer makes to help you balance work and life outside*

### **Satisfaction with your involvement in organisational issues (7 items)**

Cronbach Alpha 0.931

How satisfied are you with the amount of involvement you have in the following areas?:

- *Future plans for the workplace*
- *Staffing issues including redundancy*
- *Changes to work practices*
- *Pay issues*
- *Health and safety at work*
- *Other issues you feel of significance in the workplace*
- *Changes in the way the organisation is being run*

### **Satisfaction with reps involvement in organisational issues (7 items)**

Cronbach Alpha 0.959

How satisfied are you with the amount of involvement your representatives have in the following areas:

- *Future plans for the workplace*
- *Staffing issues including redundancy*
- *Changes to work practices*
- *Pay issues*
- *Health and safety at work*
- *Other issues you feel of significance in the workplace*
- *Changes in the way the organisation is being run*

### **How good are managers at involvement (3 items)**

Cronbach Alpha 0.937

Overall, how good would you say managers at this workplace area at?

- *Seeking the views of employees or employee representatives*
- *Responding to suggestions from employees or employee representatives*
- *Allowing employees or employee representatives to influence final decisions*

### **How effective are representatives (4 items)**

Cronbach Alpha 0.897

Do you agree or disagree with the following statements about employee representatives at this workplace?

- *Easy to communicate with*
- *Take notice of staff problems and complaints*
- *Taken seriously by management*
- *Make a difference to what it it's like to work here*

### **Organisation commitment (3 items)**

Cronbach Alpha 0.881

To what extent do you agree or disagree with the following statements?

- *I share the values of my organisation*
- *I feel loyal to my organisation*
- *I feel proud to tell people who I work for*

**Table A. Employee perceptions in final survey: Group A – ‘active consulters’**

	Mobile phone company	Diversified technology company	Care services company	Financial processing company	Regional charity	Northern housing association	Theatre	WERS'04
Number of respondents	877	29	79	120	17	10	43	
Union membership (%)	37	31	54	9	35	90	23	37
WERS union membership sector comparison	11	34	43	11				-
Mgt/employee relations (% very good/good)	61	79	77	47	53	50	65	61
Satisfaction with HR practices (% very satis/satis):								
Training **	57	76	84	33	65	40	81	51
Pay	47	76	41	40	65	50	72	36
Influence over job	60	86	72	54	53	70	65	58
Involvement	37	66	60	22	35		44	38
How good are managers at (% very good/good):								
Seeking the views of employees/ reps	56	79	71	33	53	60	60	48
Responding to suggestions	48	65	64	34	47	50	50	43
Allowing employees/ reps influence final decisions	40	54	47	21	38	60	39	32
Managers here (% strongly								

agree/agree)

Can be relied upon to keep promises	50	72	68	32	47	60	61	47
Are sincere in understanding employees views	57	83	71	44	53	60	65	53
Deal with employees honestly	55	76	73	40	53	60	61	54
Treat employees fairly	54	76	67	35	53	50	63	55
Employee reps here (% strongly agree/agree):								
...take notice of staff problems & complaints	61	74	52	56	57	50	75	65
...are taken seriously by mgt	47	76	58	27	21	60	47	53
...make a difference to what its like to work here	41	54	42	30	14	40	49	40
Employee commitment (% strongly agree/agree)								
I share the values	75	90	81	42	69	50	81	55
I feel loyal	71	86	87	47	64	60	91	70
I feel proud to tell people where I work	67	86	76	37	59	60	91	61
Sources of information (% helpful)								
Notice Boards	41	69	84	33	47	30	67	58
E-mail	93	93	51	82	88	80	98	53



Intranet	91	83	39	64	65	50	79	42
Newsletter	67	52	92	40	12	50	74	47
Meeting with managers and employees	87	89	96	66	65	70	93	63
Unions or employee reps	32	62	39	11	18	60	44	24
Sources of involvement (% helpful)								
Unions or employee reps	29	54	39	13	18	56	45	Na
JCCs/staff forums/works councils	34	66	32	30	24	40	19	Na
Awareness of indirect mechanisms as sources of involvement								
(%Don't knows/Not used here):								
Union or employee representatives	47	46	47	57	71	11	40	
JCCs/staff forums/works councils	42	34	54	44	47	40	65	
Changes in last 12 months:								
More satisfied with my involvement	32	31	50	16	20	50	42	
More satisfied with my representatives involvement	27	35	32	15	7	10	28	

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\*\* WERS survey question is about satisfaction with 'training'; ICE survey satisfaction with 'training, coaching and guidance'

**Table B Employee perceptions in final survey: Groups B and C – ‘communicators’ and ‘defunct’**

	Seaside housing association	Urban housing association	Rural housing association	Diversified technology company (at two sites)	Hospice	Professional association	News agency	Regional airport	Electronics company	WERS'04
Number of respondents	42	13	53	218	52	28	55	44	49	
Union membership (%)	48	54	19	2	44	82	6	48	6	37
WERS union membership sector comparison				11			11			-
Mgt/employee relations (% very good/good)	52	77	76	77	76	71	20	67	43	61
Satisfaction with HR practices (% very satis/satis):	62	77	74	65	78	54	35	81	56	51
Training **										
Pay	67	69	72	63	63	75	24	47	33	36
Influence over job	55	69	74	79	73	75	53	57	64	58
Involvement	48	23	47	42	62	54	18	49	23	38
How good are managers at (% very good/good):										

Seeking the views of employees/ reps	48	33	60	66	69	64	22	70	45	48
Responding to suggestions	37	36	56	50	58	46	17	63	38	43
Allowing employees/ reps influence final decisions	41	20	47	31	46	54	10	44	33	32
Managers here (% strongly agree/agree)										
Can be relied upon to keep promises	38	50	66	63	75	46	19	43	37	47
Are sincere in understanding employees views	56	62	74	69	77	67	26	52	40	53
Deal with employees honestly	54	54	69	69	75	52	26	48	39	54
Treat employees fairly	55	46	70	67	77	64	21	43	37	55
Employee reps here (% strongly agree/agree):										
... take notice of staff problems & complaints	41	55	63	52	56	93	49	56	43	65
... are taken seriously by mgt	20	36	47	35	46	68	17	44	36	53
... make a difference to what its like to work	16	46	49	23	49	82	12	39	24	40

here

Employee commitment (% strongly agree/agree)	68	77	69	90	92	79	45	69	33	55
I share the values										
I feel loyal	76	62	76	86	92	71	47	68	60	70
I feel proud to tell people where I work	62	62	66	86	96	71	47	68	59	61
Sources of information (% helpful)										
Notice Boards	71	85	50	62	74	43	24	83	77	58
E-mail	91	92	96	94	88	93	86	79	32	53
Intranet	43	100	91	88	65	32	75	69	38	42
Newsletter	33	39	87	82	56	71	55	67	56	47
Meeting with managers and employees	81	92	79	82	82	86	49	79	42	63
Unions or employee reps	23	62	26	15	20	89	7	43	10	24
Sources of involvement (% helpful)										
Unions or employee reps	26	50	19	14	15	79	11	43	13	Na
JCCs/staff	32	67	49	25	27	67	16	57	13	Na

forums/works councils

Awareness of indirect mechanisms

as sources of involvement

(%Don't know/Not used here):

46	50	58	62	69	15	48	29	64
----	----	----	----	----	----	----	----	----

Union or employee representatives

JCCs/staff forums/works councils

42	17	53	53	46	11	27	26	48
----	----	----	----	----	----	----	----	----

Changes in last 12 months:

25	7	34	26	23	41	22	46	15
----	---	----	----	----	----	----	----	----

More satisfied with my involvement

More satisfied with my representatives

18	15	32	14	10	78	7	38	13
----	----	----	----	----	----	---	----	----

involvement

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\*\* WERS survey question is about satisfaction with 'training'; ICE survey satisfaction with 'training, coaching and guidance'

# Annex 2: Case study summaries

## Wave 1 organisations

### *Engineering company*

A major US-based engineering multinational employing around 5,000 employees in several UK plants, the organisation is highly unionised with a strong tradition of workplace collective bargaining and an effective European Works Council. Management commitment to extend consultation led to union agreement on the creation of a national I&C forum representing all employees and local arrangements to include non-union employees.

Union insistence on a 'negotiated agreement' under the terms of the ICE Regulations led to lengthy delay in reaching formal agreement. Hence some changes, in particular those providing for non-union employee representation, had not been implemented. Uncertainty remained both as to the operation of election procedures for such representatives and their impact. At workplace level, employee representation continued through the union structure (membership remained at around 80% for groups covered by collective bargaining).

National-level I&C meetings continued regularly and their principal utility consisted of discussing and promoting 'best practice' in HR policy, joint briefings on issues in employment law and dealing with contentious issues emerging from UK implementation of corporate HR policy. Effective consultation took place at the European Works Council, the logical organisational level for consultation over issues of company strategy, in which several members of the national forum were active participants. Matters relating to employment were handled at workplace level. The company's commitment to effective consultation was principally reflected in these activities.

The union provided representation, enjoyed good facilities and participated in both formal pre-meetings and regular informal liaison between representatives. There were some indications that representation of staff grades was suffering and that representation by and from manual grades was becoming increasingly dominant. The research covered periods of dramatic business growth; there was no opportunity to test the resilience of consultative mechanisms in more turbulent economic times, but senior management remained strongly committed to their continuation.

### *Infrastructure contractor*

The infrastructure contractor set up a transport forum covering its road and rail maintenance and project businesses in April 2005 involving both union

and non-union representatives. Its initial experience was reported to be broadly positive, having encouraged greater dialogue on issues such as business strategy and restructuring, including acquisitions, outsourcing and redundancies. However, extensive restructuring involving both acquisitions and divestments prompted an early decision to split the original forum, covering both road and rail activities, into two.

Only one meeting of each new forum was held – in November 2007 – since when no further meeting of either forum has taken place. The system of forums had effectively ceased to exist by the end of the research. Despite formal corporate commitment to the maintenance of the forums, no effective managerial support for their operation had been provided and, with no reported pressure from either unions or non-union representatives for further forum meetings, the arrangements appeared to be defunct.

Significant changes in the structure of the rail and roads businesses had contributed to this. In rail, employment had shrunk dramatically as a result of the loss of major contracts and employment was concentrated around one remaining depot where local union organisation provided collective bargaining representation; there appeared to be no continuing organisational logic for linkage to the other remaining work sites. In roads, the workforce had grown and diversified as a result of taking over new contracts but each was independently managed, with terms and conditions reflecting those in operation at the time of takeover. Some were unionised, others not, and again there appeared no strong organisational logic for a 'multi-contract' consultative forum.

High turnover among employee representatives and an apparent lack of union interest in the forums' operation meant there was little if any employee-side support for the forums' continuation.

### ***Electronics company***

The electronics company manufactures tyre pressure monitoring systems for the automotive industry at two UK plants. It is a subsidiary of a UK-headquartered engineering multinational but operates as part of a US-based corporate group. The company is non-union. Having experienced rapid growth, the workforce stood at 825 in November 2008, by which point, the company had begun not replacing employees who left.

The Information and Consultation Forum (ICF), set up in January 2005, is now defunct, having not met since January 2007. Initially, its largely management-driven agenda had centred on issues such as the company's expansion plans, the impact of cancelled orders and delays in planned increases in production. However, employee representatives expressed uncertainty about the role they were expected to play (e.g. in terms of generating agenda items, some of which were rejected by management as falling outside the forum's 'strategic' remit), and undertook no independent networking.

Subsequently, plans to acquire a production facility abroad were announced through management presentations to work groups and

discussed with the ICF only later. The eventual decision to buy a plant in the US was also announced directly to the workforce and not handled via the ICF. By this stage, both management and employee representatives regarded the forum as ineffective and it did not meet again.

Management argued that employee representatives should have been more proactive and taken greater 'ownership' of the forum, whereas representatives interviewed felt that they were insufficiently 'empowered' to do so and that management controlled the ICF's agenda. Representatives were not provided with training to undertake their role, though perceptions vary between management and representatives as to why this failed to materialise. Management eventually concluded that the forum had not functioned as originally intended and offered no real benefit to the company over and above existing communications mechanisms.

### ***News agency***

The news agency is a leading UK media services provider. Alongside its core news agency operation, it supplies a wide range of content and editorial services covering areas such as sport, entertainment, photo syndication and weather forecasting. The company is non-union. Prior to the commencement of the ICE Regulations, and as part of the development of its internal communications strategy, the news agency set up four regional works councils in 2004, based around its largest offices and workforce concentrations.

Both managers and employee representatives reported that initially the works councils were used more by management as a means to impart information on company decisions and elicit employee feedback, but that employee-side input and the extent of consultation had grown subsequently. In 2004 the works councils successfully influenced the outcome of a review of employee benefits, and in 2005 they secured amendments to the company's bonus scheme – described by management as 'their biggest coup with the most impact'.

Restructuring issues were discussed but, reflecting confidentiality concerns, management tended to inform employee representatives of the rationale for corporate acquisitions and divestments once they were a 'done deal'. A more consultative approach was taken to employee-raised facilities and housekeeping issues. In 2008, the possible sale of a division prompted numerous questions from employee representatives. Management responded to the extent possible and also said that it would schedule works council meetings immediately before or after completion to keep representatives informed about its impacts on staff. The news agency also used the works councils to update staff representatives and answer questions about the employment and operational implications of the launch of a new video service.

The head of HR emphasised the works councils' communications role. Consultation on business issues prior to decisions being taken by management 'would be very radical for this organisation'.



### ***Urban housing association***

Urban housing has operations across London with around 750 staff. Long-standing recognition of a union is structured through a joint consultation and negotiating committee (JCNC). Membership density was said to be around 25% in 2006 but had declined to 19% in 2008.

The first attempt to set up an employee forum was strongly opposed by the union which sought to defend its role in the JCNC. The eventual forum was launched in 2006. Every six weeks the JCNC meets in the morning and the employee forum in the afternoon, with identical agendas. This pattern continued over the period of research but the union no longer sends an observer to meetings, seeing it as irrelevant.

The forum meets regularly, chaired by a senior manager with the chief executive and finance director in attendance from time to time. No training has taken place beyond the initial briefing provided by Acas in 2006. Pre-meetings of employee representatives do not take place. A representative-initiated intranet 'chat room' failed after a few months. Housekeeping issues tend to be 'raised around the table' by individual representatives which are not listed on the agenda.

The forum's main function is to be a 'go-between' or 'communication bridge' between senior management and staff in addition to direct communication via team briefing. The forum played a major role in helping plan the relocation of head office and in debating changes to the dress code. It was informed but not consulted over the sale of part of the business under TUPE. Both management and employee representatives expect the forum to be a 'catalyst for communication' if a merger with another housing association proceeds. A recent initiative to revive the forum is for HR issues such as absence policy to be tabled by the new management chair of the forum.

### ***Rural housing association***

Management introduced a restructured employee forum early in 2004 in response to the statutory requirements, hoping at the same time to promote a culture change away from traditional, local government-style employment relations towards 'more general consultation and dialogue'. The forum included representatives from two recognised unions and employee representatives from each of the organisation's departments. Forum discussions included major issues, such as changes to the pay structure and pensions, but employee representatives felt they had little impact on management decisions. Changes to pay and conditions continued to be negotiated with union representatives outside the forum. Time pressures and a lack of networking hindered the preparation for forum meetings.

A lack of substantial issues and difficulties in recruiting representatives meant that interest in and support for the forum waned until the election of new and enthusiastic representatives in 2008. New ways of engaging with employees were sought, resulting in a calendar of social events. Some organisational restructuring had occurred but major changes were

anticipated at the end of 2008. The forum had taken on a predominantly communications role when an amalgamation with another housing association was planned but was unsure about its ability to handle information during a period of substantial structural change.

Management continued to support employee consultation as a matter of strategic importance and the operation of the forum had assisted relationships with the main union by generating more information and a connection to the wider organisation. The other recognised, predominantly white-collar union is not now represented on the forum. Wage negotiations and individual issues continue to be the sole preserve of the unions and management have failed to incorporate them into the forum. Informing and consulting employees does, however, take place openly and widely throughout the organisation, both informally, and more formally through team briefings.

### ***Seaside housing association***

The seaside housing association operates in the voluntary sector and provides accommodation and support services to single homeless people and those who may become homeless in the south of England. In December 2008, it employed 220 contract and relief staff in over 20 project locations. The organisation is the product of a merger between two housing associations in 2001, neither of which recognised unions nor had a tradition of formal consultation with staff. The merged housing association is covered by the National Joint Council (NJC) for pay determination purposes in the housing association sector although management recently announced proposals to withdraw from this.

A staff council (SC) was formed in late 2003, mainly in recognition of the need to develop more effective communications between management and staff to improve performance following the merger. At the time the board had opposed the introduction of union-based arrangements and charged a new HR Director with the development of the council.

Since its inception, the SC has focussed on a mixture of strategic issues (such as tenders won and lost) and HR-type issues, although the latter have dominated. The majority of the SC's activities focus on information dissemination by management and, although there is some evidence of consultation, this is limited to minor changes in employment-related policies and procedures. The recent proposals to withdraw from the NJC are potentially the most significant issue to be raised to date.

There has been little change in the SC's format and composition, although its constituencies were under review at the time of the final research visit because of changes in management roles and difficulties in seeking representatives. The SC is gradually becoming embedded in the organisation, although there remains a degree of apathy amongst staff and management concern at a lack of staff input.

### ***Mobile phone company***

This company is the UK network of a German-owned telecommunications multinational and has almost 6,000 employees. It set up a multi-tier employee council structure in 2003, among other things in response to pressure for union recognition. Trade unions are not recognised for collective bargaining, but provide individual representation.

Under agreed and codified consultation procedures, management consults and seeks agreement with the employee councils on the business case for, as well as the implementation of, major initiatives including restructuring, redundancies, outsourcing and staff transfers. Management routinely engages with employee representatives at an early stage, sometimes under a 'non-disclosure agreement', and the employee councils usually formulate counter-proposals. Management's objective is an 'agreed outcome' and few proposals go through 'completely unmodified' with in some cases 'quite major' changes being agreed. Senior HR managers describe this approach as 'effectively negotiation'. The lead employee representative agrees that representatives have the 'ability to influence' management decision-making. Extensive informal consultation takes place between employee council meetings. A key driver has been management's aim to demonstrate that in-house employee consultation arrangements offer an effective alternative to union recognition.

Employee representatives undergo extensive training and are well coordinated and resourced. They operate their own formal rules of procedure. A 2007 time off/facilities agreement provided improved/standardised provision for representatives, including extra time off for handling restructuring issues. The lead national employee representative is effectively full-time in this role but the growing consultation agenda has prompted employee-side proposals for the secondment of four additional representatives to manage the consultation process and carry out representational duties on a full-time basis.

Other than in the call centres, the proportion of employee representatives who are union members has reportedly fallen, reflecting transfers out of the company but also a decline in union membership attributed to the impact of the employee councils.

### ***National charity***

This is a large charity whose non-unionised workforce consists of concentrations of administrative staff and others dispersed in shops and small offices. The 2005 re-launch of an ineffective consultation system was based around a two-tier structure and reflected senior management commitment and the energy of two full-time seconded facilitators. A national forum with CEO participation and three devolved business forums were designed to handle specific agendas.

By the end of the research, the three business forums had been abolished because of lack of attendance, problems in finding appropriate business for meetings and growing managerial opinion that formal bureaucratic

approaches to employee involvement were not in keeping with the organisation's preferred informal approach. The organisation remained committed to the operation of the national forum, still attended by the CEO, where the major business was the communication of significant changes in business activity, generally viewed positively. Electoral constituencies shifted from a 'business' to a 'buildings' basis. This helped with informal communication between representatives and employees but did not resolve problems of representation for employees working in shops or from home. Representative activity and training increasingly focused around individual case work.

Informal groups, sometimes involving representatives, handled a variety of issues through 'sub-committees' dealing with a range of issues from individual cases to the scrutiny of business plans. These operated under the remit of the national forum but not under any formal structure of devolution. Formal electoral procedures still operated, supplemented by more informal methods of selection. Representatives were seen as more aligned than previously to the shared interests of the organisation.

The activities of the remaining full-time seconded facilitator in supporting forum activity and much of the informal sub-committee work had become even more pivotal, leading to some uncertainty as to how the system would be maintained in his absence.

### ***Care services company***

Management established an information and consultation committee (ICC) in January 2006 both to enhance employee involvement and to extend representation arrangements to non-union staff. The ICC shared bi-monthly meetings with the company's collective bargaining mechanism, the joint negotiating committee (JNC), although negotiating rights were restricted to union representatives. The integration of ICC and JNC meetings proved to be a significant and successful step in enabling greater employee involvement and communication. Greater trust developed between union and non-union representatives although participants did feel that management were still the drivers of the process. Moreover, there were difficulties in securing non-union representatives, and staff interest and input was lower than desired.

The company expanded rapidly involving the inward transfer of several care schemes and the consequent recognition of two more unions. The ICC/JNC formally became a joint forum with one set of minutes and agenda. Ongoing training for representatives included training in chairing skills so that the chair could rotate among all committee members. Quarterly meetings were introduced. A special meeting had been called on care and support management restructuring proposals and, despite contributing 'lots of views' and ideas, representatives were unable to recall any occasion on which changes had been made as a direct consequence of the consultation process. Management had hoped to stimulate participation by means of an 'away-day' for all representatives to discuss their needs and concerns, but it only served to highlight differences between union and non-union representatives.

The development of the ICC/JNC has been slower than management had hoped largely due to the inexperience and lack of confidence of the ICC reps, and the difficulty in recruiting them, but employment relations, and particularly the relationship between the principal union and management, had been enhanced. Challenges may be presented by the possible inclusion and involvement of other unions.

### ***Financial processing company***

This US-owned multinational is primarily concerned with electronic processing transactions for corporate clients in the finance sector. It has multiple sites in the UK and internationally and the research centred on its main (head office) UK site which employs around 1800 staff. In 2007, the company was acquired by a private equity group in a compulsory purchase. Other major changes occurring at the site over the period of the research included job losses, mainly as a result of a change in business volumes, and management restructuring. One trade union is recognised for collective bargaining although membership was believed to be less than 20%.

The ICE Regulations provided an impetus to reforming staff communications and led to the establishment of a Communication Forum (CF) at the main site in 2005. There are no reserved seats for union members on the CF and there was initial union concern that the forum might undermine collective bargaining arrangements. However, there has been no evidence to suggest this has happened.

The forum has met on a regular basis, with special meetings being called on important issues. An independent formal review of the CF took place in 2006 and revealed concerns about the low profile of the forum, its perceived lack of effectiveness, particularly as a forum for consultation, and an over-emphasis on minor issues. Since then, the quality of issues discussed has improved and management appears to be more willing to share information and consult.

Discussions have moved away from the traditional mixture of HR and housekeeping items to embrace more meaningful matters such as job losses, management changes and staff redeployment. There has been greater stability in membership and staff awareness of the CF, although both management and employee representatives would like to see more people actively engaged in the arrangements.

### ***Diversified technology company***

This US-based multinational produces a range of products including abrasives, adhesives and medical equipment. The company's UK operations employ 3,500 staff at 15 sites. It has a UK and Ireland employee forum, reflecting the company's emphasis on employee involvement to help manage corporate change and augment performance. Its more recent establishment or reform of site-level I&C arrangements reflects a wider corporate effort to harmonise I&C arrangements and comply with legislative requirements.

The research focussed on two non-unionised sites (the head office and one manufacturing plant) where employee forums have been established, and a manufacturing plant where union-based partnership arrangements have been extended to include elected representatives of non-union employees to form a 'hybrid' I&C body – the Joint Works Council (JWC).

The experience of consultation varies between the sites covered in the research. In the unionised site a major restructuring exercise involving outsourcing and the adoption of lean manufacturing for the remaining part led to employment declining from 450 to around 100. Extensive consultation and negotiations took place in line with the collective redundancies legislation. Off-site meetings in a special sub-committee of the JWC led to agreement including restrictions on the use of agency workers, new forms of work organisation and the training of workers from other countries taking over the work previously done by this establishment. The JWC meets monthly and is considered to be an effective and influential body by both management and employee representatives. Two non-union members represent staff employees.

In the two other, non-union, sites, there was also major redundancies but the role of the employee forums was limited. Employees affected were consulted directly prior to the forums being informed. Generally, while management provide briefings on business developments, the main role of these forums is dealing with housekeeping matters usually raised by the representatives.

## **Wave 2 cases**

### ***Hospice***

The hospice provides palliative care. It has 164 employees (150 in 2007). Unions are not recognised. A revamped employee forum – Voice – was established in 2007. There are four constituencies with three representatives from each. Training has been provided by Acas on two occasions. The chairman is an employee representative. Two senior managers attend and the chief executive comes sometimes.

Initially the forum used working groups to explore issues such as the smoking ban. This has not been repeated in part because there are no important issues. Much of the agenda is tabled by representatives. Management does not generally provide information nor discuss proposed changes. The forum was told in confidence that senior management roles were to be changed but was not told what they entailed until after the staff announcement. At least one meeting was declared inquorate in 2008 and minutes were not available for another.

Both the HR manager and the lead representative complained that sustaining the ET was like 'flogging a dead horse'. Efforts to revitalise it, for example a survey of employees on communication, have not been successful. Replacement representatives have to be 'press ganged' to serve. An attempt to filter out local housekeeping issues has led some to question its relevance. The terms of reference were revised in 2008 listing

a wide scope of management issues for information and consultation but in practice few of these are tabled. One development has been the establishment of a middle managers group which meets senior managers. Three of the representatives attend this.

Regular team briefings are held and there is a good communications system. The effect of these is that Voice is now 'outside the normal communications channels' and its relevance is questioned. The employee survey in 2008 indicated declining satisfaction with the forum and its representatives.

### ***Law firm***

The law firm is a regionally-based solicitors' practice in southern England. It established a 'Voice' forum in 2007. Staff numbers fell from 130 in December 2007 to below 100 in early 2010. Job losses and redundancies were handled through individual or departmental discussions, and not discussed directly at Voice meetings.

After an initial flurry of issues raised by staff representatives – a mix of operational, staff benefits and housekeeping suggestions and questions about HR policy – the volume of staff-raised agenda items decreased. The frequency of meetings was reduced as a result. In terms of the development of the role of Voice, this was offset by staff representatives increasingly raising questions about 'bigger issues' – notably the effects of the recession on the firm's business, the impact of job losses on staff workload and morale and the prospect for annual pay rises – and by an increase in the number and significance of agenda items tabled by management, particularly changes in HR policy.

Although networking among staff representatives between meetings did not take place, their input at meetings was confident and constructive, and occasionally assertive with pointed questions being asked on some issues. Voice was perceived as valuable by both management and staff reps interviewed. A number of innovations were introduced by the firm as a result of staff suggestions, and staff views on management's options for Christmas closing arrangements were influential. More generally, staff feedback was reported to the firm's partners.

However, notwithstanding the development of the Voice process since it was first established, it was used by management primarily for 'communications' purposes. Discussion at Voice led on occasion to the modification of management's approach to a particular issue but in general stopped short of formal consultation. Further development of the role of Voice was not expected by management in the short term.

### ***Northern housing association***

This charity employs around 160 people providing housing and support services for young offenders. In 2006 it reached a partnership agreement with a trade union which included provisions on information and consultation 'guided by . . . the [ICE] Regulations'. Seeking to combine union recognition with the spirit of the ICE Regulations, the agreement is

formally based around union recognition supplemented by understandings that the union will ensure that all employees are aware of the activities of the Joint Consultation and Negotiating Group (JCNG). The agreement contains a 're-opener' clause that allows investigation of the representative rights of non-union members if membership falls below 40%.

Operating within an increasingly competitive tendering environment, the association has had to take significant costs out of its operation to improve its chances of successful tendering. This has largely been achieved through reducing the numbers of workplaces alongside staff changes and a review of terms and conditions. All have been referred to the quarterly JCNG meetings, attended by the CEO and other senior managers and an employee side whose lead member, the union district officer, has established close links with senior management. Pre-meetings of representatives facilitate a coherent staff side position.

Over two years the JCNG has discussed all aspects of change and has been influential in securing consent to difficult reorganisation. Aspects of the terms and conditions review have been modified and the JCNG enjoys widespread support amongst all involved. One successful example was the referral of the important issue of outsourcing out-of-hours cover to a working party of the JCNG for consideration. Monthly team briefings keep all staff informed of developments and although the issue of non-membership remains pertinent it is unlikely to undermine the partnership. The I&C arrangements have developed into a genuine consultation forum and the dominant means of internal information dissemination.

### ***Professional association***

This trade union/professional association had some 120,000 members. It recognised a trade union representing its 150 staff. A staff working party recommended the establishment of a permanent staff consultation forum in late 2006.

The staff forum comprised senior managers and departmental staff representatives, and was chaired by a staff representative. It was formally a 'hybrid' body in that there was a reserved seat for a union representative, but the union operated an 'empty chair' policy intended to underline its separate negotiating role. Nevertheless, most of the forum representatives were reportedly members of the union.

Senior management regularly briefed the SF on the association's 'performance and plans'. Other issues management discussed with the SF included a 'Delivering excellence' initiative intended to promote new thinking and bottom-up innovation within the organisation, and its Investors in People assessment. Staff representatives described the agenda items put forward by staff as 'quite low level', often housekeeping matters, resulting in 'apathy' among the representatives themselves. Neither management nor staff representatives interviewed thought that the SF was influential with management, nor that its role was well understood by staff.



The SF's role was constrained both by the union's unwillingness to participate and its insistence – accepted by senior management and SF representatives – that 'union issues', whether negotiated terms and conditions or broader HR policies, were excluded from the SF's remit, and by senior management's apparent reluctance to table substantial organisational topics for discussion (e.g. the 2009 strategic plan). The result was a fairly limited SF agenda of a 'routine' management report on the association's main performance indicators plus discussion of training and development plans, facilities and green issues and social activities. Management's proposal in 2009 that the SF should 'own' the prospective staff conference signalled its willingness for the SF to develop a more significant role in the future.

### ***Regional airport***

This small commercial airport, part of a larger airports group, had some 120 employees. It established a staff forum (SF) in 2005. A trade union was recognised for air traffic control and engineering staff in 2007 and, in 2008, recognition of a second union for fire service crews and the further recognition of the original union for other groups took place.

Constitutionally, the SF was a 'hybrid' body comprising 'employee/TU representatives from across the business'. There were staff representatives from each department, irrespective of union membership, plus a union representative from ATC, but no-one was designated as formally representing the subsequently recognised second union. Management participants were senior general managers.

Most agenda items were raised by staff representatives and generally concerned facilities or operational issues. Management consulted the SF on draft HR policies emanating from group level. The most significant organisational change at the airport – a major redevelopment – was the subject of direct communications initiatives aimed at all staff but also featured on the SF's agenda

By the end of the research, there was a recognition on the part of both senior management and, less explicitly, staff representatives interviewed that a review of the role and effectiveness of the SF had become necessary. Management's original intentions for the SF, as set out in its constitution, had envisaged a more wide-ranging remit including company performance issues. However, the SF's role had been 'squeezed' by management's preference for using direct means of communication with staff to address major airport developments and other issues and the subsequent recognition of two unions on behalf the majority of airport staff, taking pay and terms and conditions issues firmly outside the SF's remit. This, and the reliance on staff-raised issues to drive the SF's agenda, resulted in the SF's increasingly narrow focus, primarily on facilities issues.

### ***Regional charity***

The charity employed around 100 people, the majority of whom were social work professionals. Some tensions between a public sector culture

and the development of a competitive environment had been experienced leading to a breakdown in relations between management and the recognised trade union and the latter's de-recognition. A staff forum was set up in 2006 to act as a communications channel between management and employees.

Whilst the organisation experienced fundamental changes in structure and style because of changes in funding and commissioning, the forum was central to communicating the changes to the wider organisation. The forum served as a 'top-down' communications channel although a more proactive role was envisaged for the future. A drive led by the management chair of the forum, and some changes made to the constitution, generated more interest and involvement of staff and the filling of vacant positions.

The organisation experienced a difficult year in 2008-9. Redundancies and the imminent threat of the loss of further contracts unsettled and destabilised the workforce. Cost of living pay increases and the NJC pay system could not be afforded for the first time. The staff forum had been consulted on introducing a performance related payment system and how available monies should be distributed. Their suggestions for the latter were implemented.

Forum members remained concerned that it was purely a 'mouthpiece' for management, particularly the CEO, and requested a change to the chair. An extraordinary meeting, called after concerns about the confidentiality of discussions and the full attendance of the CEO, resolved to have some time at meetings without the presence of the CEO but the role of the forum as a means of dialogue, and not as a decision-making body was underlined. The forum remained stable and resilient in the face of a rapidly changing culture and organisation.

## **Wave 3 cases**

### ***Theatre***

The theatre established a staff representatives group (SRG) in 2006 to address weaknesses in staff communications and as part of a wider modernisation of HR management. Chaired by the HR manager, who planned the bulk of its agenda, it dealt with a mix of HR, restructuring, facilities and staff benefits issues. Pay negotiations are conducted via a recognised union.

No formal consultation procedure was specified. The approach taken by the HR manager varied according to the issue involved. The biggest issue handled by the SRG dealt was a proposed move from weekly to monthly pay for casual staff, planned for implementation in April 2009. Feedback provided by staff representatives indicated that staff were strongly against the proposal. Senior management 'recognised the strength of feeling' among staff and dropped the idea. This was a rare example of the SRG influencing management decisions.

Management used multiple channels for communicating with staff about the closure/ redevelopment of the theatre in 2009, including the SRG where discussion focused on the implications for staff and the payment of a retainer to part-time staff during the theatre's 'dark period'. Staff representatives raised relatively few items, which were largely confined to operational issues and staff benefits.

The SRG dealt with some other important issues including pay-related matters (reflecting the limited role and presence of the recognised union) but by the end of the research its agenda was comparatively thin. The HR manager attributed this to substantial changes over the previous four years which had improved communication and staff morale. Staff representatives appeared uncertain about the SRG's wider impact and its standing among staff. In this context, both managers and staff representatives interviewed indicated to varying extents that it might be timely to consider possible adjustments to the SRG's remit and/or operations in order to renew its momentum.

### ***Safety company***

Up until the recession 38 employees worked in this company making safety harnesses for off-road vehicles. There is a strong 'no blame' culture with emphasis on self-supervision. A weekly briefing for all employees takes place and the general manager reports then on discussions held at the Works Council (WC).

The WC was established by the general manager in 2001 when there were just 12 employees. It has met quarterly ever since and is now well established. There were seven employee representatives in 2007. The WC had a £2k social fund and representatives met monthly to plan events and consider WC agenda items. Training was regularly provided by Acas.

Events in 2008 disrupted the whole operation. Orders were rapidly falling and by March had ceased. Very modest, patchy, improvements came later in the year. There were some staff redundancies in December 2007 but the main plan was to adopt a 4 day week for 3 months and a 3 day week over six months. In the summer it was commonly felt that this short time working could not be sustained and redundancies were announced bringing the work force down to 19.

During this period six or seven confidential, informal, meetings were held with the WC to discuss the best means of handling the drastic downturn. The normal pattern of minuted quarterly meetings and pre-meetings, and the social fund were abandoned. As a result of the discussions some pay flexibilities were built into the short time working. No 'tea and toilet' items were raised in the year ('we have real things to talk about'). The most important outcome was the generation of a common sense of purpose. One representative said 'everyone knew and mucked in. We all know the score. Nobody left the company; we all pulled together'.

## ***Snacks company***

This manufacturer of 'hand made' potato crisps employs 109 people on a single site in Wales for pubs and clubs and supermarket own label brands. Most of the employees are semi-skilled and paid the statutory minimum wage. There is no union recognition. There is no systematic direct information sharing or communication.

The site manager established the employee forum (EF) in 2007 based on previous experience. Acas provided training for representatives which explained the ICE Regulations, although these were of little influence in the decision to establish the forum. Representatives are paid £20 per month to attend meetings.

Relatively few items at EF meetings are raised by management ('we do not talk about plans'). Most items are raised by employees. Once items of importance had been resolved, meetings became clogged with housekeeping matters. Action was taken in 2008 to improve the operation of the EF. Short pre-meetings of the six representatives are held where small items are filtered out. Minutes of meetings are produced within a week and a bullet point summary posted on notice boards. This was done following complaints that representatives were not feeding back correct information. The constitution has been re-written and re-issued and is used as a training document for new representatives in discussion with the HR manager. A manager from head office now sometimes attends EF meetings

Some big issues have been discussed at EF meetings in 2008 both concerning the implementation of management decisions. One concerned teething problems with the new computer system. The other was the launch of an NVQ training programme initiated to meet the audit requirements of the Retail Consortium. Some sales reductions occurred in the recession leading to the irregular cancellation of the Friday shift with staff taking holidays or unpaid leave. This was not discussed at the EF.

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URN 10/1380 ISBN 978-0-85605-763-2