

The Impact and Significance of Information and Consultation Regulations in SMEs in the UK: An Exploratory Study

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Introduction

The Information and Consultation of Employees (ICE) Regulations 2004 heralded a new era in regulating employee voice in the UK by providing employees with novel rights to be informed and consulted over a range of key business and employment issues. However, the preservation of flexibility, and arguably managerial prerogative in determinations of how rights to information and consultation are implemented and operated at the individual workplace level, has led some scholars to question the extent to which employee rights to information and consultation will be legitimized, enforced and democratic in the UK; particularly when compared with more strongly regulated European counterparts (Hall 2005).

Despite the potential ‘reach’ of the regulations within SMEs, and, the significance and contribution of SMEs to the UK economy, much of the extant research has concentrated on larger firms. This paper makes theoretical and empirical contributions by exploring the impact and significance of the Information and Consultation Regulations in SMEs in the South-East of the UK. It does so by utilising a multi-method approach of a survey, expert interviews and four detailed case studies. Given the large nature of the study (Bull 2010), this paper only focuses on three interrelated themes: the varied experiences and perceptions of employers and employees of the Regulations, the extent to which employees want and expect to be involved in higher level decision making within organisations; and the significance of issues to employers and employees when exercising voice through information and consultation arrangements.

Our survey highlighted that the nature of EIP/information and consultation was predominantly direct and top-down within both small and medium sized organisations. Structures of employee representation were absent from two-thirds of sampled organisations. Concomitant with the lack of upward problem-solving EIP mechanisms, the lack of two-way communication may be a missed opportunity for most of these organisations, in terms of

exploiting the knowledge and capabilities of their workforce to improve performance and the quality of their product or service.

The survey findings also showed that the effects of the ICER do not seem to have filtered down to the SME sector. The vast majority of organisations had not made any changes to current information and consultation arrangements in the previous twelve months. Less than half of the sample was aware of the ICER; and only a small handful of firms claimed to have implemented/be implementing an agreement in the next twelve months (2007-2008). Nonetheless, most managers were, at the very least, intending to review their current information and consultation arrangements. Whether employee influence will improve as a result of the ICER is however difficult to determine, since a unitarist management style seems omnipresent. Management respondents firmly believed that organisational decisions are best determined at senior management level.

In our four case study organisations, the scope of voice had improved, yet voice was management-driven in all circumstances. The influence of voice upon management decision making and the efficacy of voice channels varied within and across the cases, and was dependent on the nature of the issues and the participants' level(s) of involvement within the voice channels. Indeed, both management and employee representatives directly involved in the operation of voice channels were enthusiastic and committed to their purpose, identifying tangible influences upon managerial decision making. Interviewees' who had less direct involvement in voice channels within the case organisations held less uniform perceptions.

This paper discusses three interrelated issues pertaining to the regulation of employee voice in the voluntarist setting of the UK. First, how can the varied experiences and perceptions of employers and employees regarding the impact and significance of the Regulations be explained? Second, to what extent do employees want and expect to be involved in higher-level decision making within an organisation? Third, how do employees and employers determine the significance of issues when exercising voice within an organisation? The paper concludes by identifying the theoretical and practical implications of our findings for the statutory regulation of employee voice within a voluntarist framework.

Methodology

The research adopted a mixed-methods approach, comprising three stages:

1. A survey of 250 medium sized organisations in the Kent and Medway regions of the UK
2. Three expert interviews – with a Senior Acas Advisor and two union officials in the Kent and Medway area
3. Four in-depth case studies with two medium and two large organisations, from the private and voluntary sectors.

This paper utilises, in particular, the data obtained from the four in-depth case studies, to address the issues of the impact and significance of the Information and Consultation Regulations.

Case Studies

Charity Org is one of five voluntary sector organisations that provide accommodation and support services to asylum seekers and refugees entering and living in the UK. Founded over 20 years ago, operations are spread over several locations across the Southeast, with its core functions (e.g. human resources, IT, communications and finance) located at ‘head office’ in Dover. Interviews were undertaken with seven senior managers, one line manager and all employee representatives on the ICER body. Interviews were conducted during March-October 2008. Access was also given to the relevant documentation. Unfortunately, employee focus groups were not conducted at this case study. Focus groups were due to commence at the start of 2009 but were postponed and subsequently abandoned due to redundancies that transpired in March 2009. Over twenty employees and managers, including the Head of Resources (and gatekeeper of the research) and two of three employee representatives, were made redundant. At the time of writing, the entire HR function had been outsourced. The future of their ICER body was subsequently uncertain.

Accounts Co is a medium sized chartered accountancy that provides audit, accounts, tax and business development advice to a wide and diverse range of clients within the South East. Established in 1969, the company is a Limited Liability Partnership (LLP), having recently converted from a traditional partnership in September 2007. Twenty-four Senior Partners own Accounts Co. With their exclusion, Accounts Co employs 194 employees spread across five offices around Kent (Canterbury, Chatham, Deal), Gatwick and London. Data

collection for this case study commenced in May 2008 and was completed in October 2008. As a condition of access, the data collection process was modified to take into consideration the chargeable nature of employees' time and work. Employee focus groups were not conducted but in their place a short, open-ended questionnaire was used to capture the views of Staff Forum representatives. Eight out of eleven questionnaires were returned (response rate of 72.7%). Additionally, six respondents (three employee representatives, one line manager and two Senior Partners) agreed to be interviewed out of office hours.

Paper Co is a large, multi-site manufacturing organisation that is a joint venture between two blue-chip multinational companies (Swedish and Anglo-American). Paper Co supplies recycled newsprint paper to regional and national publishers and printers in Western Europe and the USA and is the only unionised organisation within the case study sample. The company employs a total of 370 staff; two-thirds of which are manual shift workers. Data collection at Paper Co was spread over 16 months. Eleven interviews were conducted between May-August 2008. Participants included key HR personnel (HR Manager, Senior HR Advisor and HR Advisor), senior management (Finance Director and Operations Director), the Father of the Chapel and union and non-union employee representatives on the dual channel, ICER arrangement. Three focus groups were conducted in June 2009, with a total of eighteen participants.

Cake Co is the largest organisation within the sample, employing 484 workers at their purpose-built factory in West Sussex. The company supplies premium cakes, muffins, cookies and desserts to a range of large high-end brands within the coffee and retail sectors (e.g. Starbucks, Marks & Spencers). The following analysis is based on interview ($n=12$) and focus group ($n=2$) data collected between April-July 2009. The majority of interviews were carried out with employee representatives across two of their four shift patterns. At the time of the research, the company's ICER body, formally known as 'Our Voice', had been operating for less than one year, alongside three forms of direct communication: notice boards, daily shift handover briefings for factory-based workers, and email for office-based staff.

Theme 1: How can the varied experiences and perceptions of employers and employees regarding the impact and significance of the regulations be explained?

A clear finding of the research is that it has been management, as opposed to employees and unions, who have been the initiators of compliance (Beaumont & Hunter, 2005; Koukiadaki, 2006; Hall *et al.*, 2008: 17). The survey data revealed that very few organisations were expecting their employees to endorse a request for ICER negotiations with their employer, in the near future. Likewise, there was only one example within the Acas Advisor's caseload of 23 companies where employees had successfully triggered the ICER.

The lack of employee pressure for information and consultation arrangements was also a noted aspect within the case studies. At Paper Co, Cake Co and Accounts Co, management perceived that it was highly unlikely that employees were aware of the ICER, or would have attempted to endorse a request for negotiations under the new statutory framework, had management not voluntarily enhanced employees' opportunities for EIP. Representatives' awareness and knowledge of the ICER was limited, if not non-existent in most cases, with the exception of representatives whose normal working role was related to HR. At Charity Org, as management had instigated the establishment of a PEA, it was not possible to discern whether an ICER request would have materialised.

In regard to union reactions to the ICER, the findings of this research have revealed that unions' stance towards the new regulations have fundamentally been one of indifference despite arguments that such channels may offer a conduit to expand the realm of union involvement. None of the union participants involved in this research had actively used the ICER. Union organisers preferred to pursue rights to negotiate, rather than consultation through the ICER. Pressures to sustain aggregate membership levels led the organisers to dedicate the majority of their resources to extending their presence within workplaces where they were already recognised. At Paper Co, which was the only unionised organisation within the case study sample, UNITE was provided with two seats upon the company's ICER body for non-manual workers. However, it was generally believed that the scope, credibility and influence of Paper Co's union arrangements exceeded that of the company's non-union arrangements. Union indifference or ambivalence towards the ICER has also been noted in other studies in larger organisations (e.g. Hall *et al.*, 2007, 2008a).

Knowledge of the ICER's requirements had led management to extend or revamp their information and consultation arrangements within three of the four case organisations. Charity Org, Cake Co and Paper Co for example, each established what in their minds or by their standards, were voluntary agreements/PEAs. Within two organisations, the establishment of a PEA entailed a complete overhaul of their existing forums. Charity Org for example, introduced an 'Information and Consultation Group', to replace an arrangement of 'stand alone' staff representatives that had become ineffective, due to workforce expansion. Cake Co introduced a more complex arrangement, which comprised one site-level consultation forum and five 'local' meetings covering different shifts and functional areas. 'Our Voice' replaced a previous staff forum that was deemed to be '*awful and totally useless*'. At Paper Co, the coverage of information and consultation was made universal, in that employees' rights to representation were extended to non-manual workers. A separate consultation body was set-up for office-based workers who were not covered by Paper Co's union agreement, to operate in parallel with their long-standing, union-based consultation and negotiation committees.

The effects of the ICER in regard to the uptake and development of information and consultation were minor at Accounts Co, since the decision to establish a staff forum was not linked to the ICER. The staff forum was established in 2004, before the ICER came into effect. Information and consultation arrangements at Accounts Co were not based on a written agreement with employees, nor had the staff forum been extended to cover employees of new offices that had merged or been acquired since the forum's inception. Despite the fact that management at Accounts Co had not amended the status of information and consultation in line with the ICER, the staff forum itself marked a significant departure from previous managerial practice. Having essentially '*started from scratch*' (Beaumont & Hunter, 2005) with regard to information and consultation, nearly 200 employees, including middle management, were given access to employee representation for the first time in the company's history. Steps towards enhancing employees' opportunities to be informed and consulted through direct EIP mechanisms were also made. For example, strategy and performance reports are now disseminated to employees on an annual and bi-annual basis, respectively. A 'People Managers' initiative was also established at line management level, *inter alia*, to allow employees to voice their individual concerns.

Similar to existing studies (e.g. Beaumont & Hunter, 2005; Hall *et al*, 2008), management were the dominant actors that shaped the development and characteristics of information and consultation. In two cases (Charity Org and Accounts Co), the objectives and parameters of information and consultation were solely management-determined, which sits in marked contrast with best practice guidance (e.g. Coupar, 2001; Dix & Oxenbridge, 2003). It is advocated that EIP be jointly agreed, in order to engender a sense of autonomy and employee ownership over the mechanisms that are established and hence ensure success (e.g. Dix & Oxenbridge, 2003; Gennard & Judge, 2005). The use of elections and secret ballots as a means to select employee representatives is also advocated, for similar reasons. If management impose EIP arrangements upon employees, there is also the possibility that parties' expectations of what consultation is meant to embody may not align, which can generate mistrust (Beaumont & Hunter, 2005). Bonner and Gollan (2005: 253) concluded from their research at South West Water that:

“Representative structures within firms need to have the full support of the majority of employees and be seen as organic to the workplace rather than an imposed arrangement between management, staff and unions [where present]. Without such a bottom-up approach, the legitimacy and respect for such arrangements will diminish, creating obstacles for developing meaningful dialogue and trust between management, staff and unions”

A joint-approach to implementation was pursued in Cake Co and Paper Co, in that the establishment and subsequent parameters of information and consultation, involved discussions with managers and employee representatives. However, within these two organisations, it could be argued that information and consultation was still management-imposed or ‘controlled’, as the working parties that established their forums were not democratic. Management handpicked the parties and selected those who *they felt* could make a ‘meaningful contribution’. At Paper Co in particular, management remained the ‘architects’ of information and consultation, despite the fact that the JCF constitution was ‘mutually agreed’. At the time of the negotiations, employee representatives had no prior experience of representation, nor had they received any training in such matters. Employee input into the drafting of the forum’s constitution was effectively limited to agreements on ‘wording’.

Elections and secret ballots for forum representatives were conducted within three organisations (Cake Co, Paper Co and Charity Org). At Cake Co however, a common perception amongst employees was that the election process was undermined by the fact that employees were given no information about the representatives' skills or intentions to base their decision on. Potential candidates for example, were not required to submit 'expressions of interest'. Employees were merely provided with a list of representatives that had put themselves forward, and asked to vote accordingly. Whilst the selection of representatives was democratic in the sense that employees could choose who represented them, voting was based on their popularity, rather than their abilities to 'act as custodians of employees interests' (Gennard & Judge, 2005: 203).

Accounts Co was the only organisation that did not use elections to select representatives. Employee representatives volunteered or were management-appointed. In effect, the absence of an election process constrained the effectiveness of the forum in practice. In the eyes of management, the intentions of volunteers were questionable, in that the majority of representatives used the forum as a conduit through which to 'catch up on the latest gossip'.

Across the four cases therefore, the lack of genuine employee involvement in the design of information and consultation could partly explain why EIP failed to engage the 'hearts and minds' of rank and file employees as will be discussed below.

Table 1: Key influences on management strategies towards the introduction/revamp of information and consultation arrangements

Organisation	Internal Factors	Macro/environmental Factors	Influence of the ICER
Charity Org	<ul style="list-style-type: none"> - Appointment of new Head of Resources Manager - Voice is an employee's democratic right - Best practice - Union avoidance 	<ul style="list-style-type: none"> - Company growth - ICER 	Catalyst to the reform of defunct arrangements
Accounts Co	<ul style="list-style-type: none"> - Results of an employee survey - Desire to be an employer of choice - Cultural change programme 	<ul style="list-style-type: none"> - Company growth - Change of ownership/move to LLP status - Tight labour market conditions 	Minor, as the staff forum pre-dated the Regulations
Paper Co	<ul style="list-style-type: none"> - Best practice - Equal treatment of employees (previous arrangements covered manual workers only) 	<ul style="list-style-type: none"> - ICER 	Catalyst to the extension of existing arrangements
Cake Co	<ul style="list-style-type: none"> - HR Manager elevated to HR Director (newly created position) - Union avoidance 	<ul style="list-style-type: none"> - ICER 	Catalyst to the reform of defunct arrangements

Table 1 highlights that the new legislative context was but one of a number of factors that shaped management thinking and action regarding information and consultation. In fact, in most cases, the ICER acted as a ‘catalyst for change’ (Hall *et al.*, 2007) or stimulant for the development of EIP. Internal and external influences upon, or motivations for the development of information and consultation included: corporate values and ownership, the appointment and values of new senior HR personnel; management attitudes to trade unions; labour market pressures, and, workforce expansion, and the subsequent need to formalise the management of employee relations. As is evident in Table 1, the presence and significance of these factors or ‘drivers’ was organisation-specific.

At Accounts Co, the impetus behind the development of EIP, in part, stemmed from the results of a staff survey, and reflected a management drive to improve communication, employee engagement and the culture of the organisation. Labour market pressures were a further driver of EIP (Marchington, 2007). The staff forum for example, was introduced to help fulfil managements’ aspirations of becoming a model employer, which coincided with a tight labour market and growing competition for skills. Extending employees’ rights to participation and industrial democracy was not managements’ objective for the forum, despite management’s claim that the forum adhered to the spirit of the Regulations. Contrary to management opinion, the forum lacked two-way dialogue and was scarcely used for consultation purposes. In fact, the staff forum was by-passed in a number of management decisions.

The drivers of information and consultation at Charity Org and Cake Co were remarkably, although not entirely similar, despite being fundamentally different organisations (see Table 1). A notable similarity was that the development of information and consultation coincided with the appointment of a senior HR position on the SMT or company board. The managers’ new to these positions were keen to make EIP more meaningful for the benefit of employees, customers and the wider organisation (e.g. to improve quality of services/products, job security, employee development, inform employees of various projects). Having previously been employed as the companies’ HR managers, the promotion meant that they were now in a position of authority to push through the issue of information and consultation and employee representation. The importance of the presence and impact of a senior level manager on the introduction of new EIP mechanisms, and HR practices in general, has been

highlighted in other studies (e.g. Ahlstrand, 1990; Marchington *et al.*, 1992, 1993, 2001; Hall *et al.*, 2007, 2008). Hall *et al.* (2007, 2008) for example, found that the adoption of new information and consultation bodies was led by a newly appointed manager (normally from HR), within fourteen of their 21 case studies. Similarly, Marchington *et al.*'s (1993) study of employee involvement in 25 companies found that the implementation of various EI practices was often connected to the arrival and career aspirations of 'champions'. Champions used the implementation of new EIP mechanisms as a form of 'impression management,' to increase their own visibility amongst senior management, with the broader aim of climbing the company ladder. Career progression was the primary motive of new managers, not improving organisation effectiveness *per se* (see also Ahlstrand, 1990).

At Cake Co and Charity Org, there was evidence to suggest that management may have used the ICER and the establishment of employee forums to promote a strategy of union avoidance. Ascertaining the 'union effect' on management decision-making can be difficult to 'tease out', since this is an area of sensitivity, and few managers outside the USA wish to be labelled as 'anti union' (Hall *et al.*, 2008: 23). However, it was apparent within Charity Org and Cake Co that management established non-union representation, in part, to reduce pressures for unionisation, and enable the companies to maintain their non-union status. For example, Cake Co had no union members but BAFWU were 'at the gates' as it were (Hall *et al.*, 2008: 23), and had continually tried to recruit production workers outside the premises. A common view amongst employees was that reluctance to join the union was influenced by managers being unsympathetic towards unions. The implications of not providing workers a voice at work, in the face of BAFWU's recruiting activity, was an important selling point for the HR Director, when recommending the forum's establishment to the board.

At Charity Org, the influence of trade unions on their decision to implement the ICG was also noticeable. Here, UNITE's claim for recognition was unsuccessful, but the level of membership and employee support for unionisation may have been an incentive for UNITE – who have negotiated several ICER agreements across the country – to try and kick-start the ICER as a means to enter the organisation. Top management were amenable to unionisation if this was the desire of 'the masses', but the initiator of EIP (who sat on the SMT) was less enthusiastic towards union involvement. The HoR's intentions for the forum to offer a suitable alternative to unions was clear, given that representatives had a role in handling both collective and individual issues or grievances, though not formally expressed.

The establishment of non-union employee representation with the objective of, *inter alia*, remaining non-unionised, demonstrates how and why unions have some cause for concern in terms of the ICER. For example, the majority of employee representatives within Cake Co, and to a lesser extent Charity Org, remained indifferent towards union membership and unionisation. It was their view that employees now had a conduit through which to have ‘a say’, as a result of forums’ establishment. As a result, employees perceived union membership as unnecessary. In addition, a tendency of representatives was to couch the benefits of union representation in terms of their effectiveness during major crises, and more specifically, redundancies, rather than in a broader/more holistic sense. A small minority of representatives also believed that internal representation was more personable than union voice, in the sense that internal representatives were more likely to have a better understanding of the organisation and employees’ needs and interests, rather than a ‘union outsider’.

Nonetheless, it was also evident within the case studies that the provision of non-union representation had not eradicated employee support for unions overall, or that non-union employee representation was not without limitations. At Charity Org, perceived feelings of injustice concerning managements’ handling of redundancies spurred employees at one office to enquire about union recognition, even after their information and consultation body was established. In addition, employee representatives still saw a role for unions despite the ICG’s presence, in terms of protecting employee interests during organisational restructuring and redundancies. Employee representatives conceded that unions are more knowledgeable of employment legislation than they are, and unions are thus better positioned to ensure that management act within the confinements of the law. It was also apparent that union members were still present at the organisation. Therefore, union members had not relinquished their membership, on the basis that internal representation in both an individual and collective capacity was freely available.

At Paper Co, limitations to non-union arrangements compared with union voice, were also apparent. Within this case study, union voice had higher kudos in the eyes of management and employees, given the types of issues that union representatives dealt with, and the fact that union representatives had rights to negotiate in certain areas. Union bodies were habitually involved in operational and tactical decisions (e.g. pay systems, new technology, work organisations, working hours). Management also viewed that union representatives

acted 'more collectively'. Non-union representatives by comparison, were individual in mindset. The scope of issues discussed by non-union representatives was also limited to welfare and more trivial issues.

In addition to the internal factors discussed above, the influence of macro environmental factors on the development of EIP was also discernable. At Charity Org and Accounts Co, workforce and geographical expansion prompted the need for better communication and formalisation within the organisation. In the latter organisation also, a change in ownership status prompted management to broaden the scope of financial information that was given to employees. As a LLP, Accounts Co was now required to publish more business information than before, and made some of this information available to employees through the staff forum and company reports.

Theme 2: To what extent do employees want and expect to be involved in higher level decision making within organisations?

On the whole, managers and employee representatives perceived the operation of employee representation mechanisms as a 'good thing' in theory, but in practice, employee voice did not always meet managements or employees expectations. From a management perspective, employee apathy towards EIP was seen to be a key constraint to the sustainability of their arrangements, which raises one key question: do employees want a voice at work? Common assumptions within the EIP literature are that employees will want to have a say in all matters that affect their working lives; and, that employees will engage in processes/mechanisms that allow them to do so, if management give them the opportunity (Purcell *et al.*, 2003). The findings from this research however showed a lack of employee interest or ownership towards the operation of information and consultation arrangements within all four case studies, albeit to varying degrees.

Employee apathy towards EIP was demonstrated by reported difficulties in finding representatives in certain departments of the organisation (e.g. Charity Co, Accounts Co; Cake Co), and a lack of agenda items put forward by employees to their representatives, for discussion at forum meetings (Accounts Co, Paper Co, Charity Org). Also, with the exception of Charity Org who was going through redundancies at the time of the research, the majority of representatives told of how their constituents rarely asked about what

happened at forum meetings. Explanations for the lack of employee interest and motivation to participate in information and consultation arrangements were various across the case organisations. At Paper Co, a common interpretation of management and HR was that the lack of employee suggestions or collective grievances raised through the forum indicated employees' contentment with their work and their employer. Employees generally agreed that Paper Co was a good employer, yet it was also apparent that their information and consultation body (for non-manual workers) lacked credibility amongst its constituents, due to their inability or power to shape the strategic or tactical decisions of the organisation. Management's unwillingness to consider implementing requests for flexible working practices and performance-related pay for example generated a degree of cynicism amongst employees, which in turn, discouraged some employees from raising any further issues.

Another plausible explanation for employees' indifference towards information and consultation is the characteristics of the workforce in each case organisation, which can affect employees' expectations or desires for more or less involvement in organisational matters. At Accounts Co for example, the workforce comprised a high proportion of professional workers. In professional work environments, employee autonomy in the organisation and in the performance of their tasks is relatively high. Additionally, and as suggested by Purcell *et al* (2009: 132), managers of professional, high-skilled workers can often find it difficult to develop HR practices that 'manufacture' a sense of belonging to the organisation, due to a tendency for employee identities and commitment to be shaped more by an attachment to a profession or discipline, rather than an attachment to the organisation itself. However, the lack of employee participation may be due to the lack of employee awareness of the company's staff forum. The HR Partner for instance, questioned whether employees knew that the forum existed, unsure if employees were educated as to the purpose (or even existence) of the forum in the staff handbook, or during inductions for new starters.

At Cake Co, the effectiveness of EIP seemed constrained by a multi-cultural workforce. The potential advantages of using EIP mechanisms in groups or organisations that comprise members from different cultures, backgrounds and experiences is that different cultural perspectives can foster innovation and creativity through 'constructive conflicts of perspectives and knowledge synergy' (Lauring, 2009: 386). This can lead to a wide variety of ideas being produced (McLeod & Lobel, 1992), and in turn, result in better quality solutions or decisions. However, employee representatives (and employees more generally)

were often timid in their encounters with management, afraid to speak out, or to challenge managerial authority. Employees' reluctance to express their opinions was attributed to the different nationalities and expectations that existed on the shop floor. EIP was believed to be out of the 'comfort zone' of most employees. Equally, management had not tabled any problems or projects for employees and their representatives to 'get their teeth into'.

In addition to employee apathy, a further criticism or constraint reported by management (and employee representatives) was that where employees did suggest items for the agenda, these were generally operational/task-oriented or 'tea and toilet' matters, which were not the intended purpose of the information and consultation bodies. At Cake Co, the expectations of HR and other forum members were that Our Voice existed, in part, to address matters of a wider scope that could for example, help improve the efficiency or effectiveness of the organisation. A similar outcome was reported at Accounts Co, to the extent that management on the forum felt that the agenda was primarily a list of employee 'demands' or 'wishes'.

Discrepancies' in the intended and actual scope of information and consultation raises questions regarding employees' expectations and/or capabilities to contribute to the broader, more strategic issues of the organisation, since employees appeared to attach more importance to issues surrounding their immediate working environment. If so, is it a mistake of management (and the EIP literature) to brand mechanisms that contend with welfare and 'tea and toilet' issues as trivial, when in fact, it could be the resolution of these issues that lead to improved employee outcomes and in turn, organisational performance. Previous studies that have focused on the 'influence gap' within UK workplaces (e.g. Marchington, 1980; Diamond & Freeman, 2001) have often reported that whilst the level of employees' actual involvement in the UK is low, the degree of participation that employees' desired is often dependent on the nature of the decision. More specifically, employees have generally wanted more say over matters closer to job-level, than influence over higher-level issues. Marchington (1980) found that employee interest in participation tends to reduce as the topic becomes more abstract from employees. Focus groups conducted at Cake Co seemed to support the findings of these studies in the sense that employees' perceptions towards the efficacy of their voice arrangements were shaped by their capacity to influence matters pertaining to the shop floor (e.g. canteen, breaks). Management failure to address some of their concerns led them to feel under-valued and that employees views were not listened to;

feelings which were compounded by the fact that senior management were rarely seen by manual workers on the shop floor.

On the other hand, are the discrepancies described above due to managements' unrealistic expectations of employees' skills and experience of EIP, particularly where information and consultation arrangements are being imposed on employees for the first time? For example, Accounts Co introduced the Staff Forum in part to encourage employees to suggest avenues to enhance organisational effectiveness, yet expected employees to bring these issues to the table of their own accord, given that the balance of activity upon the forum was bottom-up/employee-driven. Management were also keen for employees to take greater ownership over the information and consultation process in order to ensure the forums' sustainability. However, employees had no prior experience of information and consultation/EIP at the strategic level; employees had no involvement in the establishment process of the forum, nor did employees have a say over the selection of representatives. Most importantly, employee representatives did not receive training (in-house or externally) regarding the purpose or function of the staff forum.

Employees' experience of participation, or lack thereof, was pertinent across all four cases. The information and consultation forums were pluralistic in terms of their objectives and structures. Fundamentally however, employees' frames of reference were largely individualistic, illustrated by the nature of issues put forward by employees, in addition to the lack of cohesion or collective solidarity that existed between employee representatives. In only one case study (Paper Co) were attempts made by the representatives to meet collectively beforehand. That being said, the fact that the ICER arrangements in place across the case study companies were 'more information than consultation' (Wilkinson *et al.*, 2007; Hall *et al.*, 2008, 2009) was due to the predominant style of top management, and reinforces the reality that consultation only goes as far as senior management allow it to. Top management commitment to workplace democracy is crucial but not evident within all four case studies. For example at Paper Co the new CEO had restricted information; at Accounts Co only 2 Senior Partners out of 24 were involved; and at Charity Co the CEO the owner/manager wanted to make final decision.

Theme 3: How do employers and employees determine the significance of issues when exercising voice?

It is argued within the literature that a combination of complementary direct and representative practices that are embedded, is likely to have a greater impact on employee outcomes, through the positive synergies that complimentary mechanisms can generate (Cox *et al.*, 2006). Therefore, the concept of ‘embeddedness’ is an indication of the centrality of EIP to the organisation (Cox *et al.*, 2006: 252) and managements’ commitment to the concept. The extent to which EIP is embedded can be inferred from its ‘breadth’ and ‘depth’ (Cox *et al.*, 2006). ‘Breadth’ refers to, and is measured by, the number of formal EIP mechanisms that an organisation uses at a given time. ‘Depth’ looks at how embedded a single EIP mechanism is within a workplace or organisation (Cox *et al.*, 2006). Proxies of depth include the frequency with which meetings take place; the opportunity for employees or representatives to raise issues with management and ask questions; the relevance and importance of issues considered at meetings; and, the level of influence that is accorded to employees (Marchington *et al.*, 1992; Cox *et al.*, 2006, 2009).

By using indicators similar to those identified by Cox *et al* (2006, 2009), Table 2 highlights the breadth and depth of information and consultation/EIP arrangements that operated across the four case studies. Given that it was the establishment and operation of indirect EIP that formed a key focal point of the case studies, it is the depth of these arrangements that are the primary focus of this section, as opposed to the depth of other EIP mechanisms that were in place. The number of formal EIP mechanisms in use at the time of the research ranged from four to six (see Table 2). In the main, direct forms of EIP/information and consultation acted in complement to the employee forums that organisations had put in place, and were used by management and employee representatives to solicit agenda suggestions and ideas, and report back to constituents.

Table 2: The embeddedness of information and consultation

Depth

Case Study	Breadth	Provision of training	Senior Management participants	Frequency of meetings	Scope of issues covered within the constitutions
Charity	4 mechanisms	✓ (Acas)	CEO, Head of Resources	Every two months	Employment legislation, policies and procedures; Future plans of the organisation; Organisational restructuring; Proposed changes to terms and conditions of employment; Organisational and financial performance; Working environment and employee facilities; Training and development; Client satisfaction and complaints; Health and safety. State how consultation defined
Accounts Co	5 mechanisms	x	HR Partner, IT & Operations Partner, HR Manager	Bi-annual	No constitution exists.
Paper Co	7 mechanisms	✓ (IPA)	Finance Director, Operations Director	Quarterly	The workplace, economic situation of the business, Employment prospects within the business, Training and development; decisions likely to lead to substantial changes in work organisation or contractual relations, Social and welfare facilities Consultation not defined
Cake Co	5 mechanisms	✓ (Acas)	HR Director, Finance Director, Managing Director, Project Manager	Monthly	Business developments, Current and future staffing levels, Customer and quality issues, Company policies and procedures relating to employment matters, Training and development, Health and safety, improvement initiatives, Employment legislation.

With reference to the depth of information and consultation forums, there were many indications across the four case study companies to suggest that management, and HR in particular, were genuine in their efforts to make these structures meaningful (see Table 2). With the exception of Accounts Co, management commitment to information and consultation was demonstrated during the start-up stages by their willingness to allow employees to choose their representatives via elections and secret ballots, which to some (e.g. Cox *et al.*, 2007) is symptomatic of managements' commitment to fairness, and an attempt to build trust within the EIP process (Beaumont & Hunter, 2005). Joint training was provided to management and employee representatives, in order to ensure parties' understanding of consultation, and of their role and contribution to the process. Moreover, in all four cases, HR ensured that members of senior management either chaired or regularly attended forum meetings to demonstrate a 'commitment from the top', although in practice, the degree of top management commitment was contestable.

In terms of the formal scope of information and consultation, the list of issues subject to discussion was extensive, particularly at Charity Org (see Table 2). For the most part, the constitutions encompassed areas such as organisational/financial performance, staffing levels/employment prospects, proposed changes to contractual relations, training and development, health and safety and employment legislation. Issues excluded from the ambit of the forums typically concerned pay and individual grievances, which is nothing out of the ordinary. The meaning of consultation was only spelt out in two of the three cases that had formalised procedures for information and consultation (Charity Org and Cake Co). Within both companies, consultation was to transpire *before* [emphasis added] final decisions were taken, which exceeds that stipulated by the ICD and standard provisions of the ICER. Accounts Co was the only company that had not developed a constitution, or delineated the formal objectives of the forum.

In regard to operation, the actual scope of forum discussions varied significantly across the companies. At Charity Org, the ICG was largely a forum for discussing items put forward by the HoR. In contrast, at Accounts Co and Cake Co, the direction of activity was essentially bottom-up, and concerned the discussion of employee concerns and suggestions. Across all cases, the

types of issues voiced by employees generally concerned their immediate work environment, or were related to pay and reward. For the most part, employee suggestions were meted with a receptive response from management. Nonetheless, there were a few examples within each organisation where employee concerns or ideas were stonewalled. Employees had little influence over what Knudsen (1995) terms tactical decisions and work organisation.

Despite the fact that HR had broadened the scope of information available to employees, and had addressed some of the concerns of their respective workforces, one key indicator or proxy of the effectiveness of information and consultation bodies (and the ICER) is the manner in which management use consultation arrangements on strategic or major business change. After all, it is here where managerial opportunities for information and consultation arise, and where the robustness of arrangements are truly tried and tested. Three of the four organisations had experienced strategic change during the operation of their information and consultation arrangements, which led to redundancies within two of them (Charity Org and Paper Co). At Charity Org, retractions in funding from the voluntary sector by the Home Office, concomitant with a fall in demand for Charity Org's services, meant that a number of projects were not renewed at the end of their tenure. Two redundancy rounds were carried out during the ICG's existence, whereby numbers employed reduced by over 40 and the entire HR function was outsourced. Redundancies were also a feature of Paper Co, where rising production costs and the exportation of waste paper placed the company in financial crises. Over 30 redundancies took place firm wide, below management level.

Accounts Co, on the other hand, experienced changes of a different sort/nature. Strategic change comprised one merger; the closure of two small offices, and the subsequent relocation of staff to their main offices; and, more significantly, a transformational shift from a generalist to a specialist practice. A decision to discontinue paid overtime was also taken during the forum's operation.

Cake Co was the only organisation that had not experienced any major crisis or change *per se* within the year that their forum had been operating. Sales and profitability had dropped in light

of the recession, but overall, the company was still growing. It was even reported that the recession had had a positive effect on performance, by improving staff retention.

When considering how management used their information and consultation arrangements during the developments/decisions referred to above, it is possible to conclude that employee forums generally had ‘more tongue than teeth’ (Bate & Murphy, 1981: 403) in terms of influencing the strategic matters of the organisation. In the majority of cases, consultation did not carry with it any noticeable increase in employee authority or decision-making powers. In one company (Paper Co), the crux of the problem was the timing of consultation. The general sentiment amongst the HR Manager, employee representatives and employees was that employee voice was shallow, due to the fact that consultation transpired after the decision(s) had been made. This was demonstrated through the redundancy consultations. Employees perceived consultation as a tick-box exercise that did not affect the number of job losses that took place. Management also paid lip service to employees’ ideas on how to cut costs, despite the company’s deteriorating profitability; and discarded employees’ suggestions on the prospect of performance-related pay and flexible working for non-manual workers. In the main, Paper Co’s consultation forums were used to ‘sell’ management decisions rather than to democratise them, which generated a climate of suspicion and mistrust.

In other companies, the inability of employees to shape management decisions was owing to the fact that management were not using the forums as envisaged by the ICER. Accounts Co and Cake Co were prime examples. Aside from using the forums to communicate financial information and various KPIs to employees, management scarcely used the forums for consultation or joint-problem solving purposes. Meeting agendas were typically one-sided and concerned the resolution of employee-raised matter only, rather than being used strategically to improve performance or organisational effectiveness. Of the two companies, information and consultation was the least embedded at Accounts Co, given the infrequent nature of forum meetings, and, owing to the fact that the forum had been by-passed during the making of various management-decisions (e.g. discontinuing paid overtime, transition from generalise to specialist practice, closure of offices). There was also some indication that the forum was accorded less respect or significance compared to other forms of EIP, on the part of the Senior Partners. Direct

forms of communication/consultation implemented after the staff forum (e.g. People Managers, focus groups) had begun to take precedence over the forum.

At Cake Co, it could be argued that the quality of 'Our Voice' was yet to be tested, since a need to consult employees on organisational change had not yet arisen. On the one hand, there was no denying that the HR Director was genuine in her endeavours to make information and consultation more embedded. For example, the scope of information sharing had broadened; forum meetings happened on a monthly basis, as opposed to transpiring 'as and when' needed (as in Charity Org as well); five monthly meetings took place to ensure representation was universal (with the exception of middle management); and, a number of employee issues had been resolved to demonstrate management buy-in. On the other hand, the forum was not being used to its full potential. For example, there were noted problems or issues within the company that HR was keen for employees to help resolve (e.g. language and communication, production costs). Whilst management intentions were to discuss firm-wide/developmental issues, management were yet to table these types of issues to prompt their development.

Arguably, information and consultation was the most embedded at Charity Org. Forum meetings were regular; the agenda, albeit one-sided (top-down, management to employees), encompassed strategic information/decisions and HR policy; and, a combination of direct mechanisms was used to report back to the constituents of the forum (e.g. intranet, team briefings). In terms of strategic change, the ICG was the main conduit through which the charity's restructuring and subsequent redundancies were channelled. Fundamentally, senior management made restructuring decisions unilaterally, since consultation and the ICG was not intended '*to limit the responsibility or rights of the SMT and/or Trustees to take final decisions*' (ICG Constitution, 2005: 2). Management proposals were however shared with employee representatives on a confidential basis, before their release to the wider organisation; and, employees shaped the manner in which the redundancies were implemented (e.g. the redundancy selection process/redundancy policy). A notable finding was that Charity Org was the only case organisation to share confidential information with their employee representatives.

Conclusions

Evidence presented in this paper demonstrated very little take-up from employees and unions, in regard to the ICER. Similar to the findings of existing studies, management, and more specifically the HR function, have thus been the initiators and ‘architects’ of information and consultation. In the majority of cases, the impending arrival of the ICER had played a catalytic role in the development of information and consultation bodies but a myriad of internal and external factors have brought information and consultation/EIP to the fore of managerial attention/thinking. In some cases, managerial motives for the establishment of an ICER agreement coincided with the desire to safeguard the company’s non-union status.

Management commitment to the operation of information and consultation was evident but the majority of information and consultation forums nevertheless, lacked substance in terms of contributing to strategic decisions. On the contrary, union voice was perceived more effective, on account of the longevity of the management-union relationship, and the trivial and ‘individualistic’ tendencies of the non-union forum. Also, despite some reported benefits to information and consultation, none of the organisations had formally reviewed or evaluated the impact on organisational performance or effectiveness. Employee apathy and senior management style were key constraints to the sustainability of information and consultation.

This paper yields important insights into the operation of the ICER, and its implications for employees’ rights to information and consultation. From a theoretical perspective, the findings of this research highlight the complexities of information and consultation, and reinforce the importance of embeddedness, and the interdependencies of the internal organisation and the macro/external environment in its operation. Given the scope for variation in practice, the concept of ‘embeddedness’ provides a useful framework for exploring management commitment to EIP, and for explaining key similarities and differences in the operation and effectiveness of EIP. A clear theoretical weakness is that a detailed understanding and explanation of the relationship between EIP and performance is missing. Despite this being one of the core rationales for EIP, it was clear from our research that it is not clear what shape this should take in practice, nor was this even on the radar. In some ways, this reflects a lack of robust theoretical framework for HRM, and in particular the High Performance Work Systems literature (Freeman

& Esketh, 2007, 2008; Harney & Dundon, 2007) despite EIP being identified as one of the core bundles.

From a public policy perspective, employee apathy towards the ICER and operation of information and consultation more generally, was a salient finding of this thesis, and raises a number of questions for policy makers to consider. Firstly, ‘why are requests for ICER agreements so few and far between?’ The lack of employee requests that have materialised following ICER’s enactment implies one of three things. First, employees in the UK are content with opportunities to be involved or participate, or possibly, as Kessler *et al* (2004) have suggested, have become accustomed to the low levels of involvement employees have traditionally been afforded. Second, employees are ignorant of their rights; or third, that employees desire greater involvement, but for some reason or other, are not able to mobilise collective action.

Given that management remain the architects of information and consultation, even in the face of EU attempts to legislate for participation, the scope for employers to establish voluntary agreements has allowed them to determine their own parameters of information and consultation. As this research has shown, this sometimes fell below the model envisaged by the ICD. Information and consultation agreements were largely imposed, rather than being jointly agreed, and were based on a managerial agenda. Meaningful consultation was rare in practice. Variation is likely to continue, unless further requirements are placed on the criteria of a PEA. For example, possible requirements include obliging employers to define information and consultation, or making voluntary agreements enforceable by law.

It is still too early to judge with any certainty, the ramifications of Labour’s ‘light-touch’ approach to the transposition of the ICD into British law but it seems improbable that the ICER will result in a dramatic recasting of UK industrial relations, based on the findings of this research, the evidence published so far (e.g. Hall *et al.*, 2007, 2008, 2009), and the UK’s experiences of other EU Directives (e.g. EWCD, WTD). The ICD is weak in terms of providing rights to consultation and variation in the practice of information and consultation is likely to continue.

The propensity of employers to establish voluntary agreements, which are devoid of any legal significance, has meant that the extent to which employees are increasingly (and meaningfully) involved is contingent on employer goodwill, and their understanding/conception of what EIP can achieve in the long-term. In the UK, the barriers to participation and workplace democracy are deep-rooted in voluntarist and neo-liberal ideologies, and thwarted by a culture of short-termism and shareholder value.

References

Ahlsstrand, B. (1990) *The Quest for Productivity: A case Study of Fawley After Flanders*. Cambridge: Cambridge University Press.

Bate, S. & Murphy, A. (1981) 'Can Joint Consultation Become Employee Participation?', *Journal of Management Studies*, 18(4): 389-409.

Beaumont, P. & Hunter, L. (2005) *Making Consultation Work: The Importance of Process*. London: CIPD.

Bonner, C. & Gollan, P. (2005) 'A Bridge Over Troubled Water: A Decade of Representation At South East Water', *Employee Relations*, 27(3): 238-258.

Bull, E. (2010) 'The Impact of the Information and Consultation of Employees Regulations on Medium Sized Firms', PhD Thesis, Kent Business School: University of Kent.

Coupar, W. (2001) *Sharing the Challenge Ahead: Informing and Consulting with your workforce*. Involvement and Participation Association.

Cox, A., Zagelmeyer, S. & Marchington, M. (2006) 'Embedding Employee Involvement: and Participation at Work', *Human Resource Management Journal*, 16(3): 250-267.

Diamond, W. & Freeman, R.B. (2001) '*What workers want from workplace organisations: A report to the TUC's promoting trade unionism task group*', London: Trades Union Congress.

Dix, G. & Oxenbridge, S. (2003) *Information and Consultation at Work: From Challenges to Good Practice*. London: Acas.

Fleetwood, S. & Hesketh, A. (2007) 'HRM-performance research: under-theorised and lacking explanatory power'. *International Journal of Human Resource Management*, 17(12): 1977-1993.

Fleetwood, S. & Hesketh, A. (2008) 'Theorising under-theorisation: Research on the human resources-performance link', *Personnel Review*, 37 (2): 126-144.

Gennard, J. & Judge, G. (2005) *Employee Relations*. Fourth Edition. London: CIPD.

Hall, M. (2005) 'Assessing the Information and Consultation of Employees' Regulations', *Industrial Law Journal*, 34(2): 103-126.

Harney, B. & Dundon, T. (2007) 'An Emergent Theory of HRM: A Theoretical and Empirical Exploration of Determinants of HRM among Irish Small-to Medium-Sized Enterprises (SMEs)', *Advances in Industrial and Labor Relations*, 15: 109-159.

Kessler, I., Undy, R. & Heron, P. (2004) 'Employee Perspectives on Communication and Consultation: Findings From a Cross-National Survey', *International Journal of Human Resource Management*, 15(3): 512-532.

Knudsen, H. (1995) *Employee Participation in Europe*. London: Sage Publications.

Lauring, J. (2009) 'Managing Cultural Diversity and the Process of Knowledge Sharing: A Case from Denmark', *Scandinavian Journal of Management*, 25(4): 385-394.

Marchington, M. (1980) *Responses to Participation at Work*. Gower: Farnborough.

Marchington, M. (2007) 'Employee Voice Systems', in P. Boxall, J. Purcell & P. Wright (eds.) *The Oxford Handbook of Human Resource Management*, Oxford: Oxford University Press.

Marchington, M., Goodman, J., Wilkinson, A. & Ackers, P. (1992) 'New Developments in Employee Involvement', Employment Department Research Paper Series No. 2., London: HMSO.

Marchington, M., Wilkinson, A., Ackers, P. (2001) *Management Choice and Employee Voice*. Research Report. London: CIPD.

McLeod, L. & Lobel, S. (1992) 'The Effects of Ethnic Diversity of Idea Generation in Small Groups', in Best Paper Proceedings, Academy of Management Convention, Las Vegas, Nevada: 227-231.

Purcell, J., Kinnie, N., Hutchinson, S., Swart, S. & Rayton, B. (2003) *Understanding the people and performance link: Unlocking the black box*. London: CIPD.

Wilkinson, A., Dundon, T. & Grugulis, I. (2007) 'Information But Not Consultation: Exploring Employee Involvement in SMEs', *The International Journal of Human Resource Management*, 18(7): 1279-1297.

To make, buy, hedge or avoid? Considering the impact of the Information and Consultation Directive on workplace voice regimes

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Abstract

A key focus of the employee voice literature is the role of employers in determining the shape of voice regimes. In particular the literature has isolated a number of discrete employer responses to the design of workplace voice which incorporate the possibilities of 'making', 'buying' or 'hedging'; or alternatively taking the 'no voice' route (Willman *et al.* 2006; Gollan, 2006). Meanwhile concurrent to these considerations has been a growing interest in the impact of the regulatory environment for employee voice. The significance of the Information and Consultation of Employees (ICE) Directive has been the principal point of departure in these concerns. The contribution of the paper is to explore the relationship between the regulation of voice as contained in the ICE Directive and employer choice in the design and implementation of voice regimes. This paper, using data from four case studies of organisations operating in either the Republic of Ireland and Northern Ireland, explores the engagement of management with the Directive. In particular, it explores the choices made by management in their compliance with the respective legislation. Utilising the existing framework of 'make', 'buy', 'hedge' or 'avoid', the paper offers qualitative evidence on the capacity of the regulations to shape the *form* and *content* of employer-designed voice regimes in four company cases of varying organisational sizes and sectors. The argument is made that despite there being apparent significant differences in the legislation on the respective side of the Irish border, the depth of engagement with the legislation has predominantly been generated by the micro-political circumstances within the respective organisations, rather than the legislative detail.

THIS PAPER IS PART OF ON-GOING RESEARCH AND IS NOT INTENDED AS A FINAL REPRESENTATION OF IDEAS OR ARGUMENTS. PLEASE DO NOT CITE WITHOUT PERMISSION FROM CORRESPONDING AUTHOR (j.donaghey@qub.ac.uk)

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Introduction

The concept of participation and employee voice is now firmly embedded in both Irish and UK employment regimes, although for very different reasons and with different outcomes. The quasi-corporatist model in Ireland for example, places a premium on national level dialogue between the social partners, with voluntary agreements at a national level underpinning the principles of inclusiveness, innovation and competitiveness at the workplace (Roche, 2007; Teague and Donaghey, 2009). However, only 4% of Irish enterprises have in place formal arrangements for workplace partnership, and around half the labour force report that they ‘hardly ever’ receive information from management on matters such as job restructuring or company financial information (O’Connell et al, 2004). Alternatively, in the UK the idea of partnership is endorsed as a policy objective in seeking to promote ‘competitiveness and fairness’ at work (DTI 2004). However, despite public policy intentions, arrangements for representative forms of participation have declined in the UK, with less than half of all workplaces reporting the incidence of any form of representative voice for employees (Kersley et al, 2006:132).

The processes for greater regulation present a new dynamic against the drive for sustained competitiveness and labour market flexibility, inspired by a decade of market liberalisation as well as European regulation (Heery, 2009). Indeed, the regulatory drive for employee voice may fundamentally alter the voluntarist nature of partnership and social dialogue in both jurisdictions (Sisson, 2002; Geary and Roche, 2005; Dundon et al, 2006). In the UK, the European Information and Consultation Directive has been transposed into the *Information and Consultation of Employees (ICE) 2004 Regulations*, and in the Republic of Ireland the *Employees (Provision of Information and Consultation) Act 2006* provides defined rights for employees in the area of information and consultation. The regulations establish for the first time, in both jurisdictions, the legal right for employees to receive information and be consulted on the recent and probable development of the undertaking’s or the establishment’s activities and economic situation; information and consultation on 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; and information and consultation, with a view to reaching an agreement, on decisions likely to lead to substantial changes in work organisation or in contractual relations.

This paper seeks to explore in greater detail employer responses to the Information and Consultation Directive. As such, the paper examines and illustrates how the regulations might serve to shape the *form* and *content* of employer-designed voice regimes. The paper conducts this analysis under the sponsorship of a transactional economics approach, which incorporates the possibilities of employers either ‘making’, ‘buying’ or ‘hedging’ voice regimes; or alternatively taking the ‘no voice’ route (Willman *et al.* 2006). This framework, which to date offers the only theoretically informed approach to examining employer choice vis-a-vis employee voice, explores how the outcomes attached to voice regimes are based on economic utility.

The paper proceeds as follows. In the next section, the ‘make’, ‘buy’ or ‘hedge’ and ‘no voice’ framework is presented. Subsequently, the research method and case selection are outlined. This is followed by the empirical evidence drawn from four case study organisations. The paper concludes with a discussion evaluating the dynamics of employer choice, as influenced by the Information and Consultation Directive. The efficacy of existing conceptualisations in capturing the dynamics of choice and voice regimes are also reviewed and assessed.

Information and Consultation Directive in Ireland and the UK

Both the UK and Irish governments opposed the Information and Consultation directive when it was initially introduced. Once it became clear that it would become European law, the agenda shifted to one of trying to water down the proposals. In particular, both governments wanted to prevent information and consultation bodies being mandatory, akin to German Works councils. The very rationale behind the legislation was to give workers, particularly in the UK and Ireland, permanent and automatic representative voice in three particular areas: on the recent and probable development of the undertaking’s or the establishment’s activities and economic situation; information and consultation on 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; and information and consultation, with a view to reaching an agreement, on decisions likely to lead to substantial changes in work organisation or in contractual relations.

In Northern Ireland, the relevant transposition legislation was the *Information and Consultation of Employees Regulations (Northern Ireland) 2005*, While in the Republic it was enshrined in the aforementioned *Employees (Provision of Information and Consultation) Act 2006*. In both jurisdictions there are two areas of the transposition which appear contrary to the requirements of the directive: direct involvement and the elective nature of legislation. Article 1(3) of the Directive states that “when defining or implementing practical arrangements for information and consultation, the employer and employees’ representatives shall work in a spirit of cooperation”. The Directive, therefore, mentions employee representatives and gives the flexibility to countries (Art.1 (2)) to make their own arrangements in such a way as to ensure effectiveness of the provision. This apparent flexibility was interpreted by both the UK and Irish governments to allow them to recognise existing practices in firms including non-representative forms of I&C, which was itself a central demand of employer organisations. The second contentious element of the transposition is the manner in which both sets of laws have defined the right of employees to I&C as an elective and not automatic right. Under both legislative frameworks, employees must obtain a certain level of support and formally make a written request to an employer to put in place I&C arrangements, known as the “trigger mechanism”. The elective process is in essence a hurdle that many employees will not seek to cross and allows employers to do nothing about the Directive. A final similarity in the transposition is that in both jurisdictions “pre-existing arrangements”(PEA) can be interpreted to fulfil the requirements of the legislation. Under this mechanism, agreements reached voluntarily between employers and workers (or worker representatives) could be interpreted as being I&C bodies.

Despite a common approach in opposing the legislation in Europe as well as a common approach to watering down the legislation, a number of subtle differences are nonetheless contained in the respective legislations. First, in order to avail of the PEA an agreement must be in existence by March 2008, whereas in the UK, a PEA must be in existence before an employee I&C request is made. This means employers in the UK have the option of delaying the establishment of a body until they realise an I&C application is imminent. A second difference exists in the respective treatments of trade unions. In the UK there is no role specified for trade unions in the legislation, whereas in the Republic if a union represents 10% or more of a workforce and has recognised rights, it has the right to elect reps to Information and Consultation Forum. A number of other

technical differences exist over issues like qualification periods for representatives and enforcement.

Management choice and voice regimes

In the voice literature, a common theme is the role which management play in shaping voice regimes. This is particularly so in relation to representative voice. The most sophisticated explanation of how, when and why management choose various voice regimes has been put forward by Brson, Wilman and Gomez in a series of articles. Bryson *et al* (2004) highlight that between 1984 and 1998, rather than there being a significant shift in terms of the number of employers with or without voice, the significant change has been what form employers choose voice to take, with a growth in non-union voice arrangements. Bryson *et al* (2006) contend that employers have a large degree of discretion in terms of choosing what sort of voice regime operates. Indeed Wilman *et al* (2006) argue that in institutional settings as found in the liberal-market economies, employer choice needs to be more fully incorporated into the analysis if one is to comprehend voice regimes.

Informed by a transaction cost economics approach, Bryson *et al* (2004) argue that employers may opt to “buy”, “make”, “hedge” or simply opt for “no voice” depending on the investment and exit costs of the various regimes. The emergence of different voice arrangements are premised on a contracting problem. By “buy”, Bryson *et al* view union voice as akin to a sub-contracting relationship where employers ‘pay’ the union, through union wage premia and associated benefits, to provide voice. In doing this, however, employers lessen the exit option of workers. The second option for employers is to “make” voice, that is, to create non-union voice mechanisms. This is close to the sophisticated HRM approach which revolves primarily around direct interaction without independent mediators (i.e. trade unions). Direct costs are increased and the lack of independence may risk employees rejecting the validity of the body. Alternatively, the lack of a union may lessen the risk of union opportunism. The third option identified is “hybrid” arrangements. Under this scenario, employers may use a mix of both union and non-union methods concurrently. This option is seen as maximising the direct costs (i.e. the direct costs in both union and non-union arrangements) but minimising the risks associated with both options.

Finally, they argue that where the cost of exit is relatively low, employers may ignore calls for voice and operate a “*no voice*” regime.

What is the hypothetical relationship between this framework and the potential impact of the ICE directive upon employer choice on voice regimes? Table 1 outlines possible linkages between respective employer choices, as proposed under the framework, and how the ICE directive may serve to shape those choices.

Table 1 *Relationship between employer choices and ICE Directive*

Employer choice	Potential Impact of ICE Directive
<i>i. Buy</i>	Ignore ICE Directive due to existing trade union voice
<i>ii. Make</i>	Make ICE Forum in non-union firm
<i>iii. Hybrid</i>	Make ICE Forum in unionised firm
<i>iv. No Voice</i>	Ignore ICE Directive

The ‘buy, make, hybrid, no voice’ framework is not without criticisms. As highlighted by Charlwood (2006), the approach fails to take into account the role of the state or workers in shaping a voice regime. While sympathetic to Charlwood’s (2006) argument, this paper argues that Charlwood’s criticisms stop short of other gaps in the framework. Primarily, this focuses on what actually occurs within a given voice regime. While the macro-level data used by Charlwood is indicative of the operation of arrangements, the ability of employers to shape institutions of voice must be judged in the context of how these arrangements actually operate in real terms. In other words, there is a possibility that the existing framework conflate structure with agency.

Research methods

The data in this article is extracted from a larger research project concerned with employee voice and partnership on the island of Ireland. The research design is multiple case studies, and for the purposes of this paper draws on four organisations, from across a variety of different sectors. The

organisations sampled operate across the two different jurisdictions of Northern Ireland and the Republic of Ireland. According to Yin (2008) the strength of the multiple case study approach is its sensitivity to context, which is germane for reflecting upon workplace representation arrangements that are invariably shaped by specific organisational circumstances.

Selection of case studies

Despite being legally enforceable since 2005, the uptake of employees utilising the legislation within both the UK and Ireland has been slow. In Britain, the Central Arbitration Council (CAC 2010) has dealt with 31 cases since 2005 and in 14 of those cases employees have triggered the I&C Act without identifying themselves. In Northern Ireland the Industrial Court has adjudicated on one case (IC 2010). In the Republic of Ireland, the Labour Court has adjudicated on one case (Labour Court 2008) and is dealing with one case of employees triggering the I&C Act, while the Rights Commissioners Service had 7 cases referred to them under the I&C Act in 2008 (LRC 2010). Thus establishing a coherent database of companies which have utilised the directive was problematic. However, given the qualitative approach being used in this study, informal contacts with a number of actors were used to identify potential companies to participate in the research. These included the statutory bodies on either side of the border charged with advising on the Directive, human resource consultants advising companies, trade unions, employers' organisations and specialist industrial relations journalists. As a starting point, these key contacts were asked to identify or approach companies who they knew had a response to the legislation on behalf of the research team to participate in the project. While recognising that the generalisability of the findings would be questionable, this purposive sampling approach initiated a process whereby meaningful data on the issue could be raised.

As noted above, four case study organisations were utilised. Two organisations of these organisations were 'cross-border' i.e. operating in both jurisdictions of Northern Ireland and the Republic of Ireland and operated in retail and services respectively. Of the two remaining companies, one operated in Northern Ireland, whilst the other was based in the Republic of

Ireland. Both were manufacturing companies. This approach provided scope for both 'between' and 'within' sector and jurisdictional comparisons.

Brit Co. is a British-owned telecommunications multinational operating in more than 170 countries. In 1990 BritCo entered the Republic of Ireland market through a joint commercial venture with an Irish semi-state company. In 2000 BritCo acquired the joint venture company and also purchased another private sector Irish organisation, making it one of the major players employer in its sector in the Republic of Ireland. It employs over 2000 employees. The company is also based in Northern Ireland, employing 1000 employees. The company is non-union in the Republic of Ireland, but heavily unionised in Northern Ireland. In total 26 interviews were conducted in the company with key informants including the chief executive officer, the human resource director, line management, forum coordinators, shop stewards and employee representatives. Retail Co. is a [British retailer](#), founded in 1969, and has 331 stores across the UK and 9 in the Republic of Ireland. In Northern Ireland there are 9 stores in total, employing about 1000 people. About 80% of these employees work in a customer facing role, with the remaining 20% involved in administration and management. The company is non-union. Two stores, one in Northern Ireland and one in the Republic of Ireland were used for the purposes of the case study alongside visits to the company headquarters in the Republic and Northern Ireland. In total respective senior HR managers responsible for either jurisdiction were interviewed, alongside 16 workers across the two stores.

Northern Co. is a Northern Ireland based, family-owned firm, trading across the UK, Ireland and Europe since the 1970s. Over 200 people are employed in its one manufacturing and operations facility in Belfast, with the principal concentration of staff involved in the building and despatch of products. The company is non-union. In total, 12 respondents were interviewed, including a survey of the company workforce (n=50). Interview respondents included a company director, human resource manager and 3 employee representatives and 7 employees. Products Co. is an American medical products manufacturer multinational based in three sites across the Republic of Ireland. It has operated in Ireland since the early 1990s and presently employs 5,000 staff, although it has closed down three former sites in recent years. The site at which the research is based upon is the largest manufacturing site within the corporation, with over 3,000 staff

involved in research, development and manufacture of medical products. The company is non-union.

Summary Findings

'Make & Buy Voice': Brit Co

The ICE Regulations first came to the attention of management in Brit Co in 2004. Two responses were in evidence. First in Northern Ireland, management decided to largely ignore the regulations. In Northern Ireland, the company had already in place a set of developed consultative mechanisms in the form of a Joint Consultative Committee and bi-monthly meetings with the two trade unions recognised there. The former are twice yearly meetings between senior management, notably the chief executive officer and the financial and human resource directors and the trade unions in the company. The latter, involve the HR team, the senior management of particular business units and trade union representatives. In this context, management felt that it was unnecessary to duplicate or re-vamp these existing mechanisms in light of the regulations. Similarly the trade unions in the company expressed little interest in terms of what the regulations could offer. In this context, the management approach appeared to be content to continue to 'buy' voice, viewing the switching costs to either 'making' or 'hybrid' as unappealing.

Yet in the Republic, where Brit Co. operations are non-unionised, the Regulations prompted management to 'make' an *Information and Consultation Forum* in 2005 as a form of pre-existing agreement. This was motivated exclusively by a need to meet the requirements of the *Employees (Provision of Information and Consultation) Act 2006*. Notably management acknowledged that this forum was very basic in its structure, although it did have constitution which was signed off by employee representatives. However there does not appear to have been any election for such a forum, with representatives being handpicked by management. For the most part, management admitted that the forum was principally about ticking boxes. Initially it met once every three months, although by mid-2006 it had ceased operating at all. The workings of the forum were described as poor with the main business being a financial report by the chief executive officer and/or finance director. Indeed, HR later evaluated the climate of the forum as poor, with the exchange of views or opinions largely discouraged.

Ultimately the forum became an empty shell and certainly by the end of 2006 it was largely inoperative. However, in 2007, the forum was re-vamped and re-labelled from the *Information and Consultation Forum* to the *Brit Co. Vocal*. The impetus for this change in approach stemmed from the emergence of a strong trade union organising campaign amongst employees within the company in order to more effectively address a number of long-running grievances. The newly revamped forum was therefore very much a consequence of management reacting to demand from below for an adequate voice mechanism. *Brit Co Vocal* was endowed with a number of new characteristics amongst which was new constitution; the setting up of an electoral system and the more regular coming together of forum participants every four weeks.

Whereas no coherent electoral system existed for the previous forum, under *Brit Co Vocal* employee representatives were chosen through election, with typically one representative per 100 employees. Electoral constituencies were designed to allow for each business area to have one representative, although the engineering and call centre section of the business were allowed to elect three representatives as over 300 people were employed in that section. Employees could either self-nominate, or be sponsored by colleagues. Where more than one representative came forward, an election would take place. Whereas the previous forum had been little more than a presentation by the Chief Executive Director on the financial performance of the company, *Brit Co Vocal* meetings were more substantial and inclusive, beginning with the Human Resource Director outlining current developments in the company, followed by a financial and market update by the Chief Executive Director, with the remainder of the meeting set aside for employee representatives to raise pertinent issues and discuss matters of concern. Agendas were also circulated to representatives before meetings and time was allocated to representatives to competently execute their duties.

In this context, reinvigorating the forum was motivated by three principal considerations. First, it was seen in the classic union substitution sense in offering a rival source of information to combat messages being articulated to employees by the trade union. Secondly, it had a more opportunistic streak in the sense that it was hoped by management that such a forum would serve as a defence under the unique opportunities created by Irish Supreme Court ruling in early 2007

which provided some legitimacy to in-house employee forums and thereby undermine the capacity of the union to bring any claims against the company before the national Labour Court. Finally, the re-branding and renewed promotion of the company was seen by the newly arrived chief executive officer as a means by which the low trust culture in the Republic could be overcome and a move towards a more progressive, high-trust culture could be fostered. Certainly, since the new CEO's incumbency, numerous initiatives have been adopted or revitalised in an effort to improve general awareness amongst employees of the company's strategic direction. The forum was very much part of this process and was widely seen by senior management and the HR department as part of a wider package of employee relations reform within the company, as articulated through the soft HRM discourse of developing employee commitment.

Yet over time managerial efforts to court employee favour with the *Brit Co Vocal* mechanism appeared fruitless. Case research suggests that most employees regard the forum as ineffective talk-shop, more appropriate to 'tea and toilet' roll issues than substantive negotiation. In this regard, the forum has been undermined by a tendency amongst employees in the company to contrast it unfavourably with the unionised arrangements operating within the company in Northern Ireland. Employee representatives on the forum have either dropped out, or in some cases, have been viewed as too close to management, using the position as a stepping stone up the company career ladder. At the completion of field research in the company, employees growing rejection of the forum, led management to re-think how the forum might gain credibility going forward.

'Make Voice': Retail Co.

Retail Co. has a long history of providing internal information and consultation arrangements to staff. Again this is very much of the *make* variety, shaped in part by the company's proclivity toward a sophisticated paternalist ethos. Traditionally a store level consultative committee was widely used through company sites, with the possibility of pursuing issues to a divisional office level. In the late 1990s, this practice was restructured, with a new multi-tiered mechanism being initiated to give more scope to the consultative arrangements and ensure company-wide coverage referred to as *Rank and File*. These arrangements operated through a sequence of meetings at store, regional, divisional and national level, organized in a uniform format throughout the

company. Meetings now take place at each level on a quarterly basis, starting at store level and followed by meetings at progressively higher levels so that, where deemed necessary, ideas and issues can be passed up from store level to national level. Of note are the revised arrangements introduced in 2002, which included for formal elections for employee representatives and consultative role in respect of planned business change. There is thus a formal nomination and election process for store level representatives. Representatives at regional, divisional and national levels are selected by and from the representatives at the level below. The structure also operates within the company's head office departments. Notably, the HR team in the Republic and Northern Ireland were satisfied that the *Rank and File* arrangements satisfied the criteria of a pre-existing agreement under the ICE regulations.

At store level, each retail site has one rep for every fifty employees, up to a max of two, plus one rep for the night crew (where one exists) and one rep for the management team. In the company warehouses, the maximum rep is three, plus one night crew and one management rep. The nomination and election process was conducted through secret ballot where more candidates are nominated for the available place. Elections are held every three years, but the process can be triggered if an existing representative leaves, or is promoted or needs to be replaced for other reasons. The quarterly meetings at store level are chaired by the store management. As well as the elected store reps, any member of staff who may wish to attend may do so, although this appears to rarely happen in practice. Agenda items can be put forward either by staff or the management. Pro forma agenda sheets for store level meetings are provided by head office. In terms of feedback from meetings, reps are expected to report back to their colleagues directly and the main points from the meeting are posted on the store's notice board.

Regional forums cover between five and twelve stores. Chaired by regional managers, they consist of one employee representative from each store, plus one management representative from the region. These meetings typically discuss the company's and region's performance and the discussion of any issues referred to from store level. The regional forum will also agree key issues that representatives on the divisional forum will bring to the next divisional meeting. The store reps on the regional forum are expected to report back directly to their stores on the outcomes of regional meetings. Further to this are the divisional forums, which include one

management representative from the division. The meetings are chaired by the director of each division, supported by the HR manager. Again this forum provides an update on the company's and the division's performance and discuss any ideas unresolved at regional level. Finally, there are national level meetings, which are made up of one employee representative from each of the divisional forums, plus two management reps. These are quarterly one day meetings chaired by management directors and supported by head office HR staff. Finally, Retail Co. Staff are also represented on the owning conglomerates European Works Council, although there is no direct link between the EWC and the Retail Co. National forum.

Senior management in general tend to evaluate *Rank and File* in positive terms. The forum is viewed by them as an organisational positive and a crucial component of delivering high-commitment HRM. Their evaluations are not wholly uncritical however and HR managers interviewed expressed some concerns around the capacity of staff to seriously engage in the forums and effectively communicate both at the *Rank and File* table and with their constituents. On the other hand, non-managerial staff, whilst appreciating the idea of *Rank and File* as a useful one, tended to view the forum as toothless and as something which was not taken seriously by either senior management or local management teams. Representatives often report that their capacity to do their work is limited by store line managers and the pressure of conducting customer service. In the Republic, a Rank and File representative offered an example in one store where the heat levels were extremely high. Employees complained to management, raised the issue at Store *Rank and File*, then again the Regional *Rank and File*, up to Divisional level. Despite repeated attempts no action to remedy the extreme heat levels was taken by management. Consequently one of the employees in the store reported the matter to the Irish Health & Safety Authority (HSA). The HSA investigated the complaint and found it to be valid, serving the company with an enforcement notice. A similar issue existed in one site visited in Northern Ireland where employees continually complained in opposite terms about the lack of heat and the coldness of the store during the winter. Again in this case, most employees reported that despite repeated airing at the store *Rank and File* forum management have yet to act on the grievance.

'Make Voice': Northern Co.

The Employee Forum at Northern Co. was set up in 2005. Two factors appear to have underscored management motivations to *make* an internal voice forum. The first stems from a

recommendation by the Investor in People (IIP) Group who had previously audited the company communication practices as the company had sought their accreditation. However an equal factor motivating management was the organising campaign by a trade union in the company and it was hoped that the forum would offer a means of union substitution. To help in the construction of the forum the Labour Relations Agency of Northern Ireland were asked to assist. A constitution and operating for the structure was written up and this was explicitly tailored to meet the requirements as set down by the ICE regulations.

The forum meets once every 6 to 8 weeks depending on the particular needs of the time. In 2007, the forum met quarterly, however since 2008 it has met every month. This appears to be principally due to the climate of uncertainty in the economy and concerns over employment security. Notably, HR noted that the forum may have fell by the wayside in 2006, but became more fully reinstated in 2008. It was also noted that the focus of the forum has evolved since its initial introduction. In the early years, its focus seemed to be health and safety, but this has expanded to a greater focus on more core employee relations issues (health and safety is now addressed through its own committee). Employee representatives are volunteered, if more than two names from a business area come forward than there is a ballot. In practice ballots have never occurred as management admit it is difficult to get people. In some instances, HR have had to contact supervisors to encourage someone from the floor to sign up. The signing up of representatives however was a very formal process nonetheless. The LRA helped write up 'job vacancies' for the role which were advertised internally outlining the roles and responsibilities of the position. Nominated employees then had to fill out a nominate form and get two names from their business area to support them.

The forum has its own specific co-ordinator (a member of the HR team) who assists in setting and distributing the agenda as well as writing up and circulating minutes. Items may be added to the agenda by employees and there can be pre-meetings between the co-ordinator and the reps before the main meetings. These often distil issues which may not be appropriate for the forum i.e. some issues may be more appropriate for the H&S committee, maybe 'too personal' or there focus may too much at operational level rather than the company as a whole. Reps may also meet before hand to discuss particular issues – for example, reps themselves decided up a particular

charity which the company should support. In total there are 6 employee representatives, 2 for production, 1 for administration, 1 for area sales managers, 1 for warehouse and 1 for marketing.

The HR manager, operations manager and operations director are usually the main management attendees at the forum. The operations director acts as chair. A finance director may also come along and present on company performance. The set structure to the meeting is usually as follows: there is introductions, a report of business performance followed by a presentation on financial developments. Then HR will speak about possibly policies to be introduced or changes to existing procedures; for example the introduction of childcare vouchers. Then employee reps will speak on specific issues of concern or ask questions. Minutes are produced serve as an action log for the HR team. Minutes are also sent out to reps to make sure that they are happy with what is presented before it is circulated more widely through company notice boards. Minutes are not circulated until two or three days after the meeting to give reps a chance to communicate back to constituents.

Time is allocated before and after the meetings for the reps to organise and conduct their work properly. Usually, reps will be given an hour before hand to conduct any necessary work and an hour afterwards to inform their constituents about developments. Reps communicate back to constituents in a variety of ways; the admin rep will do it through email, whilst reps on the floor will often do it through the team briefings, wherein they will ask the supervisor for ten minutes at the end of the briefing to report back.

Senior management at Northern Co see the forum as a core to their people management activities in the firm. In particular, management have seen crucial positives in the forum through its capacity to smooth the passage of organisational changes and undermine the 'rumour mill' amongst employees. Despite these positives, management remain keenly aware of the forums limitations, although squarely directing these shortfalls as emanating from employees. Management have raised doubts about the effectiveness of representatives to communicate back to employees effectively and they also exhibited an exasperation at a repeated tendency amongst employees to raise very minor issues at the forum such as the cleanliness of toilets instead of more constructive company-wide issues around business improvement and performance.

Employees on the other hand tend to view the forum as cosmetic. Key organisational changes, such as a termination of bonuses and an increase in daily production rates for line work, have been introduced unilaterally by management, with efforts by employees to raise concerns over such issues been fruitless. This has led to a considerable bulk of employees rejecting the forum and placing their hopes in a further effort at organising by the trade union. Notably, employees report little or no engagement with their employee representative. However employee representatives attribute this to pressures exerted by line managers to work on production activities rather than forum related activities.

No Voice: Product Co.

In Product Co. the evidence suggests that there was *no voice* arrangement in place. Indeed the company is part of a wider consortium in the Republic of Ireland – the American Chamber of Commerce – which actively lobbied against the transposition of the directive and played a key role in ensuring that the resulting Act would be much weaker than the initial directive i.e. recognition for direct, non representative forms of information and consultation, reinterpreting the right of employees to information and consultation as an elective, rather than automatic one and a limitation on the financial reporting to be made by management to employee forum.

Within the company there were widespread grievances amongst operational floor staff. Chiefly these revolved around a sense of arbitrary and punitive management practices and a lack of adequate mechanisms to articulate their collective concerns. In early 2009, a small number of staff became alerted to the possibilities of the Employees (Provision of Information and Consultation) Act 2006. A group of employees was galvanised into taking action after the company announced a wholesale change in shift patterns, causing considerable anger among many employees, particularly at the high-handed manner the management announced the plan. An underground campaign without the management's knowledge was under taken with the aim to persuade employees to sign a petition which then was submitted under the provisions of the Act so as to trigger the mechanism for the Labour Court to intervene and assist in the creation of an I&C forum. A sufficient number of signatures were collected and this became a valid application being lodged with the Labour Court under the Act.

In response to a Labour Court letter that the Act had been triggered in the company by its employees, the company claimed that they had a “joint information and consultative forum” in place “pre-dating the legislation”, in the form of an information forum set up in early 2005. It is suggested by the company that the information forum, which it says was constituted in line with the legislation has:

An established practice of informing and consulting employees on a range of issues, including overall business strategy, financial metrics, health and safety issues, operational performance and organisational change. The forum meets regularly to discuss these and other relevant issues.

The company claimed that “any perceived grievances relating to information and consultation have not been raised by employees directly with management” or through the information forum. Also the company pointed out that it employed almost 3,000 employees, and that the number of employees associated with this request does not constitute 10% or more of employees in the undertaking. However, in response the Labour Court noted that the 10% threshold was subject to a maximum of 100 employees, which the Court confirmed had been attained. Furthermore the Court suggested that the Information Forum was a managerially driven initiative with little or no representative function. The Court also noted that the employees concerned said that they were unaware of the existence of any agreed pre-existing forum for the purposes of providing information and consultation. In any case, the salient point is that if employees are not satisfied with pre-existing arrangements, they are free to seek stronger representative arrangements. The legislation is clear that, even where pre-existing/direct communication arrangements are in place, employees must be free at a later stage to exercise their right through representatives of their choosing.

Indeed the Court sought details from the company of the pre-existing agreement relation to the Product Co information forum, suggesting that it would be helpful to ascertain where that agreement complies with Section 9(2) of the 2006 Act. Specifically this would ensure that the agreement was in writing and dated; signed by the employer and approved by the employees; applicable to all employees to whom the agreement relates and available for inspection by those persons and at the location agreed by both parties. In response, Product Co. management stated that it would take the opportunity to re-communicate with the workforce on the information

forum and its role, adding that would review, renew and improve all forms of communications about the forum's activities. They further referred to its intranet website and recent notices that had appeared on it. This was claimed to be available to all employees, and would give an overview of the forum; the forum's constitution; a list of the employee members; their roles and responsibilities as well as information about meetings and discussions at the information forum. The Labour asked the company to prove that the information forum was in fact a pre-existing agreement under the Act and the company did not respond.

The Court, subsequently, considered that the company had not provided any information concerning the circumstances in which, they regarded the information forum to be as a valid pre-existing agreement. In other words, in the Court's opinion, the company had not submitted sufficient proof to the Court that it had a valid pre-existing agreement. Given the indicators that no valid pre-existing agreement could be assumed to exist, this appears to have left management with two options: a negotiated agreement with employee representatives or adopting the standard rules. However, given the fact that management had refused to enter into negotiations with representatives within three months of receiving the request, the standard rules providing for the established of an Information and Consultation Forum should have been the only option. The Court then took a peculiar route and informed the employee group that they needed to exhaust all internal procedures before they would intervene to investigate or enforce the company to create an I&C forum under the Act. This decision of the Court appears to fly in the face of the provisions of the Act that permits employees with sufficient support to appeal directly and confidentially to the Court and get the legal weight of the Court on their side. This move by the Court is in direct contrast with the UK experience of the actions by the Central Arbitration Council in similar circumstances.

Discussion and conclusion

While much of the HRM based voice literature emphasizes the role of voice in gaining high commitment, in at least three of these cases management only initiated a change in the structure due to external 'push' factors. In Brit Co. the voice regimes constructed in the Republic was derived in the first instance from a need to comply with the ICE regulations. However the forum

only became a central concern of management when the threat of unionization arose. In Northern Co., compliance with IIP accreditation and the threat of union organising were the principal factors in management's decision to make voice. The directive was then used as a reference point upon which to construct a voice regime. In Product Co. management's effort to preserve a no voice system were undermined by workers attempting to initiate the ICE provisions, resulting in management attempt to promote a seemingly new regime under the auspices of a Communications Team. It was only in Retail Co. where the decision to make a voice regime was internally motivated (or at least initiated under diktat from headquarters in Britain). However alterations to the scheme in 2002 in the creation of formal election procedures and the inclusion of consultation around organizational change seemed to have been done with a concern to pre-empt the ensuing Directive.

Whilst the nature of employer responses to voice can be easily mapped by recourse to the make, buy, hybrid and no voice schemata, arguably such conceptualization can be advanced by noting how managerial choice is not necessarily mirrored by workers acceptance of such choices. While management clearly play a large role in the formal shaping of a voice regime, this does not necessarily mean that workers do not have the room to shape it or that the voice outcome is the same in each managerially driven scheme. As such, the schemata of management choice can be allied to a corresponding framework of worker responses and four general responses which reflect but do not necessarily mirror or directly map onto the buy, make, hedge or no voice conceptualization. The first of these is what we label as *sell*. Under this condition, workers either directly or through their representatives are satisfied with what is on offer from employers and are thus willing to engage with employers through the forums they sponsor. In our cases, while not fully supportive of the level of information and consultation, workers in RetailCo seemed content to sell their voice in the way which the company designed. There were no evident signs of rejection or appetite for alternative avenues, except in one instance where the state authority for workplace health and safety was deployed. Thus the price paid by the company seems to be at an approximate equilibrium.

The second type of response is what we label *barter* which is a process that while workers do not necessarily wholeheartedly accept, they utilise it and try to develop it into a forum more to their

preferences. In BritCo, in Northern Ireland, the company and the union were content to sell in the shape of continuing existing arrangements. However, in BritCo in the Republic of Ireland, where the company established a forum in the face of a union organising campaign, a more iterative process was necessary in order to reach equilibrium in the bartering process. Employees used the forum to advance a series of grievances on which the company in turn made concessions in the substance but not on the issue of trade union recognition. Thus, in the BritCo case it can be argued that a protracted exchange of haggling took place before the forum finally settled down. The third response is what we label *refund*, where workers reject and resist the employer preferences in voice regimes. In Northern Co, the company embarked on a path of “making” a voice regime at what seems to be the dual prodding of a consultancy type exercise and a union recognition campaign. While operating in the background, the union recognition campaign never gained a high level of momentum and allowed the company to establish a forum which initially went relatively uncontested. Despite this, for workers, the forum has failed to deliver any meaningful voice regime and workers do not treat it with credibility. Thus, we categorize the reaction of workers as being one of *refund* in that what management attempted to sell has not met the function which workers had envisaged for it. Finally, in Product Co, the company strongly opted for a *no voice* regime. In these circumstances, workers organised themselves to initiate a process of *compulsory purchase* where a highly technical and legalistic route was triggered by them in order to develop a satisfactory voice regime. While it is too early to tell what the long term reaction of the company will be, this option to force companies to establish voice regimes does give workers some options to pursue where an employer opts for a *no voice* mechanism.

Conclusion

Within a voluntarist context, management clearly have significant power to shape voice regimes. The weak transpositions of the Directive in both the Republic of Ireland and UK have clearly placed only low levels of constraints on the actions of management. However, worker responses to managerial preferences of voice structures play an important role in determining the actual efficacy of these bodies. The paper tentatively suggests a framework which mirrors, but that does not necessarily map onto, the framework of Bryson, Wilman and Gomez as an analytical approach for understanding the interface of employer and employee preferences for voice regimes. This analytical approach is being developed across the cases in the project to more

closely delineate the existing classifications in management choice, how such options play out in practice at firm level and associated employee responses.

References

- Bryson, A., Gomez, R. and Willman, P. (2004) "The end of the affair? The decline in employers' propensity to unionize". In Kelly, J. and Willman, P., (eds.) *Union organization and activity in Britain*. Routledge, London, pp. 129-149
- Bryson, Alex and Gomez, Rafael and Willman, Paul (2006) "Voice at work: What do employers want? A symposium summary." *Socio-economic review*, 4 (2). pp. 279-282
- Charlwood, A. (2006) 'What determined employer voice choice in Britain in the 20th century? A critique of the 'sound of silence' model', *Socio-Economic Review*, 4(2): 301-309.
- Dundon, T., Curran, D., Ryan, P. and Maloney, M. (2006) 'Conceptualising the dynamics of employee information and consultation: evidence from the Republic of Ireland', *Industrial Relations Journal*, 37(5): 492-512.
- Geary, J. and Roche, W.K. (2005) 'The future of employee information and consultation in Ireland', in J.Storey (ed.) *Adding Value Through Information and Consultation*, Houndsmill: Palgrave-Macmillan.
- Gollan, P. (2006) 'Editorial: consultation and non-union employee representation', *Industrial Relations Journal*, 37 (5): 428-437.
- Heery, E. (2009) 'The representation gap and the future of worker representation', *Industrial Relations Journal*, 40(4): 324-366.
- Kersley, B., Alpin, C., Forth, J., Bryson, A., Bewley, H., Dix, G. and Oxenbridge, S. (2006) *Inside the Workplace: First Findings from the 2004 Workplace Employment Relations Survey*, London: Department of Trade and Industry.
- Roche, W.K. (2007) 'Social partnership and workplace regimes in Ireland', *Industrial Relations Journal*, 38 (3): 188-209
- Sisson, K. (2002) 'The information and consultation directive: unnecessary regulation or an opportunity to promote partnership', *Warwick Papers in Industrial Relations*, No. 67, Coventry.
- Teague, P. and Donaghey, J. (2009) 'Why has Irish social partnership survived', *British Journal of Industrial Relations*, 47(1): 55-78.
- Willman, P., Bryson, A. and Gomes, R. (2006) 'The sound of silence: which employers choose no employee voice and why?', *Socio-Economic Review*, 4(1): 283-299.
- Yin, R. K. (2008) *Case Study Research: Design and Methods*, 4th Edition, London: Sage.

Promoting effective consultation? Reflexive implementation of the EU Directive in the UK

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INTRODUCTION

In response to European Union requirements, recent legislation in the UK has introduced for the first time a general regulatory framework promoting employee consultation. The 2002 EU employee consultation Directive reflected the predominant European model of universal, workforce-wide consultation rights and had particularly significant implications for UK law and practice, given the 'voluntarist' traditions of UK industrial relations and the historical primacy of trade union-based employee representation. The resulting Information and Consultation of Employees (ICE) Regulations 2004 constitute a highly flexible, light-touch regulatory approach to implementing the new consultation rights in the UK context.

The aim of this paper is to assess to what extent employee information and consultation (I&C) bodies established in the light of the ICE Regulations provide a vehicle for effective consultation. Using empirical data from a major research project involving longitudinal case studies of I&C arrangements in 25 organisations, it is intended to contribute to our understanding of the impact of the Directive in EU member states without a tradition of statutory works councils or similar bodies, and the implications of using a 'reflexive' regulatory approach.

SIGNIFICANCE OF THE UK'S LEGISLATIVE APPROACH

At both EU and UK level, there has been a trend towards more flexible regulatory approaches in the industrial relations sphere. In response to EU enlargement and wider industrial relations diversity among member states, EU employment Directives now promote broadly-framed minimum standards rather than 'upward harmonisation' and provide considerable scope for agreed derogations. This has influenced and facilitated the increasing use of 'light regulation' (Davies and Freedland 2007: 241) by the UK's recent 'new Labour' governments, designed to encourage the flexible application of statutory rights through such techniques as enabling agreed processes that may depart from statutory standards or relying on employees to request or trigger the implementation of their rights.

Such an approach is consistent with the concept of 'reflexive' employment law 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 reflexive law, legal regulation provides a procedural framework rather than specifying substantive outcomes (Rogowski and Wilthagen 1994). The Directive and the ICE Regulations are a prime example, offering considerable flexibility of response. Under the ICE Regulations, employers need take no action unless 10% of their employees trigger statutory procedures intended to lead to negotiated I&C agreements. Voluntary 'pre-existing agreements' can pre-empt the use of the Regulations' procedures. Under either category of agreement, there is considerable latitude to agree organisation-specific I&C arrangements. Only where the Regulations' procedures are triggered but no agreement is reached are default 'standard

information and consultation provisions' enforceable, and even these are minimally prescriptive – essentially employers would need to arrange for the election of employee representatives and inform and consult them on broadly-defined business, employment and restructuring issues.

The high degree of flexibility provided by the UK approach (and mirrored to a large extent by the I&C legislation in Ireland) contrasts starkly with the regulated institutional models of workplace representation underpinned by detailed legislation in countries such as Germany, the Netherlands and France. It effectively gives employers a largely free hand to develop their own organisation-specific (and, in the case of PEAs, privately regulated) I&C arrangements, either through negotiations – in which the balance of power is likely to be firmly weighted towards management – or unilaterally, even though the EU formally recognises information and consultation as a 'fundamental' social right for all workers (Ales 2009). A key question, therefore, particularly in the context of the 'uncoordinated decentralisation' of British industrial relations (Gumbrell-McCormick and Hyman 2006: 488), concerns the efficacy of this reflexive regulatory approach in terms of promoting effective consultation.

IMPACT OF THE ICE REGULATIONS

After almost five years in operation, there is a widespread view that the UK legislation has been something of a 'damp squib'. The available evidence, summarised in Hall (forthcoming), suggests that the ICE Regulations have prompted considerable voluntary activity in terms of introducing, reviewing and modifying consultative arrangements but that this has been largely employer-led. Beyond the relative handful of cases referred to the Central Arbitration Committee¹ (31 cases in 19 organisations over the five-year period 2005-9), there have been very few reported instances of the trigger mechanism being utilised by employees or – indirectly – by unions.

Moreover, initial expectations that the main result of the ICE Regulations would be a form of 'legislatively-prompted voluntarism' (Hall and Terry 2004: 226), with the new legislation driving the diffusion of agreed, organisation-specific I&C arrangements, have given way to a more pessimistic assessment. In a previous paper from our research project, presented at the IIRA's Sydney World Congress (Terry *et al.* 2009), the research team argued that the outcome has been more one of 'legislatively-prompted unilateralism', enabling management to shape the I&C arrangements introduced with little employee input.

But another dimension – and the focus of the present paper – concerns the *quality* of consultation in organisations that have introduced or reformed I&C bodies in the light of the Regulations. Drawing on a research project that examined organisational responses to the ICE Regulations in 25 organisations, this paper seeks to analyse and account for the marked variation in the nature and extent of their I&C practice, highlighting the main factors influencing developments.

METHODOLOGY

Reflecting the phased implementation of the ICE Regulations, the research involved three waves of longitudinal case studies. Case studies begun in 2006 in 13 private and voluntary sector organisations with over 150 employees were completed in late 2008/early 2009. 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. Brief details of the case study organisations are given in Table 1.

¹ The Central Arbitration Committee (CAC) is an independent tribunal with statutory powers whose role includes resolving disputes under the ICE Regulations.

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		✓				✓	
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	✓ (for consultation purposes)	2006 (relaunch)		✓				✓ (but employee input to	

		sites acquired subsequently)								redraft of constitution)	
2	Professional association	150	✓	2007		✓ (but 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**	70		2007	✓ (employee members of employee benefit trust)					✓	

* I&C body now defunct.

** Dropped out of research after initial phase.

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 two years later, with telephone updates in the interim. In-depth semi-structured interviews were held with managers, 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 the '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.

I&C IN PRACTICE: A MIXED PICTURE

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 wave 1 case study (analysis of the longitudinal evidence from our wave 2 and wave 3 cases is currently under way). It takes account of a variety of indicators including:

- 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 within six months, 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' specify I&C (to varying extents) on:

- the development of the undertaking's activities and economic situation;
- employment developments, including any measures envisaged in relation to prospective job losses; and
- 'decisions likely to lead to substantial changes in work organisation or in contractual relations', including collective redundancies and transfers of undertakings.

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: employee representatives must have the opportunity to meet with management at the appropriate level and be given a reasoned response to any opinion they may express to management. On decisions likely to lead to substantial changes in work organisation or in contractual relations, consultation should be 'with a view to reaching agreement'.

More generally, in UK industrial relations terms, consultation has traditionally been defined as managers seeking and taking account of employees' views before making a decision (Acas, 2005; CIPD, 2004), although, as we note below, the extent to which this takes place in practice is limited. 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.

With these considerations in mind, the I&C arrangements at the 12 surviving wave 1 case study organisations² can be grouped into three categories:

- **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'. A minority (five) of our case study organisations were 'active consulters'. This category included two cases organisations – the mobile phone company and the diversified technology company (at the unionised site researched) where management was proactive in discussing strategic organisational issues with the I&C body and engaged in consultation leading to agreed outcomes. It also included three 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, financial processing company and news agency.
- **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. The six case study organisations falling into this category were: the engineering company, urban housing association, rural housing association, seaside housing association, national charity and diversified technology company (two non-union sites researched).
- **Group C – I&C bodies defunct**: In two organisations – the electronics company and the infrastructure contractor – the I&C bodies became defunct after only two years.

Brief details of the I&C practice of each case study organisations are provided in the box below. Fuller contextual information is given in Hall *et al.* (2009).

BOX: PATTERNS OF I&C IN THE CASE STUDY ORGANISATIONS

Groups A and B are broad categories, each encompassing a range of I&C practice.

Group A – 'active consulters'

Within group A, management at the **mobile phone company** initiated consultation and sought agreement with the national or local employee councils on the business case for, and implementation of, restructuring programmes, redundancies, outsourcing and staff transfers. Management routinely engaged with employee representatives on such issues at an early stage, sometimes under a non-disclosure agreement, and the employee councils usually put forward counter-proposals. On each issue, management's objective was an 'agreed outcome'. Few management proposals went through completely unmodified and in some cases quite major changes were agreed. Senior management described this approach as 'effectively negotiation', and the lead employee representative agreed that the employee councils had the 'ability to influence' management decision-making.

² One organisation went into administration after the first research visit.

A second organisation – the **diversified technology company** – also engaged in extensive and detailed consultation with the joint works council (a ‘hybrid’ body in which union representatives predominated but non-union staff were also represented) at one of the plants researched, but employee forums at two further, non-union plants covered by the research were reported to have a much more limited and less effective role (and are therefore included in group B). At the unionised plant, monthly meetings of the joint works council covered a wide range of issues. Union/employee representatives reported that management was ‘always up front with us’ and ‘do take things on board’. During 2008, major proposed redundancies at the site were the subject of an intensive consultation exercise involving both union and non-union representatives via a sub-committee of the joint works council. Again, this amounted to negotiation rather than consultation and a package of measures was agreed which substantially reduced the number of eventual redundancies while introducing new lean and flexible work organisation arrangements.

At none of the other three case study organisations in group A – the care services company, financial processing company and news agency – had consultation practice developed to such an extent.

At the **financial processing company**, the communication forum, which had previously dealt with a mixture of HR and housekeeping issues, had reportedly been faced with more meaningful issues following the company’s takeover by a private equity group and a change in business volumes. At a series of special meetings, the company kept the forum informed of developments such as management changes, job losses and the redeployment of staff, with discussion of such items being treated as confidential, while simultaneously entering into separate consultations over redundancies with the recognised union. Employee representatives also reported that an increasing number of issues were the subject of consultation, rather than simply information, with working parties typically being set up to make recommendations to the forum, including on some HR and reward issues.

At the **news agency** too, restructuring issues were dealt with by the works councils, albeit to a limited extent. In 2008, the possible sale of one of its divisions prompted questions from employee representatives. Management responded to the extent they felt able to do so at that stage, and also said that the company would schedule works council meetings immediately before or after the sale if it proceeded. 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. While management tended to emphasise the councils’ information rather than consultation role, the councils did successfully press for amendments to the news agency’s bonus scheme – described by management as ‘their biggest coup with the most impact’ – as well as influencing the outcome of a review of the company’s employee benefits package.

At the **care services company**, the ‘hybrid’ employee representation body integrating the information and consultation committee (ICC) with the union-based joint negotiating committee (JNC) was informed about key strategic developments and consulted about changes to staffing structure. Special consultation meetings were held on care and support management restructuring proposals, the formation of an in-house staff bank and the annual cost-of-living pay increase. The ICC/JNC was also asked to approve new HR policies and procedures. Managers reported that the special meeting on restructuring care and support management had produced ‘lots of views’ and suggestions, but that representatives’ input was not generally ‘challenging’. The representatives themselves were unable to cite changes made as a direct consequence of the consultation process.

Group B – ‘communicators’

Similarly, group B spans a range of patterns and experiences of I&C.

At the **engineering company**, the twice-yearly national I&C meetings rarely dealt with either strategic corporate issues or with issues related directly to employment and contractual issues. The former were dealt with by the company’s European Works Council; the latter by individual locations via their collective bargaining machinery. Instead, the national meeting’s focus was on emerging corporate HR policy issues and the promotion of good HR practice across locations.

At the **rural housing association**, the employee forum had a predominantly communications role, with representatives acting as the conduit to the workforce for information about, for example, a planned amalgamation that eventually failed to happen. A staff survey to gauge support for social and sporting events resulted in a calendar of social activities coordinated by the forum.

At the **urban housing association**, the agenda of the forum was dominated by housekeeping issues raised by representatives, with items tabled by management for downward communication (e.g. the relocation of the head office) becoming increasingly rare. Advanced plans for a merger with another housing association were not raised with the I&C body. Efforts to revitalise the forum included the discussion of issues such as sickness policy and the employee ‘well-being’ agenda.

At the **national charity**, the primary emphasis of the national employee forum (three lower-level business-line forums having been wound up) was on ‘two-way communication’ (reflected in a shift in its full-time facilitator’s reporting line from HR to

communications). Issues appearing on the agenda included restructuring, reorganisations and pay review guidelines. A diverse range of issues were dealt with by sub-committees but with a high level of informality.

At the **diversified technology company**, employee forums at two non-union plants covered by the research had a much less developed role than the joint works council at the unionised plant included in group A above and were not considered by management to be robust enough to handle major changes. The main topics discussed were housekeeping matters. I&C over redundancies occurred only after individual discussion with those affected.

At the **seaside housing association**, the staff council's agenda included organisational performance issues such as tenders won and lost but was dominated by HR issues. Agendas and the extent of involvement were determined by management. There was some evidence of consultation, but its outcome was limited to minor changes in HR policies and procedures. Management viewed the council's effectiveness as fairly low. Management proposals to withdraw from nationally-negotiated pay rates – potentially the most significant issue dealt with by the council – were scheduled for discussion at the time the research ended.

Group C – I&C bodies defunct

Finally, at the two group C organisations, the I&C bodies fairly quickly became defunct, but in differing circumstances.

At the **electronics company**, the I&C forum's early agenda focussed on the company's expansion plans and the impact of cancelled orders on planned increases of production. However, it soon became perceived as ineffective by both management and employee representatives and ceased to meet. In management's view, the employee representatives were insufficiently active in driving the forum's agenda. Employee representatives felt the forum's agenda was controlled by management and were disappointed that employee concerns they had raised were rejected by management as falling outside the forum's 'strategic' remit. Key announcements were made directly to the workforce, not via the I&C body, reflecting senior management's traditional reliance for direct communications.

At the **infrastructure contractor**, the initial experience of its transport forum was reported to be broadly positive, having encouraged greater dialogue on issues such as business strategy and restructuring, including acquisitions, outsourcing and redundancies. Extensive restructuring involving both acquisitions and divestments resulted in a decision to split the original forum, covering both road and rail activities, into two. However, only one meeting of each new forum was held. Restructuring continued with a radical reduction of the rail workforce and the (fragmented) expansion of road activity, but with no reported pressure from either trade unions or non-union representatives for further forum meetings to be convened.

EXPLAINING THE VARIATION IN THE EXPERIENCE OF I&C BODIES

The key factors whose interplay shaped the differing developmental trajectories of the I&C bodies in our case study organisations are summarised in Table 2 and discussed further below.

Economic/business context

The economic and business and conditions facing the case study organisations varied widely but in each case changes affecting the organisation had been a contributory factor in management's decision to establish (or relaunch) I&C arrangements (Hall *et al.* 2007). In some cases, relative business stability during the initial phases of the research meant that there were few developments such as substantial redundancies or organisational changes to test the consultation process. But by end of our fieldwork in the surviving wave 1 organisations all 12 had faced major strategic issues that could potentially be the subject of I&C (even though in a number of cases our final research interviews took place before the full implications of the onset of recession had become apparent).

Management commitment and approach to the consultation process

The contrasting ways in which such major business changes were handled by the case study organisations' I&C bodies were determined first and foremost by senior management's commitment and approach to the consultation process.

Among the 'active consulters', management in two cases were 'proactive' in consulting their I&C bodies in advance of major business changes, adopting an advanced form of consultation predicated on seeking agreement. This approach was rooted in contrasting industrial relations contexts. At the mobile phone company, it initially reflected management's determination to

TABLE 2: FACTORS SHAPING THE EXPERIENCE/DEVELOPMENT/SUSTAINABILITY OF I&C BODIES IN 'WAVE 1' CASE STUDY ORGANISATIONS*

Category	Company/organisation	Economic/business context**	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: active consulters	Mobile phone	Highly competitive; extensive restructuring	Proactive; seeking agreement	Top managers attend; training	Strong	Indirect
	Diversified technology (at one site researched)	Tough; offshoring leading to major redundancies	Proactive; seeking agreement	Site managers attend***; training	Strong; union-based	Strong
	Care services	Rapidly changing sector; expansion and internal reorganisation	Active; after decision taken	Top managers attend; training	Developing	Influential
	Financial processing	Highly competitive; takeover and restructuring	Active; after decision taken	Top managers attend; training	Limited	None, despite union recognition
	News agency	Some restructuring	Active; information sharing	Top managers attend; training	Limited	N/A
Group B: communicators	Engineering	Stable; growth	Limited remit; active consultation in other forums	HR attends	Strong, union based	Strong
	Urban housing	Stable; no change	Communication bridge with staff	Top managers attend; renewal	Individualised	None, despite union recognition
	Rural housing	Some loss of funding and internal reorganisation	Communication bridge with staff	Top managers attend; training; renewal	Limited	Active
	Seaside housing	Loss of some contracts; senior management changes	Communication bridge with staff	Top managers attend; training; renewal	Weak	N/A
	National charity	Internal restructuring	Informal; information sharing	Top managers attend; training	Weak	N/A
	Diversified technology (at two sites researched)	Redundancies at both sites	Extensive information sharing	Site managers attend***; training; renewal	Weak; individualised	N/A
Group C: I&C body defunct	Electronics	Growth until onset of recession	Minimalist then avoidance	Top managers attended; withdrawn	Weak	N/A
	Infrastructure	Extensive restructuring	Minimalist then avoidance	Top managers attended; withdrawn	Weak	Weak

* Cosmetics company excluded as only initial phase of research was carried out before the company dropped out of the project.

** Final research interviews took place between June 2008 and January 2009, in a number of cases before the full implications of the onset of recession had become apparent.

*** Top managers attend meetings of the company's overarching national employee forum.

show consultation could succeed as part of a strategy to fend off pressure for union recognition, but this 'negative' motive laid the basis for positive managerial commitment to a strong form of consultation and the development of high-trust relationships with employee representatives. At the unionised plant of the diversified technology company, where established union-based 'partnership' arrangements were extended to include elected non-union representatives in a 'hybrid' I&C body, this 'proactive' approach reflected a broader corporate commitment to employee involvement to help manage corporate change and augment performance, as well as a high level of trust between key management and union actors. The three other 'active consulters' undertook an active form of consultation that did not go as far as it did in these two cases. At the care services company, financial processing company and news agency, management chose to consult, or respond to employee representatives' questions, after key decisions had been taken. Business decisions were discussed in the I&C bodies in these three companies, often on a confidential basis and before they were announced more widely, but there was little scope for alternative approaches to be explored.

Among the 'communicators', management had very different aims and objectives. The three housing associations in particular sought to use their I&C bodies as a communication bridge between senior management and employees, seeing the role of employee representatives primarily in terms of passing information to staff and collecting feedback. At the national charity too management's emphasis was on (increasingly informal) two-way communication, while at the two non-unionised plants of the diversified technology company management provided extensive business information but felt that the employee representatives lacked the capacity of their counterparts at the unionised site to engage in more developed dialogue. At the engineering company, a strong union role in site-level collective bargaining and the fact that strategic business decisions were taken at European-level and discussed via the European Works Council (EWC) left the national I&C body with an essentially information-sharing role focussing on HR policy and practice.

At the two companies where the I&C bodies became defunct, initial management commitment to consultation waned, but for different reasons. At the infrastructure contractor, sustained restructuring appeared to undermine the organisational logic – and management support – for the company's (already restructured) I&C bodies. At the electronics company, the lack of a shared understanding between management and employee representatives of the role and remit of the I&C body and management's preference for making major announcements directly to the workforce, by-passing the I&C body, contributed to management's decision to let the I&C body lapse.

Management support for the I&C body

There were few differences in the levels of management support provided between the 'active consulters' and the 'communicators'. Across most cases it was common to find top operations managers (often including the managing director or CEO) attending meetings with the I&C body alongside HR managers, the provision of paid time off work and facilities for employee representatives, the provision of training for representatives and the use of multiple communications media to publicise the work of the I&C body.

At the diversified technology company, the I&C bodies researched were plant-based and the senior manager on site chaired the meetings, though top national managers attended meetings of the company's overarching national employee forum. At the engineering company, given the limited role of the national I&C body relative to plant-based bargaining arrangements and the EWC, management was represented by 'HR leaders'.

Employee representatives rarely reported problems in getting paid time off to undertake their duties. In part this was because, in many cases, there was relatively little formal activity outside the scheduled meetings of the I&C body (see below). Induction training for employee representatives was widely provided at the time of the establishment/relaunch of the I&C bodies but training for subsequently elected representatives was less systematic.

Refresher training and/or more broadly-based development programmes for existing representatives were evident in some companies, notably among the 'active consulters'. Significantly, apart from the engineering company, where assessment of training needs was awaiting final approval of the I&C agreement, the only organisation where representatives undertook no training at all was the electronics company, despite being provided for in the now defunct I&C agreement.

In some cases, particularly among the 'communicators' group, management took steps to revitalise the I&C body, reflecting concerns about the effectiveness of the representatives and the I&C process.

Organisation of employee representatives

The levels of organisation among employee representatives predominantly reflected management's approach to I&C, reinforced in certain cases by the engagement in the I&C process of pre-existing trade union representatives (see next sub-section). A more active approach to consultation on the part of management required and drove the development of employee representatives' competence and cohesion, whereas the 'communications' approach promoted little employee-side interaction.

Among the 'active consulters', the organisation of the employee side was notably strong at the mobile phone company and the unionised site of the diversified technology company. At the latter, the 'hybrid' I&C body was based on strong and longstanding trade union recognition arrangements but with the increasingly effective integration of representatives of non-union employees. At the mobile phone company, where trade unions were not recognised for collective bargaining (only for individual representation), the largely non-union representatives on the company's employee council structure had developed into a well coordinated and resourced network, operating their own formal rules of procedure. In both cases, a full-time employee representative – the union branch chairman at the diversified technology company and the (non-union) lead representative of the national employee council at the mobile phone company – were central figures in the I&C process at local, national and EWC levels.

The employee sides at the three other active consulters were less well developed but were still able to act as relatively effective agents in I&C. At the care services company, pre-meetings (for union representatives) were introduced ahead of the joint meetings between the union-based JNC and the non-union ICC and management, and a union full-time official emerged as a key actor in the development of the I&C process, reflecting an effective working relationship with senior management. At the news agency and the financial processing company employee-side networking was patchy. There was evidence of informal contact between representatives at the former while pre-meetings had reportedly become rarer at the latter. But a factor in both cases appeared to be growing confidence among representatives in their ability to participate as they became more familiar with the I&C process.

In contrast, among the 'communicators' (with the exception of the engineering company, where strong trade unions prioritised representation at other levels), employee-side organisation tended to be weak. One consequence of the restricted, communications role of the I&C body was that employee representatives felt less need to meet or engage in networking between meetings with management. For example, pre-meetings of employee representatives were rare, despite provision for these in a number of agreements/constitutions. Representatives tended to approach I&C meetings as interested individuals: they had little experience of collective endeavour and scant opportunity to develop it. High turnover among representatives was also typical among these group B organisations, with difficulty often experienced in getting nominations for replacements, further inhibiting employee side cohesion.

Similar factors applied to the electronics company's now defunct I&C body, whereas at the infrastructure contractor weak employee side coordination reflected high turnover among representatives and an apparent lack of union interest in the I&C bodies.

Union engagement with the I&C body

No clear patterns emerged from the research in respect of the extent and practical consequences of trade union engagement (or lack of engagement) with the I&C bodies in our case study organisations – seemingly exemplifying the wider ambivalence exhibited by UK trade unions towards involvement in universal, workforce-wide I&C arrangements and towards the ICE Regulations themselves (Terry *et al.* 2009).

None of the unions recognised in eight wave 1 case study organisations had sought the establishment of I&C bodies, and most reacted cautiously to management initiatives to introduce them, reflecting concern that an I&C body could potentially undermine or marginalise union recognition. However, for the most part unions adapted pragmatically to the existence and operation of the 'hybrid' I&C bodies involving union representatives and elected representatives of non-union employees that were introduced by the great majority of wave 1 case study organisations with recognised unions.

Among the active consulters, the local union leadership's positive engagement with – and union dominance of – the hybrid I&C body at the diversified technology company's unionised site, and its roots in the longer-term 'partnership' arrangements at the site, were key factors in its emergence as a forum for robust consultation. At the care services company, the growing influence of the union representing a minority of staff reflected the strong working relationship its full-time official developed with managers. The union supported the de facto merging of I&C and the union-based negotiating activities and, given continuing difficulties with the recruitment and input of non-union representatives, was central to the consultation process. At the financial services company, in contrast, there was no union involvement in the I&C body – direct or indirect – and I&C and collective bargaining were completely distinct activities. For example, following a takeover of the company, management discussed organisational changes with the I&C body while consulting the recognised union over related redundancies, as it was required to do under the collective redundancies legislation.

Although the mobile phone company did not recognise unions for collective representation, two unions that had unsuccessfully sought recognition were able to secure the election of a number of union members to the I&C bodies – a 'colonisation' strategy that resulted in indirect union representation and influence in the I&C process. By the end of the research, however, outside one particular area of union strength, the proportion of employee representatives who were union members had reportedly fallen substantially, reflecting not only restructuring but also a decline in union membership attributed by management and the lead employee representative to the effectiveness of the I&C bodies.

There were contrasting union approaches at the two organisations in the 'communicators' group that recognised unions – the urban and rural housing associations. In both cases the unions concerned had relatively low membership but were given a 'reserved' seat on the I&C body alongside elected employee representatives. At rural housing, the union representative felt that involvement in the I&C body had provided better information about key issues and improved working relationships with both management and the non-union employee representatives. At urban housing, the union discontinued sending a representative to meetings of the I&C body, seeing it as irrelevant.

Finally, at the infrastructure contractor, where union attitudes towards the now defunct the I&C arrangements had in any event been cautious, union presence was substantially weakened by extensive restructuring of the rail business and there was little if any union pressure for their continuation.

There is evidence from our employee surveys that in those cases where unions had some influence, whether directly (as at the care services company) or indirectly (mobile phone company), employees were more knowledgeable about the work of the I&C bodies and the role of representatives compared with non-union organisations. They were also more satisfied with their level of involvement and management's approach to participation.

THE IMPACT OF REGULATORY DESIGN

Critically, the statutory framework had only very limited influence on I&C practice in the case study organisations.

In all our case study organisations, the initiative to establish or relaunch the I&C body was management's (Hall *et al.* 2007, 2008, 2009a). In no case was the 'trigger mechanism' utilised by employees – nor was this considered by management to be a realistic possibility – and there was no evidence of employee/union pressure for new I&C arrangements more generally. Relatedly, in most cases management's decision to introduce or relaunch the I&C body could not be described 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.

Turning to the status of the I&C arrangements introduced (see Table 1), eight wave 1 organisations had obtained the written agreement of employee representatives. In some cases management regarded the agreement explicitly as a 'pre-existing agreement' under the terms of the ICE Regulations – though few of these organisations placed a particularly strong emphasis on meeting the statutory criteria for PEAs. In four other wave 1 cases, the I&C arrangements had been introduced unilaterally by management. The smaller wave 2 and wave 3 organisations sought the agreement of employee representatives in only a minority of cases, and in none was the agreement seen by management as having PEA status. Crucially therefore, 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 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 an influence was the provisions and wording of the agreements or constitutions underpinning the I&C bodies, particularly among the wave 1 cases. This was most notable in terms of the subject matter identified for I&C, 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, in most cases the nature of the I&C process was much less extensive and formal than implied by the terms of the agreement/constitution. 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.

Beyond this, there was little evidence from the completed wave 1 case studies that the Regulations had shaped managerial approaches to 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. Even so (and outside specific instances of redundancies and transfers of undertakings where separate statutory requirements needed to be met), 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.

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 weak 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 and probably more generally, appears to have been negligible.

Perhaps unsurprisingly, the aspects of the law that did impinge upon I&C practice were the (directly enforceable) provisions requiring consultation 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 and diversified technology companies. 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.

CONCLUSION

The EU Directive was widely seen as having far-reaching implications for I&C in the UK,³ but the reflexive design of the UK Regulations transposing the Directive appears to have limited its impact in terms of promoting effective employee consultation. Employees' rights to I&C under the Regulations do not apply automatically and depend on employees (or management) taking the necessary steps to trigger the statutory procedures intended to lead either to agreed I&C arrangements or to the enforcement of the default provisions. As employees or trade unions have only rarely sought to do so, the scope for unilateral management action – or for management doing nothing – has remained wide. Even where management in our case study organisations sought the formal agreement of employee representatives for I&C arrangements intended to qualify as 'pre-existing agreements' under the terms of the Regulations, the effect is to take the I&C arrangements outside the ambit of the Regulations' procedures for legal enforceability.

Against this background, internal organisational dynamics, not the legal framework, have determined the trajectory of the I&C arrangements in our case study organisations. This paper has shown that management is the dominant player and the nature, extent and impact of I&C largely reflects its preferences. In particular, management determines whether consultation is in practice 'active' or largely limited to 'communication'. With the exception of the two cases where the I&C body is now defunct due to the loss of management support, 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.

Management's approach to I&C – whether 'active' or confined to 'communication' – strongly influences the degree of organisation among employee representatives, with an active

³ The impact assessment produced by the then Department of Trade and Industry, the government department responsible for drafting the ICE Regulations, suggested that there would be 'substantial economic and social benefits from the legislation over time
... We estimate that the benefits are in the magnitude of hundreds of millions of pounds over a ten year period' (DTI 2002: 2).

approach to consultation requiring the development of representatives' competence and cohesion, creating a virtuous circle and providing the scope for informal or 'offline' contact with leading representatives to facilitate the formal consultation process. In contrast, among the 'communicators', there is no imperative for a coordinated body of employee representatives and, as a result, there is little opportunity for representatives to develop the necessary cohesion to press for effective consultation.

Active union engagement too can make a vital contribution to the development of effective consultation, as illustrated by the role of full-time officers at two of the 'active consulters'. Equally, if a strong trade union has no interest in developing a significant role for the I&C body, as at the engineering company, it is unlikely to happen. Generally, however, union concerns that the operation of I&C bodies weaken their position do not in general appear to have been realised.

The wide range of I&C practice found among our case study organisations can be seen as consistent with the legislation's emphasis on flexibility and the scope it provides for organisation-specific I&C arrangements. The fact remains, however, that only a minority of the wave 1 case study organisations analysed can be regarded as 'active consulters' and of those just two adopted an approach to I&C that involved detailed and extensive consultation on strategic issues, with a view to reaching agreement, similar to that envisaged by the Regulations' default provisions.⁴ Despite the ICE Regulations, little appears to have changed from the extensive case research conducted by Marchington *et al.* (1992) which found that 'employee involvement was typically management initiated with the intention of improving communication and enhancing employee commitment but had nothing to do with increasing employee influence' (Delbridge and Whitfield 2001: 475). Given the Directive's emphasis on agreed I&C arrangements or adherence to regulated minimum standards, the high degree of management unilateralism in shaping the I&C arrangements introduced and the dominant role of management in determining the nature and extent of I&C in practice should be a further cause for concern on the part of policymakers.

⁴ Other case study research in six major unionised companies (Taylor *et al.* 2009) suggested that restructuring initiatives and/or redundancies were in each case presented as a *fait accompli*, despite the establishment of I&C bodies in four of the companies.

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REFERENCES

- Advisory, Conciliation and Arbitration Service (Acas) (2005) *Information and consultation: good practice advice* (<http://www.acas.org.uk/index.aspx?articleid=383>)
- Ales E (2009) 'Information and consultation within the undertaking: employees' right or employer's duty?' in T Blanke, E Rose, H Voogtsgeerd and M Zondag (eds) *Recasting worker involvement?* Kluwer, 7-21
- Bernard C and S Deakin (2000) 'In search of coherence: social policy, the single market and fundamental rights', *Industrial Relations Journal* 31, 4, 331-345
- Budd J and S Zagelmeyer (2010) 'Public policy and employee participation' in A Wilkinson, P Gollan, M Marchington and D Lewin (eds) *The Oxford handbook of participation in organisations*, Oxford University Press, 476-503
- Chartered Institute of Personnel and Development (CIPD) (2004) *Information and consultation: a guide*
- Davies P and M Freedland (2007) *Towards a flexible labour market: Labour legislation and regulation since the 1990s*, Oxford University Press
- Delbridge R and K Whitfield (2001) 'Employee perceptions of job influence and organisational participation', *Industrial Relations* 40, 3, 472-488
- Department of Trade and Industry (DTI) (2002) *High performance workplaces: the role of employee involvement in the modern economy*
- Gumbrell-McCormick R and R Hyman (2006) 'Embedded collectivism? Workplace representation in France and Germany', *Industrial Relations Journal* 37, 5, 473-491
- Hall M (forthcoming) 'EU regulation and the UK employee consultation framework', *Economic and Industrial Democracy*
- Hall M, S Hutchinson, J Parker, J Purcell and M Terry (2007) *Implementing information and consultation: early experience under the ICE Regulations*, Employment Relations Research Series 88, Department for Business, Enterprise and Regulatory Reform
- Hall M, S Hutchinson, J Parker, J Purcell and M Terry (2008) *Implementing information and consultation in medium-sized organisations*, Employment Relations Research Series 97, Department for Business, Enterprise and Regulatory Reform
- Hall M, S Hutchinson, J Purcell, M Terry and J Parker (2009) *Implementing information and consultation: evidence from longitudinal case studies in organisations with 150 or more employees*, Employment Relations Research Series 105, Department for Business, Innovation and Skills
- Hall M, S Hutchinson, J Purcell, M Terry and J Parker (2009a) *Implementing information and consultation: developments in medium-sized organisations*, Employment Relations Research Series 106, Department for Business, Innovation and Skills
- Hall M and M Terry (2004) 'The emerging system of statutory worker representation', in G Healy, E Heery, P Taylor and W Brown (eds), *The future of worker representation*, Palgrave, 207-228

Marchington M, J Goodman, J Wilkinson and P Ackers (1992) *New developments in employee involvement*, Department of Employment

Rogowski R and T Wilthagen (1994) 'Reflexive labour law: an introduction' in R Rogowski and T Wilthagen (eds) *Reflexive labour law*, Kluwer

Taylor P, C Baldry, A Danford and P Stewart (2009) 'An umbrella full of holes? Corporate restructuring, redundancy and the effectiveness of the ICE Regulations', *Relations Industrielles* 60, 1, 27-49

Terry M, J Purcell, M Hall, S Hutchinson and J Parker (2009) 'Towards a "legislatively-prompted voluntarism"?: The impact of the UK Information and Consultation of Employees Regulations', paper presented at International Industrial Relations Association World Congress, Sydney