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1

Employee information and consultation: an overview of theory and practice

John Storey

The purpose of this introductory chapter is to set the scene in preparation for the more detailed, special analyses in the subsequent chapters of this book. The immediate trigger for the discussions in this book was the European Directive on Information and Consultation (I&C) for employees (EU 2002) which was subsequently enacted into UK law (or in the jargon ‘transposed’) in 2005 (Houses of Parliament 2004). But while these legal instruments may have provided the initial trigger for this book, the issues they raise go well beyond the specifics of these laws. Indeed, the underlying issues originate from much earlier times, and their working-through has occasioned much debate over the decades. But new times, of course, bring new twists to long-standing problems, and the controversy surrounding how best – or even whether – to ‘involve’ employees in organisational matters has now taken on some new forms.

The great information and consultation debate – why now?

It is widely believed that the immediate prompt for the European Commission to insist on a legally enforceable rights for employees stemmed from a couple of high profile cases where major firms announced redundancies publicly before informing or consulting their employees. Whatever the immediate ‘cause’, events were set in train which meant that, as from April 2005, UK enterprises employing at least 150 people are required by law to respond to a new set of rights given to employees. In quick succession the employee thresholds will reduce until by 2008 all undertakings

with 50 or more employees will be subject to this new set of regulations. Apart from the immediate trigger it is also argued that the growing intensity of global economic challenges make the case for greater employee engagement a compelling one. Information and consultation, it is reasoned, are necessary elements in developing employee involvement, a shared sense of responsibility and participation. The persistent productivity gap in Britain makes the case for some new action to be taken even more compelling.

This new law is significant in two main respects. First, it is novel in bestowing new rights on employees to be informed and consulted, and second its coverage is massive – with some 75 per cent of all employees in the country within its reach. Some commentators have suggested that this law is one of the most significant pieces of employment legislation for many decades. It will, some have argued, ‘transform’ employment relations in the UK. One of the objectives of this book is to evaluate such a claim and to weigh the significance, possibilities and pitfalls inherent in the new set of rules.

Some participants are enthusiastic and optimistic. One set of reasons is that they see these processes as ‘drivers’ of a more economically vibrant business scene – and in an enlightened, progressive manner to boot. There is the argument that high commitment leads to high performance. This is the stance adopted by the Department of Trade and Industry (DTI) in its consultation papers (DTI 2002). Indeed, in much literature and in many presentations – including official consultation papers – the twin terms are elided into one: ‘high commitment/high performance’. The path to ‘high performance’, it is argued, is to be steered via ‘high commitment’. This in turn requires an informed, knowledgeable workforce, fully consulted and able to leverage its creativity and its innovation potential. In answer to the question: ‘But why now?’, proponents respond that in a global, competitive economy, business (and therefore jobs) will be lost unless smart products and processes are deployed. ‘Offshoring’, as the export of jobs to low-wage economies is now known, is currently much in evidence. Thus, in addition to the human dignity case, the business case for information and consultation stems from the analysis that smart ways of working with continual improvement and high productivity is that it represents a defence against low-wage competition. Some unions as well as some employers have made this case (see, for example, Amicus 2004). It may be a matter of surprise to some that even robust trade union leaders on the left such as Derek Simpson have embraced and endorsed the I&C regulations and seemingly accepted the logic advanced by the government. In a Foreword to the *Amicus Guide for Members* he states that good employee information and consultation is necessary for ‘achieving high performance workplaces, facilitating change and building a successful economy’ (Amicus 2004: 4). In other words, the case for I&C is that it is required for economic survival in a new world economic order. Similarly, the Chartered Institute of Personnel and Development (CIPD) has also stated that it believes that the new legislation will ‘help promote productive employee relations through improved dialogue in the workplace’. Moreover, the CIPD also believes in the merits of a ‘combination of direct and representative arrangements’ (CIPD 2004: 3–4).

Not everyone is convinced. Scepticism can be found among employers, trade union representatives, employees and academic analysts. Many employers remain deeply sceptical. First, they simply find it hard to subscribe to the notion that economically valuable ideas can stem from employees. There are two sub-positions feeding into this. For some, the antipathy is essentially ideologically fuelled. At heart, they remain deeply wedded to the notion of 'management prerogative'. Put simply, they see it as managers' job to manage. The tenets of Taylorism run deep. For others, the rationale is purely pragmatic: they doubt whether the investment in the machinery and paraphernalia of I&C is economically rational. This judgement may stem from personal experience of the limited contribution from the 'tea and toilets' mode of consultation, or it may stem from a fear of the unknown. It may also indicate a lack of imagination – a difficulty in envisioning how I&C could move beyond the routine, the mundane and the game-playing. Second, many senior managers are suspicious of the 'agenda' of trade unions. They see in I&C mechanisms a potential back-door route for declining unions to mount a comeback. Moreover, the fact that the Directive comes from the EU is, for some, cause enough for suspicion and resistance.

Despite the TUC's stated position of support, some trade union representatives are also sceptical. There is a longstanding belief in some parts of the union movement that collective bargaining is the only legitimate channel for representing workers' interests. To intrude a wholly, or partially, non-union mode of representation is seen as a potentially dangerous undermining of the organised workforce approach. If I&C were to be merged into the negotiating machinery, this might dilute the nature of collective bargaining. On the other hand, to try run I&C in parallel might gradually reduce collective bargaining to very circumscribed areas – most notably pay bargaining. But while this may be seen as the vital topic, increasingly pay settlements run for two or three years, and in consequence it could become a very intermittent and incidental activity.

Employees too have their own reasons for scepticism. They have, in recent years, witnessed and been party to a range of initiatives, many of which have entailed elements of an involved, and even empowered, approach. Team working, team briefings, town hall meetings, corporate videos, quality circles, TQM (total quality management), and Six Sigma to name a few, have entailed messages about the importance of involving employees. Accordingly, the basic message about involvement is not new, and beyond these direct forms of involvement, there may be even more scepticism about representational modes. Some academic analysts are also sceptical of the outcomes of partnership as a mode of labour-management co-operation. To take just one example, following a systematic analysis of twenty-two private-sector firms reported as signing partnership agreements, John Kelly explored a whole array of outcomes and consequences. In a balanced assessment he came to the conclusion that, while such co-operation benefited employers, the impacts on employees and for unions were more mixed. In particular, he is doubtful whether such agreements offer a pathway for union renewal (Kelly 2004). Such a conclusion may, of course, give enormous encouragement to other parties.

Thus, from the above introductory remarks, it can be recognised that there are various views, expectations and feelings about the notion of I&C. Some are positive or broadly positive, and some are negative or broadly negative. Enter the new legally enforceable regulations. What difference, if any, might they make? To address this question we need to attend to ideas, to evidence, and to analyses.

Accordingly, this chapter first presents an overall description of the new legal requirements before moving on to identify and then analyse the key issues arising. The sources used for the analysis presented in this chapter are the range of secondary sources including surveys and previous research on related aspects to employee involvement and partnership, as well as a series of interviews with employers and employee representatives, along with a number of focus groups in organisations of different sizes and across a number of sectors. The core objective of this primary research was to explore with the key players their expectations, their plans and their calculations in relation to the short-, medium- and long-term prospects for the new information and consultation regulations.

The argument, in a nutshell, is that many of the players – managers, employee representatives and employees alike – expect that a likely outcome, in the medium term at least, is that organisations will introduce a series of adjustments to their current arrangements, but these will in all probability be of a ‘bolt-on’ nature. The expectation that a transformation of employment relations will be triggered is not high. On the other hand, there are some players who, more optimistically, see potential for the regulations to act as a catalyst for change. This interpretation envisages and hopes for a growth in mutual learning. The belief is that, as the parties engage with each other, they will discover the potential to secure mutual advantage through more meaningful consultation and information sharing.

It is possible, of course, for both of these patterns to be played out in different settings. Identifying and analysing the nature of the factors that will determine the different outcomes is the crucial work to be done. Indeed, the central purpose of this volume is to tackle these issues by drawing on theory, practice and evidence (both quantitative and case-study based). The mix of chapters featuring contemporary analyses from specialist authors is intended to enable the necessary detailed exploration and weighing of these crucial factors. It is useful to begin with a summary of the new legal requirements.

Key features of the new regulations

In terms of the new legal requirements there are two prime sources that need to be understood. The first is the European Directive, which impels member states to ensure that their laws conform with the framework specified, and the second is the UK regulations (and their attendant guidelines). In this section we deal with each

of these in turn before setting out an overall analysis of the contentious issues for debate.

The European Directive

The EU Directive (2002/14/EC) is designed to ‘establish a general framework for informing and consulting employees in the European Community’. Its point of departure is the Treaty which has as a ‘particular objective’ to ‘promote social dialogue between management and labour’ (para. 1). It notes that the Community Charter of Fundamental Social Rights provides among other things that information, consultation and participation for workers must be developed along appropriate lines, ‘taking into account the practices in force in different Member States’. It also notes that the ‘existing legal frameworks at national and Community level intended to ensure that employees are involved in the affairs of the undertaking employing them and in decisions which affect them has not always prevented serious decisions affecting employees from being taken and made public without adequate procedures having been implemented beforehand to inform and consult them’ (para. 6). In consequence, it is maintained that there is a need to ‘strengthen dialogue’ in order to promote mutual trust; make work organisation more flexible; make employees aware of adaptation needs; and promote employee involvement in the future of undertakings, and so increase competitiveness. Special attention is paid to aspects of employment and potential threats to employment, and to the associated offsetting measures such as training, development and adaptability. The forces of globalisation are also seen as impelling the need for involvement and for new forms of work organisation.

Anticipation, prevention and employability are the watchwords. Notably, existing legal requirements – presumably those relating to redundancies – are seen as suffering from an ‘excessively a posteriori’ approach (para. 13). In sum, a range of economic, political and legal developments are seen to require a new legal framework ‘enabling the right to be informed and consulted to be exercised’ (para. 14). Notably, the Directive is ‘without prejudice to those systems which provide for the direct involvement of employees as long as they are always free to exercise the right to be informed and consulted through their representatives’ (para. 16).

The general framework is intended to establish a floor of ‘minimum standards’ and is not intended to restrict Member States from developing more favourable provisions on top. Moreover, the Directive emphasises the framework nature and allows for Member States to adapt it to their own national circumstances, and indeed stressing a leading role for agreement between employers and labour.

The Directive defines ‘undertaking’ to mean a public or private undertaking carrying out an economic activity whether or not operating for gain; ‘employer’ means the legal person party to employment contracts; and ‘consultation’ means the ‘exchange of views and establishment of dialogue between employees’ representatives and the

employer'. Even with regard to the definition of information, the reference point is that of employees' representatives. Occasional references to direct involvement notwithstanding, there is thus a strong implicit intent to see employee information and consultation through representatives as perhaps being the norm.

The indicative content or subject matter of information and consultation is itemised in three categories:

- (i) information on the recent and probable development of the undertaking or the establishments activities and economic situation;
- (ii) information and consultation on the situation and probable development of employment – in particular, if there is a threat to employment; and
- (iii) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations.

In terms of the setting for such information and consultation, this is to be at the 'relevant level of management' depending on the subject, and in a timely manner and with an appropriate method. It is required that employee representatives are able to meet with employers and obtain a response (and the reasons for the response), and with a 'view to reaching agreement'. Moreover, there is flexibility in that employers and labour may be 'entrusted' to reach their own arrangements for informing and consulting employees. Thus employees have rights, but they may choose not to exercise them. Confidentiality may apply to information if there is a danger of serious harm to the functioning of the undertaking. There is also to be protection of employee representatives and adequate sanctions on employers for non-compliance – sanctions which are 'effective, proportionate and dissuasive' (Article 8, para. 2).

As noted, the Directive established a 'framework' and the intent was that Member States would 'transpose' this into legal regulations suited to their own particular circumstances, sensitive, for example, to culture and existing institutions.

The UK regulations

The transposition of the EU Directive into British law was accomplished through Regulations made under Section 41 of the Employment Relations Act 2004. Intense lobbying and debate began even at the EU Directive stage. This continued and intensified when the government began to consider how it would introduce the principles and rights into law in the United Kingdom. It is worth noting that initially the government was strongly opposed to the Directive. Once it came to accept, however, that its introduction was inevitable, it bent its energies first to shaping the content so that it allowed as much flexibility as possible, and second it promoted the concept in terms of 'high performance'. The employers' organisation, the Confederation of British Industry (CBI), and the Trades Union Congress (TUC), notably entered the fray with some vigour. The government issued consultation papers and held regional

‘roadshows’ where participants from various lobby groups could have their say. In due course, the transposed British law was constructed around a number of key points.

The Regulations apply from 6 April 2005 to ‘undertakings’ with at least 150 employees; from 6 April 2007 to undertakings with at least 100 employees; and from 6 April 2008 to undertakings with at least 50 employees. The number of employees is calculated as an annual average. Employees or representatives are entitled to receive data about employee numbers. This request can be enforced by the Central Arbitration Committee (CAC).

Alternative pathways and scenarios

Given the nature of the regulations, there are a range of potential pathways or scenarios. The main ones are shown in Figure 1.1.

First, as the Figure indicates, one possibility is that no action is taken. This could occur if the employer does nothing, and no request comes from the employees.

The second possibility is that an employer negotiates a pre-existing agreement. This can occur at any time either prior to the Regulations coming into force for that size of undertaking, or at any time after the regulations come into effect. This is indicated near the top right of Figure 1.1.

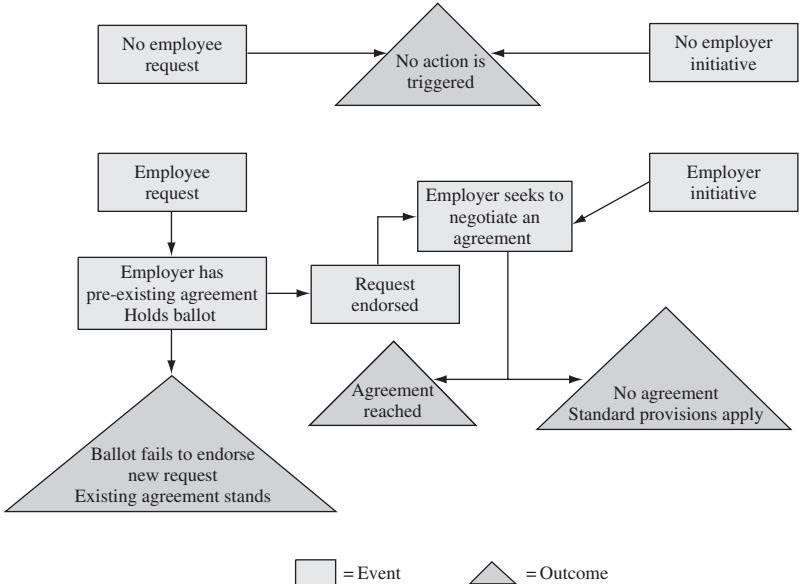


Figure 1.1 Flowchart of the process

Pre-existing agreement

The third possibility is shown in the top left of the figure; here it is the employees, or at least a proportion of them, who make the request. This is the so-called ‘pulling the trigger’ by employees – that is, using the rights bestowed by the new legislation. An employee trigger requires at least 10 per cent of the employees to make a request (or in appropriate circumstances, a minimum of 15 or a maximum of 2,500 employees). When this happens, if there is no suitable pre-existing agreement in place, then the employer is obligated to seek to negotiate an agreement concerning I&C. There is a six-month limit to cumulative expressions of support for such a request. The request must be in writing either to the company or to the CAC.

The alternative pathway is taken where a pre-existing agreement is in place. In this case a ballot must be held in order to determine if that agreement is endorsed by the workforce as a whole. A ballot for employee endorsement of an employee request may be held if fewer than 40 per cent of employees made the request where a ‘pre-existing agreement’ exists. To qualify for the status of a pre-existing agreement, such an agreement needs to meet certain criteria. It must be in writing; cover all employees of the undertaking; have been approved by employees; and must set out how the employer is to give information to employees or their representatives. All employees must be entitled to vote in the ballot. A detailed example of one such recently negotiated pre-existing agreement can be found in Appendix 2 on page 276.

If the employee request is not endorsed but instead the pre-existing agreement is sustained then that agreement stands, no further action is required, and a three-year moratorium begins which prevents further challenges during that period. If, on the other hand, the workforce endorses the employee request, then the employer is obligated to begin new negotiations in order to establish I&C arrangements. Such an endorsement requires 40 per cent of employees to vote, and a majority win by those who do vote.

Once negotiations have begun, as Figure 1.1 shows, there are two possible outcomes. The first of these is that a negotiated I&C agreement is concluded. This could allow for information and consultation directly with employees, or indirectly through representatives, or both. A negotiated agreement must meet certain minimum conditions, it must:

- be in writing;
- be signed and dated;
- cover all employees in the undertaking;
- set out the circumstances in which the employer must inform and consult employees; and
- provide for the appointment or election of representatives, or provide for information and consultation arrangements directly with employees.

Agreements are deemed to be approved if all negotiating representatives sign it, or a majority sign it and in addition it is endorsed by at least 50 per cent of the

employees (by secret ballot or in writing). Agreements meeting these conditions will then be protected by the moratorium provisions. The implication is that once the I&C regulations have been triggered then the parties are constrained to abide by certain minimum standards. The parties are nominally free to agree whatever they wish (just as they were before any trigger was pulled) but whatever they agree will not be protected or deemed to be sufficient to meet the I&C requirements unless these minima are achieved. Failure to achieve them even between consenting parties render such agreements vulnerable to challenge at any time.

The second potential outcome is that no agreement is reached. In this eventuality the standard provisions apply.

Standard provisions

In effect, these standard provisions state the legal minimum requirements and they can be enforced through the Central Arbitration Committee (CAC). The standard provisions apply automatically six months from the date of the initial employee request (the trigger).

These standard provisions require the election of representatives. Further, there is an obligation to inform and consult with these representatives. The nature of this critical requirement is the subject of Regulation 20. As the DTI Guidance Notes state, this regulation is based closely on Article 4 of the EU Directive and is intended to be the same as this – that is, neither intended to exceed nor to be less than that set of requirements. Article 4 of the Directive, as we saw above, requires information and consultation covering: (i) ‘information on recent and probable development of the undertaking’s or the establishment’s activities and economic situation’; (ii) information and consultation on ‘the situation, structure and probable development of employment . . . in particular where there is a threat to employment’; and (iii) I&C on decisions ‘likely to lead to substantial changes in work organisation or in contractual relations’. Consultation is to take place to allow sufficient time, at the relevant level of management, in such a way as to enable employee representatives to meet the employer and both to obtain a response and the reasons for that response. Notably, and this item has occasioned some considerable debate, there is a requirement for consultation to occur ‘with a view to reaching agreement on decisions’ (Article 20(4)).

The British regulations do indeed follow EU Article 4 closely. Regulation 20 gives the clarification that information is required on (i) above, whereas information *and* consultation with the representatives is required for (ii) and (iii) – that is, where employment matters are specifically at issue. By implication, employers are not required to consult about the undertaking’s economic situation or prospects as such, though they do need to share information about these matters. With regard to the required consultation on issues concerning employment and substantial changes to

work organisation, the standard provisions specify certain procedural requirements. The consultation must be:

- timely;
- comprised of appropriate content;
- on the basis of relevant information;
- conducted with the appropriate level of management;
- on the basis of opinion expressed by representatives; and
- on the basis of reasoned response from the employer to such opinion.

Moreover, with regard it seems only to the elements of regulation 20(c) – that is, ‘decisions likely to lead to substantial changes in work organisation or in contractual relations’ – the consultation must be conducted ‘with a view to reaching agreement’. This issue of the meaning of consultation is picked up again below.

Key issues and interpretations

It may be evident from the description of the regulations above that, while certain principles are reasonably clear there is, none the less, considerable scope for interpretation of the meaning and implications of much of this new legislation. These spaces for ambiguity are likely to be exploited. The analysis of issues in this section is informed by primary research with managers and trade union representatives in a range of organisations, as well as discussions with other interested parties and lobby groups.

The first key issue is the nature of the channel – direct or indirect – that is, manager-led direct communication with individual employees, or indirect via representatives. This is reflective of the individual versus collective tension that has been around as an issue for some time. In some quarters it is believed that the new law equates in effect to a requirement for the introduction of ‘works councils’ into Britain. The connotations of this suggest ongoing, permanent bodies that engage on a collective basis with a wide range of employment-related matters and which have legal protection. In a very different camp it is maintained strenuously that there is nothing in the regulations that makes representative consultations necessary, still less a standing works council system. In one respect this part of the debate is about interpretations of what is required, or what is at least ‘implicit’. In another respect it is not so much about legalistic interpretation *per se* but rather more about interpretation in the sense of likely trends and outcomes. The former is a legalistic analysis, the latter rather more sociological.

Much previous research suggests that *combinations* of direct and indirect forms of information and consultation deliver superior outcomes (Sako 1998; Marchington 2001; Beaumont and Hunter 2003 and Beaumont *et al*, Chapter 7 in this volume; Fenton-O’Creevy and Wood, Chapter 5 in this volume). Part of the rationale is that, to be that meaningful and to make a real difference, information and consultation

has to engage with the work processes at the operational level and so the direct mode is required. Yet at the same time, this works best in an environment where indirect modes are also occurring, because this gives *legitimacy* and *confidence* in the participative processes. The indirect, representative, systems allow a framework to be constructed, and they provide a mechanism to ultimately hold senior managers to account in a manner that direct channels alone would not permit.

A related issue is the degree of regulation. Some parties – usually the larger employers with their own well-developed systems – wanted as much flexibility as possible. Their main concern – to the extent that it became virtually a mantra – was to avoid the much-touted ‘one size fits all’ solution. They wanted space and scope to devise their own arrangements. And yet other parties, usually small businesses, seemed more inclined to want as much clarity as possible. They wanted to know with as little fuss as possible what they had to do to comply with the law. There was a clear division between requests for flexibility versus requests for simple, clear rules. The question has been asked why the government framed the regulations in such a way as to seemingly offer direct involvement as a viable option when such a path might be open to challenge at the European Court of Justice (ECJ)¹. The Employment Minister has responded that the government wanted to allow as much flexibility as possible.

The Directive is in part instructive here, but it could also be construed as ambiguous. In the preliminaries to the Articles there is one paragraph (16) which states explicitly, ‘This Directive is without prejudice to those systems which provide for the direct involvement of employees, as long as they are always free to exercise the right to be informed and consulted through their representatives.’ Following that statement, the remainder of the Directive is written almost entirely on the basis of an assumption that the I&C rights will amount to a representative, works-council-style system. For example, in Article 1 it states, ‘When defining or implementing practical arrangements for information and consultation, the employer and the employees’ representatives shall work in a spirit of cooperation and with due regard of their reciprocal rights and obligations’. The rest of the document, and the British regulations, are written in a way which makes it clear that in the main a representative system is the assumed pathway.

Similarly, the British regulations are constructed overwhelmingly with employee representation as the assumed norm. For example, the standard provisions are all about arranging ballots for the election of the relevant number of representatives. These are supported by the right to appeal to the CAC, which can order the employer to hold a ballot. Regulation 20 makes quite clear that there is a requirement for the employer to deal with information and consultation *representatives*. Similarly, the ‘spirit of cooperation’ phrase is also replicated in the British regulations (21). The parties are indeed ‘under a duty of cooperation’ when negotiating or implementing a negotiated agreement or when implementing the standard provisions.

A second issue derives from the first. In those cases where a representative system is initiated or redrawn, then the question arises about the nature of the representatives’

role. In particular, to what extent might these representatives adopt a trade union role? One possibility is that in some situations there could be potential for trade unions to build a new or a wider base. Alternatively, the reverse could happen – trade union representation where it persists in reduced fashion could be replaced by non-union representation. Whether union-related or not, the meaningfulness of representative democracy in undertakings can vary enormously. It could transform or could be largely irrelevant to most employees; despite the paraphernalia of elections and so on, there could be difficulties in finding volunteers to stand as employee representatives.

A third issue relates to levels and structures. The EU Directive offered a choice between undertaking or establishment as the desired level depending on the traditions in the different countries. The British government made its choice and as a result the regulations stipulate ‘undertaking’ as the appropriate level. Why might level matter? In fact, the level at which consultation is conducted is related to the whole question of the structuring of representation. This could be as simple or as complicated as the structure of the enterprise. In a single-site, medium sized company without multiple divisions this could be very straightforward indeed. But much of the British commercial structure is complex. Corporate groups can be divided up into many separate trading companies, which may or may not have their own legal entities, and these in turn might be grouped into broad ‘divisions’ or themselves even have their own separate divisions which in turn might fragment into separate business units.

In principle, a case could be made for any – or indeed all – of these entities to be considered as the sensible unit for I&C related to employment matters. The contract of employment might indeed be with an entity at any one of these levels. But the regulations suggest that this in itself is not the determining factor. What seems to matter in terms of defining an ‘undertaking’ from the I&C regulations point of view is that this must be a ‘separately incorporated legal entity which would have its own shareholders and in the case of British companies, have a unique registration number at Companies House as distinct say from an organisational entity such as an establishment, division or business unit of a company’ (DTI Guidance 6). One reason why a definition of an ‘undertaking’ matters is that it determines in the first instance, through the calculation of employee numbers, whether the I&C regulations apply at all. But beyond that, there are other reasons why this might matter. Different parties may have different reasons for wanting the engagement to be at one level or another.

The main rationales that were encountered were as follows. Some managers said that they wanted I&C to operate at, and in effect to be restricted to, the establishment level, because these entities had been identified by them over recent years as, in effect, the key business units. Employers were also concerned that shifting the focus to the higher, ‘undertaking’, level might prompt new attempts to re-establish company level bargaining. None the less, some trade union representatives were also in favour of the establishment level – mainly because this is where they had focused

their organising and negotiating efforts (sometimes in response to initiatives taken by employers). On the other hand, there were some employers with joint consultative committees already in place at undertaking level, and they were anxious to focus future consultation activity at this level. In practice, the regulations do seem to allow organisations to conduct their I&C activities at any of the levels appropriate to their circumstances as long as this is agreed by the employees. The specificity of the ‘undertaking’ in the regulations seems more to do with determining which entities fall within or outside the regulations, and the initial triggers to requesting that I&C rights be enacted rather than the actual future conduct. None the less, the manoeuvrings, concerns and implications noted above, about who would do what at which level, and what the ramifications of these moves might be, do remain as important relevant matters, irrespective of whether or not the law has a direct bearing upon them.

Beyond structural issues, there is, fourthly, the question of the meaningfulness of the processes that eventually commence. To some extent this could be interpreted as a question of tactics. One possible approach is a minimalist, ‘conformance with the law and no more’ approach. The ‘bolt-on’ versus ‘catalyst’ interpretations are the notable positions. The former embraces a number of sub-stances which vary in detail – for example, resistance to the regulations, the do-nothing stance, the actively-seek-to-subvert stance, the minimal compliance stance, and the ritualistic stance. The catalyst stance can also embrace a number of positions. These range from a catalyst for a new age of mutual understanding and transformed industrial relations leading to high performance workplaces, or to a catalyst for reinvigorated trade union organisations.

The question as to what the implications might be for trade unionism has been raised by both employers and trade union representatives. A number of different interpretations – and worries – were uncovered. One side of this particular coin was the concern that I&C might assist trade unions to mount a recovery; and the other side of the coin was the concern that I&C might potentially be used as a tool to further undermine trade unions. On the first, some employers harboured apprehensions that trade union representatives would dominate the consultation machinery, that they would use the opportunity to shift the tenor of information and consultation from a painfully-won direct mode to a more collectivist mode – thus, for some, reversing a trend that has been two decades in the making. The converse concern was that I&C could be used to dilute the significance of union collective representation where it existed, or to dissipate a potential union recognition move where a union was not currently recognised. Existing collective negotiation mechanisms and agreements are offered some protection in the regulations, as confirmed in the DTI guidelines, but none the less, by a subtle process, an employer so minded might possibly weaken pre-existing union organisation by restricting its realm of activity. Evidently, developments could move in either direction, and no doubt there will be instances where both types of scenario unfold. Arguably, the I&C regulations are sufficiently unobtrusive on this matter as not to be the determining factor in either

direction: events will rather unfold in specific situations rather more through the determination, relative strength and will of the parties involved in those different settings.

New consultation arrangements have to cover 'all employees'. Given that virtually no organisations at the time of writing have 100 per cent union membership, it follows that union representatives, where they exist, will probably be sitting alongside non-union representatives. The significance and consequences of this will again vary, depending on local circumstances. Some union representatives might have the opportunity to demonstrate their professional expertise and will thus potentially expand their sphere of influence. In other cases, the significance of union representation may be diminished by the routine evidence of non-union employee representatives performing a role that is perceived as worthwhile. If two sets of consultative arrangements were attempted – one union and one non-union – there would be a perceived danger of confused messages. Union representatives seemed to be reconciled to the idea of one general consultative council, with non-union as well as union representatives sitting together. They did stress, however, that this was predicated on the assumption that negotiation machinery was kept strictly separate.

The fifth issue relates to the nature of the game itself. Part of Article 1 of the Directive states that the employer and the employees' representatives 'shall work in a spirit of cooperation' when defining or implementing the practical arrangements for information and consultation. Legislating for 'spirit' is, of course, problematical. In practice, various parties shift between positions of expressed – and possibly genuine – intent to co-operate, and stances of traditional adversarial and tactical manoeuvres.

This is where the meaning of the term 'consultation' again becomes an issue. When people are asked to define this it is usually not because the idea is one that is tremendously difficult to understand; it is because its implementation is potentially elastic and its meaning to different parties contested. At one extreme, consultation, even when required by law, can be tokenistic. For example, companies installing mobile telephone masts are required to 'consult' parties in the vicinity. In practice, many simply post letters of notification and routinely log and effectively ignore the replies. In the employment field, the Regulations define consultation as 'the exchange of views and establishment of dialogue'. Hence, this would seem to require more than the token box-ticking in a critical path of decision-making. But the wording still leaves unclear the stage at which the exchange of views about a proposed action should be initiated. The decision could be almost made – subject to significant new information – or it could be at a stage where numerous options are open. The Court of Appeal has already ruled previously on the matter of consultation and this seems to give weight to a requirement for the latter, more open, interpretation. It said that consultation should occur during the 'formative stage' of a proposal; that adequate information needs to be provided; that adequate time be allowed; and that 'conscientious consideration by an authority' of these responses should be demonstrated. If these four criteria are fulfilled, then consultation should be meaningful, and it is more likely to command respect and elicit engagement. Moreover,

ultimately, employers may need to justify their consultation policies and practices before the CAC.

The maximum penalty of £75,000 has also occasioned some debate, as some employers might consider this a price worth paying to avoid disclosure in advance of commercial information about a takeover, merger or similar event that has financial implications. Regulation 25(1) holds that an employer may request an information recipient to hold in confidence – a ‘protected disclosure’.

The new regulations also create a right to ‘reasonable’ time off for employee representatives during working time in order to perform information and consultation duties, and for this time to be remunerated at the appropriate hourly rate. There is also a new right to complain to an employment tribunal to enforce these entitlements and there is also added protection from unfair dismissal. Similarly, representatives and negotiating representatives are protected from any ‘detrimental’ treatment short of dismissal.

Finally, if one goes back full circle to where this discussion started – that is, with the underlying idea of the fundamental purposes of ‘involving’ employees through information, consultation and other participative means – then the minutiae of the law could be said to be the least important aspects. Ideally, the law is there merely as a stimulus and to provide a minimum basis of rights. But if the new law only triggers a compliance response, then the impact is likely to be limited. Beyond the letter of the law is its spirit, and responding to that spirit will require (as has been noted widely) trust. But, in turn, such trust has to be won, and that will require skilful management. Quite apart from the DTI guidelines which help to interpret the law there are the Advisory, Conciliation and Arbitration Service (ACAS) guidelines which provide valuable advice on processes – the ‘good practice’ guidelines to help devise effective consultation. These advise on how to provide information, and how to structure and organise consultative committees in practice. But beyond even these *practices* there are some wider strategic management considerations. A number of factors are important, but it is worth notice two in particular.

The first relates to the extent to which, and the ways in which, the senior management team embraces the interrelated ideas of employee voice, partnership, joint problem-solving, and mutual gain. The top team in most organisations is in the best position to set the tone and the expectation. The extent to which they truly buy into the idea of employees adding value through motivated and creative problem-solving will usually be critical. They are in a position to shape operational management action and they can reward or sanction behaviour. Managers usually approach and interpret this kind of issue in terms of ‘performance management’, ‘culture change’ or ‘values’. But regardless of the label they use, they appreciate that, if it is to be meaningful, it has to come from the top, be role-modelled at the top and be sustained continuously. The second, key issue beyond the question of the legal minima is the issue of training. This concerns not only to the training of employee representatives but also the training and development of managers who need to give information and to consult. Both of these activities involve some skill. Some trade union representatives thought

that training was required not only in consultation processes but also in handling, understanding and responding to the information provided – not least of which was financial information. (Chapter 11 in this volume assesses the kind of financial literacy employee representatives might need to have.)

A detailed, real-life example of how one multi-site company employing some 500 financial services workers has constructed a new I&C agreement (see Appendix 2 on page 276). This reveals the details of the agreed company council (termed in this case the 'I&C Forum'). It offers a useful insight into how one company that has given a great deal of thought to the relevant issues, has responded to the new Directive.

Structure of the book

The critical issues identified briefly above are explored in much more depth in the ensuing chapters in this volume. The chapters in Part 2 present the distinctive perspectives and reactions of the influential parties. These include the TUC, the Engineering Employers' Federation (EEF), and the leading independent body, the Involvement and Participation Association (IPA).

Part 3 moves from aspiration and concerns to an examination of the evidence deriving from practice to date. This evidence relates to the types of mechanisms and processes used in practice, and the various performance outcomes achieved. These carefully designed studies, which examine the connections between input variables and outputs, are important stepping stones to the practical issues and dilemmas raised in the following section.

Part 4 of the book moves to a close analysis of the range of options and to a study of the main questions arising. It also seeks to resolve some of these. It ranges from an assessment of alternative ways of informing and consulting and their implications, to a study of the implications for the public sector, for small businesses and for employee representatives.

The purpose of Part 5 is to allow comparison of practice across Europe. There is detailed analysis of the situation in Ireland, which is followed by a wide-ranging overview of practice across the twenty-five EU Member countries. Then the focus narrows again to a more detailed examination of comparative practice concerning information disclosure in Germany, France and the UK.

Part 6 uses two detailed case studies to reveal how information and consultation can be handled and used in practice. In Part 7, a short conclusion highlights some of the major issues arising from the book and points practitioners and policy-makers forward by identifying the main implications for future work.

Appendix 1 offers a decision flowchart which will be of practical use to decision-makers in many organisations. Appendix 2 gives a detailed example of a newly-minted works council (I&C Forum) agreement designed to meet the requirements of the new legislation as a 'pre-existing agreement'.

Note

- 1 I am grateful to John Purcell for raising this point.

References

- Amicus (2004) *Information and Consultation at Work: An Amicus Guide for Members*. London: Amicus.
- Beaumont, P. and Hunter, L. (2003) *Information and Consultation: From Compliance to Performance*. London: CIPD.
- CIPD (Chartered Institute of Personnel and Development) (2004) *Information and Consultation: A Guide*. Wimbledon: CIPD.
- DTI (Department of Trade and Industry) (2002) *High Performance Workplaces: The Role of Employee Involvement in a Modern Economy. A Discussion Paper*. London: DTI.
- EU (European Union) (2002) *Directive 2002/14/EC Establishing a General Framework for Informing and Consulting Employees in the European Community*. Brussels: European Union.
- Houses of Parliament (2004) *The Information and Consultation of Employees Regulations*. London: Houses of Parliament.
- Kelly, J. (2004) 'Social Partnership Agreements in Britain: Labor Cooperation and Compliance', *Industrial Relations: A Journal of Economy and Society* 43(1): 267–92.
- Marchington, M. (2001) *Management Choice and Employee Voice*. London: CIPD.
- Sako, M. (1998) 'The Nature and Impact of Employee Voice in the European Car Components Industry', *Human Resource Management Journal*, 4(2).

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