

Impact case study (REF3b)

Institution: Warwick University
Unit of Assessment: Warwick Business School
Title of case study: Informing Law and Practice – Information and Consultation of Employees
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>The UK's adoption, and implementation in 2004, of the European Union's (EU) Information and Consultation of Employees (ICE) Directive had profound implications for industrial relations in the UK, which historically had no provision for works councils (a representative structure where management meet with employee representatives to discuss working conditions). Professor Mark Hall's research on the impact of the ICE Regulations on organisations has had an impact on both policy and implementation of the Regulations at the UK and European levels. The outputs from the research have helped to inform UK policy-making, and supported significant European reviews of the legislation as well as contributing to improving professional practice through training and information.</p>
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>The 2004 ICE Regulations represent a radical development in the UK context. They established for the first time a general statutory framework giving UK employees the right to be informed about their firm's economic situation, and be informed and consulted on employment prospects, and plans for significant changes in work and employment relations. This form of employee representation had historically been channelled through trade union representation, however, the ICE Regulations aimed to improve the rights of employees by requiring employers to engage and consult with their workplace representatives over changes in management policy in key areas.</p> <p>Mark Hall's study aimed to investigate the impact of the ICE Regulations on organisations within a UK context by identifying the extent to which information and consultation practices differed from the standards set in the framework and outlined the practical effects of the Regulations. As Principal Investigator for the project, Mark Hall led a research team based in Warwick Business School's Industrial Relations Research Unit (IRRU), consisting of Professors John Purcell and Michael Terry. Further contributions came from Sue Hutchinson (UWE) and Jane Parker (formerly WBS IRRU now at Massey University). Freelance researcher Jill Smith undertook some of the project's fieldwork.</p> <p>In analysing the different experiences of information and consultation structures across a diverse range of organisations, the study highlighted key factors shaping developments in this area. The underpinning research involved longitudinal case studies in 25 organisations of varying workforce sizes across the private and voluntary sector. Carried out in three waves between 2006 and 2010, the project initially consisted of research visits to each organisation and an employee survey was conducted where possible. In-depth semi-structured interviews were held with senior management, employee representatives and trade unions at each stage, and documentary analysis undertaken.</p> <p>The findings highlighted shortcomings in the statutory framework and showed it had limited significance beyond influencing the provisions and wording of constitutions and agreements underpinning ICE arrangements in some organisations. The research showed that employees did not utilise their rights to formally request that their employers set up or change arrangements to inform and consult them about issues in the organisation, nor was there employee pressure for new information consultation arrangements more generally. Relatedly, in most cases, employer decisions to introduce or reform information and consultation forums could not be described as having been based on the drive to comply with the Regulations. The project also found little evidence that the Regulations shaped managerial approaches to consultation. It identified the most common form of information and consultation arrangements, including the existence of 'hybrid' bodies, involving both union representatives and elected representatives of non-union employees. Using the research evidence, Hall and his team developed a threefold categorisation of employee consultation which identified for the first time the key patterns of UK consultation practices being implemented in response to the ICE Regulations.</p> <p>Five key reports detailing the research findings have been published by the UK Government's Department for Business, Innovation and Skills (BIS) Employment Relations Research Series. In addition, as a result of the underpinning research, Hall led in compiling a comparative analytical</p>

report for the European Industrial Relations Observatory (EIRO) mapping the impact of the EU ICE Directive across 26 European countries.

3. References to the research (indicative maximum of six references)

1. Hall, M., Hutchinson, S., Purcell, J., Terry, M., and Parker, J. (2011) 'Promoting Effective Consultation? Assessing the Impact of the ICE Regulations', *British Journal of Industrial Relations*, 51 (2), pp.355-381. Peer reviewed journal article. DOI: 10.1111/j.1467-8543.2011.00870.x
2. Hall, M. (2010) 'EU Regulation and the UK employee consultation framework', *Economic and Industrial Democracy*, 31(4S), pp. 40-54. Peer reviewed journal article. DOI: 10.1177/0143831X10375631
3. Hall, M., Purcell, J., Terry, M., Hutchinson, S. and Parker, J. (2013) 'Trade union approaches towards the ICE Regulations: defensive realism or missed opportunity?' *British Journal of Industrial Relations* (forthcoming). Peer reviewed journal article. DOI: 10.1111/bjir.12033
4. Hall, M., Hutchinson, S., Purcell, J., Terry, M., and Parker, J. (2008) 'Implementing information and consultation in medium-sized organizations', Employment Relations Research Series No. 97. Report to Department for Business, Enterprise and Regulatory Reform (DBERR), Acas and CIPD. http://www.cipd.co.uk/NR/rdonlyres/3E125635-1615-4731-B2C9-6FA09009B709/0/berr_acas_implementing_information_consultation.pdf. Government/Practitioner report
5. Hall, M., and Purcell, J. (2011) 'Information and consultation practice across Europe five years after the EU Directive', European Industrial Relations Observatory (EIRO). Online, available from: <http://www.eurofound.europa.eu/publications/htmlfiles/ef1097.htm> Official study for EU agency
6. Hall, M., and Purcell, J. (2012) *Consultation at Work: Regulation and Practice*. Monograph, Oxford University Press: Oxford <http://ukcatalogue.oup.com/product/9780199605460.do>

Associated grants

1. Professors Mark Hall (PI), John Purcell, and Michael Terry (Warwick IRRU) 'Information and consultation of employees: longitudinal employer case studies'. Co-funded by Department for Business, Innovation and Skills (BIS); Advisory, Conciliation and Arbitration Service (ACAS), and Chartered Institute of Personnel and Development (CIPD). Total award £346,037 from January 2006 to May 2010.
2. Mark Hall (PI) and John Purcell, European Foundation for ILW&C 'Comparative analytical report on impact of EU information and consultation Directive', EUR15k, 01 April 2010 to 30 November 2010

4. Details of the impact (indicative maximum 750 words)

There were three principal beneficiaries of the research, across the UK and Europe:

1. UK Policy-makers and Parliamentary legislators
2. Policy-makers in the European Commission
3. Practitioners, employment relations bodies and trade unions

The findings provide an evidence base for UK policy makers informing policy discussions and thinking. The published outputs from the research have helped shape the evaluation of the ICE Regulations outcomes by the UK government, public agencies, employers' organisations, trade unions, HR professional bodies and EU institutions. The significant on-going impact has benefited them through providing a better understanding of the Regulations' potential implications on employment relations as reflected by the Chair of Advisory, Conciliation and Arbitration (Acas); "[...] IRRU's research on employee voice and information and consultation has played a big part in helping Acas formulate its own thoughts on these subjects [...]"

The research has contributed to UK parliamentary debates. In February 2013 during the House of Lords debate on amendments to the Enterprise and Regularly Reform Bill, the research was cited by three Peers – Lord Lea of Crondall, Lord Monks and Baroness Brinton. The Peers noted its valuable contribution and used the research findings to challenge the adequacy of the existing legislative provisions for employee consultation and as a means of support for the proposed amendments to the bill to promote employee consultation.

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The research impact extends to EU level policy considerations. The underpinning research on UK patterns of consultation was referred to in the Commission of European Communities review report (2008) communicating the application of the Directive within the EU to its member communities. The report considered the study to be a notable exception to the general EU-wide absence of 'evidence-based research' into the impact of the EU Directive. The research contributed to stimulating the launch of an EU wide review of Member States and their process of implementing the Directive. As a result of the underpinning research, in 2011 Hall and Purcell were commissioned by the European Industrial Relations Observatory (EIRO) to produce a comparative analytical report. It built upon the findings of the UK based underpinning research and mapped the impact of the ICE Directive across 26 European countries five years after its original implementation. The underpinning research and Hall and Purcell's subsequent EIRO comparative report led to further impact featuring prominently in the European Commission's 'fitness check' exercise assessing the efficacy of the Directive (published October 2012). The report reproduces some of the key arguments expressed in Hall's research concerning the limited impact of the UK ICE Regulations. Hall was subsequently invited by the European Commission to present the underpinning research on the impact of the Regulations in the UK to a further meeting of the working group in September 2011 and the main findings and its policy conclusions were considered and adopted by the EU-level fitness check working group.

In 2012 Purcell and Hall were commissioned by Acas to produce a practitioner/policymaker-oriented discussion paper, 'Voice and Participation in the Modern Workplace: Challenges and Prospects (March 2012)'. This discussion paper was considered by the International Labour Organization (ILO) to be 'a potential model' for analyses and went on to shape the organisation's draft Terms of Reference in commissioning a study of worker participation and voice in Small and Medium Enterprises (SMEs) in developing or transition countries. The Acas discussion paper was followed up in February 2013 with a one-day seminar for practitioners co-hosted by WBS and Acas in London, stimulating further debate amongst employee union and corporate representatives, as attested to by Acas.

Impacts on practitioners were achieved through dissemination at conferences and forums which engaged international institutions, practitioners and policymaking bodies with the underpinning research and its findings. These events provided informed training on the ICE Regulations for employers, union representatives and employment relations practitioners and included work with important organizations in the field including: Canadian Industrial Relations Association (2010), European Foundation for the Improvement of Living and Working Conditions (2011), Chartered Institute of Personnel and Development (2008), and the International Industrial Relations Association (2010, 2009). Through the activities above, Hall provided unique insights into ICE Regulations at both UK and EU level. This work significantly enhanced understanding of the effectiveness of the ICE Directive and has made a valuable contribution to informing UK and EU policy conclusions on its implementation within employer organizations. The impact of the research and its findings on practitioners is confirmed by the comments of leading employment relations professionals in the IRRU Briefing (2010), with one practitioner stating that "[...] Research findings on the information and consultation of employees and European Works Councils have also contributed to EEF's representations on employment issues in both Westminster and Brussels [...]" (Former Head of Employment Policy, EEF: The Manufacturers' Organization).

5. Sources to corroborate the impact (indicative maximum of 10 references)

Evidence of impact on UK practitioners and employment relations professional bodies

1. **The Head of Research and Evaluation, Acas** will corroborate the impact of the underpinning research on practitioners, employment relations organisations and trade unions, and can testify to the impact of the Acas report Professor Hall and Purcell were commissioned to write: 'Voice and Participation in the Modern Workplace: Challenges and Prospects' (March 2012).
2. **Terms of Reference. Country Study on worker participation and voice in SMEs: Attitudes, realities, and implications for International Labour Organization (ILO).** (available from WBS). The draft terms of reference document evidences that the research papers produced by Hall and his associates are being used by the ILO as 'a potential model' for analyses in the study it commissioned of worker voice in small and medium sized

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enterprises in developing or transition countries.

3. **Testimonials from employment relations practitioners:** Evidence of testimonials from employment relations practitioners provides evidence of the impact of the research on different types of organizations through informing their employee consultation approach
 - a. The former Head of Employment Policy, EEF: The Manufacturers' Organization: testifies to the significance of the research and its impact in influencing UK and EU government discussions on employment regulation.
 - b. The Acas Chair: confirms impact of the research has had on influencing the practices and services of Acas in addressing ICE Regulation. "[...] IRRU's research on employee voice and information and consultation has played a big part in helping Acas formulate its own thoughts on these subjects [...]"
 - c. The Head of the Equality and Employment Rights Department, Trades Union Congress (TUC): "[...] When EU-level discussions about information and consultation started, IRRU saw this in the context of changing union roles and the 'partnership' agenda. This was very helpful to us and no doubt to employers [...]"

Evidence of impact influencing UK Policy debate:

4. **Hansard transcript: Debate in House of Lords on Enterprise and Regulatory Reform Bill, 26 February 2013, Amendment 39** (available from WBS). Confirms impact of research in stimulating and informing Parliamentary debate at UK policy level. Lord Lea of Crondall, Lord Monks and Baroness Brinton all refer to research and its significance during a House of Lords debate. <http://www.publications.parliament.uk/pa/ld201213/ldhansrd/text/130226-0002.htm>

Evidence of impact at EU policy level

5. **Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the review of the application of Directive 2002/14/EC in the EU** (March 2008). Report specifically cites the underpinning research recognising its unique contribution as the only evidence-based analysis of the Directives transposition and its stimulus for wider evidence-based analysis across Europe (pg 9). <http://www.ipex.eu/IPEXL-WEB/dossier/document.do?code=COM&year=2008&number=146&extension=FIN>
6. **European Commission: DG for Employment, Social Affairs and Inclusion - Operation and effects of information and consultation directives in the EU/EEA countries, 'Fitness Check' Final Synthesis Report (October, 2012)**. Deloitte. Final report concludes that the research was foundational in helping to shape the analysis and in formulating the report's final policy conclusions <http://ec.europa.eu/social/BlobServlet?docId=10440&langId=en>
7. **Institute for Employment Studies**. Colleagues at the IES worked with Deloitte in gathering data to compile the EU fitness check report and can testify to the impact Hall's research had on the development of the final report and its recommendations.