



HR Briefing March 2007

INFORMATION AND CONSULTATION OF EMPLOYEES REGULATIONS 2004 (“the Regulations”)

Regardless of the size or purpose of your organisation, communicating with employees is vital. Most employers are happy to communicate with employees on a day to day level. However, providing information to employees or their representatives on higher level or strategic business issues is often a different matter. Most employers will restrict this level of information. Some employers will actively minimize the amount of information released to employees.

However, there are business benefits to be gained in genuinely informing and consulting with employees. These include ensuring that everyone is aware of business matters, encouraging people to be more open and to work together, and to encourage different departments and teams to improve communications.

The law has generally not intervened in this process, except in certain defined areas such as redundancies and business transfers. However, from 6 April 2007 organisations with 100 or more employees may now have to set up a formal information and consultation mechanism within their businesses.

What does the law say?

From 6 April 2007, organisations with 100 or more employees will have to set up an information and consultation agreement where they receive a valid request from employees. This already applies to organisations with 150 or more employees. From 6 April 2008 this will be extended to organisations with 50 or more employees. The Regulations are triggered either by a formal, written request from at least 10% of the workforce (up to a maximum of 2,500 employees) or where the employer starts negotiations.

Key Recommendations

- Review your existing information and consultation processes. Ensure that you are aware when these duties arise.
- Assess whether your organization is of a size where they will be affected by the Regulations.
- Remember - the regulations are extended as of 6 April 2008 to employers with 50 or more employees.
- Employers should choose carefully the sort of consultation procedure that will best suit their own business structure and culture.

What do I need to do as an employer?

Employers should consider whether they will be affected by the Regulations and decide whether it is likely they will receive a valid request from their employees. In some cases it will may be appropriate for an employer to take the initiative and to set something up without waiting for a request to come in. The Regulations do allow an employer to introduce arrangements to suit their own circumstances and so you may need to:

- review your current stance on informing and consulting with employees
- consider how you would deal with a request
- take steps to introduce an employee consultation arrangement

How do I inform and consult with employees?

There are a variety of ways to communicate with your employees but it will depend on the size, structure, type of information and the goals you wish to achieve. Options include:

- communicating with a newsletter or on-line
- face-to-face methods e.g. forums or meetings
- through a union or works council

In appropriate cases, the arrangements which you put in place may mean that you enjoy a degree of protection against the formality of having to deal with a request submitted on behalf of your workforce. It may pay dividends therefore to take a more proactive approach.

What if I do nothing?

If you do nothing then you run the risk of having to respond to a formal workforce request if 10% of the workforce, subject to a minimum of 15 employees, submit a valid request. This would trigger the duty to negotiate under the Regulations. There are financial penalties against an employer who fails to respond properly to a valid request.

If you have any queries on any of the above, or if you require any further information about implementing a pro-active consultation agreement, please contact either **Alison Loveday** at alisonl@berg.co.uk or **Lee Jecott** at leej@berg.co.uk to discuss further issues. Alternatively you contact either Alison or Lee on **0161 833 9211**.

- Provide training for all employee representative and management to maximize the chances of success.

- Information and Consultation should become an integral part of day-to-day management processes, to reap the benefits

- If you do not proactively introduce an information and consultation agreement, at least have a contingency plan in the event that a valid request is submitted on behalf of your workforce.