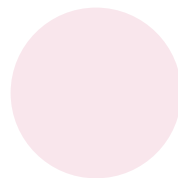


Research Paper



Joint consultative committees under the
Information and Consultation of Employees
Regulations: A WERS analysis

Ref: 04/14



2014

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ISBN 978-1-908370-47-1

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Acknowledgements

We thank Rachel Pinto for her editorial help, and Gill Dix and Paul Marginson for insightful comments on an earlier draft.

The 2011 Workplace Employment Relations Study was jointly sponsored by the Department for Business, Innovation and Skills, the Economic and Social Research Council, the Advisory, Conciliation and Arbitration Service, the National Institute of Economic and Social Research (with funds from the Nuffield Foundation) and the UK Commission for Employment and Skills. The fieldwork was conducted by the National Centre for Social Research. The WERS datasets are distributed by the UK Data Archive at the University of Essex.

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EXECUTIVE SUMMARY

This research paper analyses survey data on joint consultative committees (JCCs) from the 2011 Workplace Employment Relations Study (WERS) in the context of wider research. It pays particular attention to the effects of the Information and Consultation of Employees (ICE) Regulations 2004. The paper examines the incidence, composition, operation and impact of JCCs, focusing on workplaces belonging to organisations with 50 or more employees that have a workplace- and/or higher-level JCC.

Incidence of JCCs

The proportion of workplaces with five or more employees that had a workplace- or higher-level JCC in 2011 was 25 per cent, down from 34 per cent in 2004. The incidence of workplace-level JCCs remained broadly stable (9 per cent in 2004 and 8 per cent in 2011). The overall decline in JCCs is accounted for entirely by a fall in the proportion of workplaces reporting a higher-level JCC, consistent with the increasing decentralisation of HR management to workplace level.

Looking specifically at workplaces belonging to organisations with 50 or more employees (i.e. those falling within the scope of the ICE Regulations), the data indicate some legislative impact on the incidence of JCCs. The proportion that had workplace-level JCCs remained stable at 13 per cent. Disaggregated by size band, there was a small increase in the incidence of JCCs among workplaces belonging to organisations with 50-99 employees that reported having workplace-level JCCs (up from 10 per cent to 12 per cent) and a statistically significant increase among those in organisations with 100-149 employees (up from 9 per cent to 20 per cent). A non-significant increase from 9 per cent to 15 per cent is also recorded for workplaces belonging to organisations with 150-249 employees. These increases may be attributed to the influence of the ICE Regulations. In overall terms, however, these increases were offset by the decline in the incidence of higher-level JCCs: the proportion of workplaces belonging to organisations with 50 or more employees reporting any JCC fell from 59 per cent in 2004 to 46 per cent in 2011.

JCCs continue to be more prevalent in:

- larger workplaces;
- workplaces that are part of a wider organisation;
- public sector workplaces (despite a marked decline in the proportion of public sector workplaces with JCCs);
- foreign owned/controlled workplaces; and
- older workplaces (though a higher incidence of JCCs in workplaces that were less than five years old than in workplaces in existence for five to nine years may be a reflection of the ICE Regulations).

The incidence of JCCs is strongly associated with trade union recognition/presence at the workplace, the sophistication of HR practice (as indicated by Investors in People (IIP) accreditation), positive management attitudes towards unions and consultation, and the use of other forms of employee communication and involvement.

Composition of JCCs

Across all JCCs in workplaces that are part of organisations with 50 or more employees, the proportion with union representation fell from 35 per cent in 2004 to 32 per cent in 2011. There were small increases in the proportions that were wholly non-union (68 per cent, up from 65 per cent in 2004) and 'hybrid' JCCs involving both union and non-union representatives (nine per cent, up from eight per cent in 2004), while union-only JCCs decreased from 27 per cent to 23 per cent. In workplaces with union recognition the proportion of hybrid JCCs rose from 11 to 15 per cent at the expense of falls in both union-only and non-union JCCs. There is little evidence of unions seeking to 'colonise' JCCs in workplaces without union recognition.

The mean number of union representatives on JCCs was, at 2.7, lower than the mean number of non-union representatives (5.5).

Election was the most common way in which JCC representatives are selected – in almost three-fifths of workplaces, with no difference between non-union JCCs and those with union representatives. Where elections were not held, volunteering was the most common method of selection in non-union JCCs (54 per cent) while nomination by unions was the most common method (33 per cent) in JCCs with union involvement.

Operation of JCCs

The topics most often discussed at JCCs were employment issues, future plans, financial issues and health and safety, but future plans and financial issues were reportedly discussed at higher proportions of workplaces that held workplace meetings. Financial issues also appeared more extensively on the agenda of team briefings than JCCs. Pay issues and welfare services and facilities were much more commonly discussed by JCCs than by these other forums.

The data shows some divergence in the practice of non-union JCCs and those with union representation. Financial issues were discussed less extensively by JCCs with union representation than in non-union JCCs according to managers but this was not borne out by the representatives' accounts. There was a significant difference in the proportion of non-union JCCs discussing pay (30 per cent) compared with unionised JCCs, suggesting that JCCs generally operate alongside collective bargaining, not as an alternative.

The frequency of JCC meetings had increased since 2004. In 2011, over one-third of all JCCs met monthly, up from under a quarter in 2004. Unionised JCCs were more likely to meet monthly compared to non-union JCCs, but there was little difference between the two in terms of meeting on at least a quarterly basis.

Approaches to consultation

To assess the effectiveness of JCCs, the paper uses data from all three WERS questionnaires to explore, as far as is possible within the data, how far JCCs appeared to meet the six-fold criteria for 'active consultation' developed by Hall and Purcell (2012).

The ability of a JCC to exert influence over management decisions depends on management's willingness to discuss matters before a final decision has been taken. There is clear evidence that managers in 2011 were less likely to do this than in 2004. Employee representatives were especially clear that 'option consultation' had declined markedly while the much more limited consultation on management's preferred option rose from 9 to 28 per cent. This appears to be a general trend and not something arising from having to take difficult decisions in the recession.

The approach to consultation has a marked effect on assessments of JCC influence, as reported by managers. Managers who sought the opinion of their JCC on options for change were much more likely to consider the JCC was very influential than those who only discussed a change once the decision had been taken. This approach to option consultation positively influenced representatives' views on how much they worked closely with management to manage change. Those organisations which had a JCC were much more likely to agree that they did not introduce change without consulting employees. While a majority of managers in workplaces without a JCC agreed that they would rather consult directly with employees than with a union, they were also the managers who tended not to want to consult employees in introducing change. Non-union JCCs were much less likely to be consulted on changes than their counterparts with a union representative on the committee.

Effective JCCs generally discuss a range of topics. The evidence from WERS 2011 is that substantial proportions consider matters of substance especially employment issues, financial reports, future plans, and welfare matters.

There was no evidence to support the view that direct communication with employees via workforce meetings and briefing meetings, where time is given for employees to express their views, have become substitutes for collective consultation. Indeed, the clear evidence is that they are complementary activities alongside JCCs. There was no evidence, either, that the use of direct communication media was an alternative to collective consultation. Effective consultation requires both forms of communication.

Employee representatives need to be organised and trained to be effective. For non-union representatives, especially on non-union JCCs, this can be difficult to achieve. It was notable that a large majority of such representatives had received no relevant training in the previous year, or ever, and very few of them made use of external advice. Union representatives were much better placed in these regards.

Trust is essential for consultation to become meaningful and to survive. In general, the evidence is that in around three-quarters of JCCs there is a high level of mutual trust between managers and representatives. The differences are relatively minor but, as shown in previous research, the level of trust between managers and non-union representatives is higher than that with union based JCCs. Trust is higher where managers use the committee to discuss options for change rather than presenting the JCC with a pre-determined decision.

Outcomes associated with consultation

Most of the tests to determine whether consultation has an outcome effect on levels of employee organisational commitment, and on business measures, proved neutral with no significant effect, whether positive or negative. The only exception was the association between employee views on the climate of the relationship between them and management and on their levels of satisfaction with involvement in decision-making. As has often been noted in previous research, and earlier WERS surveys, the relationship is better where there is no JCC, nor any union. Since one of the functions of consultation is to allow differences of views and disagreements to be aired, this association may not necessarily be wholly negative. In any case, the majority of employees in organisations with a JCC still evaluate climate in a positive light.

WERS goes some way in helping to unpack the operation of JCCs and their incidence. The initial picture provided in the summary data for the whole sample of workplaces with five or more employees becomes more nuanced when the cut off point of 50+ employees is used. It is at this size range and above that JCCs or much more likely to be found. The full report focuses on the key findings related to incidence, contextual variables, the way different types of JCC operate, especially non-union compared to those with a union representative and the approaches to the practice of consultation. Outcomes are considered. Wherever possible reference is made to the ICE Regulations to show how far current practice of collective consultation in the UK meets the requirements of the Regulations.

1 INTRODUCTION

Questions about joint consultative committees (JCCs) have been a staple of successive Workplace Employment Relations Surveys/Studies (WERS). JCCs are defined in the relevant WERS survey questionnaires as “committees of managers and employees at [the] workplace [that are] primarily concerned with consultation rather than negotiation”. Most WERS questions focus on workplace-level JCCs, but WERS also asks about the existence, though not the operation, of higher level consultative committees, for instance at regional, divisional or head office level. In the light of the continued downward trend in the incidence of JCCs between WERS 1998 and WERS 2004 (Kersley et al 2006), and the subsequent introduction of the Information and Consultation of Employees (ICE) Regulations 2004, there is particular interest in the findings from WERS 2011 concerning JCCs.

1.1 The ICE Regulations

Intended to implement the 2002 EU Directive on employee consultation, the ICE Regulations established for the first time in Britain a general statutory framework giving employees the right to be informed and consulted by their employers on key business, employment and restructuring issues (Hall and Purcell 2012). The Regulations therefore constituted a significant change in the context within which employers develop their information and consultation practices, and it was widely expected that the legislation would prompt an upturn in the proportion of workplaces covered by JCCs. At the same time, the legislation allows employers considerable flexibility of response, both procedurally and substantively. Employers need not act unless 10 per cent of their employees trigger statutory procedures intended to lead to negotiated information and consultation agreements. Voluntary pre-existing agreements may pre-empt the use of the Regulations’ procedures. Under either route there is considerable latitude for the parties to agree enterprise-specific information and consultation arrangements. Only in the event that the Regulations’ procedures are triggered but no agreement is reached are (minimally prescriptive) ‘standard’ or default information and consultation provisions enforceable. As the introduction of the Regulations broadly coincided with WERS 2004, WERS 2011 provides the opportunity to assess the effects of the Regulations in terms of the incidence and practice of JCCs.

1.2 Aims of the research paper and previous research

The aim of this research paper is to build on and supplement the analysis concerning JCCs in the WERS source book (van Wanrooy et al 2013) in the context of wider research. In particular the paper focuses on the incidence, composition, operation and impact of both workplace- and higher-level JCCs, distinguishing between non-union JCCs and those with union representation.

Recent research co-sponsored by Acas (Hall et al forthcoming) identified ambivalent trade union attitudes towards consultation and the ICE Regulations. But JCCs are traditionally more prevalent in workplaces that recognise trade unions and have operated with union involvement in the great majority of such cases. There is some evidence from this research that ‘hybrid’ information and consultation bodies, involving both union and non-union representatives, are

more likely than non-union bodies to engage in 'active consultation', echoing suggestions in the wider literature that union participation in JCCs enhances the latter's resources and effectiveness (e.g. Terry 1999). The extent and impact of union involvement in JCCs is among the main themes of this paper.

The same research also analysed variations in the effectiveness/influence of JCCs, identifying a range of factors that differentiate 'active consulters' from 'communicators' (Hall and Purcell 2012; Hall et al 2013). Chapter 5 of the paper uses the WERS data to explore how far there is evidence that these characteristics are present in JCCs operating in workplaces belonging to organisations with 50 or more employees.

Finally, data on JCCs is of relevance to debates about employee engagement. Collective forms of employee involvement such as JCCs are often side-lined or excluded in much of the recent discussion about employee involvement. So a further theme in the paper is to explore some of the connections between the experience of JCCs and direct forms of employee involvement.

The approach we take in this research paper is distinctive – and contrasts with van Wanrooy et al's (2013) discussion of WERS data on JCCs – in that the principal focus of our analysis is on workplaces belonging to organisations with 50 or more employees that have workplace- and/or higher-level JCCs.

The rationale for focusing on organisations with 50+ employees is that these are the organisations falling within the scope of the regulatory framework provided by the ICE Regulations. It also reflects the fact that it is very rare for smaller organisations to have JCCs: WERS 2011 shows that only 4 per cent of workplaces with 5-49 employees and 3 per cent of workplaces belonging to organisations with 5-49 employees are covered by a workplace-level JCC, compared with approaching half (46 per cent) of workplaces belonging to organisations with 50+ employees.

The importance of higher-level JCCs is that they often deal with more significant issues than workplace JCCs, connecting into more strategic levels of management (Hall and Purcell 2012). The main focus of the WERS questionnaire is on workplace-level JCCs, and, because of this, our analysis of the practical experience and outcomes of JCCs (chapters 3-6) is confined to the workplace level. However, in our view the key indicator as far as the incidence of JCCs is concerned (chapter 2) is the combined figure for the existence of workplace- and/or higher-level JCCs.

1.3 Methodology

This analysis uses data from the 2004 and 2011 WERS. The 2011 WERS was the sixth in a series of studies which has mapped issues in employment relations since 1980. The survey population for WERS 2011 was workplaces in Great Britain with 5 or more employees excluding the agriculture, forestry and fishing and mining and quarrying industries. The survey population of WERS 2011 covered 90 per cent of employees and 35 per cent of all workplaces in Britain. WERS 2011 achieved responses from 2,680 workplaces compared with 2,295 in 2004. 989 workplaces participated in both study waves.

There are three main elements to WERS: the management questionnaire (MQ), the worker representative questionnaire (WRQ) and the survey of employees (SEQ). The MQ is the largest element of WERS. This was administered in a face-to-face interview with the most senior employment relations manager at the workplace. The WRQ was conducted either by telephone or face-to-face with up to two representatives from each workplace (one union and one non-union). 1,002 interviews were achieved in 2011 and 984 were achieved in 2004. The SEQ was administered by self-completion questionnaire and produced 21,981 responses in 2011 compared with 22,451 in 2004. All three of these questionnaires are used in the analysis below, but the majority of the paper is based on MQ responses.

2 THE INCIDENCE OF JCCs

While WERS 2004 showed a continuation of the previous downward trend in the existence of JCCs, WERS 2011 indicated that this decline had slowed and, in terms of the proportion of workplaces with workplace-level JCCs, halted. The fall of nine percentage points between 2004 and 2011 in the proportion of workplaces with five or more employees that had a workplace- or higher-level JCC is accounted for by the decline in those covered by higher-level JCCs.

Table 2.1 shows the incidence of JCCs in 2004 and 2011 according to a range of workplace characteristics. While the incidence of workplace-level JCCs in workplaces with five or more employees remained broadly stable at 9 per cent in 2004 and 8 per cent in 2011, the proportion of workplaces covered by a higher-level JCC fell from 29 per cent in 2004 to 20 per cent in 2011, resulting in a combined figure of 25 per cent of workplaces reporting a workplace- or higher-level JCC ('any JCC'), down from 34 per cent in 2004.

The incidence of workplace-level JCCs fell by one percentage point in workplaces with 5-49 employees but increased in workplaces with 50-99 and 100-149 employees by one and five percentage points respectively. It is likely that the increase in workplace JCCs for these particular size bands is the result of the introduction of the ICE Regulations (discussed further below). The proportion of workplaces in the higher size bands that had workplace JCCs fell in the case of workplaces with 150-249 employees and 1,000 or more employees but remained stable in those with 250-999 employees.

Crucially, the proportion of workplaces reporting higher-level JCCs declined across all size bands but one – 100-149 employees – where it remained stable at 34 per cent. Workplaces with both an onsite committee and a higher level one declined from six per cent in 2004 to four per cent in 2011. The authors of the WERS source book are cautious about the figures for higher-level, given that the management respondents were being asked about structures outside their own workplace and that difficulties were reported in securing the cooperation of some of the largest organisations in the finance sector, where higher-level JCCs have traditionally been prevalent (van Wanrooy et al 2013: 61). Nevertheless, the decline in higher-level JCCs continues the trend between WERS 1998 and 2004 (Cully et al 1999: 99; Kersley et al 2006: 127) and is consistent with the increasing operational autonomy of management at workplace level to determine HR issues, highlighted by WERS 2011. Van Wanrooy et al (2013: 52-53) show that the ability of workplace managers to make decisions on a range of HR issues – the staple fare of JCCs – without consulting higher-level management increased between 2004 and 2011, often significantly, while declining in respect of rates of pay and pensions (i.e. terms and conditions with direct financial implications).

2.1 Workplace/organisation size

The 'size effect' on the prevalence of JCCs remains clear, with larger workplaces and workplaces that are part of larger organisations reporting a markedly higher incidence of JCCs. Table 2.1 shows that the proportion of workplaces with workplace-level JCCs rises steadily as the workplace size band increases, as does the proportion of workplaces reporting any workplace- or higher-level JCC. No clear cut pattern emerges in respect of the incidence of higher-level JCCs, but it is notable that these are markedly less prevalent among organisations in the smallest (5-49 employees) and largest size bands. It may be that, while in small

organisations higher-level JCCs are unlikely to be needed; in large and more complex organisations such bodies become unwieldy.

Table 2.1 also shows that over half (52 per cent) of employees worked in workplaces with any type of JCC, while workplace or higher-level JCCs were present in only a quarter (25 per cent) of workplaces. This is a further indication that JCCs are more prevalent in larger workplaces.

Table 2.1: Incidence of JCCs by workplace size and status 2004 and 2011 (cell per cent)

	2004			2011		
	Workplace-level JCC	Higher-level JCC	Any JCC	Workplace-level JCC	Higher-level JCC	Any JCC
All workplaces	9	29	34	8	20**	25**
All employment	38	33	56	37	27**	52*
Workplace size						
5-49 employees	5	28	31	4	18**	21**
50-99 employees	27	37	52	27	33	51
100-149 employees	40	34	56	45	34	63
150-249 employees	58	33	68	53	30	67
250-999 employees	62	43	76	62	37	74
1,000 or more employees	80	34	88	75	24	80
Workplace status						
Stand-alone workplace	3	-	3	3	-	3
Part of wider organisation	12	47	53	11	34**	42**

Base: All workplaces with 5 or more employees. N is a minimum of 2,250 responses (2004) and 2,692 responses (2011).

0 Represents less than 0.5 per cent, including none.

- Not applicable / No estimate available

* Statistical significance at the 5 per cent level, ** Statistical significance at the 1 per cent level.

Table 2.2: Incidence of JCCs by sector/industry 2004 and 2011 (cell per cent)

	2004			2011		
	Workplace-level JCC	Higher-level JCC	Any JCC	Workplace-level JCC	Higher-level JCC	Any JCC
Sector of ownership						
Private	7	25	29	7	15**	20**
Public	23	61	72	17	56	65
Industry						
Manufacturing	13	6	15	8	5	11
Electricity, gas and water	[30]	[61]	[63]	34	75	80
Construction	3	7	9	3	7	9
Wholesale and retail	5	35	37	3*	25	26
Hotels and restaurants	3	30	31	5	13**	17*
Transport and communication	11	46	53	16	33	41
Financial services	7	62	64	[11]	[6]**	[17]**
Other business services	5	21	25	8	12	18
Public administration	31	63	76	20	61	70
Education	25	40	53	22	25*	43
Health and social work	11	27	35	11	28	36
Other community services	8	39	44	5	26	30

Base: All workplaces with 5 or more employees. N is a minimum of 2,250 responses (2004) and 2,692 responses (2011).

0 Represents less than 0.5 per cent, including none.

[] The unweighted base is between 20 and 50 observations and should be treated with caution.

* Statistical significance at the 5 per cent level, ** Statistical significance at the 1 per cent level.

2.2 Organisation status

Tables 2.1 and 2.2 also show that, in 2011, only 3 per cent of stand-alone workplaces with five or more employees had a JCC. By comparison, 42 per cent of workplaces in 2011 belonged to a wider organisation and reported having a workplace or higher-level JCC. However, where single independent establishments have 50+ employees, the proportion with a JCC leapt up to 34 per cent. This is a clear indication of the effect of workforce size on the incidence of JCCs – compared with 46 per cent of workplaces belonging to a wider organisation with 50+ employees.

2.3 Sector/industry

In terms of distribution by sector/industry, public sector workplaces are far more likely to be covered by JCCs than those in the private sector (Table 2.2). Almost two-thirds (65 per cent) of public sector workplaces had a workplace or higher-level JCC in 2011 compared with 20 per cent of private sector workplaces. However, there was nevertheless, a marked decline in the proportion of public sector workplaces covered by JCCs – down from 72 per cent in 2004 to 65 per cent in 2011. This fall in the public sector is accounted for by the decline in both the incidence of workplace-level JCCs (down from 22 per cent in 2004 to 18 per cent in 2011) and that of higher-level JCCs (down from 61 per cent in 2004 to 56 per cent in 2011). In the private sector, a slight increase in the incidence of workplace-level JCCs (up from 6 per cent in 2004 to 7 per cent in 2011) was more than offset by a substantial fall in private sector workplaces reporting a higher-level JCC (down from 25 per cent in 2004 to 15 per cent in 2011).

In only two industries were the majority of workplaces covered by workplace or higher-level JCCs in 2011: electricity, gas and water (80 per cent, compared with 63 per cent in 2004) and public administration (70 per cent, compared with 76 per cent in 2004). Coverage of JCCs fell below 50 per cent in education (43 per cent, compared with 53 per cent in 2004) and in transport and communication (41 per cent, compared with 53 per cent in 2004). It also fell sharply in financial services, down from 64 per cent in 2004 to 17 per cent in 2011 (though the number of responses to WERS 2011 from this sector was low and the estimate must be treated with some caution).

2.4 Country of ownership

It is often suggested that foreign owned companies' approaches to employment relations in their UK operations will be conditioned by their 'home' employment relations environment (Marginson and Meardi 2010). In relation to JCCs, it may be that companies with headquarters in continental European countries with an established tradition of works councils or similar bodies are more likely to be open to JCCs, compared to those with headquarters in the countries like the US and the UK whose different traditions of corporate governance may make them resistant to such practices. The WERS questions relating to workplaces' ownership and control enable some exploration of this issue (though these questions relate to private sector organisations that are part of a larger organisation). Interestingly, WERS 2011 data indicated that the higher the extent of foreign ownership/control of workplaces, the higher the incidence of JCCs at workplace- or higher-level. Among 'UK owned/controlled' workplaces, 18 per cent were

covered by a JCC at workplace- or higher-level. This figure was 23 per cent for 'predominantly UK-owned workplaces', 33 per cent where the workplace was 'UK and foreign owned', 35 per cent for 'predominantly foreign owned' workplaces and 39 per cent for 'foreign owned/controlled' workplaces. Predominantly foreign owned and foreign owned/controlled workplaces both reported relatively high incidences of higher-level JCCs only at 27 per cent in each case.

2.5 Age of workplaces

It has often been pointed out that the incidence of JCCs has tended to be associated with the age of establishment, with JCCs being more likely to be reported in longer-existing workplaces. It remained the case in 2011 that the highest proportions of workplaces with workplace or higher-level JCCs were more likely among those that had been in existence for 10 to 24 years and 25 years or more (29 per cent in each case). Interestingly, however, there was a higher incidence of JCCs in workplaces that were less than five years old (22 per cent) than in workplaces that had been in existence for five to nine years (18 per cent). It may be that the existence of the ICE Regulations over the entire lifespan of the youngest category of workplace may have been a factor. This pattern does also suggest that, for a substantial minority of younger workplaces, the adoption of JCCs is not seen as an outmoded practice in the contemporary employment relations climate.

2.6 Have the ICE Regulations had an impact?

In terms of the effects of the ICE Regulations, the WERS data presents a complex and uncertain picture. Van Wanrooy et al (2013: 60-62), focussing on the incidence of workplace-level JCCs only, detects 'some legislative influence' but concludes that the Regulations' impact in promoting the expansion of workplace JCCs has been 'very limited'. Our own analysis seeks to build on this and provide a more detailed and comprehensive account. In particular, given that the ICE Regulations apply to 'undertakings', not workplaces, the most appropriate indicator in WERS for the impact of the Regulations is the proportion of workplaces belonging to organisations with 50 or more employees that report having workplace- or higher-level JCCs.

The Regulations came into force in three stages, applying to undertakings with at least 150 employees from April 2005, those with 100 or more employees from April 2007 and those with 50 or more employees from April 2008. At the time of the adoption of the ICE Regulations it was widely expected that they would promote the spread of JCCs. However, as already noted, the regulations do not apply automatically: the support of 10 per cent of the workforce is necessary to trigger statutory negotiations with an employer about information and consultation arrangements – a threshold some consider 'likely to prove a tough standard to meet in practice' (Hall 2006).

The 'all workplaces' figures from WERS 2004 suggested that the prospect of the ICE Regulations had not prompted an upturn in the incidence of JCCs between 1998 and 2004, and that, on the contrary, the downward trend had continued. However, disaggregated figures for the relevant size-bands showed that, while the incidence of workplace- or higher-level JCCs had declined among workplaces in the smaller size bands (those with fewer than 50 employees), it remained stable among workplaces with 50-99, 100-199 and 200-499 employees. In the

context of the overall downward trend, the stability in JCCs in these size bands arguably indicated some initial impact of the prospective ICE Regulations. Most notably, however, the incidence of JCCs grew by five percentage points among workplaces with 500 or more employees (Hall and Purcell 2012: 90).

Table 2.3: Joint consultative committees by organisation size 2004 and 2011 (cell per cent)

	2004			2011		
	Workplace-level JCC	Higher-level JCC	Any JCC	Workplace-level JCC	Higher-level JCC	Any JCC
Organisation size						
< than 50 employees	3	3	5	2	1	3
50 or more employees	13	52	59	13	38**	46**
<i>50-99 employees</i>	<i>10</i>	<i>0</i>	<i>11</i>	<i>12</i>	<i>8**</i>	<i>20</i>
<i>100-149 employees</i>	<i>9</i>	<i>21</i>	<i>30</i>	<i>20</i>	<i>9</i>	<i>28</i>
<i>150 or more employees</i>	<i>14</i>	<i>60</i>	<i>66</i>	<i>13</i>	<i>43**</i>	<i>51**</i>
<i>150-249 employees</i>	<i>9</i>	<i>54</i>	<i>63</i>	<i>15</i>	<i>24*</i>	<i>39*</i>
<i>250-999 employees</i>	<i>14</i>	<i>33</i>	<i>44</i>	<i>13</i>	<i>32</i>	<i>43</i>
<i>1,000-9,999 employees</i>	<i>12</i>	<i>61</i>	<i>67</i>	<i>12</i>	<i>51</i>	<i>58</i>
10,000 or more employees	16	68	73	13	44**	49**

Base: All workplaces with five or more employees. N=2,238 responses (2004). N=2,576 responses (2011).

0 Represents less than 0.5 per cent, including none.

** Statistical significance at the 5 per cent level, ** Statistical significance at the 1 per cent level.*

Table 2.3 shows the incidence of workplace- and higher-level JCCs in 2004 and 2011 by organisation size bands corresponding to the thresholds in the Regulations. The proportion of workplaces in organisations with 50 or more employees – i.e. those covered by the ICE Regulations – that reported having workplace-level JCCs remained stable between the 2004 and 2011 surveys at 13 per cent. The proportion reporting higher-level JCCs fell markedly for those with 50+ employees – from 52 per cent in 2004 to 38 per cent in 2011. Whereas 59 per cent of workplaces in organisations with 50+ employees had a JCC at workplace- or higher-level in 2004, this figure had fallen to 46 per cent in 2011.

By comparison, a statistically significant majority (51 per cent) of all workplaces in organisations with 150 or more employees reported having a JCC at workplace- or higher-level.

When disaggregated by size band, there was a slight increase among workplaces belonging to organisations with 50-99 employees that reported having workplace-level JCCs (up from 10 per cent to 12 per cent) and a statistically significant increase (at the 10 per cent level) among those in organisations with 100-149 employees (up from 9 per cent to 20 per cent). A non-significant increase from 9 per cent to 15 per cent is also recorded for workplaces belonging to organisations with 150-249 employees. We can attribute these increases to the influence of the ICE Regulations – as, tentatively, do the WERS sourcebook authors. The same authors also ask “why there has been no similar increase among workplaces belonging to larger organisations” (van Wanrooy et al 2013: 61). As shown by Table 2.3, the incidence of workplace-level JCCs in workplaces belonging to organisations in the three larger size bands has either fallen slightly or, in the case of organisations with 1,000-9,999 employees, remained stable. A partial answer to the WERS sourcebook authors’ question is that these were workplaces/organisations in which there was already a relatively high incidence of JCCs and in which there may already have been some legislatively-induced increases evident at the time of WERS 2004.

Table 2.3 again highlights the often significant falls between 2004 and 2011 in the incidence of higher-level JCCs in workplaces belonging to most size bands of organisation. The exception is organisations with 50-99 employees, in which the proportion of workplaces covered by higher-level JCCs rose from 0 per cent in 2004 to 8 per cent in 2011. This too is likely to be a reflection of the impact of the ICE Regulations.

2.7 Contextual variables

Important contextual variables affecting the incidence of JCCs include union recognition/presence, the sophistication of HR, management attitudes and the use of other forms of employee involvement. These are considered briefly below.

2.7.1 Union recognition/presence

The incidence of JCCs is strongly associated with *union recognition/presence* at the workplace. In 2011, where there was any union recognition at the workplace, 67 per cent of such workplaces in organisations with 50+ employees had a workplace- or higher-level JCC, compared with 34 per cent of workplaces without recognition. In 2004, these figures were 76 per cent and 49 per cent respectively. Where workplaces reported any union members, 66 per cent of such workplaces in organisations with 50+ employees had a workplace- or higher-level JCC compared with 35 per cent of workplaces with no union members. The corresponding figures for 2004 were 71 per cent and 50 per cent respectively.

These figures not only demonstrate a clear association between union recognition and presence and the incidence of JCCs, but also suggest a greater resilience on the part of JCCs in unionised workplaces or workplaces where union members are present. For organisations with 50+ employees, the incidence of JCCs in workplaces that did not recognise trade unions or did not have any union members present fell between 2004 and 2011 by substantially larger margins. In the absence of recognition, the incidence of workplace- or higher-level JCCs fell

by 15 percentage points compared with a fall in unionised organisations of nine percentage points. Similarly, in workplaces without any union members the incidence of JCCs fell by 15 percentage points compared with five percentage points in workplaces where union members were present.

2.7.2 *Sophistication of HR management*

As regards the *sophistication of HR practice* at the workplace, one key measure is the presence of a specialist HR manager (by job title or time spent on HR matters). A much higher proportion of workplaces with an HR specialist were covered by a workplace or higher-level JCC (35 per cent) compared to those who were without one (22 per cent). This differential is eradicated when the comparison is between workplaces with or without a specialist HR manager that are part of organisations with 50 or more employees. Forty-four per cent of such workplaces that have an HR specialist report having a workplace or higher-level JCC but the figure is higher (48 per cent) for workplaces without an HR specialist – again, an indication of the strength of the organisation size effect. A further measure of HR sophistication is whether organisations have the Investors in People (IIP) accreditation. Half (50 per cent) of workplaces that belong to IIP accredited organisations report a workplace or higher-level JCC, compared with 14 per cent of those that are not. The differential is less stark but still substantial for workplaces in organisations with 50 or more employees. In this case, a workplace or higher-level JCC is reported by 54 per cent of workplaces covered by IIP accreditation, compared with 37 per cent of those that are not.

2.7.2 *Management attitudes*

Although the survey did not include questions relating to *management attitudes* towards consultation via JCCs, there were questions relating to management attitudes towards trade unions and whether management would generally prefer to consult directly with employees or through unions. WERS 2011 found a much higher incidence of workplace or higher-level JCCs (60 per cent) in workplaces where management's general attitude towards trade union membership among employees was 'in favour'. This compared with 12 per cent in workplaces where management was 'not in favour' and 22 per cent where management was 'neutral about it'. In workplaces belonging to organisations with 50 or more employees the proportions were 73 per cent, 31 per cent and 40 per cent respectively.

The incidence of JCCs was similarly higher among workplaces where management disagreed or strongly disagreed with the statement "We would rather consult directly with employees than with unions": 57 per cent and 47 per cent respectively. Again, the proportions are higher in workplaces belonging to organisations with 50 or more employees.

Across all workplaces there appears to be no clear association between the incidence of JCCs and managerial reaction to the statement "We do not introduce any changes here without first discussing the implications with employees". Only at workplaces where management strongly disagreed with this statement did the incidence of JCCs dip below 20 per cent. But for workplaces belonging to organisations with 50+ employees the reported incidence of JCCs corresponded more closely to management responses on this issue, ranging from 52 per cent of such workplaces where management strongly agreed to 28 per cent where it strongly disagreed. Management attitudes, and those of worker representatives and employees, are considered further in chapters 5 and 6 of the report.

2.7.3 Other forms of employee involvement

There is a strong association between the incidence of JCCs and the reported use of other forms of employee communication and involvement. WERS 2011 shows that where workplaces belonging to organisations with 50+ employees communicated with employees via noticeboards, information cascades, newsletters, suggestion schemes, email and intranets, the proportion that had a workplace- or higher-level JCC was in each case notably higher than those that did not communicate in these ways. These findings are statistically significant in each case. The same is true where workplaces belonging to organisations with 50+ employees report having meetings between senior managers and the whole workforce, or team briefings, with at least 25 per cent of the time usually available for employee questions or views, or indeed any meetings between senior management and the whole workforce. The importance of these findings is discussed further in chapter 5.

2.8 Chapter Summary

This chapter looked at the incidence of JCCs making comparisons with 2004 and considered the contextual variables associated with incidence. There continues to be a general decline in the incidence of JCCs but rate of decline has slowed. The most significant feature comparing 2011 with 2004 is the drop in the proportion of workplaces where there was a higher level JCC. This accounts for nearly all of the fall in the incidence of JCCs. It is suggested that this is explained, in part at least, by the general decentralisation of management responsibility for employment relations to the workplace in multi site organisations. There remains a marked size effect with large workplaces, and larger organisations, being much more likely to have a JCC. In the whole sample only three per cent of single, independent establishments had a JCC, but for those with 50 plus employees the rate of incidence rose to 34 per cent. The equivalent figure for workplaces in multi site organisations was 46 per cent.

This is important since the ICE Regulations apply to enterprises with 50 or more employees. Public sector workplaces are much more likely than their private sector counterparts to have a JCC, although the incidence has fallen. The utilities and public administration were the only sectors where the majority of workplaces had a JCC. Foreign owned and controlled workplaces were more likely to have JCCs. While in general the older the workplace the more likely it was for there to be a JCC, newly established ones were more likely than those between five and nine years old to have a consultative committee. This may be an influence of the Regulations. There is more certain ground to suggest the Regulations have been of influence in the fact, compared to a general decline, that there was a slight increase in JCCs in the 50-99 size range and a significant increase in those with 100-149 employees, and among the 150-249 sized organisations. JCCs are much prevalent where unions are recognised, and to a lesser, but clear extent, where there are any union members. It would appear that these JCCs are more resilient than their non-union counterparts. Management attitudes play a major part. Organisations with IIP accreditation are much more likely to have a JCC. Where managers are in favour of union membership, where they will not introduce change without discussing it with employees, and where they are prepared to consult with trade unions were much more likely to work in organisations with a JCC.

3 COMPOSITION OF JCCs

Previous case study research (Hall et al 2010) has indicated that the composition of JCCs can have important implications in terms of their mode of operation and effectiveness. In particular, the extent of trade union involvement in JCCs, for example, whether they are made up of union representatives, non-union representatives or a combination of the two – is a key area for consideration. The ICE Regulations provide a free hand to the parties as regards the composition and method of (s)election of information and consultation bodies where these are the subject of pre-existing agreements or agreements negotiated via the Regulations' procedures. But where the Regulations' default 'standard information and consultation provisions' apply, these specify that there should be one information and consultation representative for every 50 employees or part thereof, with a minimum of two and a maximum of 25. Representatives are to be directly elected by workforce-wide secret ballot, with no provision for the representation of recognised unions within the undertaking.

This section of the report uses WERS data on who the representatives are, how many representatives sit on JCCs, and how representatives are selected to explore a range of issues relating to the composition of JCCs. As already noted, the WERS questions relating to the composition and operation of JCCs relate only to workplace-level JCCs and not those which operate at the higher level. In the case of workplaces with multiple JCCs (30 per cent of workplaces¹ with JCCs in 2011), the majority of the questions relate to the JCC which "deals with the widest range of issues".

3.1 Union, non-union and 'hybrid' JCCs

The response of trade unions to the introduction of the ICE Regulations has been extensively documented in earlier research, (Hall et al 2010, Hall et al forthcoming). For unions, the ICE Regulations presented both opportunities and challenges. On the one hand, and especially in organisations with limited pre-existing forums for consultation, triggering the Regulations' provisions may have been seen as a way in which unions can achieve better access to management and discussion over a wider variety of issues, and possibly even as a route to union recognition. On the other hand, the existence of JCCs may undermine 'traditional' models of trade union representation, and may be preferred by management as a less adversarial means of communication. Broader debate has tended to focus on whether JCCs should be seen as complementary to, or substitutes for, trade union-based models of employee representation.

Using questions from WERS relating to JCC membership gives some insights into these issues, according to whether the representatives on the committee are union representatives, non-union representatives, or a mixture of the two – what is termed a 'hybrid' JCC.

3.1.1 'Hybrid' JCCs

Strictly defined (as in Hall et al 2010) hybrid JCCs are only possible where there is trade union recognition at the workplace; hence, a situation where a representative, who happens to be a trade union member, sits on the JCC in a

¹ Where organisation size is 50+ employees

workplace which does not recognise unions, does not constitute an example of a strictly defined hybrid JCC.

The WERS management questionnaire asks about representation at the workplace – whether there are union representatives and whether there other employees who act as representatives in dealings with management. The questionnaire then goes on to ask in each of the cases where there are representatives, whether these representatives sit on the JCC.² These questions are used to construct the three-way definition of union, non-union and hybrid JCCs.

The way in which WERS asks questions regarding representatives on the committee introduces some element of doubt in the make-up of the committee, meaning that constructing an indicator for hybrid JCCs is not straightforward.³ However, given the importance of hybrids in the debates about the operation of JCCs, it is desirable to make some attempt to quantify what is happening. The indicator for hybrids is constructed where managers have positively identified both union reps and non-union reps sitting on the JCC.

Looking at all workplaces with a JCC and where part of an organisation of 50 or more employees, the percentage of JCCs with a union representative has dropped from 35 per cent in 2004 to 32 per cent in 2011. If this is restricted to workplaces with union recognition, it is shown that in these workplaces the proportion of those where a union representative sits on the JCC has increased from 53 per cent to 56 per cent.

In 2004 eight per cent of all workplace JCCs were hybrids, but this increased marginally to nine per cent in 2011. Union-only JCCs decreased from 27 per cent to 23 per cent over the same time. Looking at those workplaces where there is union recognition, the proportion of union only JCCs has remained broadly stable; 42 per cent in 2004 and 41 per cent in 2011, whereas the proportion of hybrid JCCs had risen from 11 to 15 per cent. It should be noted that none of these changes between 2004 and 2011 relating to the changes in composition of JCCs is significant.

Taking these figures together it can be seen that, taken across all JCCs, there are increases in both non-union and hybrid JCCs. Looking at where unions are recognised there is an increase in hybrid JCCs, but declines in both union-only and non-union only JCCs. What is noticeable about these latter figures in union recognised workplaces is that the increase in hybrid JCCs has not come only at the expense of union JCCs; there have also been declines in non-union JCCs. The numbers are small and hence the differences are not significant, so care must be exercised with any interpretation, but this does not support the hypothesis that hybrid JCCs are growing at the expense of union only JCCs.

² This means the sole JCC in the case of only one JCC at the workplace, or the JCC which deals with the widest range of issues in the case of multiple JCCs at the workplace.

³ Ideally the questionnaire should give information as to whether union representatives, non-union representatives or both sit on the JCC. For multi-issue committees in the 2011 data, cross-tabulating the variables for union-presence on JCC against non-union presence reveals 200 workplaces (unweighted) out of 869 where the response for union-representative is no, and the response for non-union representative is not applicable (i.e. the respondent has indicated that there are no non-union representatives at the workplace). One option would be to proceed on the basis that in these cases that these representatives are in fact non-union representatives, since union representatives would be more likely to be identified by management. However, it is not only these 200 cases which are doubtful because of this. The cases where union representatives are identified and the non-union response is 'not applicable' may also contain instances where the non-union representatives have been overlooked.

Given the uncertainty around the creation of this hybrid indicator, the remainder of the report uses the binary distinction of *union(ised) JCCs* (which contain an unknown proportion of hybrid JCCs) and 'pure' *non-union JCCs*. The following section outlines some of the key descriptive statistics relating to union presence on JCCs.

3.1.2 JCCs with some union representatives

Where there is any trade union recognition at the workplace, and a JCC operates, in 56 per cent of cases there is a union representative on the JCC.

In four per cent of workplaces where there is no union recognition, management report that there is a union representative on the JCC. This suggests that there is little evidence of non-recognised unions trying to 'colonise' JCCs by securing the election of members to JCCs to achieve greater influence and/or recognition. This finding is consistent with unions' 'ambivalent' approach to the ICE Regulations found by Hall et al (forthcoming).

Table 3.1: Factors associated with union representative presence on JCCs, 2011 (cell per cent)

	Union representative on JCC
All workplaces	32
All employment	56
Workplace size	
10-24 employees	-
25-49 employees	[20]
50-99 employees	26
100-199 employees	40
200-499 employees	60
500 or more employees	64
Organisation size	
50-99 employees	[13]
100-999 employees	27
1,000-9,999 employees	30
10,000 or more employees	50
Sector of ownership	
Private	24
Public	53
Industry	
Manufacturing	42
Electricity, gas and water	[97]
Construction	-
Wholesale and retail	43
Hotels and restaurants	[1]
Transport and Communication	37
Financial Services	[12]
Other Business Services	21
Public administration	60
Education	[47]
Health and social work	17
Other community services	47

Base: All workplaces where organisation size is 50+ employees and where there is a workplace level JCC. N=833 responses.

[] The unweighted base is between 20 and 50 observations and should be treated with caution. - Not applicable / No estimate available

Table 3.1 shows that size of both workplace and of organisation is related to whether or not any union representation is found on the workplace JCC. In 64 per cent of cases where a workplace of 500 or more employees has a JCC there is a union representative on that committee. In 50 per cent of cases where the organisation size of 10,000 or more employees the JCC includes a union representative. Sector is also important, as 24 per cent of private sector JCCs have union representation compared with 53 per cent of JCCs in the public sector. A more detailed sectoral breakdown shows that JCCs are more likely to contain some union representatives in the manufacturing, electricity, gas and water, wholesale and retail, transport and communication, public administration, education and other community services sectors. The estimates for some of these sectors are based on small cell sizes, so care should be taken not to over-interpret these findings.

Other variables (not shown in table 3.1) were investigated to determine their association with union representation on JCCs. The results are broadly as might be expected. Union representatives are more likely where management are generally in favour of trade unions, where the organisation has IIP accreditation, and where the workplace has been longer established, and are less common where management would rather consult directly with employees. There is no substantive or significant difference when looking at union representative presence on the JCC according to whether various other forms of communication are also present. Nor is there any difference according to whether there is an HR specialist at the workplace.

Looking at these variables but considering only workplaces with union recognition, it is noticeable that the relationships outlined above largely disappear. The management attitudes to consultation variable is an exception to this, so the relationship holds even when looking at the subpopulation of workplaces with union recognition. In these workplaces, management's preference for direct consultation is associated with lower proportions of JCCs containing union representatives.

3.1.3 What about where unions are recognised and a JCC exists, but unions do not sit on the committee?

The interesting question of why trade unions do not sit on JCCs in instances where there is both union recognition at the workplace and a workplace-level JCC cannot be answered definitively with the data available through WERS; motives for non-participation are simply not known. As already noted, where a JCC exists and there is union recognition, 56 per cent of these JCCs have a union representative, and 44 per cent do not. Methods of selection for JCCs might provide some clues about whether management, although recognising trade unions, prefers to exclude them from the JCC. It is more likely though that, rather than management excluding unions from seats on the JCC, the levels of unionisation of JCCs reflect the ambivalent stance of trade unions towards JCCs, which has been found in previous research. Hall et al (forthcoming) provide examples of recognised unions declining to take part in recently established JCCs despite being offered direct representation by management, with the aim of maintaining their distinctive collective bargaining role within the organisation. Union concern over the organisational implications of JCCs tended to be strongest where membership density was relatively low. However, Hall et al argue that, in such circumstances, participation in 'hybrid' JCCs can provide unions with institutional security.

3.2 Numbers of representatives – are union and non-union JCCs different?

WERS allows analysis of the numbers of different types of representatives on JCCs. This shows that the mean number of union representatives is lower than the mean number of non-union representatives: 2.7 compared with 5.5. It is interesting too to look at the patterns by union representative and non-union representative. Where there are union representatives on the JCC, in 70 per cent of workplaces there are one or two union representatives. Where there are non-union representatives on the JCC the corresponding percentage is 38 per cent. Union representatives tend to represent particular staff groups, whereas non-union representatives represent the whole workforce. This may be partly responsible for the differences in numbers of the representatives. As noted where the ICE Regulations' default 'standard information and consultation provisions' apply, there should be one representative for every 50 employees with a minimum of two and a maximum of twenty-five. It is not possible however to assess the 'bite' of the Regulations from looking at the numbers of representatives. Committees may follow the recommended ratios without having been set up under the default provisions. On the other hand, committees may have been set up by management to pre-empt the default arrangements.

3.3 Methods of election/selection

The WERS management questionnaire asks if elections are usually held among employees to appoint representatives to the committee. If there are no elections then managers are asked to indicate which methods of selection are used. It is possible for managers to indicate multiple answers for this question. The methods of election/selection to JCCs can point to the extent to which management attempt to control and influence the operation of the committee. An obvious tactic which management could use is to control the methods by which representatives achieve a seat on the committee and only appoint those who are likely to be cooperative. Greater management control may be evidenced by increases in management selection of representatives for the committee.

Election to the committee is the most common way in which representatives are selected. In both 2004 and 2011 59 per cent of workplaces⁴ with JCCs reported that elections were held for the most wide-ranging JCC. There is also no difference in the likelihood of elections according to whether the JCC has some union representatives or is composed of non-union representatives.

Where elections are not held, Table 3.2 shows that the most usual method of selection is volunteering. The question allows for managers to answer that in the absence of elections, multiple methods of selection are used. The evidence is that multiple methods are uncommon. Representatives tend to be selected by one of the methods given.

⁴ Where organisation size is 50+ employees

Table 3.2: Method of selection of employee representatives on JCCs where no elections are held, 2011 (column per cent)

	Non-union JCCs	Union JCCs	All
Selected by employees	14	8	12
Existing committee members	5	1	3
Unions or staff associations	6	35	14
Selected by managers	14	12	17
No selection – e.g. volunteers	54	33	47
Other	12	14	11

Base: All workplaces where organisation size is 50+ employees and where elections not held for JCC representatives. N=315 responses. Note: multiple responses were allowed therefore responses may sum to more than 100 per cent.

Methods of selection show some associations with approaches to consultation (discussed in detail in chapter 5). WERS asks managers to describe the usual approach when consulting members of the JCC: seeking solutions to problems; seeking feedback on a range of options put forward by management; or seeking feedback on a preferred option as put forward by management. Seeking solutions affords the most potential for representatives to shape the discussion, and seeking feedback on the preferred option affords representatives the least potential. Unions selecting representatives is associated with the seeking feedback forms of consultation. Unions select representatives in 25 per cent of cases where the consultation approach is feedback on management's preferred option, but in only eight per cent of cases where management's approach is to seek solutions. Managerial selection of representatives is not, however, associated with methods of consultation. The figures indicate that, if anything, managerial selection suggests that the approach at the JCC will be to seek solutions.

Comparing the data from 2004 and 2011 for all JCCs shows that, in those workplaces where elections are not held, there has been a rise in 'volunteering' and 'other' methods of selection – in the case of the former increasing from 30 per cent to 47 per cent. Volunteering is associated with more open methods of consultation; 59 per cent of managers whose method of consultation is to seek solutions report selection by volunteering compared with 25 per cent where the approach is to seek feedback on the preferred management option.

It is beyond the scope of this analysis to be able to delve deeper into some of the processes at work here, and responses to these questions must be taken at face value. The possibility that JCCs are increasingly populated by employees carefully selected to follow the management line, for example, is not supported by the figures which show a non-significant decrease in managerial selection of representatives between 2004 and 2011. Volunteers can be to a greater or lesser degree exercising free choice, but there is no evidence to suggest that these are people who management have 'leant on' to volunteer.

3.4 Chapter summary

This chapter uses WERS data to understand who the employee representatives are, how many representatives sit on JCCs and how representatives are selected. It proved not to be straightforward to estimate how many JCCs were 'hybrids' where the committee is composed of both union and non-union representatives.

One approach is to say that this has to apply where unions are recognised. Taking the simpler definition of where, in any circumstances, the representatives are drawn from union members and non-members shows that union only JCCs have declined while there have been increases in both non-union and hybrid JCCs. The differences are not sufficient to support the hypothesis that hybrid JCCs are growing at the expense of union only JCCs. In only four per cent of JCCs where there was no union recognised did management report that there was a union representative on the committee. There is little evidence of unions 'colonising' non-union JCCs. Again workplace and organisation size is a major influence. In 64 per cent of cases where the workplace had 500 or more employees there was a union representative on the committee. Public sector workplaces were also much more likely to have a union representative on the JCC compared with the private sector. Where a JCC exists in workplaces which recognise unions in 56 per cent of them the committee had a union representative. But in 44 per cent of cases the JCC was a non-union body. This provides some evidence to support the view that consultation can be complementary to union roles in collective bargaining. It is usual for there to be more non-union representatives on a JCC than union ones. Around three fifths of all type of representatives are elected. Among the other means of getting to be a representative there has been a growth in 'volunteering'.

4 OPERATION OF DIFFERENT TYPES OF JCCs

This section examines the operation of JCCs in relation to topics discussed, frequency of meetings, and managerial approaches to consultation. Where appropriate, comparisons are made with WERS 2004 data. This allows exploration of the hypothesis that JCCs are increasingly being 'hollowed out' by management strategies. The 'hollowing out' hypothesis suggests that management may be seeking to undermine the influence of JCCs by, for example, restricting the topics for discussion and / or reducing the frequency of meetings. Comparisons are also made with other forms of employee consultation in order to give better understanding of the context in which JCCs operate – other forms of employee involvement and communication are more common than JCCs, and typically JCCs operate alongside other forms of communication.

4.1 Topics discussed

Reflecting the EU Directive, the 'standard information and consultation provisions' of the ICE Regulations identify the following, essentially 'strategic', topics for information and consultation:

- 'the recent and probable development of the undertaking's activities and economic situation';
- 'the situation, structure and probable development of employment', including any 'anticipatory measures' envisaged in relation to prospective job losses; and
- 'decisions likely to lead to substantial changes in work organisation or in contractual relations'.

In practice, as case study research (Hall et al 2010) has demonstrated, there is considerable variation in the scope of issues discussed by JCCs, whose agendas frequently include HR, housekeeping and social matters, even if the more successful committees were found to prevent mundane 'tea and toilets' items from clogging up the agenda.

The WERS questions enable some examination of whether strategic issues are often discussed at JCCs, and this can be done by examining the relative frequency at which these types of issues are raised at JCC level compared with other forms of consultation. The questions can also be used to explore whether JCCs remit are becoming more narrowly defined by identifying appropriate comparisons between 2004 and 2011. Comparisons are also made between union and non-union JCCs. Managers' and representatives' responses are considered, though due to the questionnaire design, direct comparisons between the two are not straightforward.

Table 4.1 uses questions from the management questionnaire to show the topics for discussion at JCC, at workforce meetings and at team briefings. In each case managers were asked to identify the three most discussed issues from the list. Note that the question did not ask the managers to identify the three most important issues which were discussed, rather the ones which were discussed most often. This gives a good indication of how the various forms of meetings operate in practice.

Table 4.1 indicates that at an aggregate level some day to day issues, especially issues relating to production and to work organisation, are more likely to be discussed at workforce meetings and team briefings. On the other hand, employment issues and welfare issues are more commonly discussed at JCCs.

Table 4.1: Topics most often discussed at JCCs and other meetings, 2011 (cell per cent)

	Workforce Meeting	Team Briefings	JCC
Production issues	53	62	17
Employment issues	16	14	44
Financial issues	40	33	33
Future plans	60	49	44
Pay issues	3	5	24
Leave and flexible working arrangements	6	9	7
Welfare services and facilities	4	4	24
Government regulations	6	5	6
Work organisation	42	48	27
Health and safety	31	26	32
Equal opportunities and diversity	1	1	1
Training	25	22	12
Other	5	5	7

Base: All workplaces where organisation size is 50+ employees and where the meeting arrangement operates. N=1,689 (workforce meetings). N=1,858 (team briefings). N=910 (JCCs). Note: For each type of consultation up to three responses were allowed, therefore responses sum to more than 100 per cent.

The issues discussed at JCCs were investigated to note any differences between union and non-union JCCs.⁵ The results of this show little difference on many of the items. Although not significant, financial issues are discussed at 37 per cent of JCCs where there is no union representative, compared with 31 per cent where there is a union representative. This may suggest that certain more sensitive issues are more likely to be kept off the agenda when a union representative is present. Equal opportunities are more likely to be discussed⁶ when a union representative sits on the JCC, but even then it is only in 2 per cent of cases that this item is one of the three most discussed. The proportions of non-union JCCs discussing pay is 30 per cent, whereas pay is discussed at 17 per cent of union JCCs.⁷ This may indicate that pay matters are still subject to negotiation via union-based bargaining arrangements, and hence are not discussed in a consultative forum. Non-union JCCs operate in workplaces where unions are and are not recognised. In the case of the latter, it would be expected that pay would

⁵ This analysis excludes single issue JCCs

⁶ Significant at the 10 per cent level

⁷ Significant at the 5 per cent level

be more likely to be discussed at JCC in the absence of other arrangements. This finding, that pay is less likely to be discussed at unionised JCCs, leads to the conclusion that management are not seeking to use JCCs as an alternative to negotiating with unions, or as a means towards derecognising unions. In short this gives some weight to the argument that JCCs operate alongside collective bargaining, rather than as an alternative.

At team briefings and workforce meetings, the issues discussed were investigated for the sub-sample where 25 per cent or more of the time is given over to questions. For team briefings, the proportions on each of the items do not vary greatly from the overall figures. Financial issues are less likely to be discussed (28 per cent) compared with the overall figure of 33 per cent, but there is no *a priori* reason why this should be the case. Similarly, for workforce meetings, the pattern for those meetings where 25 per cent or more of the time is given over to questions does not differ substantially from the overall pattern.

The management questionnaire asks if any consultative committees operate at the workplace, and then follows this with the question “how many such committees are there?” In the case of multiple committees, the question is asked “which issues are discussed by the committees?” The respondent is then asked to identify each issue which is discussed from the list. This question allows some investigation of whether the range of topics for consultation has narrowed. However, multiple JCCs operating at the workplace is certainly not the most common arrangement. As noted in chapter 2, in 2011 13 per cent of workplaces, where the organisation has 50 or more employees, have a workplace-level JCC. In 70 per cent of these workplaces there is only one JCC. The figures for 2004 are identical; 13 per cent of workplaces had a JCC and in 70 per cent of those cases there was only one JCC.

The questions relating to issues discussed at team briefings, workforce meetings and the most wide-ranging JCC (or the single JCC, where only one exists) ask the respondent to identify the three issues which are most often discussed. Thus, by restricting the choice to three, WERS 2011 does not provide any information on whether the range of topics for discussion at (the most wide ranging, or single) JCC has narrowed or expanded since 2004. If JCCs have become more restricted, then this could be either by reducing the scope for debate – see chapter 5 for discussion of consultative approaches – or by reducing the range of items over which management is prepared to consult.

Another way to investigate whether JCCs are being used more restrictively by management might be to investigate changes between 2004 and 2011 in issues over which JCCs are consulted by using the questions about which issues are discussed at the committee. Changes to the management questionnaire mean that it is not possible to compare the responses to what is discussed at JCCs between 2004 and 2011. The representatives’ questionnaire, on the other hand, does provide comparable material between the waves. This is presented below in table 4.2.

Table 4.2: Topics discussed at JCCs 2004 and 2011 – responses from WRQ (cell per cent)

	2004	2011
Production issues	48	46
Employment issues	76	74
Financial issues	63	66
Future plans	75	77
Pay issues	62	55
Leave and flexible working arrangements	64	52
Welfare services and facilities	57	69
Government regulations	56	35**
Work organisation	71	69
Health and safety	79	76
Equal opportunities and diversity	56	42*
Training	68	54*
Other	5	13*

Base: All worker representatives who sit on the JCC in workplaces where organisation size is 50+ employees N=601 (2004), N=417 (2011).

** Statistical significance at the 5 per cent level.*

*** Statistical significance at the 1 per cent level.*

As shown in table 4.2, there is little change from 2004 to 2011 in what worker representatives report as being discussed at JCCs. Where differences are significant, there are falls in the percentage of representatives reporting discussion of government regulations, equal opportunities and diversity and training. The only significant change in the opposite direction is an increase in the proportion of representatives reporting that “other issues” are discussed at JCC. These results were also broken down by representative type.

There are few significant changes between 2004 and 2011 by different types of worker representative. Where changes are significant for non-union representatives – for production issues and for training – lower proportions report these issues are discussed in 2011 compared with 2004. In the case of union representatives, where the changes are significant – for welfare services and facilities and for other issues – higher proportions report these issues are discussed in 2011 compared with 2004.

For 2011 data tests of significance were performed to test whether non-union representatives and union representatives were reporting discussion of different issues. Significant differences were found on five measures (financial issues, government regulations, equal opportunities and diversity, training and other issues). In all these cases higher proportions of union representatives reported these issues were discussed at JCC. The data on financial issues is of particular interest. According to the union representatives these were discussed in their JCCs in just over three quarters of cases while 59 per cent of non-union representatives reported discussing financial issues. But according to

management respondents finance was one of the three topics most often discussed in 37 per cent of non-union JCCs and only 31 per cent of JCCs with a union representative.

4.2 Frequency of meetings

Meeting frequency may be an indicator of the 'embeddedness' of a JCC into the workplace's operation. More regular meetings imply that the committee is active and the issues it deals with are under more regular discussion. It may also imply that representatives and employees are more aware of the committee through more regular updates on issues, rather than a situation where the committee meets infrequently and decisions and issues are largely forgotten by the time of the next meeting. The ICE Regulations make no stipulation on the frequency of meetings.

Union JCCs are more likely to meet monthly than non-union JCCs (43 per cent compared with 31 per cent). However, there is little difference when looking at whether JCCs are likely to meet at least on a quarterly basis. It is interesting to note that comparison with 2004 shows that the frequency of JCC meetings has increased: 35 per cent of all JCCs meet monthly compared with 23 per cent in 2004.

The frequency of meeting is not closely related to the method of consultation. Across the three different methods of consultation (seeking solutions, feedback on a range of options, and feedback on preferred option) the proportion of JCCs meeting at least quarterly is 81 per cent, 82 per cent, and 83 per cent respectively. Even though the figures are not significantly or substantively different, the trend is counter-intuitive to the hypothesis that JCCs would meet more frequently where the approach is to seek solutions.

4.3 Chapter summary

This chapter has investigated the operation of JCCs and has examined the topics discussed and the frequency of JCC meetings. Topics discussed at JCCs are shown to be different from other methods of communication. There are also differences in topics discussed between union and non-union JCCs, most notably on the issue of pay. There is little evidence to be found that JCCs are being hollowed out by management practice either by restricting the topics for discussion or by holding meetings less frequently. Another way in which management might seek to reduce consultative opportunities for employees is through disbanding JCCs. This could be investigated through the WERS panel data, but is outside the scope of this study. It is likely though that such a move itself could prove troublesome or disruptive. In any case, as shown above, the proportion of workplaces with workplace level JCCs has remained broadly stable since WERS 2004.

The following chapter looks in further detail at the approaches taken by management to consultation in order to investigate the level of influence of JCCs and the factors associated with the operation of 'effective' or 'active' consultation. It also considers what, if any, outcomes are related to consultation.

5 APPROACHES TO CONSULTATION

As well as identifying key topics for information and consultation, the ICE Regulations' standard provisions also specify that employers must provide information 'at such time, in such fashion and with such content' to enable employee representatives to conduct an adequate study of the issue and prepare for consultation. Employee representatives must be able to meet with management at the appropriate level depending on the subject and obtain a reasoned response to any opinion they may express.

Although the standard provisions are enforceable only where an employer fails to initiate negotiations or reach a negotiated agreement following a valid employee request under the Regulations, they nonetheless provide an appropriate public policy benchmark, corresponding to the requirements of EU law, against which to assess organisations' information and consultation practice. The expectation is clearly that employers will provide information and consult before the final decision on a proposal is taken and that employee representatives have the capacity to formulate their views and discuss them with the employer.

In their qualitative case study research on information and consultation arrangements in 25 organisations, Hall et al (2013) identified a minority of participating organisations as 'active consulters' who came close to meeting the requirements for consultation established by the EU information and consultation Directive and reflected in the ICE Regulations.

'Active consulters' tended to exhibit six characteristics (Hall and Purcell 2012: 114-135):

- the JCC had the ability to exert some influence over management decisions;
- a wide scope of issues were discussed, including business, HR, housekeeping, and in some cases social matters;
- consultation took place at all appropriate levels with senior managers taking part;
- the work of the JCC was dovetailed with direct forms of communication and involvement;
- the employee representatives were able to build organisational capability to express their collective views; and
- the process of consultation was conducted in a climate of cooperation.

In this section we use the WERS data to explore how far there is evidence that these characteristics are present to a greater or lesser extent in JCCs operating in organisations with 50 or more employees.

5.1 Ability of JCC to exert influence

5.1.1 *Does consultation take place before a final decision is taken?*

Managers in workplaces with JCCs were asked to describe their usual approach when consulting members of the committee with three options provided: seek solutions to problems, seek feedback on a range of options put forward by management, or seek feedback on a preferred option put forward by management. Analysis of these data can go some way toward showing that

consultative committees have the opportunity to exert some influence. This must be the case in early consultation on options and is likely to be the case where managers seek feedback on a range of options. It is common for managers to come to a JCC meeting with ideas of what actions need to be taken. Feedback on only one preferred option nearly always means that management have taken the decision and the real purpose of the JCC is to aid communication. This was common in the other group of organisations studied by Hall and Purcell which they termed 'communicators'. It may be that there follows a debate on how the decision is to be implemented, and in that sense there may be some meaningful consultation over this aspect, but in Hall and Purcell's research this was rare.

Van Wanrooy et al (2013:63) note there has been a significant rise in managers using the most restrictive form of consultation on the preferred option from 12 per cent in 2004 to 20 per cent in 2011. Once we focus attention on organisations with 50 or more employees the restrictive preferred option consultation increases from 15 per cent of workplaces in 2004 to 22 per cent in 2011. There was no change in the proportions 'seeking solutions' (40 per cent) and a decrease in those wanting feedback on a range of options (from 45 to 39 per cent).

The decline in active consultation in its pure form of seeking solutions was even more marked according to the senior employee representatives interviewed. Option consultation in their eyes fell from 50 per cent to 26 percent, while consultation on management's preferred option increased from 9 to 28 per cent. Van Wanrooy et al's conclusion that "there was a clear indication that managers were more restrictive in 2011 in the way they approached consultation" (van Wanrooy et al 2013:63) is confirmed even among workplaces with 50 or more employees where the ICE Regulations apply.

5.1.2 Has the recession reduced the use of consultation?

Organisations which had been most affected by the recession were more likely to have used consultation to seek solutions, typical of active consultation. Forty six per cent of those affected 'a great deal' and 53 per cent affected 'quite a lot' used active consultation compared with the average of 42 per cent. Those affected only 'just a little' were much more likely to use only the limited feedback on the preferred option (36 per cent, compared with the average use of 21 per cent). This would appear to confirm the view that 'organisations in a more uncertain environment offer greater scope for involvement because more decisions have to be taken and change effected' (Marchington 1989:398). Consultation can thrive when dealing with meaty issues.

5.1.3 When are consultative bodies influential?

This analysis of the managerial approach to consultation becomes particularly interesting when matched with views of the extent of influence of the JCC (Table 5.1). This shows a significant relationship with managers who seek solutions being more likely to consider their JCC was very influential, and 68 per cent of those who asked for feedback on options thought the JCC was fairly influential. In contrast, those who considered that their JCC was not very, or not at all, influential were much more likely to ask only for feedback on their preferred option, or the decision they had already taken. Put another way 52 per cent of managers who thought their JCC was very influential had sought solutions while 49 per cent of those who considered the JCC not very influential, and 30 per cent of those who considered it had no influence, had only sought feedback on the

decision they had already taken.⁸ This confirms that active consultation is closely associated with broad discussion of solutions or options and in these circumstances the JCC can influence management decisions.

Table 5.1: Managerial approaches to consulting members of the JCC and perceived degree of JCC influence, 2011 column per cent

	Seek solutions	Feedback on options	Feedback on preferred option	Total
Extent of influence				
Very influential	38	26	23	30
Fairly influential	54	68	54	60
Not very, not at all	8	6	23	9

Base: All workplaces where organisation size is 50+ employees and where a workplace level JCC operates. N=899 responses.

Where worker representatives strongly agreed, or agreed, that they worked closely with management to manage change (a classic topic in active consultation) there was a significant greater likelihood that they considered that their managers had asked for their opinion on solutions. As discussed below, attitudes toward cooperation can strongly influence the approaches to consultation and its influence.

5.1.4 Do management views on change management influence consultation?

There are other, softer, measures of managers' approaches to consultation. Managers were asked to agree or disagree with the statement "we do not introduce changes without first discussing the implications with employees". Those managers who disagreed, or strongly disagreed were much less likely to be from workplaces which had a JCC even though discussions with employees do not necessarily require a JCC. Van Wanrooy et al (2013:182) compared organisations in 2004 with those in 2011. They showed that "those workplaces in which managers strongly agreed that changes were first discussed with employees were less likely than other workplaces to be weakened by the recession". This is confirmed by the finding that organisations where the recession had had no adverse effect were much more likely to consult on options (58 per cent compared with 42 per cent on average).

⁸ When the responses of managers and worker representatives from the same workplace were matched no pattern of agreement was discernible reflecting the subjective nature of the question and the difficulty of interpreting perceptions and assumed motives.

5.1.5 Should consultation be conducted directly with employees or via representatives?

Managers were also asked whether they agreed or disagreed with the statement “we would rather consult directly with employees than with unions”. Since the majority of JCCs have non-union representatives, and 34 per cent are exclusively non-union, this question is only indicative and needs to be treated with caution. We do not know how managers would have responded to a question which asked about JCCs rather than unions. Even so, of those managers who favoured direct consultation with employees 61 per cent operated without a JCC compared with only 39 per cent of those with a JCC. 37 per cent of those who disagreed with the statement operated without a JCC compared with 63 per cent with a JCC. There were marked differences in the private sector between organisations with non-union JCCs (82 per cent strongly preferring or preferring direct consultation) and those where there was a union representative on the committee (54 per cent). This may point toward the view that non-union JCCs in the private sector are used as substitutes to unions. In the public sector overall just under half of managers disagreed that they would rather consult directly with employees. The equivalent figure in the private sector was just 11 per cent.

5.1.6 How frequently does consultation take place when changes are introduced?

Managers were asked if they had introduced any of seven types of changes in the last two years and, if so, what had been the involvement of unions, the JCC and employees generally. In general the modal response was consultation in around half of the cases for unions, JCC and employees. Negotiations on the changes were most likely to take place with unions (14 per cent), while, as would be expected, employees were much more liable to be just informed than the other groups (39 per cent). There were differences between non-union JCCs and those which had a union representative. The latter were more likely to negotiate the change and be consulted. In 26 per cent of cases the non-union JCC was not involved at all compared to 14 per cent of JCCs with a union representative. As discussed earlier these JCCs include both the hybrid variety and union based JCCs. This gives an indication that some JCCs, especially non-union ones, can have very restrictive roles.

5.1.7 Do consultative committees have a role in redundancy consultation?

The final indication of active consultation can be gleaned from how redundancies were handled. Overall trade unions were consulted in around a quarter of the cases, JCCs in 11 per cent, and other representatives, most likely in a specially formed committee, in 12 per cent of cases.⁹ It was very common for employees to be directly consulted as well, as would be expected. The JCCs, where they were consulted, nearly always explored options for reducing redundancies (92 per cent), reviewed the criteria for selection (87 per cent) and were concerned with redundancy payments (60 per cent). Although the numbers are very small (47 cases), where the JCC was consulted over redundancies, in 88 per cent of cases the proposals were withdrawn as a direct result of the consultation. This may give

⁹ The influence of the statutory collective redundancy provisions is probably evident both in giving recognised unions consultation rights and in certain circumstances encouraging the election of special employee representatives. JCCs can be involved but there is no requirement for them to be so.

some hint that in dealing with special issues, beyond the scope of normal consultative committee agenda, JCCs can gain real opportunities to exert influence. Hall and Purcell (2012) observed that active consulters often had to hold special meetings to handle matters as a matter of urgency and hold meetings in confidence.

5.2 Scope of issues discussed

5.2.1 Do consultative committees do more than discuss 'tea and toilets'?

Table 4.1 in chapter 4 showed the topics discussed at JCCs and compared these to topics covered in workforce meetings and briefing groups. This indicates that JCCs are much more likely to consider employment issues. They also frequently look at matters of finance and future plans. There is little difference between non-union JCCs and those which include a union representative. JCCs are much less likely to deal with production and work organisation matters which can be considered items of direct interest to employees' daily lives. Interestingly, welfare matters are discussed in a quarter of JCC meetings whereas it is rare for them to be covered in workforce meetings and briefing groups. Poorly functioning JCCs have a habit of focussing only on 'tea and toilets' (as discussed in chapter 4) but active consulters also include housekeeping or welfare matters and often have a facility manager in attendance. Overall these data show that a fair proportion of JCCs consider matters of substance.¹⁰

5.3 Levels of consultation

5.3.1 Should consultation be confined to the workplace?

There are no WERS data on which categories of management attended JCC meetings but it is usual for senior managers to be in attendance and for others to come to discuss particular agenda items. In terms of level of meetings it was noted earlier that there has been a marked decline in higher level JCCs, e.g. at regional, divisional or head office level. Between 2004 and 2011 these went down from 47 to 34 per cent in multi-site organisations where there was no on site committee. Workplaces with both on site committees and higher level ones declined from 6 to 4 per cent. Consultation is increasingly a site based activity and it would appear that managers at a higher level above the workplace are increasingly beyond the reach of JCC. This must limit the capacity of JCCs to be involved in the most important business decisions and casts doubt on the actual reach of the Regulations.

5.3.2 Are direct methods of communication and involvement replacing JCCs?

It could be argued by some that the wide use of direct involvement and communication methods weakens the case for collective consultation (Emmott 2012). Emmott notes that 'research confirms that the relationship between employees and senior managers has an important influence on levels of employee engagement' (2012:3). Leaving aside that senior managers beyond the workplace

¹⁰ It should be noted that the figures here relate to items which were considered to be the three most important topics discussed so the list is not exhaustive.

are increasingly out of the consultation loop, the question is raised whether the use of workforce meetings between employees and senior managers on site where 25 per cent of the time can be devoted to comments and questions is a substitute to collective consultation in JCCs. Does this give employees an equal or better opportunity to gain a voice? In the whole sample there is no significant difference between holding workforce meetings where there is a JCC and where there is no consultative committee. Once the focus is on organisations with 50 or more employees the position is significantly different. Workplaces where interactive workforce meetings were held were also more likely to have a JCC (51 per cent compared with 40 per cent of those without such meetings) The frequency of the meetings is greater where there is a JCC with a union representative (61 per cent meet monthly or more frequently) compared to when there is a non-union JCC (43 per cent meet monthly or more frequently). The topics discussed at workforce meetings with 25 per cent of time allowed for feedback from employees is virtually identical to the topics listed in table 4.1 for all workforce meetings. The conclusion must be that there is no evidence of these types of workforce meetings being used as a substitute for JCCs. They are complementary activities.

5.3 Relationship with other forms of involvement and communication

5.3.1 Is consultation part of the wider picture of workplace communication?

Hall and Purcell (2012) observed that in some of the organisations they studied the JCC was 'crowded out' as management made extensive use of communication media as well as workforce and briefing meetings. The problem was not the use of the media but that, in those organisations which emphasised the communication role of the JCC, the committee had nothing extra to say or report and was often the last to know of developments. This type of research finding is beyond the scope of quantitative analysis yet the WERS data does give some pointers. First, there is a significant probability that those workplaces with a JCC will also use all of the forms of communication media listed in the survey: notice boards, cascade information systems, newsletters, suggestion schemes, email and intranet. The same association between communication methods and JCCs applies to the use of briefing groups where 25 per cent of the time is devoted to employee questions and comments. Second, while email and intranet are not by any means comprehensive measures of social media they give some indication again that these types of media are not used as alternatives to JCC. In the case of the intranet 54 per cent of organisations that communicated or consulted by this means also had a JCC compared with 34 per cent which did not use this type of media.

5.4 Organisation of employee representatives

5.4.1 What help do representatives get to improve their effectiveness?

Chapter 4 analysed factors associated with the operation of different forms of JCCs. One of the notable differences is between non-union JCCs and those with at least one union representative on the committee, and where there is union recognition. Building an effective employee side on the JCC that can rise above just being a focus group (a term used by Koukiadaki 2010) to describe

consultative committees where representatives just attend a meeting with no prior papers or coordination) requires access to facilities and time off with pay, the opportunity to meet other representatives without management being present, training and access to external advice. The worker representative questionnaire hints at the extent to which these criteria are met. The focus here is on representatives who sit on JCCs.

Our analysis showed a marked difference between union and non-union representatives. While access to facilities is marginally better for union representatives and meetings between representatives without managers being present is about the same (with between 70 and 76 per cent having some type of meeting), the crucial differences are seen in training and access to external advice. Around three-quarters of union representatives had received training 'for your job as an employee representative' (in the previous year or ever) compared to just over one-third of non-union representatives. It is not possible to say how long this training lasted or who provided it. Hall and Purcell (2012) gave examples of training for non-union representatives lasting a day or half a day, provided by Acas or in some cases the HR manager.

Part of the difference maybe because 78 per cent of union representatives spend time on grievance and disciplinary matters compared with 44 per cent of non-union representatives (van Wanrooy 2013:155) and this also requires specialist knowledge and training. Union representatives also have much better access to external advice. Three quarters had consulted a trade union compared to 10 per cent of non-union representatives. Overall, 72 per cent of non-union representatives had received no external advice or information in the previous year compared to just 15 per cent of union representatives. The most likely organisation consulted by non-union representatives was Acas (17 per cent) compared with 34 per cent of union representatives. All this makes it harder for non-union representatives, especially on exclusively non-union JCCs, to build an effective employee body. Worker representation is further analysed, using the WERS data, by Charlwood and Angrave (2014).

5.5 Climate of cooperation

5.5.1 What evidence is there of mutual trust between management and representatives?

Attitudes of mutual regard and trust are essential for consultation. This was explored quite extensively in the WERS questionnaires for the management respondent and with the worker representatives. The results have been carefully analysed by van Wanrooy and her colleagues (2013: 165-66). One of the key questions which was asked of both the management respondent and the worker representative was the extent to which the other party, and in the case of union and non-union representatives each, "can be trusted to act with honesty and integrity". In brief to avoid repetition, managers have a lower regard for union representatives and a higher assessment of non-union representatives, especially those in work places where there is a non-union JCC. Here 56 per cent of managers strongly agreed that the non-union representatives could be trusted and a further 38 per cent agreed that they trusted the representatives. Interestingly, where non-union representatives were located in workplaces where there was a JCC with a union representative the level of trust fell to 82 per cent strongly agree/agree. Worker representatives were also asked to rate their relationship with management. As may be expected from managers' assessment

of representatives and from previous research (see van Wanrooy et al *ibid*) non-union representatives were more positive than union representatives (89 per cent compared with 71 per cent strongly agreeing or agreeing). When this was linked to management approaches to consultation, as discussed above, although it was not statistically significant, there was evidence that relations were better where management allowed for a discussion of options at the JCC as opposed to the more restrictive feedback on proposals. The JCC representatives' positive rating of the relationship with management where options were considered went up to 95 per cent for both union and non-union representatives. This was also evident when considering whether managers, or representatives, could be trusted to act with honesty and integrity. Again, where management chose to discuss options at the JCC perceptions of trust rose slightly.

It is beyond the scope of this paper to explore why perceptions of union representatives are more negative than their non-union counterparts, although it is worth noting that there was no difference between union and non-union representatives saying that they work closely with management to manage change. Overall, two thirds of each category agreed. When managers were asked their attitude toward trade union membership among employees it was those who did not have a JCC of any type who were least likely to favour union membership (27 per cent). In contrast where there was JCC on site 73 per cent of managers favoured union membership. Even the experience of having a non-union JCC seemed to be associated with more positive views toward union membership with 47 per cent of managers favouring it. Perhaps the experience of some form of employee representation and collectivism is linked to attitudinal change. Although there are differences between union and non-union arrangements, it is worth noting that the level of trust in each type of arrangement in JCCs was very high from whatever side it was viewed, typically above three quarters. It would appear that many JCCs are indeed conducted in a climate of cooperation.

5.6 Chapter summary

Six criteria are used in this chapter to seek to assess how effective or 'active' the practice of consultation is developed in line with the Regulations. Consultation must have the capacity to influence management decisions. Using a threefold classification of when management seek the views of the JCC the evidence is clear that in 2011 compared with 2004 fewer managers are prepared to ask the committee for their opinions on issues or problems. There has been a notable increase in cases where consultation starts after the decision has been taken. Employee representatives were very clear about this with so called 'option consultation' falling from a half to a quarter of cases. This is not in line with the Regulations, and there is no evidence that it may be a temporary effect of the recession. There is a direct relationship between managers' approaches to consultation and their own reports of the JCC influence. Where managers consult in advance of decisions being taken – option consultation – they are much more likely to report that their JCC is very influential, while of those using the more limited post facto consultation 30 per cent said the JCC had no influence at all and half thought it was not very influential. This affected worker representatives' views. Where they were given an opportunity to exert some influence they were much more likely to report that they worked closely with management to manage change. Managers were asked if they had introduced change in the last two years and whether unions, JCCs and employees had been consulted. In 26 per cent of

non-union JCCs they were not consulted at all while this was the case in only 14 per cent of JCCs with a union representative.

Looking at the scope of issues discussed it was clear that, compared with other forms of communication, it was common for JCCs to consider financial matters and especially employment questions. There is no evidence that committees, in general, are doomed to focus only on 'tea and toilets'. One caveat is that it is increasingly the case that consultation is restricted to the workplace. This must mean that many managers whose responsibility is the strategy of the company are beyond the reach of consultative committees, given the decline in higher level JCCs. There is no evidence that the use of workforce meetings and briefing groups where 25 per cent of the time is devoted to employee views and questions compete with JCCs. They are complementary. Similarly the widespread use of a range of communication media is associated with a greater, not lesser, incidence of JCCs.

Employee representatives need training and access to advice to be effective. While offices and communication technology is often provided, non-union representatives are rarely trained and only infrequently seek external advice. This must limit their chances of being effective. The level of trust between managers and non-union representatives can be very high even although the evidence would seem to question how much non-union JCCs actually get involved in meaningful consultation. While levels of trust with union based JCCs was lower it was still positive and it is possible to conclude that many JCCs are conducted in a climate of cooperation.

6 WHAT OUTCOMES CAN BE ASSOCIATED WITH CONSULTATION?

The search for causal relationships showing whether a particular employment regime or practice leads to better or worse outcomes is fraught with problems and uncertainties. This is as true for looking at the links between HRM practices and outcome measures (Purcell and Kinnie 2007:533-52) as it is for employee engagement (Rayton et al 2012). The difficulty is that so many other factors beyond the scope of surveys can also influence why a particular outcome is evident. The WERS data provides some limited evidence of interesting variances. Three types of data are used here; the climate of relationships between management and employees, the association with measures of employees' organisational commitment and associations with managers' subjective evaluation of financial performance, labour productivity, and quality of product or service compared with other firms in the same industry.

6.1 Does consultation affect the climate of relationships between management and employees?

Subjective evaluations of organisation climate, rating "the relationship between management and employees at this workplace", were asked of managers and employees, while a slightly different question was asked of representatives concerning the relationship between them and managers. Table 6.1 shows how management, representatives and employees assessed their relationship according to the type of JCC.

A number of observations can be made. First, there is no statistically significant difference between managers' evaluations in organisations without a JCC compared with those with a JCC. However, employees do rate a significant difference with those where there is no JCC being more positive. Overall, two-thirds of employees see relationships as good or very good in the non-JCC workplaces, compared with 59 per cent where there is a JCC. Employees in organisations without a JCC are more positive in rating management responding to suggestions, giving them involvement in decisions and allowing employees (or worker representatives) to influence final decisions than where there is a JCC. The same pattern is evident between non-union and union JCCs with employees giving higher ratings where there are non-union JCCs than in their union JCC counterparts.

Managers' evaluations become much more positive if their JCC is non-union compared to JCCs with a union representative. Employees' evaluations of relationships where there is a non-union JCC are nearly the same as where there is no JCC with again around two thirds seeing relationship as good or very good, while fewer (54 per cent) thought relations were positive where the JCC had a union member. This must raise the question whether non-union JCCs are making any impact at all in line with doubts expressed earlier about the limited role of some non-union JCCs.

It is not possible to glean any explanation from the survey why JCCs with a union representative, which include hybrid and pure union JCCs, are associated with less positive evaluations of climate. It fits a well-known pattern from previous surveys (Bryson 2004) that employees in workplaces with union representatives, especially when they are on site, were less likely to report positive perceptions of climate. More specifically related to active JCCs, which are more likely to be found

where there is a union member on the committee, it has often been observed that one of the functions of consultation is to seek explanations for management actions and plans and, if need be, to challenge these as part of the normal dialogue. The active JCC is doing its intended job. As Heller et al (1998:147) observed "participation allows disagreement to increase but there is also evidence that where participation works well disagreements are resolved smoothly". Many managers can find this uncomfortable and this may influence the climate of employee relations more generally. That said, although the differences are clear, it remains the case that a majority of employees still evaluate climate in a positive light even where there is a JCC with a union member on the committee.

In the summary attitudinal question asked of employees, "how satisfied are you with the amount of involvement you have in decision making", while a majority do not express satisfaction, higher scores are found where there is no JCC (43 per cent very satisfied or satisfied) than where there is a JCC (38 per cent) and between non-union JCCs (44 per cent) and union JCC (34 per cent). One possible explanation is that active JCCs can raise expectations which are then not met. "Unionism raises the number of reported problems while firm-based non-union channels reduce reported problems" (Bryson and Freedman 2007:90).

Table 6.1: Management relationships with employees/representatives by type of JCC, 2011 (column per cent)

	Management				Representatives				Employees			
	No JCC	Any JCC	Non-union JCC	Union JCC	No JCC	Any JCC	Non-union JCC	Union JCC	No JCC	Any JCC	Non-union JCC	Union JCC
Quality of relationship												
Very good	44	47	46	29	21	33	39	30	22	16	19	11
Good	50	47	47	60	44	45	41	46	45	43	46	43
Neither good nor poor	4	5	5	9	20	16	14	15	21	25	22	28
Poor	1	0	1	2	11	5	5	7	9	12	10	14
Very poor	1	0	0	1	4	1	1	2	3	4	3	5

Base: All workplaces where organisation size is 50+ employees N=2,016 (managers), N= 876 (representatives), N=17,849 (employees)

Note the question asks both management and employees about the relationship between management and employees and the representatives' question asks about the relationship between representatives and management

6.2 Does this affect employees' organisational commitment?

The differences in employee perceptions in organisations where there is a union representative on the JCC compared to where the JCC is non-union does not, however, appear to influence levels of employees' organisational commitment. Looking at the three questions asked of employees about their commitment to their organisation (I share the values, I feel loyal, and I am proud to tell people who I work for) there were no significant differences between where there was no JCC and workplaces with a JCC whether non-union or with union involvement. There is no evidence, either, that the presence of a JCC, whether non-union or with a union representative, is associated, positively or negatively, with financial, productivity or quality measures as reported by managers.

6.3 Chapter Summary

Searches for associations between consultation and outcomes reveal very little. There are no links, whether positive or negative, with managers' subjective evaluations of measures of economic performance. There was no connection either between employees' reports of their organisational commitment and the existence of a JCC, whether with union involvement or non-union. The only clear associations were, as often seen in earlier research, between employee views of the quality of the relationship between them and managers at the workplace, and the extent to which managers responded to suggestions and allowed employees, or employee representatives, to influence final decisions. Ratings were always higher in workplaces which did not have a JCC, less high where there was a non-union JCC and lower where the JCC had a union presence. In answer to the question 'how satisfied are you with the amount of involvement you have in decision making' the highest proportions of employees were in workplaces with no JCC, and lowest where there was a union based JCC. However, in every case a majority of employees were not satisfied.

7 CONCLUSIONS

Collective consultation has a chequered history in Britain, unlike in much of continental Europe. For almost all of the 20th Century it was the poor cousin to collective bargaining. Both employers and trade unions at national level viewed proposals to encourage consultation with suspicion, fearing the other's motives while yet agreeing that cooperation in the workplace between management and employees and their representatives was highly desirable. Governments have been reluctant to legislate. The near collapse of collective bargaining in the private sector, and its reduction in the public sector, means that joint consultation can be judged in its own right as often the only form of collective representation available. The ICE Regulations 2004, coming fully into force in 2008, held out the promise that, for the first time, employees in undertakings with 50 or more staff would have access to legislatively guaranteed consultation rights. In this report we ask how far the landscape has changed.

Overall, it cannot be said that the ICE Regulations have led to a much higher prevalence of consultative arrangements in the UK since 2004 – an outcome that has focussed attention on the consequences of the 'minimalist' legislative design of the Regulations and on potential reforms that might improve the take-up of the statutory rights the Regulations establish (Hall and Purcell 2012). The focus of this paper is on organisations with 50 or more employees since this is the size point where the Regulations apply and we know from previous research in this country and in Europe (Hall and Purcell 2011) that smaller workplaces are much less likely to have a consultative body.

The headline figures from WERS 2011 show a decline in the overall incidence of JCCs but on closer inspection it is clear that much of the decline has been in the proportion of multi-site organisations holding JCC meetings above the workplace. This reflects a longer-term trend and the continuing devolvement of the management of employment relations issues within organisations to the level of the workplace. In terms of workplace-level JCCs, however, the proportion of workplaces in organisations with 50 or more employees with a JCC was stable overall and in organisations in the 100-149 and 150-249 employees size bands showed substantial increases. In the context of the long-term decline of JCCs and of collective employment relations arrangements more generally, charted by successive WERS surveys, it is reasonable to assert that the Regulations have contributed to stabilising the prevalence of JCCs and have led to an increase in onsite JCCs among medium sized workplaces and organisations. We showed evidence, too, that the effect of the Regulations can be seen in the incidence of JCCs in newly established workplaces.

Analysis of the context in which JCCs are established confirmed earlier patterns observed in 2004 and by other researchers. In sum:

- The incidence of JCCs is strongly associated with both the presence of union members in the workplace and trade union recognition. We now know that in these workplaces JCCs appear more resilient. Non-union JCCs are more fragile.
- Management attitudes are of considerable influence, whether favouring trade union membership or preferring to introduce changes after

- JCCs are more often found in workplaces which also use extensive communication methods including interactive workforce meetings and briefing groups, and have IIP accreditation. Suggestions that JCCs are an outmoded method of workforce involvement and communication are very wide of the mark. Effective JCCs are integrated with other methods of consultation and communication.
- The higher the extent of foreign ownership/control of workplaces, the higher the incidence of JCCs.

A third of workplaces which recognise trade unions for collective bargaining do not have any JCC (at workplace- or higher-level) while, where JCCs exist at workplaces that recognise unions, 44 per cent of these are non-union committees and 15 per cent contain both union and non-union representatives. In these circumstances it would appear that JCCs, in the main, operate alongside existing collective bargaining arrangements. On the other hand, where JCCs exist in workplaces which do not recognise trade unions, union representatives can be found in a small minority of cases. There is good evidence, therefore, of union and non-union structures operating alongside one another; though it is much more common at workplaces where unions are recognised. Hybridity has increased since 2004, but this is (a) statistically non-significant and (b) at the expense of both union only and non-union only committees.

Around a third of JCCs were exclusively non-union, mostly found in the private sector. There is some evidence that they may be seen by management as substitutes to trade unions. But their role would appear, in general, to be more attenuated than JCCs where there is a union representative in that they are more likely not to be involved at all in change programmes. The most startling difference is that the great majority of non-union representatives have no access to external advice and receive no training. Meetings are less frequent than in committees with a union representative. It would appear that it is much easier for such JCCs to slip into being 'focus group' meetings. Where elections are not held over half of non-union representatives were volunteers.

The factor of greatest importance in shaping consultative practice is the approach taken by management, in particular in deciding the scope of consultation, as we explored in chapter 5. Active consultation means discussing proposals before a final decision has been taken, thus giving employee representatives some opportunity to exert some influence and have their views and ideas taken into account before it is too late. It is very clear that where this happens by allowing for the JCC to seek solutions to issues or problems, the level of trust is higher and both managers and representatives rate their JCC as being influential. There is clear evidence that there is a growing proportion of managers, but still less than a quarter, who only consult over the option they had already decided on. Not surprisingly, very few of those involved thought the JCC was influential in these circumstances. It might be thought that the experience of the recession led to managers feeling unable to consult in good time, but this was not the case.

There is strong evidence of a high degree of trust between representatives and managers, and a willingness on the part of representatives, whether union or non-union, to cooperate in change. It is to be expected from earlier research to find that the level of trust between representatives in JCCs with a union involvement is lower than where the JCC is an exclusively non-union body, although it is still quite high. The paradox is that non-union JCCs appear to be more fragile, are less often consulted in change and have less influence compared with JCCs with a union representative. If consultation is to flourish there has to be an acceptance by management that early involvement in a spirit of cooperation is necessary, as envisaged in the directive/regulations. The argument for consultation is not about links to particular outcomes since there was no evidence, positive or negative, that consultation was linked or associated with employee organisational commitment, nor with measures of performance. The argument is about employment rights established or enforced by legislation, as in the ICE regulations, and the value of representation as an essential form of employee voice improving workplace communications, gaining understanding of management decisions and able to influence these for the benefit of employees and their employer especially in the management of change.

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