



# Employment Bulletin

Bulletin 116

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## FIRST AWARD FOR FAILURE TO INFORM AND CONSULT

After three years of waiting the first award has been made by the EAT for failure by an Employer to inform and consult under the Information and Consultation of Employee Regulations 2004 ("ICE Regs").

The ICE Regs created obligations on UK Employers in some cases to put in place an "Information and Consultation Agreement" dealing with how the Employer will consult with their workforces regarding various economic and employment related issues.

The Employer in question failed on three occasions to arrange a ballot to elect employee representatives as required under the ICE Regs.

The EAT can impose a financial penalty of up to £75,000 in such circumstances under the regulations.

In this case the EAT considered that there was "a significant failure because it must have been plain, reading the legislation, that the relevant provisions were being ignored at almost every stage".

The EAT then imposed a penalty of £55,000 against the Employer in question.

### Practical Tips

It is absolutely essential that Employers understand their obligations under the ICE Regs. The basic choice for Employers is to proactively seek to put in place an acceptable agreement that will satisfy the regulations or simply to wait and see if employees make a request which will trigger a timetable for agreement and in default the imposition of default rules which may not suit.

If Employers are not aware of their obligations or receive a request from employees legal advice should be sought to avoid severe financial penalties.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact a member of the Employment Team on 0151 600 3000. If you no longer wish to receive the bulletin please let us know by return email.

This bulletin is for general guidance purposes only and should not be used for any other purpose.

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