

ER/IR NETWORK:

---

# EUROPEAN WORKS COUNCIL REFORM IN ACTION:

THE NEW DIRECTIVE

---

RESEARCH PREVIEW



# ABOUT CRF

---



Corporate Research Forum (CRF) is a research-led learning network dedicated to building the capability of HR leaders and their teams to drive organisational performance. Through more than 30 years of research and practical expertise, we have developed a deep understanding of the ways HR can contribute to business outcomes – what works, what doesn't and in what circumstances. We support our network of over 275 organisations through an evolving programme of evidence-based insights: delivering expert led events, facilitated peer exchange, and impactful technology-enabled learning. Our focus enables HR to become a more strategic, future-ready function delivering consistent and measurable value tailored to the needs of your organisation.

Our ER / IR Network supports HR and ER leaders to navigate the current complex ER landscape through exclusive research, peer networking and events, and access to CRF's ER learning programme. Led by John Whelan MBE (former UKHRD BAE Systems) and Nick Dalton (former EVP HR Unilever) the network provides a community for ER and IR leaders to explore the most pressing issues facing their organisations today.

#### **ER/ IR Network membership includes:**

- Event attendance at webinars, in-person events and Chatham House dinners
- Network exclusive research papers
- A place at our annual ER/IR Learning Programme
- Advisory support from CRF and ER network members
- Discounted access to Strategic Dimensions' pool of Interim ER/IR Talent



Contact [melissa@crforum.co.uk](mailto:melissa@crforum.co.uk) to explore network membership or

[\*\*CLICK HERE TO FIND OUT MORE\*\*](#)



EVERSHEDS  
SUTHERLAND

LEONIE MCQUAIDE  
PRINCIPAL ASSOCIATE

The EU has agreed a new Directive (the Directive) which significantly amends existing European Works Councils (EWCs) legislation. It will make EWCs “easier to set up, better funded and better protected”.

Member States (MS) must, by 1 January 2028, implement the new Directive. Some changes take effect from 2 January 2028, and others will apply from 2 January 2029.

Employers, both with an existing EWC and those in-scope but without, should risk assess the impact on their businesses and take advice on how to respond. In-scope businesses are those with at least 1,000 employees within the EU or European Economic Area and at least 150 employees in each of two countries. When risk assessing, the following changes should be considered:

### When transnational EWC consultation is triggered

EWCs’ rights are limited to “transnational”, as opposed to local, developments, leading to some disputes over scope. A new expanded definition is expected to result in more EWC consultation. For example, it requires both a current and future reasonable assessment of the effects of a development and, significantly, includes indirect cause and effects (where it affects workers in one MS and the consequences can reasonably be expected to affect workers in another).

### Information and consultation (I&C) changes

Transnational I&C with an EWC may need to start at an earlier stage, demand more management time and attention and become longer in duration, reflecting the following changes:

- the need for timely information-sharing by management, taking into account any provisions in the EWC agreement for representatives to consult with national bodies (e.g. works councils)
- a new entitlement for EWC representatives to express their opinion, and receive a reasoned written response from management, prior to the adoption of a decision (provided the opinion is given within a reasonable time)
- clarifying the role of EWC members to represent and update workers as a “right”, supported by the means to fulfil that right (which might include facilities and finance)

### Confidentiality

Where information is subject to confidentiality restrictions, such restrictions must be in the legitimate interests of the business, according to new objective criteria (to be laid down by MSs), and a justification given. Where information is withheld, the conditions (to be laid down by MSs) are being tightened and a justification should be given.

### EWC costs

These are set to increase, for example: expenses relating to negotiating an EWC, including reasonable costs for experts, must be borne by the business; the EWC agreement must clarify funding for the EWC’s use of experts, of trade union advisors and for training; reasonable training costs and expenses must be funded as well as the funding of reasonable legal and associated costs if the EWC enforces its rights. Increased costs under the subsidiary requirement changes (below) are also expected to prompt similar demands, and accompanying costs, for other EWC agreements.

## Determining sanctions

The revised Directive requires MSs to ensure that EWCs can enforce their rights, by providing timely and effective procedures and remedies. Penalties should take into consideration the gravity, duration, consequences and the intentional or negligent nature of the offence. MSs should also provide for financial penalties (alongside any other sanctions they make available) for a breach of information and consultation duties - these financial penalties should additionally take into account annual turnover.

## Legacy EWCs

Some EWCs, mainly those agreed before the original 1994 Directive was applied, are exempt from EWC laws. The revised Directive deletes their exemption from 2 January 2028, and affected employees may initiate negotiations for a new EWC over a reduced two (not three) year period, after which the default (known as "subsidiary") requirements apply if no agreement is reached. However, there is no requirement to negotiate a new EWC, and it will depend on whether a request is received or the employer initiates the process.

Employers with legacy EWCs should review their arrangements now, including assessing any gaps between legacy terms and those provided for under the revised Directive, alongside a health check of the EWC and the likelihood of a request. Where such requests are made, employers should be cautious in concluding negotiations until such time as they are clear how the Directive is being transposed under the applicable MS's governing law relevant to their EWC agreement.

Also, from 2 January 2028, for those EWCs subject to EU law, transitional arrangements encourage parties to renegotiate their agreements within a two-year period (if requested, or initiated by management and the two years running from the request/initiation), to reflect the revised standards under the new Directive.

## Other changes

Other changes include: improving EWC gender balance (parties must aim for at least 40% representation of men and women); strengthening protection for EWC members and other representatives (e.g. from retaliation); increasing EWC rights under the subsidiary requirements (e.g. increasing the number of plenary meetings to two, held in person; expanding the topics for EWC I&C; giving experts, which may come from trade unions, the right to attend meetings with management in an advisory capacity; and removing the single expert funding limitation); and increasing the likelihood of the subsidiary requirements applying if management do not respond sufficiently quickly to a new EWC request.



# KEY TAKEAWAYS

01

**The reforms are making it harder for organisations to operate an EWC without having consciously decided what it is for.**

For years, many arrangements have evolved by default rather than by design, perhaps shaped by legacy agreements or accumulated custom. The reforms are raising minimum expectations around consultation timing, procedural clarity, governance discipline and organisational accountability, increasing pressure on organisations to define their consultation model explicitly and own that position at senior leadership level.

02

**Organisations facing broadly similar regulatory pressures are arriving at meaningfully different conclusions, and that's ok.**

Differences in operational integration, governance philosophy, workforce profile, the historical relationship between management and employee representatives and the legal expertise available to navigate transnational consultation requirements will all shape where an organisation lands.

03

**For organisations with significant UK workforces or existing UK representation, the question of how UK employees fit within the consultation structure is not a standalone post-Brexit technicality.**

It is a strategic decision that will actively shape the broader consultation model and how integrated the organisation wants that structure to become. With case law in this area developing at pace and agreement renegotiation increasingly likely, the gap between informal participation and formal legal standing is becoming a risk that organisations can no longer afford to leave unexamined.

04

**What distinguishes more considered responses is not the degree of strategic ambition attached to the EWC, but whether the chosen position is deliberate, defensible and owned beyond specialist HR and legal teams.**

The most effective responses will be those that reflect a clear-eyed assessment of how the organisation actually operates and what role transnational consultation is genuinely expected to play within it, not those that assume more integration is always the right answer.

# INTRODUCTION

The forthcoming reforms to the EWC Directive are prompting organisations to do something many have quietly avoided: decide what their European Works Council is actually for.

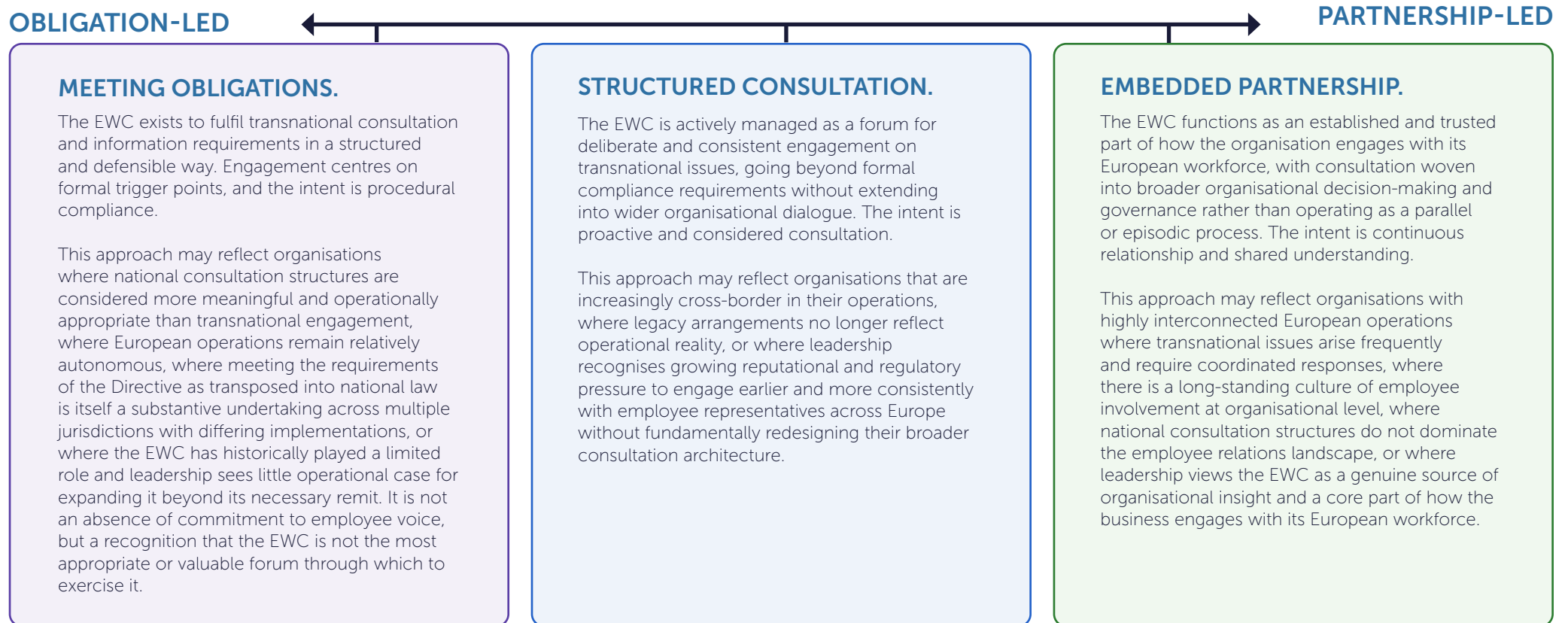
For many, that question has no clear answer. Arrangements have frequently been inherited rather than designed, shaped by historical relationships, legacy agreements and accumulated custom rather than deliberate strategic choice. The reforms are now making that ambiguity harder to sustain.

Drawing on research and interviews with senior HR and ER leaders, this report explores how organisations are responding, what is driving the differences between them and what a deliberate and defensible approach looks like in practice.

# FROM DEFAULT TO DELIBERATE: RETHINKING THE ROLE OF THE EWC UNDER REFORM

There is no single correct response to what an EWC should be for. Businesses vary significantly in how integrated their European operations are, how employee voice sits within their broader governance model, what the historical relationship between management and employee representatives looks like and the legal expertise and capacity available to navigate increasingly complex transnational consultation requirements.

The framework below is intended as a starting point for that conversation. Rather than describing how organisations are reacting to the reforms, it sets out three broad consultation models and invites organisations to consider which best reflects their own context and priorities. The reforms can then shape how that chosen position is implemented and sustained in practice.



For organisations with an overwhelmingly significant UK workforce or existing UK representation within their EWC, one further consideration will shape where they want to sit and how that position can be sustained in practice.

# CRF EMPLOYEE AND INDUSTRIAL RELATIONS NETWORK

Our ER / IR Network supports HR and ER leaders to navigate the current complex ER landscape through exclusive research, peer networking and events, and access to CRF's ER learning programme.

[Find out more and register your interest](#)

## NETWORK MEMBERSHIP INCLUDES:

- Event attendance at webinars, in-person events and Chatham House dinners
- Network exclusive research papers
- A place at our annual ER/IR Learning Programme (value c. £2,500)
- Advisory support from CRF and ER network members
- Discounted access to Strategic Dimensions' pool of Interim ER/IR Talent

Investment to join: £8,000 for CRF Members | £9,500 for non-CRF members

## 2026 PROGRAMME

<b>4th February</b>	<b>Webinar:</b> Employment Rights Bill – Getting Ahead
<b>11th February</b>	<b>Dinner:</b> Chatham House Rule Discussions
<b>5th March</b>	<b>In-person event:</b> From Policy to Practice: Implementing the Employment Rights Bill
<b>20th May</b>	<b>Webinar:</b> European Works Council Reform in Action: The New Directive
<b>16th – 17th September</b>	<b>CRF Learning:</b> Creating a “Win-Win” Employee Relations Strategy <i>*Free place per membership</i>
<b>21st October</b>	<b>In-person event:</b> Going Viral: Social Media, AI and the new ER playbook
<b>1st December</b>	Dinner and Year Ahead Planning, Chatham House Rule Discussions



Contact [melissa@crforum.co.uk](mailto:melissa@crforum.co.uk) to explore network membership or

[CLICK HERE TO FIND OUT MORE](#)

