



CORPORATE RESEARCH FORUM

ER/IR Network Webinar: European Works Council Reform in Action: The New Directive



European Works Council Directive: Legal Overview

Workers' rights and employers' duties strengthened

20 May 2026

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Agenda

1.

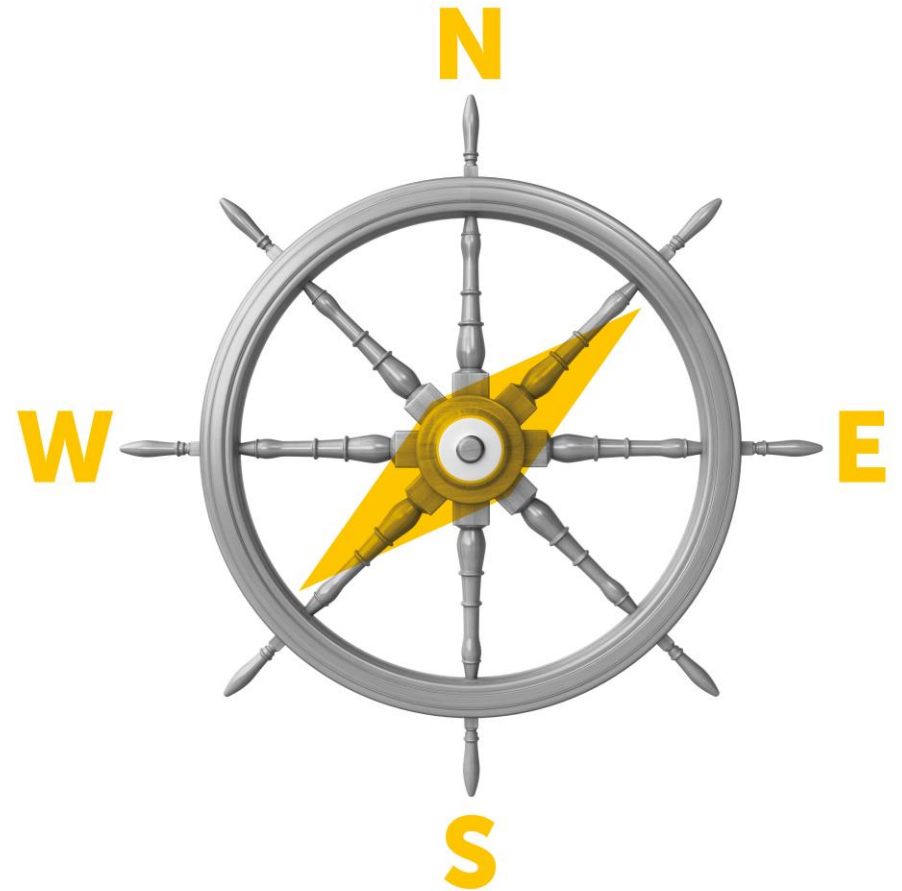
The European Works Council Directive (EWC Directive)

- Background
- Key changes – in summary
- Timelines for implementation

2.

A closer look at the changes, including:

- What employers need to prioritise
- Differences in some Member States (MSs), including enforcement



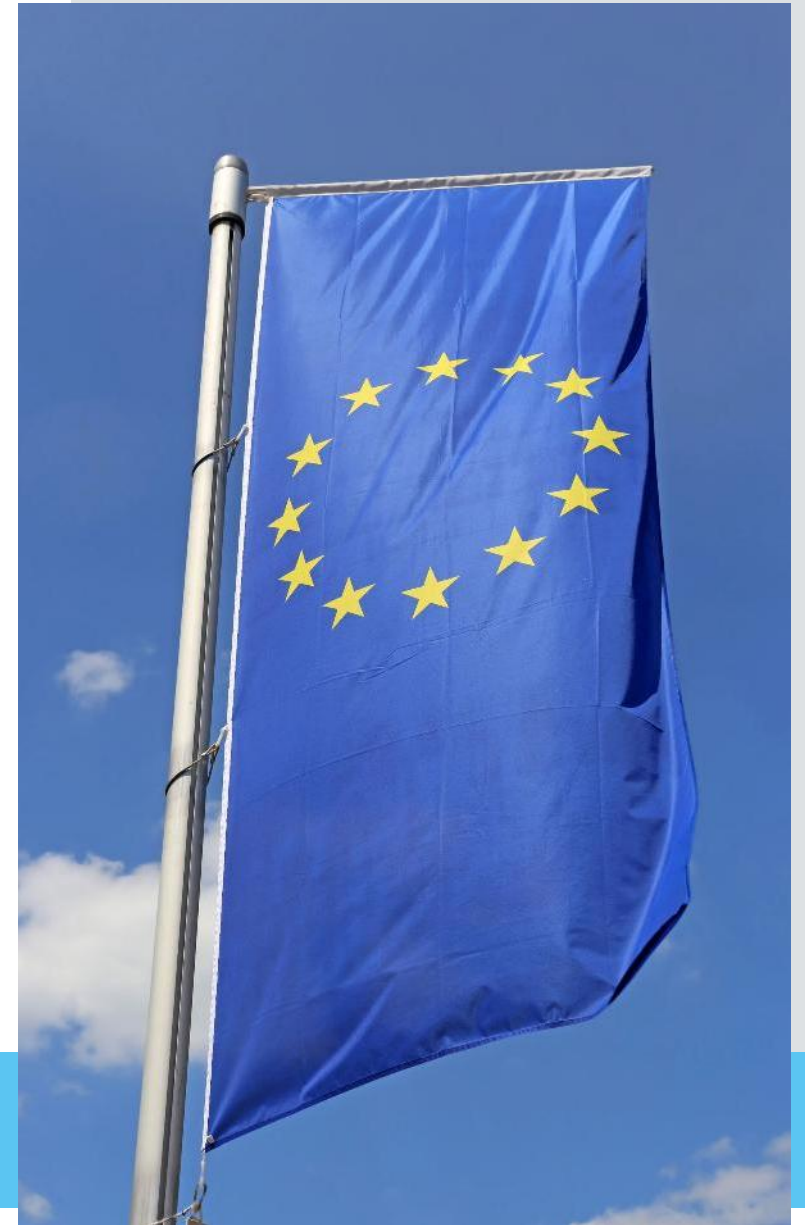
Part 1 – The EWC Directive

Background

The EWC Directive

Background

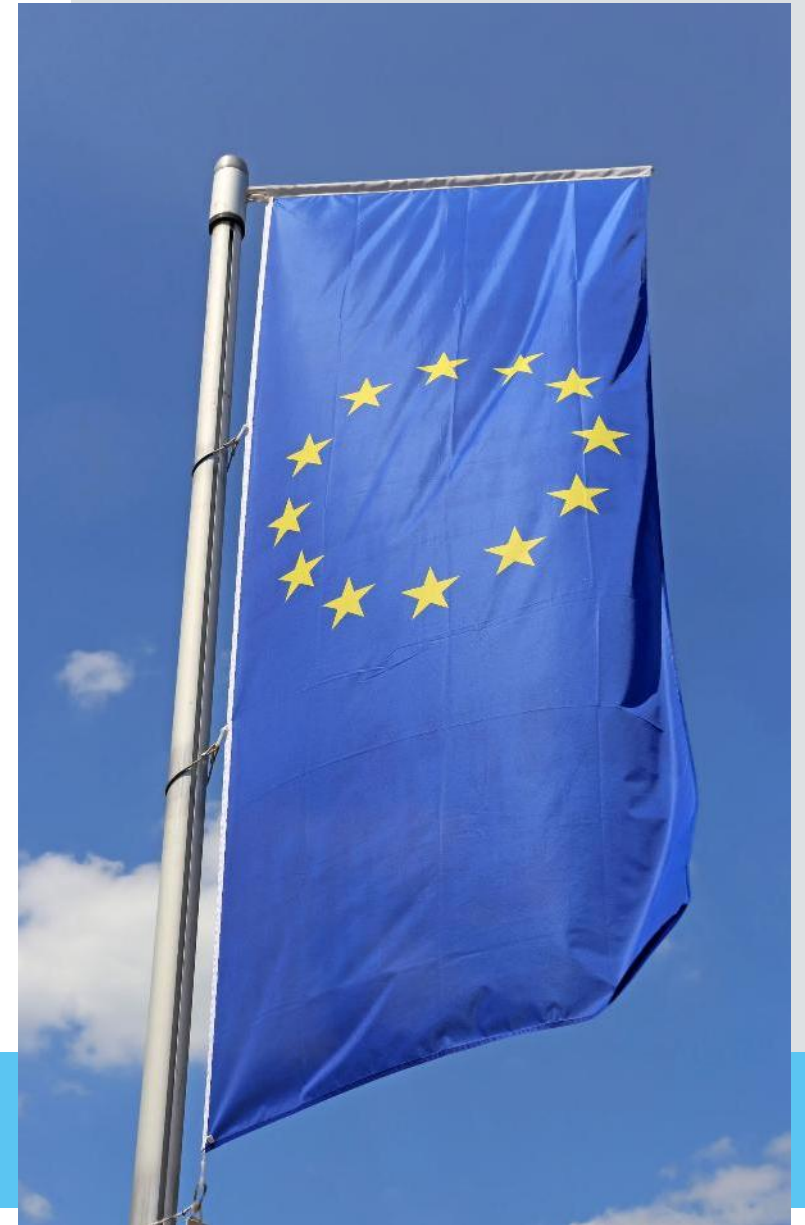
- EWCs are standing bodies that facilitate the information and consultation (I&C) of employees, with a focus on transnational issues
 - Threshold: at least 1,000 employees within the EU/EEA MSs & at least 150 employees in each of at least two MSs
 - 1994 EU Directive and a Recast 2009 Directive
- Why EWCs? The growth of pan-European employers, cross-border restructuring and to supplement national I&C arrangements
 - @ 1000 active EWCs and @ 4,000 eligible companies (EU estimates)



The EWC Directive

Background

- Critics argued that EWC I&C could be too little, too late & not enforceable
- Growing pressure for EWC involvement in new workplace challenges (e.g. AI, digital & climate “just transitions”)
- Pressures on the EU for legislative reform
- The 2025 Directive significantly amends the 2009 Directive



The 2025 EWC Directive

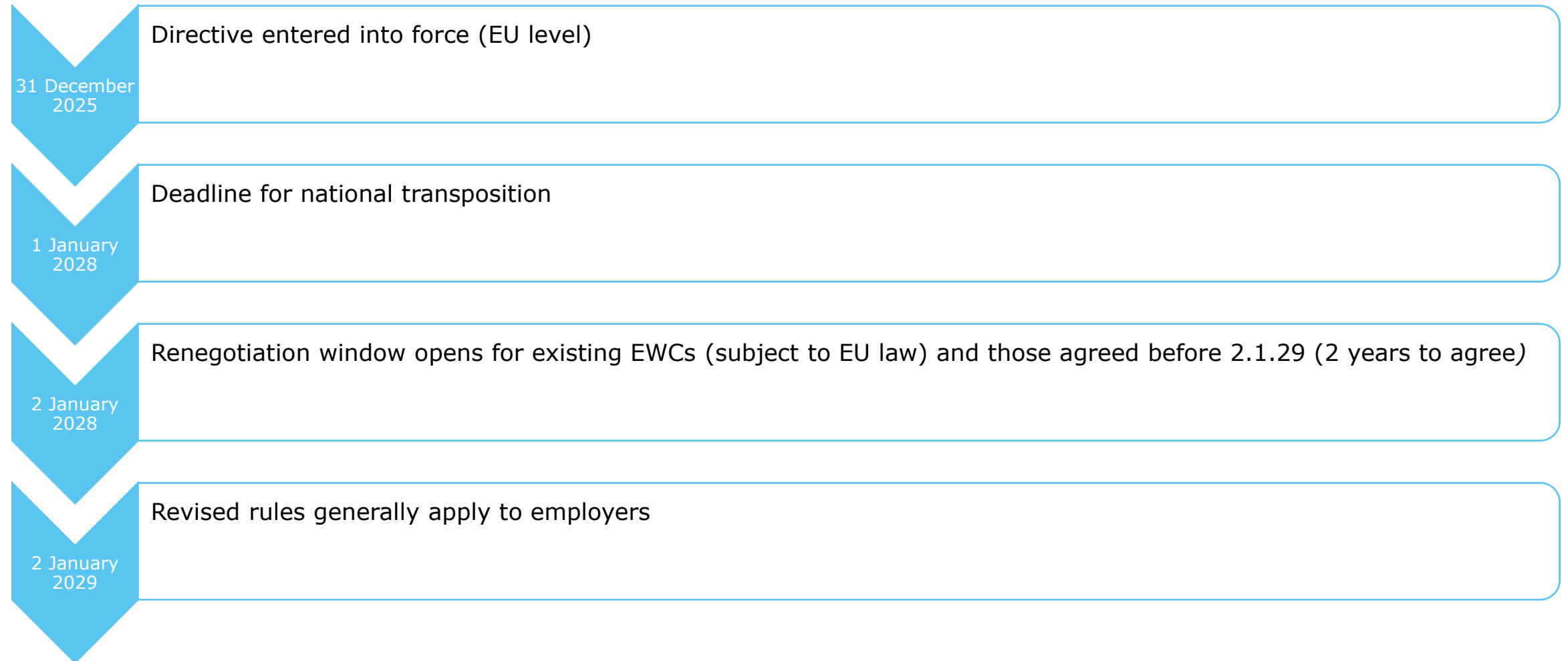
Key changes

- Raises employer costs, such as funding EWC experts, legal fees, training, expenses, etc
- Expands the scope and breadth of management's EWC information and consultation obligations
- Requires management to justify the confidentiality, or withholding, of information
- Removes the exempt status of 'legacy' EWCs
- Increases EWC rights under the fallback ('subsidiary') rules
- Seeks to strengthen MS enforcement for non-compliance
- Introduces a gender balance objective



Timeline for implementation

Key dates



Part 2 – A closer look at the new EWC Directive

Key changes

A closer look at the changes

Widens the definition of transnational

Previous definition:

Matters concerning the undertaking/group: “as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States.”

New definition (changes in blue):

Matters “*where they can reasonably be expected*” to concern the undertaking/group as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different MSs. *Those conditions shall be deemed to be met where:*

- (a) *the measures [...] can reasonably be expected to affect workers of that undertaking/group/establishment in more than one MS;*
- (b) *the measures [...] can reasonably be expected to affect workers of that undertaking/group/establishment in one Member State, and workers in at least one other MS can reasonably be expected to be affected by the consequences of those measures.”*



A closer look at the changes

The management of confidentiality

Under the changes, national EWC regulation must provide that:

- Confidentiality is permitted if in the company's legitimate interests, according to new objective criteria (MS to provide)
- A justification should be given. Whenever possible, confidentiality should be time-limited
- In any event, confidentiality ceases when no longer justified
- Information may be withheld if, according to objective criteria, it would seriously harm the functioning of the undertaking. A justification must be given
- Administrative or judicial appeal procedures should be available to challenge confidentiality decisions



A closer look at the changes

Strengthened I&C definitions

Main change (in blue) concerns the consultation definition and penalties:

- Reps are enabled to express an opinion *prior to the adoption of the decision* [without prejudice to the responsibilities of management and within a reasonable time taking into account any urgency]
- *Management to provide a reasoned written response to EWCs' opinions before adopting the decision* [provided the employee representatives expressed their opinion within a reasonable time]
- Linkage between national and EWC I&C is mentioned

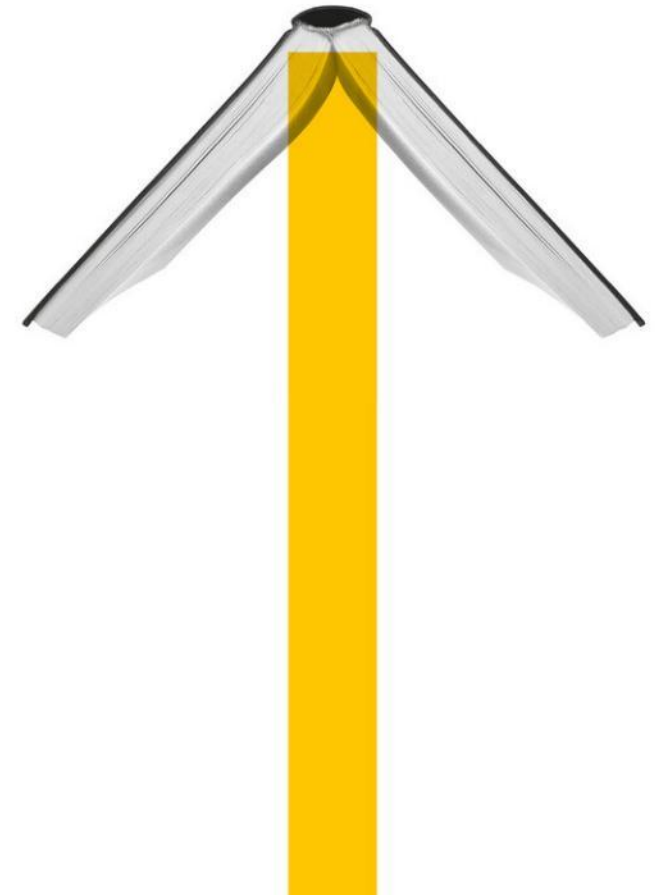


A closer look at the changes

Strengthened enforcement

Changes under the Directive:

- When determining all sanctions, Member States should take into consideration:
 - The gravity, duration, consequences, and the intentional or negligent nature of the offence
- Financial penalties should be provided for I&C breaches
 - When determining financial sanctions, Member States should take into account annual turnover (or ensure sanctions are similarly dissuasive)
- Management to fund reasonable legal & participation costs unless Member States provide alternative financial resources
- MSs may also maintain other sanctions (e.g. injunctions)
- Employers need to track local implementation



A closer look at the changes

End the exemption of legacy agreements

Changes:

- The exemptions are removed
- Affected EWCs may maintain their existing agreements
- Or, reps may request a new EWC & subject to the Directive's application
- 2-year negotiation period from request



Looking forward

Closing thoughts

Looking forward

Prepare for change

- The new Directive changes the operation of existing EWCs, for example:
 - Is expected to result in requests from existing EWCs (e.g. for adaptation or a new EWC)
 - EWC I&C may be triggered more frequently (see transnational change)
 - EWC I&C might take longer, involve more management time/resources, require extra care to reduce risk of litigation (see I&C definition, including a reasoned response before decisions, enforcement changes, etc)
 - Will require closer attention to justifying confidentiality during I&C
- An increase in requests for new EWCs (to those in-scope employers currently without an EWC) is also expected, e.g.:
 - Strengthened rights might refresh enthusiasm for new requests



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The New EWC Directive

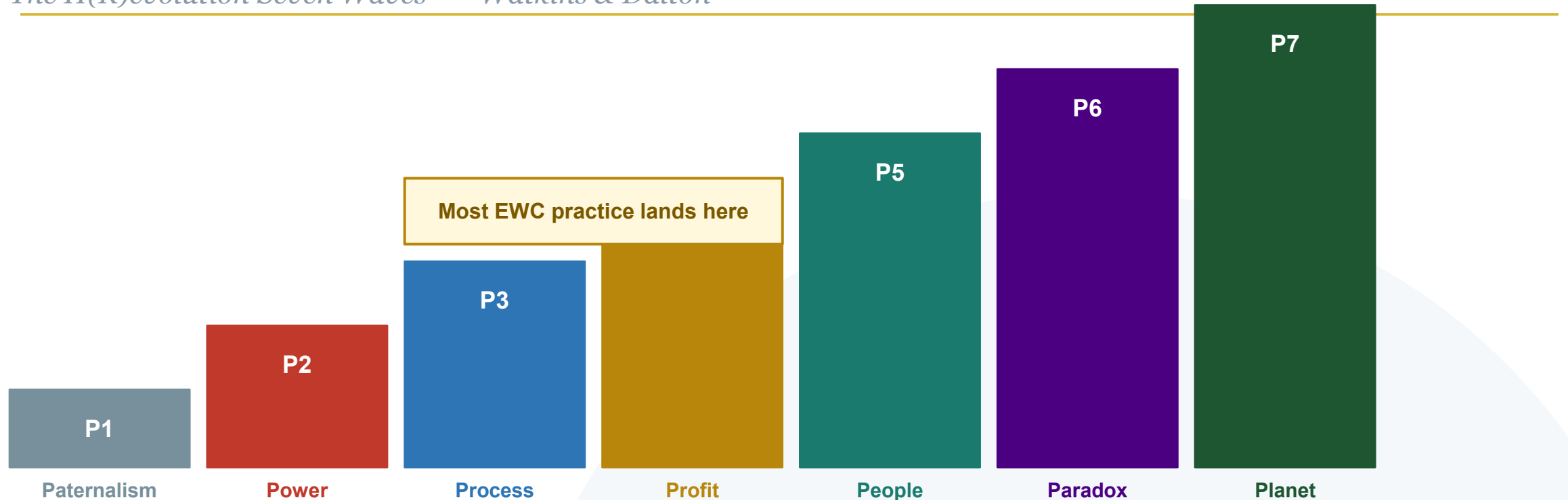
Which Wave Are You On?

A Strategic HR/ER Framework | CRF Employee Relations Network

Nick Dalton co-chair CRF ER Network

Where Does EWC Practice Usually Sit?

The H(R)evolution Seven Waves — Watkins & Dalton



The new directive doesn't just change the law — it changes the question. **The legal frame is settled.** Your response will reveal which wave your organisation actually operates from — whether you know it or not.

Four Strategic Choices — Which Are You Making?

Strategic choice	<p>Do as Little as Possible <i>P2 – P3 response</i></p>	<p>Comply <i>P3 – P4 response</i></p>	<p>Leverage the Positives <i>P4 – P5 response</i></p>	<p>Reframe through Paradox <i>P6 – P7 response</i></p>
What it means	<p>Identify the minimum legal obligation. Defer action until penalties are imminent. Treat the directive as a cost to minimise. Many legal teams will anchor here.</p>	<p>Audit agreements. Update consultation processes. Meet the letter of the law by the 2028 deadline. Renegotiate Article 13 agreements. Box ticked.</p>	<p>Use expanded scope to surface early intelligence. EWC as a transnational sensing network. Build relationships that improve decisions on restructuring, M&A, and digital transformation.</p>	<p>EWC as co-creation. The 'reasoned response' obligation is an invitation to genuine dialogue at scale. Employee voice as strategic intelligence — not a compliance loop.</p>
Risk / Opportunity	<p><i>Risk: Operating on false assumptions about compliance status. Penalties are now linked to company turnover.</i></p>	<p><i>Risk: Compliance achieved, opportunity missed. The EWC remains a cost centre — not an organisational capability.</i></p>	<p><i>Opportunity: The directive now requires earlier engagement. Organisations that do this well consistently make better decisions.</i></p>	<p><i>Opportunity: Transform the EWC from a compliance forum into a network that generates real strategic value for the organisation.</i></p>

The Paradox Frame: What Does Bucket 4 Actually Look Like? crf

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The Strategic Shift

Compliance theatre → **Genuine dialogue**

Information cascade → **Network intelligence**

EWC as cost centre → **Co-creation forum**

Confidentiality as shield → **Transparency as signal**

'Reasoned response' as burden → **Management discipline that improves decisions**

Three Provocations for Your Organisation

The ghost network already exists

Your EWC representatives talk to each other informally. The question is whether management is part of that conversation — or is being discussed in its absence.

The 'reasoned response' is a gift

The obligation to respond substantively before a decision is taken forces a discipline most boards lack. Build that loop deliberately and you have improved governance, not just compliance.

AI and green transition are already in scope

Transformation linked to digital and green transitions is now explicitly consultable under the directive. The EWC is the natural forum for the hardest conversation in the business — and most organisations will waste it on procedure.

CRF Network Update

Melissa Bull, Commercial Director, CRF

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FEBRUARY

Network Dinner

EVENT

MARCH

Implementing the Employment Rights Bill

WEBINAR

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European Works Council Reform in Action

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SEPTEMBER

Creating a 'Win-Win' Employee Relations Strategy

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OCTOBER

Going Viral: Social Media, AI and the New ER Playbook

DINNER

DECEMBER

Network Dinner

Our ER / IR Research Library



Previous topics

The New Employment Rights Act: The Changing Face of the Workplace

Positioning ERGs in the Employment Relations Climate

The New Deal at Work: How is the Psychological Contract Changing?

Upcoming topics

Going Viral: Social Media, AI and the new ER playbook

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