

March 2024

A monthly summary of consultation matters by Consultation Guru – Rhion Jones.

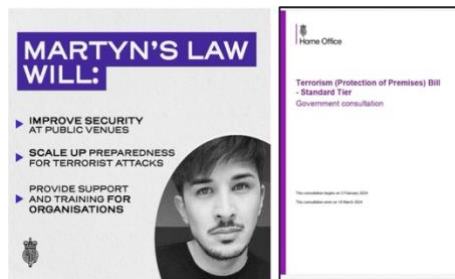
# Consultation Catch-up



This Spring sees a large number of meaty consultations from the UK and devolved Governments – and the Budget is yet to come! Huge, important issues such as the [Future Homes](#) consultation – on how new houses are fit for net-zero (and at least 3 years overdue). Countless others reflect a Government desperate to be seen to do something about long-standing problems. Legal challenges also mounting up, which is why I'm eager to spread the word that we need a greater awareness of **consultation law**. Hear me talk about this in a **45 minutes FREE Westco webinar on Friday 8<sup>th</sup> March**. More information and Register [here ...](#)

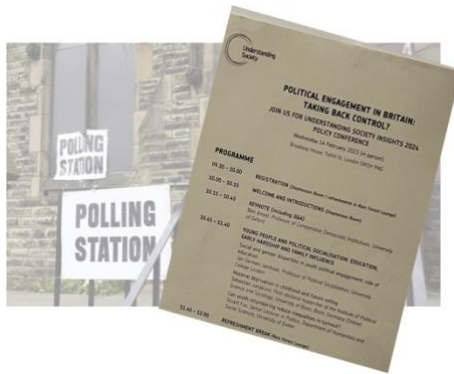
## Best of the Blogs

### [Martyn's law, consultation and the perception of risk.](#) (Blog 61)



I'm surprised how little we hear about **Martyn's Law**! Even now as an important consultation remains open, and community volunteers, retailers, clergy and those in charge of 278,000 premises ponder demanding requirements to protect us from terrorism, it remains below the radar. Maybe its because we all feel uncertain about different people's perceptions of risk. That's why, in this Blog I feature the **World Risk Poll** by LRF and the excellent research to consider the impact on policy-making.

### [Politics, consultation and the 'propensity to participate'. How much does it matter who participates in our democratic processes?](#) (Blog 60)



I wrote this after attending a conference of academics analysing trends in political engagement. **The 'propensity to participate'** has also been a concern for public engagement and consultation professionals figuring out whose opinions to seek and how to assess their responses. It made me wonder about who does and does not participate in society, and I quote a recent example of a genuine attempt to remedy some of the gaps and injustices in our current practices. In this Blog I describe **The Denny Review** on addressing health inequalities from the NHS in Bedford, Luton, and Milton Keynes. Is this the way forward?

### [First episode of Tractivity's 'Ask the GuRU' series](#)



Agreed, it's not a Blog, but the discussion was mostly about **the forthcoming General Election**, and how this affects the consultation agenda in the coming months. How there is a scramble to consult on many issues right now, but as 'purdah' kicks in, they will have to stop. And how 'engagement' (as opposed to 'consultation') goes through the roof before an Election. So, what is the difference? Listen to find out! (Click the heading, not the image!)

On Page 2, there are stories about the Police/Crime Commissioner 'hostile takeover in Birmingham, a consultation mistake in Corby, a Book Review and more

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## Instant insights

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- Incompetence (or worse) at the Home Office! Within days, the current Labour **Police and Crime Commissioner for the West Midlands** [will go to the High Court](#) to try to stop a ‘hostile takeover’ of his functions by the current West Midlands Mayor, Andy Street. The Home Secretary agreed to the merger last autumn, only to discover that his department had overlooked the statutory requirement to hold a consultation! It then hurriedly held one over Xmas and the New Year and, breaking all previous records, announced its outcome within 6 days of the closing date. Expect the Court to take a dim view of a last-minute consultation after the decision has been taken (*Gunning One*) and a high-speed piece of ‘conscientious consideration’ without some rather persuasive evidence. (*Gunning Four*). But we know how unpredictable judicial reviews can be. Watch out for a Consultation GuRU blog as soon as we know the result!
- There are consultation mistakes ... and mistakes! In Corby, N Northamptonshire Council gave planning permission for a large warehouse – having [failed to consult residents](#) living within yards of the site. Planners, by mistake consulted a street half-a mile away!. The massive building is already under construction with serious impacts for the neighbours. I somehow doubt if the Council will win this one.
- For civil servants, local government officers and many public servants, there is a Court of Appeal ruling that may give them pause for thought. In [Sec of State for the Home Department -v- IAB](#) [2024] EWCA Civ 66, the Government sought to argue that when disclosing documents at a judicial review, it could, as a matter of routine, redact the names of all civil servants, except for the most senior 2%. The Court disagreed, and communications, consultation and engagement professionals all now need to be aware that advice they give and actions they take will remain on the record and may be open to challenge in public. Makes it essential to learn and observe *best practice*!
- Back in September 2023, following Rishi Sunak’s U-turn on phasing out **the sale of petrol/diesel cars**, I published Blog No 42 – [If you consult before MAKING policy, should you consult before CHANGING policy?](#). It became one of the most widely-read **Consultation GuRU** pieces. Now it seems the High Court will be able to address the same issue, for the TV presenter and campaigner, Chris Packham has obtained leave to seek a **judicial review** on the policy change. One of the grounds for challenge was that “*there was a failure to consult the public and key stakeholders before abandoning the policies, and a failure to even consider previous consultation responses that the public and key stakeholders had made to Government questions about the policies to be abandoned.*” For more detail, [read this](#) from solicitors, Leigh Day. Yet another in an increasing queue of cases based upon challenges to green policy retreats.

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## Straws in the wind

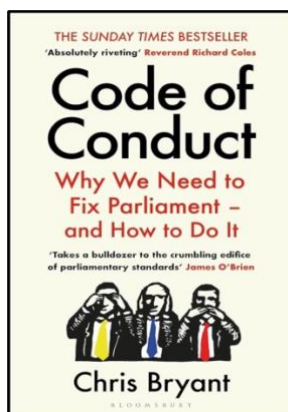
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## The Reading List

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If you are already depressed about our democracy, don’t read [this book](#)! On the other hand, if you want chapter, verse, word, and comma on the failings of the current system, this is an encyclopaedic resource – scathing about the scandals we already know and the absurdities of obscure scrutiny arrangements. Bryant should know . As chair of the Standards & Privileges Committee, he’s authoritative but also pragmatic, with sensible suggestions. The key message is that Parliament is hopeless at tasks where it needs to be brilliant. They include legislating and holding Ministers to account. All the more reason to support supplementary processes like consultation. It’s needed more than ever.

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