

September 2024

The monthly summary of
consultation matters by
Consultation Guru –

Rhion Jones

Consultation Catch-up



There is a danger that the new Government slips into the traditional pattern of public consultation as a civil-service led process of executive expediency. For many routine and technical issues, this is fine. But we need more political leadership for high-profile decisions, so all eyes on how the NPPF planning consultation is handled. The summer has also seen embarrassing defeats for previous Home Secretaries when Courts declared their consultations were unlawful. Yvette Cooper must avoid her department reverting to type!

Best of the Blogs

Developing a stakeholder-conscious culture

Tractivity article



In anticipation of **Tractivity's** 2024 [Stakeholder engagement Summit](#) on October 8th in Manchester, I am writing three articles on key issues. In this first offering I explore whether there is such a thing as a *stakeholder-conscious culture*, and if so, what might be its characteristics. I stress the importance of having an 'external' perspective and draw upon a seminal paper written in 2016 by the [Institute of Business Ethics](#). It places the onus firmly on top management to set the tone and direction of stakeholder engagement.

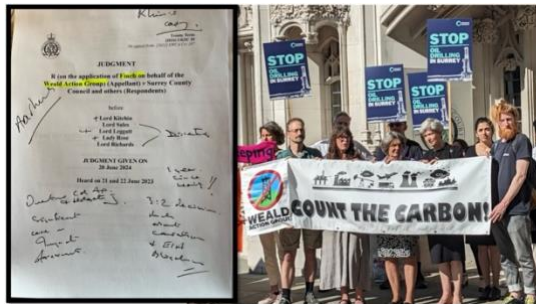
Home Office failure to consult lawfully on rejected Windrush recommendations; wider learning about 'legitimate expectations'



(Blog 78) At a little-noticed judgment from June this year, the Home Office was found to have unlawfully failed to consult before rejecting two recommendations from the Windrush scandal's "*Lessons Learned Review*". There had been a 'legitimate expectation' of consultation before Suella Braverman decided to back-track on a commitment that ALL the recommendations would be implemented. Classic *Yes Minister* stuff! But it's not funny ... as the Home Office continues to make a hash of rectifying this dreadful injustice.

The Surrey Oil Well case – the Supreme Court considers the

Impact Assessment. (Blog 77)



It's two months since the Supreme Court ruled that Surrey CC was wrong to approve an application for further oil extraction in the County. Environmental campaigners, energy policy wonks, infrastructure planners and their lawyers have all taken this very seriously – and it's time for those of us in public engagement also to take notice. There are key messages for those planning significant public or stakeholder consultations. In essence, how much do we have to tell

people about the 'downstream' implications of a proposal? We now know the answer for oil but how might this be applied to other situations?

On Page 2 this month, consultation mistakes pre-Grenfell Towers, a Scottish Judicial Review and the consultation on ticket touting. The book review is *Great Britain?* by Torsten Bell MP

Instant insights

- The [Grenfell Tower Inquiry Report](#) rightly criticises successive Governments for culpable mismanagement of its Fire regulations. But here is a story that has gone unnoticed. Just as the Inquiry got under way, I was looking at Freedom of Information requests relating to public consultations - and was astonished to discover an appeal against a decision by the Min of Housing, Communities & Local Government not to provide details of 73 responses to its [2012 consultation](#) on proposed changes to Building regulations (inc Fire regulations)! It refused because the work was deemed a 'grossly oppressive burden'. The Information Commissioner [refused this extraordinarily insensitive defence](#) and promptly ruled against the Ministry. I wrote it up at the time – see [here](#) But is it not yet another example of the refusal of Ministers/officials to listen to *consultees*, and then, years later to try to cover up their failure?
- The Scottish Court of Session has ruled upon the case of [Cairns Trustees v Highland Council](#). It is an interesting case that affirms that consultations undertaken voluntarily attract the full extent of the **Gunning Principles** and concerned plans to change vehicular access to a street in Inverness. The Council had consulted on a particular option, but afterwards, amended its plan and the fresh option had new far reaching impacts on businesses and road users. It was not consulted upon and was therefore unfair. It raises issues over public involvement in 'optioneering' (the Council's term!). Will need a Blog of its own!
- Despite rumours that **Oasis** are responsible for all recent good news, the forthcoming consultation on the resale of tickets actually pre-dates their reconciliation. In fact, it was an explicit commitment in the Labour manifesto. What's changed is that Ticketmaster's use of dynamic pricing has given the **Competition & Markets Authority** an opportunity to mount a [pre-consultation investigation](#) – an excellent development and one that might be helpful as Ministers develop proposals and options.

Straws in the wind

- My session at The Tractivity Summit is entitled **"Stakeholder management at a time of political turbulence"** Expect a characteristically provocative and entertaining presentation. Full details [are found here](#)
- I'm also delighted to be delivering a training course on the **Law of Consultation for Public Service Professionals** for Westco Communications in London on 30th October. Full details available [here](#).



The Reading List



Former head of the Resolution Foundation, [Torsten Bell](#) won a seat at the July election and was immediately catapulted into the Cabinet Office as a junior Minister. This is therefore a tremendous primer on what Keir Starmer's Government may be thinking. It's definitely an authoritative analysis of the many problems it faces and makes many optimistic suggestions. Pity therefore that it feels like a never-ending written-down version of Radio 4's *'More or Less'* programme, and that the line graphs are mostly unreadable. He is strongest on 'Housing' and the more contentious aspects of modern versions of 'Work'. This is just as well as they feature so prominently among Labour's immediate priorities. A timely *tour d'horizon* of issues likely to dominate the debate over the next three years and the basis, no doubt, for umpteen policy consultations. Recommended.

To receive **Consultation Catch-Up** regularly SUBSCRIBE [here](#)
 To contact Rhion – email rhion@rhion.com or call 07966 446450