

November 2024

The monthly summary of  
consultation matters by  
Consultation Guru –

Rhion Jones

# Consultation Catch-up



Someone captured me in full flow at TRACTIVITY's Stakeholder Summit in Manchester! Two immediate observations. One – that knowledge-sharing events like this are truly back – after they disappeared for the COVID lockdowns, and subsequent hesitations. Tremendous buzz among professionals keen to discuss best practice! Second – how many people agreed with my suggestion that engaging with stakeholders is about '*anticipation*' – helping your organisation see what's coming, and the consultations that are needed to shape the future.

## Best of the Blogs

### [Not yet a listening Government: Consultations arising from the Reeves Budget](#) (Blog 83)



No doubt it's a bit harsh to judge it just from a public engagement perspective. Maybe it's wizard economics and politically astute. But my long experience suggests that sooner or later, successful Chancellors conclude that consulting key stakeholders makes for better decisions and policies that work. I argue that Rachel Reeves made a political mistake when she abolished universal winter fuel payments with no prior dialogue. Fortunately, she has time to grow into the role and learn that listening to others can be a source of strength, not weakness.

### [The NHS Big Conversation – is it any good?](#) (Blog 82)



A consultation launched with a fanfare of trumpets! Wow! Have you yet responded to the NHS Big Conversation? Should you bother? I expect a million people might ... ! There are good, sound aspects to this, but also some disappointments. Will it tell Messrs Starmer & Streeting anything they don't already know? Are Ministers trying to buy time to sort out the NHS whilst just asking the public to rubber-stamp directions of travel that NHS Managers have been trying to pursue for years ... and failing?

### [When a 'statutory consultee' makes a mistake, and it leads to a judicial review](#) (Blog 81)



Can we trust '*statutory consultees*'? And what happens if we can't? I've taken a fresh look at a High Court judgment from earlier this year. In *Pratt v Exeter City Council*, planning permission for 350 houses was ruled unlawful because it was based upon erroneous advice from a *statutory consultee* – the Highway Authority. Much here on assessing impacts and serious concern about the reliability of expert third party inputs to consultations. As often happens, the implications extend further afield - well beyond Devon!

On Page 2 this month, Lord Banner's probe into infrastructure JRs, co-production in the Welsh care sector, continuing issues on the Football Governance Bill and TWO contrasting book reviews.

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## Instant insights

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- This week we saw Lord Banner KC's [Independent Review into legal challenges against Nationally Significant Infrastructure Projects](#) (NSIPs). This was commissioned by the previous Government but will have been of great interest to Labour Ministers desperate to speed up a number of major projects. Banner had been asked to examine whether projects were being held up by *innappropriate legal challenges* and some campaigners had worried that he might find that consultation requirements were too prescriptive and too easy to challenge. In the event, nothing of the kind emerged. Neither could he find any reason make changes to *locus standi* or the Aarhus convention-based costs regime. His recommendations are mostly about speeding up the judicial process and restricting the opportunities to seek 'permission' to go to JR. It may not be the end of the story, however, as the Government has promptly issued a [further consultation](#) – curiously called a '*call for evidence*'. Maybe the whole issue is exaggerated. The number of challenges is not huge; Banner found only 34 relevant JRs since 2013, but they include many high-profile projects. Still, the threat of legal challenges looms large for anyone organising public consultations on NSIPs. We continue to watch this space!
- The [Football Governance Bill](#) has returned to Parliament with some Labour Government tweaks such as extending the topics on which clubs must engage or consult with their supporters to include ticket pricing. Sadly, DCMS repeats the mistake made by the Sunak administration. The Bill, as currently drafted, requires all football clubs to undertake '*consultation*', and those above the 'threshold' also to undertake '*engagement*'. I think it should be the other way around. **All clubs** should be required to demonstrate '*fan engagement*', and the better resourced and those who otherwise qualify to be beyond the 'threshold' should be subject to the more demanding requirements of '*fan consultation*'. Click [HERE](#) to see the letter that Kevin Rye of [Think Fan engagement](#) and I are sending Ministers this week.
- Newyddion da! A Good News story from Wales, in that I am impressed by the new statutory Code of Practice on the **National Framework for the Commissioning and Support of Care in Wales**. Similar documents can be found elsewhere in our fragmented care landscape, but what's good about this is the emphasis on **co-production** and embedding it into the activities of local authorities, the NHS and other providers. Look at Pages 57-59 of the lengthy [Code of Practice](#), and find one of the best explanations of what is required, with great emphasis on the practicalities. Of course, the words are relatively easy. In the consultation that took place beforehand, *consultees* expressed concern as to whether the resources will be there to support this approach. It is a fair question, and the Welsh Government must address it.

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## Straws in the wind

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Two book reviews this month – an easy read, and a rather difficult challenging, but important one.

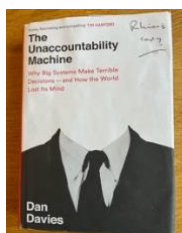
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## The Reading List

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Sopel's book, [Strangeland](#) is a predictable journalistic rollercoaster ride around themes that are familiar for fans of the *NewsAgents* podcast he delivers with Emily Maitlis and Lewis Goodall. He is a great storyteller, pulls few punches and has the knack of making you think he is sharing with you an insider's secrets, even though his material is generally well-known. I'm less convinced by his case that the UK has changed beyond recognition but it was fun exploring the idea.



In contrast, [The Unaccountability Machine](#) is a tough read – a creditable attempt to explain management cybernetics and the way it explains the complexity that bedevils political, social and economic systems. For me, the relevance is understanding '*accountability sinks*' where Governments, communities and customers find themselves powerless to influence events. It makes one realise why public consultations often lead nowhere, as the views of *consultees* cannot penetrate systems or activate levers of change. Not a holiday read, but something to help one understand the perils/pleasures of artificial intelligence and governance by algorithm.

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 To contact Rhion – email [rhion@rhion.com](mailto:rhion@rhion.com) or call 07966 446450