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The monthly summary of consultation matters by Consultation GuRU –

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# Consultation Catch-up



The latest idea to help us build infrastructure projects quicker is what's called a *Parliamentary Authorisation* mechanism. Effectively, Parliament passes an Act which severely limits the opportunity to challenge it in the Courts. Even though it proved disastrous for HS2, there is nothing inherently wrong in this, except that it needs an important preliminary step. There should be a public consultation first – so that MPs can consider and vote with the knowledge of what key stakeholders and the public think. I'm all for democratic accountability – but I'd like decision-makers to be 'informed'

## Best of the Blogs

### [If service change consultations reveal so much opposition, why do people vote for 'CHANGE' so often?](#) ( Blog 129)



If I hear the word CHANGE uttered reverentially once more by politicians or journalists, I think I may choke! Those of us who know something about public consultations realise how rarely change is welcomed universally. The NHS is a great example. Clinicians have sometimes had to fight for years to adopt new, better patient pathways only to face widespread campaigns to retain the *status-quo*. Are we just confused about change, or do we need to make fewer mistakes when engaging the public about specific instances?

### [The atmospherics of stakeholder relations; the legacy of opposition](#)

( Article for TRACTIVITY)



When projects get to the '*shovels in the ground*' stage, prime contractors often inherit a climate of opposition and mistrust in local communities. There may have been years of campaigning against developments that change people's lives - probably for the worse. This article looks at the legacy of opposition, the need to assess the '*atmospherics*' and to start a long-term dialogue. Companies like Tractivity can help this process but skilled and sensitive staff are equally important.

### [After the May elections: mixed messages for local Government](#) (Blog 128)



What might the English local election results mean for public engagement at our Councils? This was my initial analysis - recognising that we will have parties in power facing in very different directions. Will local government officers wish to conduct public consultations broadly as we have done for years? Or will there be pressure to change? The BBC, Sky News and much social media may have been wholly focused on the Burnham/Starmar soap-opera, but an equally lasting impact of the recent elections will be to shake up many time-honoured ways our Councils do business ...

**[On Page 2](#) this month, Court cases on '*legitimate expectation*', the abolition of HEALTHWATCH (per 2<sup>nd</sup> Reading of the Health Bill), the partial release of consultation data, a great video by David Eve and a review of Piers Morgan's book on 'Woke is dead'**

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## Instant insights

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- In the **law of consultation**, we now have the third judgment in as many months on the need for consultation before Governments act. The Chagos campaigners failed to require one before Ministers agreed a Treaty, and the Greyhound Racing Board was told that it could not insist on consultation before the Welsh Senedd legislated to ban it. Now **the farmers have also failed**. They claimed that documents published 15 years ago by the Treasury and HMRC created a '*legitimate expectation*' of a particular process before significant tax changes were made – and that this included a consultation. In [R \(Martin etc\) v Chancellor of the Exchequer](#) the Court was very clear that there was no requirement, and the agricultural lobby is left – like others – to argue the need for consultation on political – not legal grounds.
- In contrast, the *doctrine of legitimate expectation* – in the *application* (rather than the '*making*') of public policy WAS very strongly confirmed in an important judgment handed down at the end of May. The case is [R \(Freedom from Torture etc\) v Home Secretary](#), where Mr J Sweeting found that for over 20 years the claimants had maintained a long-standing, collaborative relationship with the Home Office in relation to sensitive issues about the accommodation and support needs of victims of torture or human trafficking. They were essentially expert stakeholders in the development and revision of asylum support and accommodation policy, and when in 2024, the policy was significantly weakened without the customary consultation, the Court held this to be unlawful. It also found against the Home Office on the failure to observe the Public Sector Equality Duty (PSED). The case will feature in the **Consultation GuRU Law of Consultation course** from now on.
- Always good to hear first-hand testimony from a practitioner who REALLY knows. In a short, excellent video from [Queenswood, David Eve explains](#) why we don't build infrastructure quite as fast as the Chinese! (See [video](#))

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## Straws in the wind

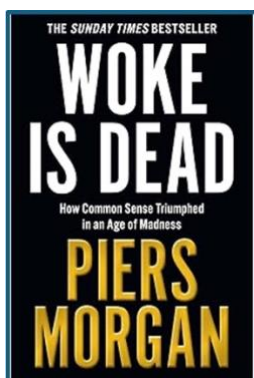
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- Monday's [Second Reading of the Health Bill](#) gave us the first real indication of the likely opposition to the Government's thoughtless **abolition of Healthwatch** in England. It's not that they are a brilliant model, but more that the proposed replacement is wholly wrong in principle and cannot serve as the independent voice of patients and the public. A handful of Labour backbenchers mentioned it, but the stronger objections came from LibDem MPs who seem to have more appetite for combat. Ministers scarcely engaged on the arguments and seem happy to fight it out in Committee. Let's hope for more robust debate at that time.
- The Government is clearly in a hurry to announce a ban of some sort on **social media use by children**. It says that there have been 100,000 responses to the [recent consultation](#). Nothing wrong in publishing that figure. But Ministers have gone further and 'leaked' that 90% of the 'parents' who responded are in favour of an Australian-style ban. This is in breach of the well-established rule that you publish consultation analysis AS A WHOLE - not selectively release data that happens to suit your argument. It invites a legal challenge on Gunning Four. That is that that you must give *conscientious consideration* to the output of the consultation - **ALL of the output** - not just some of it. STOP PRESS – On June 1<sup>st</sup> the Government [formally published this partial 'preliminary analysis'](#) Not sure it remedies the problem, though!

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## The Reading List

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Piers Morgan takes no prisoners! His [300-page rant](#) uses his legendary invective to excoriate all those he sees as responsible for the wilder excesses of Woke. Only right at the end does he concede that '*Wokeness became a crisis because of its absolutism*' but in his crusade against extremists, he risks showing contempt for more reasonable citizens who just agree with more equality, greater diversity and inclusion. His former infatuation with Donald Trump may be over, but he still credits the US President with single-handedly turning the tide against woke. Not sure what antagonises Morgan most – Trans athletes, Net-zero campaigners, Black Lives Matter, Kamala Harris or Meghan Merkel? Despite it all, this is a useful chronicle of the backlash when society tries to make up for the unfairness and injustices of the past. He probably enjoyed writing the book more than I enjoyed reading it – but it did make me think. Maybe. Possibly, on some of the issues, he might be right. Just please don't tell him!

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