

September
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The monthly summary of
consultation matters by
Consultation GuRU –
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Consultation Catch-up



Best of the Blogs

We are obviously in a state of flux over the future stance of the new Burnham administration on public participation. Colleagues will have seen the words that they wish to see *“how we can more actively bring the public into the policy-making process instead ...”* Yet, hundreds of active volunteers and the paid staff of Healthwatch in England still cling precariously to their roles, aware that the plan is to abolish them. Maybe they want input into policy-making but not policy-implementation! Yvette Cooper needs to take prompt action to reverse this – maybe at the Party Conference, and possibly as further devolution of key tasks & accountability to Mayoral and Strategic Authorities.

Why compliance with the law of consultation remains a high hurdle ...? (Blog 137)



Ministers want to promote ‘modern forms of public participation’. But consultation remains the only engagement process where people have legally-enforceable rights to be treated fairly – and therefore the law of consultation MATTERS. Ready for the Autumn update of my well-established training course, I have reviewed this year’s crop of judicial reviews. On my reckoning there are at least 15 judgments of significance to public consultations so far ... and in this Blog, I summarise a recent case of a lack of consultation that was initially okay on the grounds that it would have made no difference. Read about this and other recent cases or attend one of my courses!

When consultations are ‘performative’.

Kill or Cure? (Blog No 136)



Ministers want to revoke statutory duties to consult that are ‘PERFORMATIVE’. Great! But what exactly do they mean? And what are performative consultations? It’s tempting to imagine that when ‘our side’ consults, it’s genuine. And when the others consult, it’s performative. But clearly that’s not so, as Keir Starmer - and his predecessors - have argued that they often interfere with and delay important changes to public policies. This Blog starts to unpick these issues – and I invite public engagement professionals to join me in asking some searching questions.

Will a rapidly-changing NHS be able to engage and consult patients and public meaningfully? (Blog No 135)



What happens if you want to double the number of forthcoming NHS ‘service changes’ whilst halving the number of skilled patient and public involvement experts employed by the ICBs - and fire those in NHS England who helped them? So, I have been looking at the latest Guidance on implementing service changes, searching for answers. Have they simplified the process? Or produced a fast-track alternative? Alas – the requirements remain a demanding and complex process, presenting a real challenge to hard-pressed NHS Managers everywhere. Two questions: how long before Yvette Cooper and her colleagues realise that this is a mistake? And how long before specialist public engagement professionals released from their jobs in recent months start getting phone calls – asking for help?

On Page 2 this month, the Law SOCIETY’S response to the consultation on extending curbs on judicial review to housing etc, my critique of a disappointing Plaid Cymru statement on public participation, my forthcoming talk on stakeholder management and a review of Sam Freedman’s ‘FAILED STATE’

Instant insights

- One of the Labour Government's consistent strategies – ostensibly to help economic growth, has been to restrict lawyers from using the judicial review procedure to delay or prevent major planning decisions. It used recent legislation to implement this for Nationally Significant Infrastructure Projects (NSIPs) and **has recently consulted** on extending this principle to cover other planning issues – including housing and road schemes. The **Law Society** has, to my mind published the most cogent argument why this may be a bad idea. In its response it says:- *“Housing development is a far larger and more heterogeneous class than the energy and transport categories identified, and challenges to housing consents most commonly arise from the residents and community groups directly affected – precisely the population who lack significant resources, for whom oral-only permission, compressed deadlines and the loss of appeal rights would be most burdensome.”* Those with an interest in public engagement should be concerned if citizens' abilities to question inadequate consultation are further curtailed.
- The Annual gathering of my client, **Tractivity**'s clients and system users always generates useful debates on stakeholder management issues. This year's event on Sept 15th will be no different. In preparing for my talk, I've decided to focus on some of the work of **Prof Edward Freeman**, whom I have long regarded as one of the founding fathers of the discipline. I think he originally saw stakeholder theory in part as an antidote to the commercial world's infatuation with shareholder values. For those of involved with public engagement, there is much of interest here.

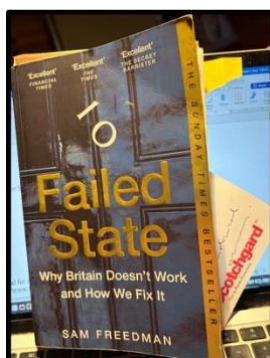


Straws in the wind

- I have been looking at the new Plaid Cymru initiative to re-visit the **Future Wales – National Development Programme for 2040**, originally dating from 2021. It has now published a draft Statement of public participation, and I have found it curious, given national and international trends in public consultation, that it lacks any reference to structured deliberative events such as Citizens Assemblies etc. There is a four year revision process, apparently prescribed in the Planning (Wales) Act 2015, but why does it need to be so long? Maybe because there will be three 12-week consultations along the way. I feel sure this Statement needs to be significantly improved. *Mae angen ei wella!*

The Reading List

Having read – and reviewed - a whole spate of books critical of the state of UK governance in recent years, for August I went back to my dog-eared copy of Sam Freedman's **'FAILED STATE'** from January 2025 - to see if the latest, (Burnham) plan to fix some very well-known problems stood a better chance of success. For comparison, one should consider Caroline Slocock's **'Bad Government'**, Vicky Price's **'Mismanaged Decline'**, Torsten Bell's **'Great Britain?'** James O'Brien's **'How they Broke Britain'** and Will Hutton's 2024 **'This time no mistakes'**. How he must regret that title! I reviewed them all - Read my comments [here](#)



Freedman covers it all. The familiar themes of over-centralisation from an inadequately-staffed 10 Downing St, the hollowing-out of institutional expertise by subcontracting policy-making to think tanks and operations to greedy, incompetent sub-contractors. Like others it's critical of Treasury interference, the neglect of local government and the short-termist culture of *government by announcement!* Also like the others, he sounded hopeful that Keir Starmer's huge majority would enable progress towards addressing some of these issues. Now, re-reading his analysis, one can see that piecemeal petty tinkering around the edges would never do much, and one reads the Cabinet Statement on Rewiring the State with at least a little optimism that someone has taken the Freedman (and others') critique seriously. For the whole challenge is greater than the

aggregate of these individual and long-standing deficiencies, and this book remains a pretty good account of what's wrong across the board. Let's see if it's still as relevant by the time Andy Burnham finishes his Premiership!

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