

July 2023

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

Consultation Catch-up



Rhion Jones
The Art of Consultation (2008)
The Politics of Consultation (2018)



Elizabeth Gammell

Announcing *Twenty Years of Consultation*

In 2003, we established – with others – the Consultation Institute, beginning a 20-year involvement with public consultation – a specialised, but important form of public and stakeholder engagement, with huge impact on public policy-making.

We are now launching a series of **Reflections** on different aspects of the process and how they have evolved over the past two decades. The Introductory paper is now on the consultation GuRU website and more will follow in the coming weeks and months.

Best of the Blogs

Home Secretary's cuts to financial support for victims of trafficking was unlawful because of a failure to consult.



Yet another Whitehall failure to consult. This is the one where the 'conspicuous unfairness' test persuaded the Judge to find for a claimant who was a victim of trafficking and whose very modest support funding was being cut. At issue was the extent to which key stakeholders should have been consulted, and whether Priti Patel should have explored the likely impacts of her new Guidance.

New 'visiting' rules for Hospitals and Care homes - How good is the consultation?



This is a Government consultation in England that can - indeed WILL affect all our lives ... if we ever visit friends or family in hospitals, care homes or hospices. It is a good consultation, and far better than many others, and relevant not just to those in the caring professions but to all of us. BUT IT IS FLAWED, and here is my analysis of six flaws I have identified. Maybe it can help others improve their consultations.

Might courts intervene on who is in the co-production room?



A possible legal challenge in Manchester has the potential to create a significant new chapter in consultation law. If Judges rule that the patient/public involvement was inadequate, there will be implications for many of the engagement methods we use on a day-to-day basis.

The case is on behalf of a user of mental health services who will argue that he was deprived of the opportunity to participate in a co-design exercise undertaken by the NHS. It is yet another hint that we are moving towards co-production, citizens' juries and even

citizens' assemblies being challengeable in the Courts if they are unfair to stakeholders. Standards needed very soon!

Instant insights

- Mr Justice Swift heard the long-awaited [legal challenge to the London Ultra-Low Emissions Zone \(ULEZ\)](#) this week. Of greatest interest to Consultation GuRU has been the Gunning Two aspects, as the 5 Boroughs argue that there was inadequate information about the impact of the plan which is due to come into force on August 29th. I was personally unsure that the Impact Assessment did enough to identify *who* would be affected by the policy (as opposed to *'what journeys'*) but it would be a surprise if this was, of itself, enough to declare the consultation unlawful. Judgment by the end of July!
- The saga of the [Trees in Plymouth City Centre](#) continues. Campaigners, incensed at the demolition of trees at Armada Way some months ago have mounted a legal challenge alleging inadequate prior consultation. Then the Council changed hands following the May elections, and the new Labour administration cancelled the original project and last week tried to persuade the Courts that the proposed Judicial Review should not proceed because it was by now, academic. "Not so" says the Judge and we may well see a fascinating, if after-the-event examination of what a Council did wrong, and what future projects endangering trees might require!

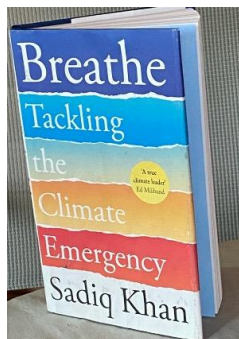
Straws in the wind

- I have started following a body called [KNOCA](#) which is a European network for sharing best practice on the design and implementation of Climate Assemblies. Its April 2023 Report, called [Climate assemblies: emerging trends, challenges and opportunities](#), written by UK-based Graham Smith is well worth studying. In particular we should look at the list of four issues that the Network regard as needing improvement: They are
 - The definition of an appropriate remit
 - Transparency and communication of the process
 - Scepticism among climate governance actors
 - Integration into the political system

The last is especially interesting to those of us who believe that the best solution is for the recommendations of a Climate Assembly to be subject to a public consultation to improve its perceived legitimacy and likely acceptability to elected decision-makers

- Reading the [NHS Long-term Workforce Plan](#), launched this week, it was striking how few commitments were made to consultation before implementation. The one headline promise was to consult over shortening medical degrees to four years. Significant changes to working practices will, however, need a substantial amount of formal dialogue and may come within the purview of service change legislation. Nothing very soon then ...!

The Reading List



[Breathe](#) is Sadiq Khan's story of how he became such an enthusiast for Green policies and, in particular, for Clean Air and is placing controversial restrictions on vehicles in the capital (See ULEZ above). It describes how he became an asthma sufferer and the impact of the death of nine-year-old Ella Adoo-Kissi-Debrah; how this inspired him to work internationally through the C40, a global network of 100 Mayors. It's a very personal narrative and not everyone will agree with him as he describes the hurdles and the political opposition he has had to overcome, but I found it a very worthwhile read.

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