
Improving public participation through the Water Framework Directive: a personal view of values and threats of participation from a public agency perspective

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BACKGROUND

The HarmoniCOP (Harmonising Collaborative Planning) project is an EC funded project comprising 17 research groups across nine countries, including researchers in the UK. The aim of the project is to enhance participatory river basin management planning in Europe. Major outputs of the project are the national case study reports, including one that will cover Scotland. The purpose of the case studies is to identify best practice and examples of effective participation which then might be adapted for use elsewhere. The case studies are reviewing the current state of collaborative approaches to decision-making and the mechanisms of participation that that have been used in practice at a range of scales.

This paper presents a personal view of the current nature of participation in Scotland from the perspective of public agencies. The term public agency as used here includes non-departmental public bodies and local authorities in addition to public agencies as legally defined. The research has built on the author's experiences over a number of years as a board member of a range of non-departmental public bodies that have a water and environment remit and are to a greater or lesser extent involved in participation and collaboration with the community and key stakeholders. Participatory processes in which the author has recently been active include stakeholder engagement regarding river basin planning under the WFD (SEPA, 2003); the Spey Catchment Management Plan (Spey Catchment Steering Group, 2000); the Dee Catchment Management Plan (SEPA, 2000); stakeholder engagement regarding Strathspey water supplies (NOSWA, 2002); collaborative deer management (DCS, 2003); the consultation regarding the establishment of the Cairngorms National Park (SNH, 2001); the Cairngorms Rivers Project (Walker, 2002) and the 3 Dee Vision Project (Walker and Langan, 2003). However, the views expressed here are entirely the author's own and should not be attributed to any of the organisations with which the author has had involvement. In addition, the views take account of recent involvement as a stakeholder in local authority participation activities, for

example, in the development of the Aberdeenshire Local Plan (Aberdeenshire Council, 2003). The author is also aware of other participatory processes that are on-going in a Scottish context. These range from detailed discussion of catchment management plans to a large number of ongoing consultations from government and public agencies.

CONTEXT OF PARTICIPATION

Within Europe, there are case studies showing where stakeholder and public participation in river management is well advanced (Dirven and Kusiak (1998), Cals *et al.* (2001), Harrison *et al.*, 2001). It is recognised that effective participation will be a key to successful implementation of the WFD (European Environment Bureau, 2001). In recent years there have been advocates of a more meaningful participatory approach to integrated catchment management in Scotland (Watson, 1996; Walker, 2001). However, there still remains a piecemeal approach with no all-embracing framework or widespread geographical coverage (Walker, 2002). This will be a major challenge as Scotland seeks to implement the WFD.

However, public agencies across Scotland are increasingly engaged in public consultation processes. Since the formation of the Scottish Parliament, many hundreds of consultations have been instigated by the Scottish Executive and its public agencies. There are several reasons for this. Firstly, it is in line with Scottish Executive policy towards community planning which seeks to encourage public agencies to work with communities and facilitate joint working of public agencies at strategic level. Secondly, in some cases there is a statutory requirement to undertake consultation. This is the case with the Water and Environment and Water Services (Scotland) Act 2003 which enacts the WFD under Scottish legislation. It also ties in with international obligations such as the Aarhus Convention and links to the Scottish Executive modernising government agenda. The more cynical might say public agencies are becoming more involved in participation

because it is the politically correct thing to do. On the other hand, stakeholders are increasingly expecting involvement. This is partly due to a sense of increased closeness to policy development following devolution, but also due to an increasing lack of trust in scientists and other professionals as traditional hierarchies within society break down. From a public agency point of view, the underpinning reason for participation is — or should be — because it is recognised as an essential part of a robust decision-making process.

In discussing participation, it is important to recognise that collaboration may engage three different groupings — other public agencies, other stakeholders and the wider public. Some or all of these groupings may be relevant or not to individual decision-making processes. However, depending on the nature of the audience, the purpose, mechanisms and timescale might be quite different.

Though participation is now much a part of public policy development in Scotland, its effectiveness is somewhat variable. In the context of Arnstein’s Ladder of Participation (Arnstein, 1969) policy development remains well short of the citizen power associated with more inclusive sharing of power between public agencies and stakeholders (Figure 1). Typically, participatory processes fall into the middle ground of informing and consulting rather than real engagement in decision-making. From Priscoli’s perspective (Priscoli, 1990), current participatory approaches relate to ensuring that stakeholders are heard before a decision is made rather than having any real influence on the fundamentals of a decision (Figure 2). From a stakeholder’s perspective, participation is

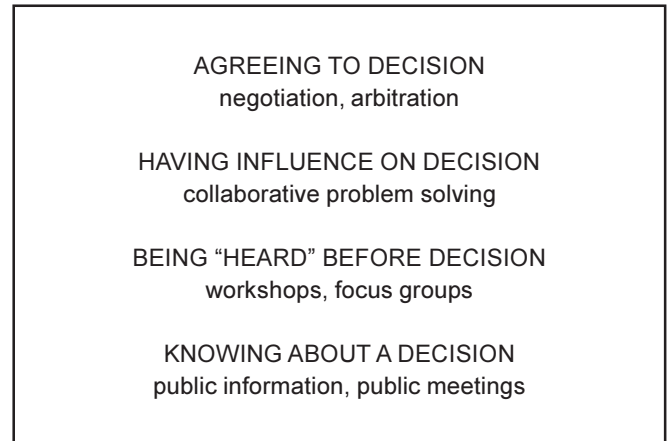


Fig. 2 Public consultation (after Priscoli, 1990)

largely allowing some modifications around the margins of a decision rather influencing the main substance of the decision or helping form the initial agenda.

VALUE OF ENGAGEMENT FROM A PUBLIC AGENCY PERSPECTIVE

From a public agency perspective there is a range of advantages to participation. In line with the Cadbury Report (Cadbury Committee, 1992) a series of principles of conduct underpinning public life has been adopted by the Scottish Executive and its public bodies (Scottish Executive, 2003). Participation helps deliver these in terms of openness, transparency of decision-making and accountability for public policy development and the expenditure of public funds. Engagement often allows a better understanding of the nature of the issues under discussion and an appreciation of the decision-making process than is the case with more passive involvement. From a public agency perspective, engagement provides a mechanism to receive feedback from stakeholders and provides a forum for developing stronger relationships that may be helpful beyond the immediate decision-making opportunity. Engagement is likely to help early identification of problems and may assist with conflict resolution. Ultimately the goal of engagement is better-informed decision-making.

ENGAGEMENT WITH OTHER PUBLIC AGENCIES

There are significant benefits in public agencies working together in partnership. In addition to this being an overarching principle of Scottish Executive policy regarding ‘joined-up’ government, there are real advantages from a public agency perspective in the development of a shared vision. Partnership allows cross cutting issues to be addressed by joint action to overcome fragmented service provision. In theory, partnership working should provide for compatible and interacting



Fig. 1 Ladder of participation (after Arnstein, 1969)

strategies and policies. This should lead to better value from public resources and ultimately plans and services that better reflect community needs.

In setting up partnerships, it is critical to have the appropriate number of partners. Too many become unwieldy and there is a danger of developing ‘talking shops’ which lack a clear delivery focus. Too few and the outputs may become burdensome to individual organisations and other organisations may feel isolated and alienated from the process. A fundamental point in setting up a new partnership is how and by whom the decision is taken as to who should be involved in the partnership. This might be done objectively through some structured framework of stakeholder analysis or it may be a more (initially) informal coming together of organisations with common aims. Unless this is an inclusive process, isolation and alienation may result. It is important that all partners have a capacity and capability to deliver their element of the project.

Successful partnerships (as opposed to ‘partnership working’’) tend to be output focused with a clear objective and time frame. There needs to be a strong culture of co-operation and this needs supporting with adequate resources and time commitment. Too often partnerships are seen as an extra to routine work without sufficient slack being developed in the workload planning systems to allow adequate resourcing. This leads to under performance of the contribution to the partnership and frustration amongst other partners as progress is inhibited by a lack of commitment of adequate resources within one or more of the partners.

In setting up partnerships it is important to establish the working principles in advance and have a clear understanding of the resourcing and skills that each partner brings to the table. Clarity will also be needed about whether all partners have equal shares in the project or whether the power base within the partnership is distorted in some way. Roles need to be clearly defined. Much depends on the level of support, trust and commitment of the organisations involved, but the personality and behaviour of their representatives can also be an important element in successful partnerships. Also important is the status of each representative to make decisions on behalf of their organisation so that negotiation and decision-making can take place within the partnership rather than routinely requiring external authorisation. That said, it is important to have robust and accountable corporate governance mechanisms in place both within the partnership and within the partner organisations.

Achieving the desired objective is clearly important to the success of a partnership. However, the process itself is important in establishing robust working delivery mechanisms and links between organisations.

In progressing successful partnerships, there can be barriers

to success. These include the potential for tension caused by an organisation being a partner in a collaborative venture yet also having a lead agency role, for example in relation to some regulatory remit. Inter-organisational politics can undermine joined up thinking with the reinforcement of functional or sectoral ‘chimneys’ and often an unwillingness to give up power. Sometimes there is a historical mistrust between organisations or clash of organisational cultures that makes working in partnership difficult. It can also be difficult to integrate new members into partnerships which have already been in place for some time since new members can feel isolated and marginalised until they understand the group dynamics of the partnership.

COMMUNITY INVOLVEMENT

There are significant advantages to communities of being involved in environmental decision-making. Such involvement allows communities to develop an understanding of public decision-making processes. It helps develop capacity within the community and a sense of confidence which allows more direct engagement in future consultation initiatives. By involving the community there is often a healthy challenge of traditional public agency values. Often members of a community have local and historical knowledge that is otherwise unavailable to public agencies. Inevitably, they are likely to present a different viewpoint on proposals compared with the agency promoting them. Initial identification and understanding of ‘the community’ and whether this should be done on a geographical or specific interest basis is an important first step in any engagement process. By including the community perspective at any early stage, the potential for conflict is reduced. If communities are involved in identifying the problem and have some ownership of the solution, public decision-making is likely to be more robust. Certainly, community involvement in the process develops credibility for both the solution and also the public agency involved. This credibility can extend far beyond the community directly involved in the process. This can be good for the organisational profile and reputation of the public agency. That said, it is somewhat risky if expectations are raised which are not then delivered. In these circumstances, there can be significant undermining of confidence, not just in the public agency involved but across the wider public service.

For community involvement to be successful, policies must meet needs of people, not the needs of the public agencies. The public need to feel a sense of engagement with public agencies and a trust that public agencies are delivering in response to public needs and aspirations. The public are not interested in functional chimneys and become frustrated when a range of organisations are involved if a particular issue

straddles the boundaries of responsibility between a number of organisations. To be meaningful, communities need involvement at the start of the decision-making process. They need a clear understanding of the framework for the decision-making process, what is and what is not negotiable, and how much influence they can have ultimately on the decision. Normally, it is the public agency with statutory responsibility or accountability for the decision that is ultimately the decision-maker. In an ideal world, the community would be involved in forming the question or issue on which engagement is taking place. Whilst in theory public agencies should reflect community priorities, there can often be a mismatch either because of policy or statutory drivers or due to a basic misunderstanding about what community needs and aspirations are.

It is important to recognise that communities themselves are not necessarily cohesive, so care needs to be taken in identifying differing opinions. There are normally factions within communities and the most vociferous and eloquent may not reflect the views of the majority. In developing engagement processes, attention needs to be given to allowing some form of confidential engagement since some individuals may feel inhibited from making their views known in public.

Much is said about the need to include excluded communities. This does not just mean involving traditionally isolated groups such as the socially disadvantaged or the young. It also means overcoming practical barriers to inclusion such as a lack of public transport or childcare facilities that makes attendance at meetings difficult. Consideration needs to be given to the timing and location of engagement exercises. In some cases going out to meet people in their working environment can be a helpful way of overcoming community inertia. There are significant challenges for public agencies in encouraging people to take the time and effort to become involved in decision-making processes. Modern life places great demand on people's time and public agencies should recognise that in most cases, unless they are embarking on a particularly controversial course of action, their invitation to a public meeting will fall well down the list of priorities of most people. This suggests that public agencies should be exploring innovative ways of developing engagement and feedback. Even for those who are actively involved in interaction with public agencies, for example members of Community Councils, there are major time constraints since many are in full-time employment and have a number of other interests. This is not helped by the number of consultations undertaken by government and public agencies that are ongoing at the same time, leading to a sense of consultation saturation and frustration. Public agencies need to consider how consultations can be brigaded together to prevent this. Whilst community planning was envisaged as a help in this

regard, it has yet to fulfil its promise.

SUCCESSFUL PUBLIC ENGAGEMENT

For successful public involvement, the engagement process needs to be developed in a structured way, with a clearly defined purpose. It is important to meet people's expectations, yet not raise false hopes. Hence a clear framework is essential in explaining the consultation process and the nature of the engagement and its relationship to the decision-making process. It helps to define success criteria and monitor against these. Clarity needs to be given as to the role of the involvement — is it informing, consulting or engaging. During a single decision-making process, all three may be relevant to either the same or different audiences. However, to support robust public decision-making processes, real engagement is needed rather than the more passive information delivery or consultation. To engage fully, communities need to identify with the issue at a local level. It is unlikely that individual members of the public will wish to engage at a regional or national level. This is more likely to be achieved through representative groups. Public agencies need to recognise that capacity and capability are different between different communities. This may be overcome partially by the public agency providing resources to develop the capacity within the community. However, the differences between communities must be recognised and it would be a mistake to endeavour to engage equally and by the same means everywhere. In particular, the cultural and historical differences between communities should not be overlooked. In devising public engagement processes it is often productive to use existing recognised fora such as community associations or young mums groups as a focus. A key challenge is to engage individuals effectively, particularly those who tend not to be active in the community. There is a need to engender commitment and enthusiasm. This is often best done by addressing particular issues rather than broad-brush concepts. Engagement can be difficult and time-consuming for both public agencies and those being consulted. Hence adequate time and resources must be applied. A variety of methods should be used, tailored to the particular community. In developing community capacity to respond, long-term training may be needed, together with opportunities to learn from other communities who have more experience in engaging with public agencies on similar issues. It often helps for public agencies to ensure a continuity of its personnel during a series of participation processes. This helps develop a level of trust and understanding between the community and the public agency. Clearly the skill and personality of this prime point of contact between the agency and the community is critical to a successful outcome.

Whatever the outcome of the decision-making process, it is essential that adequate feedback be given to participants in order that they can fully understand the nature of the decision and the reasoning behind it. This is especially necessary when the decision may be out of line with what participants were wishing to happen. It is important that they are able to understand why the decision was made in the way it was so that the participation process is not undermined. Otherwise the participants may well lose confidence in engagement with public agencies and may not wish to take part in future consultations, whether from the agency involved or another public agency. Ultimately, this will lead to poorer public decision-making and decisions will be less sustainable and less focused on the needs of communities and other stakeholders

CONSTRAINTS ON EFFECTIVE ENGAGEMENT FROM AN INSTITUTIONAL PERSPECTIVE

Whilst in principle the full and active engagement of communities and other stakeholders is something which most public agencies now aspire to, there are significant constraints to the successful implementation of this approach. As has been alluded to earlier, there is a range of legislation that is encouraging and even requiring more engagement but there are elements of existing legislation which preclude such an open approach.

Often the timescale needed to deliver projects such as the need to deliver requirements of European Directives to a statutory deadline precludes a more inclusive approach. In theory, the answer is to begin the process early enough to allow meaningful engagement. However, in practice there is often insufficient notice given of the statutory deadlines. It should be recognised that whilst engagement of the community and other stakeholders may seem to delay the progress of a project, especially in the early stages, such active and early engagement is likely to reduce the overall time needed to implement the project by reducing the likelihood of objections, the need for local or public inquiries or even judicial review.

However, whilst collaboration may be an ideal goal, it is the public agency that is responsible for making decisions. It will be the local authority members or an agency's board and senior management who are accountable for that decision. It would be inappropriate for those who do not have responsibility and the accountability for delivery to make the decision. Ultimately, local authorities are responsible to their electorate and non-departmental public bodies responsible to Ministers. It is important that collaborative decision-making processes do not circumvent this democratic accountability.

Further constraints on the effective engagement of communities and other stakeholders may relate to the staff

resources and skills available within the public body. This might especially be the case where staff come from a highly technical and scientific background and may have no experience of the softer skills required to deliver effective participation.

There may also be organisational culture issues, particularly in a situation where an organisation has predominantly been a regulator and as a result has traditionally had a more distanced relationship with stakeholders. There may also be inevitable constraints caused by a limited sphere of agency's remit.

THREATS TO SUCCESSFUL PARTICIPATION

Even when a public agency is keen to conduct effective participation, there are significant threats to a successful outcome. At the outset, the lack of a clear strategy regarding the purpose of the engagement and the targeted audience, together with a lack of clarity about the most effective practical mechanisms for undertaking the participation process, can seriously undermine effective participation.

False expectations on behalf of those who are participating, perhaps in relation to their influence on the ultimate decision or in relation to the decision itself, can be damaging to public agency reputations because of the alienation of stakeholders. Community and stakeholder confidence can also be undermined.

Apathy can be harder for public agencies to handle than conflict. Sometimes apathy relates to a perceived lack of relevance of the issue under discussion. Hence, if the issue were framed differently, there might be more interest. Alternatively, apathy may reflect a sense of mistrust of the public agency. For example, the view may be that the participation process is cosmetic because the decision is already made or the participation process is a means of obtaining information from people that they would be otherwise reluctant to give. In some cases apathy hides the view of some that it is the job of the public agency not the community or other stakeholders to make the decision. They resent being asked to take part in the process. Others might feel content that the capability of the public agency will allow it to come unaided to the correct decision.

SUMMARY

There is currently no strategic framework or widespread geographical implementation of participatory approaches to integrated catchment management in Scotland. However, engagement is increasingly becoming a key element of decision-making in public institutions in Scotland.

Currently, effectiveness is very variable. To improve the likelihood of success in conducting a participation process, it

is important to establish the purpose of the engagement, clear objectives, carefully identify and understand the target audience and establish effective practical mechanisms for involvement. Public agencies need to recognise the significant resource and skills requirement associated with effective participation. In the short term, participation might be seen as a delay in taking decision-making forward. However, in the overall timeframe of implementation of a particular project, early and meaningful engagement is likely to reduce the implementation timescale. Agencies also need to recognise that there are capacity issues within the stakeholders and communities with whom they wish to engage. Agencies may need to consider providing resource and support to ensure the required capacity is developed.

Whilst it is recognised that effective participation is a significant aid to public decision-making, it should also be recognised that there are significant risks to the public agencies if such processes are not conducted effectively. As a minimum, there can be significant delays to the project under consideration. More worryingly, the reputation of the public agency can be damaged with a potential impact on the level of public trust in the public agencies in general.

However, done well, public participation has a key role to play in the public agencies delivering better and more sustainable decisions. The adoption and effectiveness of such approaches will be a key measure of the success of WFD implementation in Scotland.

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