

From Consultation by Default to Participation by Design

tCI's response to the Rewiring the State

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At a glance

This paper examines the government's proposed changes to statutory consultation duties and asks what needs to be in place for a shift from consultation by default to meaningful participation. It considers the legal, practical and resourcing consequences of removing existing consultation duties, and sets out the conditions and safeguards needed for participation to produce meaningful influence over decisions.

What the Cabinet has said. On 31st July 2026 the Cabinet published *Rewiring the State*, a programme moving power from Whitehall to mayors and strategic authorities in England. In a section dealing with central government, the civil service and arm's length bodies, it makes three commitments on public involvement:

- to replace consultation by default with new and modern forms of public participation
- to consider where performative statutory duties to consult can be revoked
- to do so on the basis that local leaders are better equipped to link public opinion and civil society to policy making.

What we support. Consultation that cannot influence the decision should stop. That is a real problem and government is right to identify it.

What we propose. Move from consultation by default to participation by design, while retaining consultation as one component of a mixed system, particularly where openness, legal fairness, rights, stakeholder challenge or broad public scrutiny are required.

Participation should replace bad consultation practice, not the democratic and legal functions that consultation performs. Section 9 sets out the stages and the safeguards required. It also proposes a participation design statement that explicitly names the decision owner, what remains open, and when a reply will come.

Why sequence matters. Revoking a duty changes where legal exposure lies. The direct statutory route closes but the public sector equality duty remains, as do other legal duties. What is lost is the clear statutory process for involving people and generating evidence that the organisation has considered their views and met its remaining legal duties. The result is greater uncertainty about how those remaining obligations apply in practice (section 4).

Capability and capacity. The organisations that the Cabinet statement identifies as better equipped to deliver participation are losing the people who do this work. Engagement teams are being folded into communications teams, specialist posts are being lost to reorganisation and the independent local voice in health is being brought in house. Practitioners tell us they understand what good involvement requires but cannot deliver it with the resources they have (section 6).

The money runs the wrong way. Consultation is relatively cheap and can be delivered by less specialised staff. Participation to the standard in the government's own toolkit costs more. The result is a cheap statutory activity being replaced by a more expensive discretionary activity, with no mechanism yet identified for moving the money (section 11).



There is a vehicle. The Cabinet statement already commits to a capability blueprint built with the sector, a streamlined outcomes framework and a strengthened Local Audit Office. Participation belongs in all three and should be built into the new arrangements as the White Paper is drafted.

What we ask. Define and identify funding for the replacement, establish how it will be assured, and only then decide which duties can safely be revoked. Section 3 sets out four conditions under which we would support revoking a duty. Section 10 puts nine questions to government.



Background

On 31st July 2026 the Cabinet Office published *Rewiring the state* in which it outlined proposals for moving power from Whitehall to mayors and strategic authorities across England. Much of the detail underpinning these proposals is still to be developed. This paper is offered as a contribution while that detail is being drafted.

Our focus is on a single paragraph in Section II which proposes a fundamental change to the government's approach to consultation.

"We agreed to replace the current model of consultation by default with new and modern forms of public participation. This includes considering where performative statutory duties to consult can be revoked and how we can more actively bring the public into the policy-making process instead. This recognises that local leaders are better equipped to link public opinion and civil society to policy making."

The government's justification appears to be that formal consultation is not always the best way of involving people in decision-making. Where statutory consultation has become little more than a procedural requirement, it believes that more meaningful public participation can be achieved through engagement led by local leaders who are closer to the communities affected. The current framework can create the worst of both worlds, delaying and increasing the opportunity cost of making decisions, whilst failing to provide any meaningful opportunity to influence those decisions.

tCI agrees with the diagnosis. Consultation conducted solely to discharge a duty, around a decision that is not really open or is based on complex factors, serves nobody, and the government's own evidence describes where it leads: only 20% of UK respondents believe the political system allows people like them to have a say. Our concerns have four parts.

Scope. The passage sits in a section about the centre of government, yet the intended scope of the change is not clear. It could be interpreted as much wider, particularly given government's removal of consultation duties for nationally significant infrastructure a week earlier. tCI believes there should be similar approaches to consultation in all branches of government, Arms Length Bodies (ALBs), local government and quasi-autonomous organisations in the NHS and other sectors.

Coherence. Section I depends on establishing local consent for the largest reorganisation of English sub-national government in decades, while section II proposes to consult less.

Legal effect. Revoking a duty leaves the body that held it exposed, and arguably worsens that exposure.

Capability. The statement commits to a blueprint, a delivery strategy and a leadership offer, and none of it yet mentions public participation.

Nobody needs to defend performative consultation, and this paper does not. The question is whether statutory requirements will be removed before a credible replacement exists. Section 9 sets out the replacement we would propose.



Declaration of interest

tCI, the successor body to The Consultation Institute, which closed in July 2024 and reopened in 2025 under the tCI name. Where this paper refers to work certified by The Consultation Institute, it refers to that predecessor body.

Some of the capabilities discussed in sections 6 and 9, including training, standards and independent assurance, are services tCI provides or could provide. Those functions must exist and be credible wherever government places them, and we take no position on who should hold them.



1. What the statement proposes, and to whom

The passage on consultation sits under the heading 'Implications for central government, the Civil Service, and arm's length bodies'. This could be interpreted to mean that the proposed changes will apply to central government departments and arm's length bodies. However, the wording is broad and does not say this explicitly. The phrase 'the current model of consultation by default' is unqualified, and describes a habit that runs across the public sector. Indeed, the fact that, on 24th July 2026, the government commenced the repeal of statutory consultation duties held by infrastructure applicants would suggest that the proposed changes will apply more widely. Clarity is needed on which consultation duties the government intends to change or which organisations will be affected. We believe there is obvious merit in consistent duties across all sectors.

Section I and section II pull against each other

Section I commits government to a programme whose legitimacy rests on establishing what people in a place want. It undertakes that 'the government will not impose mayors on areas that do not want one' and proceeds only where there is 'strong local support'. It aligns regional police forces, fire and rescue services and NHS Integrated Care Boards (ICBs) with strategic authority boundaries by the end of the Parliament. It records that letters went out on the day of the statement asking every area without a strategic authority to confirm its preference.

Establishing whether an area wants a mayor is consultation. Boundary realignment currently generates statutory consultation, and much of it is exercised by Secretaries of State. So, the statement proposes to consult less in section II while committing, in section I, to the largest reorganisation of English sub-national government in decades with local consent as its stated basis and a letter as its named mechanism.

We interpret these differences as two workstreams drafted separately, and not a deliberate contradiction. The White Paper will need to reconcile these. In particular, it will need to set out how the government and other organisations will establish and demonstrate that there is 'strong local support' if it intends to rely less on traditional statutory consultation. Until then, it is unclear what methods will be used or what evidence will be considered sufficient.

tCI's record sits in this space. We have previously provided independent assurance for major devolution and local government consultations, helping public bodies demonstrate that consultation and public engagement have been carried out properly and public views taken into account. For example, the statutory instrument creating the Hampshire and Isle of Wight Fire and Rescue Authority records that the consultation content was certified by The Consultation Institute, tCI's predecessor body. West Yorkshire Combined Authority and Cornwall Council both commissioned independent assurance for devolution consultations.

If the government moves away from traditional statutory consultation towards new forms of public participation, independent assurance of those processes will become even more important.

Beyond direction, the Cabinet statement does not define modern public participation, name the duties it regards as performative, nor say who will decide whether participation is required or fund the replacement. These are important questions, particularly given the proposed timescales for the change in the government paper such as the move of fiscal responsibility more locally from April 2027.



2. Where we agree

Enforced performative consultation is real. Practitioners describe it more bluntly than ministers do, and the public more bluntly than either.

A presenter at one of our sessions, an executive director in the NHS through the pandemic, tells a story about the vaccination programme. At a community meeting a resident stopped him short: you always come and talk to us when you want to shut something, and now you want to talk to us about getting vaccinated. When do we get to say what we want? He apologises for how often he repeats this story, and repeats it anyway, because he rebuilt his system's whole approach to engagement around the question.

The resident was not asking to be involved less. They were asking for the conversation to start earlier and to be theirs as well as the organisation's. Hold on to his question. It is what the statement says it wants, and it is the standard the people this reform is about will hold the White Paper to.

The pattern they were complaining about is familiar. A proposal arrives substantially settled. A consultation opens around a document written in language few people outside the organisation would choose to read. Responses are counted and summarised. The decision that follows is materially the decision that would have been taken anyway. Communities are asked similar questions by different bodies with little visible result, feedback is gathered but not answered, and each later attempt to involve people begins from a weaker position.

Government has measured where that leads. Its own participation toolkit reports trust at 57% among people who believe they have influence over decisions, against 17% among those who do not. The largest single barrier to taking part is believing government would not listen, cited by 41% of people, while 63% would accept an invitation.

tCI does not defend this consultation by default. Where a duty is discharged as a formality, the practice should change. But a revoked requirement must be replaced by another trigger, safeguard or standard if the public is not to be left with less influence than before.

3. What 'replace consultation' contains

Three propositions, not one

The phrase carries three separate propositions, and they have different merits and different consequences. Separating them is the first thing the White Paper should do.

Stop running formulaic exercises where the decision is effectively made. This is a fair criticism and government's own principles already say it: do not consult for the sake of it, do not ask about matters on which a final view has been reached, and use proportionate and targeted arrangements. What the word 'performative' identifies here is a problem of honesty, timing and policy culture. It is not a defect inherent in consultation, and it does not require legislation to fix.

Replace a single late-stage consultation with earlier and deeper participation. This is often desirable and we support it. Research with affected communities can precede problem definition, co-design can shape options, an assembly can consider difficult trade-offs, and an open consultation can then



test the resulting proposals with affected people and expert stakeholders. That is a genuine improvement, it needs no repeal to achieve, and section 9 sets out how we would sequence it.

Repeal statutory duties to consult. This is a constitutional question of a different order. In March 2026, the government proposed identifying disproportionate duties while acknowledging that consultation remains necessary and helpful where policy affects a wide range of complex groups. The July statement moves from pruning particular duties towards changing the default operating model.

The first two propositions can be delivered now, under existing authority. Only the third requires legislation and parliamentary scrutiny, whether by primary legislation or under an adequate enabling power, and only the third carries the risks set out in sections 4 and 5.

What 'performative' should mean

The statement uses the word 'performative' but leaves it undefined. There is no test and no schedule of the duties government has in mind. The word will carry a great deal of weight in the autumn White Paper. We put a definition on the table now rather than react to someone else's later.

Definition

A consultation duty is performative when the process it requires cannot, in law or in genuine practice, influence the decision to which it attaches.

The test is influence. A process may be unpopular, expensive and productive of an unwelcome answer without being performative in the least. Nor is a duty performative because responses did not change an outcome. Consultation is not a vote. One consultation lead described taking 6,000 responses on a proposed garden waste charge. 99% of the respondents opposed. However, having been open from the start about the predicament the council was in, and weighing this opposition against the equality assessment and a budget that had to balance, they decided to proceed. Nothing about that is performative. The decision was open, the opposition was heard and the choice was owned.

On that test, we would support revoking a statutory duty to consult where one of four conditions is met.

Duplication. The decision is already covered by a substantive involvement requirement elsewhere, so the duty adds a second process without a second opportunity to influence. The statement's own formulation supports this: where functions are transferred, government will 'not duplicate them'.

Form without quality. The duty prescribes a mechanism, says nothing about the quality of what it produces, and the mechanism has been overtaken by better practice. A duty to advertise in a local newspaper would qualify. This tests the duty, and not the organisation discharging it. An authority running a tick-box process under a sound duty has a practice problem, and the answer to a practice problem is a standard, not a repeal.

Proportionality. The class of decision is minor enough that the cost of process exceeds any plausible benefit to the people affected.

Demonstrated transfer. The duty's protective function has moved to another body holding the capability, the standard and the funding to discharge it. This is the condition the statement's own



reasoning relies on, it carries almost all of the weight, and it has to be evidenced rather than asserted. Section 6 sets out what the evidence would need to show.

One argument will be pressed hardest and should be resisted: that a duty is performative because the decision maker already knows what people will say. Confidence about what a consultation would produce is the thing the duty exists to test. Where the decision maker is right, the process confirms it at modest cost. Where the decision maker is wrong, the process is the only mechanism that reveals it before the decision is taken.

We would also support revocation, whatever the duty, provided the replacement arrangements are introduced at the same time. The Government should clearly set out when the new participation process must be used, what standards it must meet, and how it will operate. These arrangements should be included in the same legislative package as the repeal, come into force no later than the repeal itself, and be backed by a published, funded implementation plan. In short, the replacement system should be fully in place before the existing consultation duty is removed.

Some people have reasonably asked whether these conditions would make it impossible to repeal statutory consultation duties. That is not our intention and we think these conditions can be met. Our aim is not to block reform, but to ensure that any replacement arrangements are properly in place before existing duties are removed. We believe these conditions are achievable and would be happy to work with government officials to assess each proposed repeal individually, considering whether the conditions have been met in each case.

What government should publish when it proposes a repeal

A test needs a procedure. Where a statutory duty is put forward for revocation, the proposal should address six key questions:

1. *the safeguard being removed, and the function it performs*
2. *the problem the duty is causing, demonstrated by evidence rather than asserted*
3. *the mechanism replacing it, and when that mechanism takes effect*
4. *how ease or difficulty of access would change for different sections of the population, identified specifically, including whether any group gains access on better terms than another*
5. *the publication and response requirements that will apply instead*
6. *how legal and equality impacts will be monitored after the change*

In March 2026, government acknowledged that legislative change of this kind requires parliamentary scrutiny. That scrutiny should examine democratic quality, as well as time and cost.

4. The planning repeal, and what survived it

The government is not required to assess the likely impact of removing a statutory consultation duty, although we think it should. The government removed a statutory consultation duty just seven days before this July statement, so it already has a recent example and the information needed to assess the consequences of removing such a duty.



The Planning and Infrastructure Act 2025 repealed the pre-application consultation regime for nationally significant infrastructure, with the relevant provisions coming into force on 24th July 2026. What went: the section 42 duty to consult prescribed persons (including local authorities and people with interests in affected land); the section 47 duty to consult the local community; the statutory timetable for the section 42 consultation; the section 49 duty to take account of responses to consultation and publicity; the requirement to produce a consultation report; and the role of consultation in the acceptance test. Notification and publicity requirements, and the separate environmental regimes, remain.

What replaced the duties is the more important question. The current guidance under section 50 makes pre-application engagement voluntary: applicants can choose whether to engage or consult before applying but there is no longer a statutory requirement to do so. If an applicant does choose to engage, the adequacy of that engagement is no longer considered when deciding whether to accept the application. The old statutory duties have not simply been replaced by equivalent duties under common law. The Gunning principles, which set out the basic requirements for a fair consultation by a public authority where there is a legal duty to consult, do not automatically apply to a private applicant simply because it chooses to call its voluntary engagement a consultation.

What the repeal actually did is redistribute risk.

Direct statutory risk has gone: the applicant no longer faces a legal challenge for failing to comply with the repealed consultation duties. However, poor or limited engagement could still lead to objections, gaps in the evidence, changes to the project, difficulties during examination, delays and additional costs. These are practical and commercial risks rather than automatic legal penalties.

The public decision makers in the process, the Planning Inspectorate and the Secretary of State, continue to have their own public law duties when making decisions, including duties to act properly, fairly and rationally and to comply with environmental requirements. These duties continue to apply, but they do not recreate the consultation requirements that Parliament has removed.

In some circumstances a duty to consult may still arise on ordinary public law principles if a public body specifically promised to do so or has an established practice of consulting. Whether such a duty exists will depend on the particular circumstances: it does not automatically arise from the duties that have been repealed.

The repeal also bears on the issue of scope mentioned above. The duties removed were held by private undertakings, well outside section II's boundary. The fact that government has already legislated beyond central government itself makes it even more important for the White Paper to state its scope clearly.

Three lessons follow for the wider reform.

The statutory part was the cheap part. Some duties prescribe in detail: whom to consult, for how long and in what form. Many say considerably less, and a good number say only that a body must consult. Either way, the prescribed requirements are the easier part. They can be met by following instructions. Fairness is harder. It depends on judgement, and following the letter of the rules does not guarantee it. A body can display its notice for 28 consecutive days on paper of the specified colour and size, exactly as the Licensing Act 2003 regime requires, and still fail against the Gunning principles by not conscientiously considering what came back. Repeal removes the instructions and leaves the judgement, so what is saved is the part that was easy to do.



Removing the trigger thins the record. An applicant used to generate a standardised consultation report against statutory requirements and could evidence compliance by pointing at it. Voluntary engagement may still be recorded, and prudent applicants will record it. But the record will be thinner and less consistent across the system. It will be kept, if at all, because the applicant has chosen to do so rather than because the law requires it. Any replacement model should state the minimum record expected of a process, because the standardised record is what the repeal quietly removed.

Nothing appears to go wrong at first. The consequences surface at challenge, typically a year or more after a decision. The White Paper will be drafted while the planning reform still looks successful. That argues for care in the drafting rather than for delay in the policy.

5. What survives revocation

Removing a statutory consultation duty does not remove every legal principle relating to consultation. Some obligations may continue to arise from other sources, including public law principles such as legitimate expectation. This section considers what can survive when a statutory consultation duty is revoked.

Please note nothing in this paper is advice on an individual case: whether any principle applies to a particular decision is a matter for the organisation and its advisers. The discussion that follows should be read subject to this qualification.

The common law duty has four routes, and revocation closes one

R (Plantagenet Alliance) identifies four circumstances in which a duty to consult arises: statute, a promise, an established practice of consultation in comparable cases and, exceptionally, conspicuous unfairness.

Revocation closes the statutory route. Its effect on an established practice of consultation is uncertain, and the uncertainty is the point. Long compliance with a statutory obligation does not automatically become a continuing legitimate expectation once the obligation goes, because the practice was compelled rather than chosen. Whether an expectation survives will depend on what the body promised, what it communicated, how the change is handled and any transitional provision. A body that stops consulting on a class of decision it has always consulted on should expect that question to be tested, and cannot know the answer in advance.

The position on conspicuous unfairness is also contested. In R (Freedom from Torture and the Helen Bamber Foundation) v Secretary of State for the Home Department [2026] EWHC 1278 (Admin), the court found that an established practice of consultation created the duty and said, alternatively, that failing to consult would have been conspicuously unfair. However, other authorities have taken a different view of whether conspicuous unfairness can itself create a duty to consult. The House of Commons Library states the position in similar terms.

The pattern of real challenges bears this out. When we last ran a full count of the grounds pleaded in consultation judicial reviews, in 2021, legitimate expectation to be consulted came first, ahead of the public sector equality duty, with breach of a statutory duty third, and failure to consult while proposals were still at a formative stage some way behind. Around 18 distinct grounds are pleaded in a typical year. Revocation closes one route, but not the others.

Where a duty exists, from whatever route, the four Gunning requirements still apply: proposals must still be formative, consultees must receive enough information to respond intelligently, adequate time



must be provided and the product of consultation must be conscientiously considered. Depending on context, meaningful participation will also require disclosure of realistic alternatives rather than the presentation of a single preferred option. A differently labelled participation exercise does not avoid any of this. The legal question turns on the legislation, the promises and the circumstances, and not on the method's branding.

The public sector equality duty is untouched

Section 149 of the Equality Act 2010 is not removed or amended simply by reforming consultation, and section 149(3)(c) requires due regard to the need to encourage participation by groups whose participation is disproportionately low. The duty is one of due regard, informed and rigorous, and it is not a general duty to consult. But removing consultation duties takes away the routine mechanism that generated much of the evidence on which due regard was discharged. A body that has stopped running the exercise that told it what disabled residents thought still has to have due regard to the effect on disabled residents, and where a material gap in its evidence remains, engagement may be the only way to fill it.

The Department of Health and Social Care's equality impact assessment of 14th May 2026 on abolishing Healthwatch England makes the point within section II's own boundary, because Healthwatch England is an arm's-length body. The assessment records the risk that people will be reluctant to give feedback directly to the organisation where they experienced poor care, and identifies disproportionate effects for disabled people, older people and socially excluded groups.

Not every duty is Whitehall bureaucracy

Some statutory participation requirements implement wider environmental and planning safeguards that the United Kingdom has undertaken to maintain. For example, the statutory framework for Environmental Outcomes Reports expressly protects adequate public engagement and embeds public consultation for core elements, reflecting obligations associated with the Aarhus Convention. A schedule of duties drawn up simply by measuring administrative burden risks including these alongside duties that are genuinely obsolete. The two need to be distinguished before anything is laid before Parliament.

Aarhus, and the narrowing route to challenge

On 3 October 2025, the Aarhus Convention Compliance Committee found the UK in non-compliance for failing to provide for public participation in preparing the EU Withdrawal Bill, because there was no clear, transparent and consistent framework. The Convention requires public participation in certain types of environmental decision-making. Where those obligations apply, removing statutory participation requirements could put the UK at risk of repeating a failure for which it has already been found in breach.

There is a second issue. A consultation open until 27th August 2026 proposes extending reforms to judicial review for major developments. The proposals would remove the paper permission stage, prevent an appeal where a claim is certified as totally without merit, and shorten the timetable for bringing a claim.

These two changes matter when considered together. If there are fewer statutory requirements to consult, there will be fewer opportunities to challenge a failure to consult on the basis of a statutory duty. The common law duty may then become more important. But if the proposed judicial review changes also make it harder to challenge decisions, enforcing that remaining protection becomes more difficult.



Each reform may be defensible on its own. Taken together, however, they could significantly reduce what a community can do when it has not been consulted. The White Paper should therefore say whether it has assessed this combined effect.

What this adds up to

Judicial review comes after the decision. It requires someone to bring a challenge, and it tests whether the decision was lawful rather than whether it was good or well informed. It also deals with one case at a time.

A statutory consultation duty operates earlier and applies to every body within its scope, whether or not anyone ultimately challenges the decision.

Revocation removes the risk of breaching the statutory consultation duty, because the repealed duty can no longer be breached. But other public law duties remain, and the consultation process that previously generated evidence of compliance disappears. A body that stops consulting may therefore still face the same underlying legal requirements, but with less evidence to show how it reached its decision.

Whether the overall risk increases will depend on the particular duty, the body and the circumstances. Our assessment as practitioners, rather than a legal conclusion, is that revocation reduces certainty. A clearly defined statutory requirement is replaced by a less certain position in which the legal obligations, and the consequences of getting them wrong, may only become clear later.

The White Paper should therefore explain what will replace the preventive function of the duties it removes. Judicial review cannot perform that function because it comes after the decision and depends on someone bringing a challenge.

6. What transfers, and who carries it

The statement's rationale for the centre stepping back is that local leaders are better equipped to link public opinion and civil society to policy making. As we explained in section 1 above, this is essentially a question of who takes responsibility for listening to the public. If central government consults less, someone else has to do that work. Three things therefore need to move: the work itself, because the decisions still have to be made; the capability to do it, which does not move automatically; and the money to fund it, which only moves when funding follows the function.

Building participation into local capability

The statement already provides a way to build public participation into the new system. Section 1 promises to work with authorities to develop their capacity and capability, including through transferring resources from central government. It also promises to develop, with the sector, a 'blueprint for the capacity and capabilities strategic authorities need'.

That blueprint is being developed now, in partnership with the sector. Public participation should be included in it as a core capability for strategic authorities. The blueprint should set out the practical skills an authority needs: identifying who is affected, deciding what remains open to influence, choosing a proportionate method of participation, weighing conflicting evidence, recording how public input affected the decision, meeting equality duties and explaining what difference people's contributions made.



These competences are not new. Government has already set out most of them in the Civil Service Policy Profession Standards. Those standards expect policy professionals to identify people affected by a decision, distinguish stakeholders from users, use co-production and user-centred design, and plan inclusive participation from the earliest stage through to implementation. What is missing is an equivalent route for strategic authorities to develop and demonstrate the same capability. The blueprint provides an opportunity to fill that gap.

There is a similar gap in the proposed accountability arrangements. Local Accounting Officers, a strengthened Local Audit Office, the National Audit Office, a streamlined outcomes framework and place-based data will provide ways of tracking money and results. But none of these measures appears to ask whether people were involved before a decision was made, or whether they were subsequently told what difference their views made.

That is why the timing matters. Participation is much easier to build into a system during design than to add later. The blueprint and the new accountability arrangements are being designed now.

What practitioners say about current capability

The Government's approach assumes that local leaders are better placed to connect public opinion and civil society with policy making. The existing evidence from tCI's Coffee Morning series provides a useful way of considering what that assumption looks like in practice.

The first 16 sessions ran from 5th February to 11th June 2026 and drew 393 individual participants across 1,022 attendances, averaging 64 participants a session and reaching 95 by June. Of those participants, 215 attended two or more sessions, and the series is still running. Among participants whose sector is recorded, 163 came from local government and the wider public sector, 54 from the NHS and 58 from private, voluntary and third sector organisations.

Most of this evidence comes from local government and wider public sector practitioners. These are the people and organisations the statement identifies as better placed to connect public opinion and civil society with policy making. Participants are self-selecting, so this is not a representative workforce survey. But it is, so far as we are aware, the largest continuous body of practitioner testimony on consultation capability gathered in England in 2026. Contributions are reported without attribution, as they were given.

The consistent message is not that practitioners are unwilling to involve the public. It is that many want to do it well but lack the capacity, resources and specialist capability to sustain it. The evidence that follows provides a practical picture of the capacity currently available to support greater public participation at local level.

Practitioners identified the risks of replacing consultation with engagement. Our session of 12th March 2026 was titled "When Can Engagement Replace Consultation?" and drew 78 participants. Nobody proposed removing a statutory duty. The room converged on a test, reached independently by a council officer, a national regulator and an NHS body: what makes a process a consultation is that a decision is taken at the end of it. The shorthand that survived the session travels well: if it looks like a consultation, it probably should have been one. Practitioners were candid about why the question keeps being asked. Some organisations reach for engagement because the rules feel looser, hoping, as it was put in the room, to get away with it. That choice is a risk appetite.

The substitution of engagement with consultation has been tested in court, and failed. In 2018, Corby Clinical Commissioning Group's engagement on repurposing a walk-in centre was found insufficient to replicate a consultation, and the body lost. Relabelling does not change the legal process.



One body has made engagement work, with more apparatus rather than less. Our advisers could identify a single organisation successfully using engagement in place of consultation: an Integrated Care Board with a documented risk register and unusually deep community working. Looking back across 15 years, workshop participants could not recall another public body operating substantial risk analysis of that kind. If the reform depends on organisations making this judgement well, almost none of them currently can.

Capacity is contracting as the duty grows. From our own synthesis of the sessions, the capacity to do engagement work is contracting precisely as the duty to do it grows. Engagement functions are being folded into communications teams and specialist skill is being lost in restructuring. Participants described teams shrinking. For example, one involvement lead described an Integrated Care Board covering more than three million residents and over a dozen local authorities with four dedicated staff. Nobody on that team lacked the aspiration to co-produce: the question was how four people could sustain the relationships it requires. Co-production, a practitioner observed, only works at the speed of trust, and the timetable in this reform runs to 2028.

Reorganisation removes the local knowledge the model depends on. Local government and the NHS are being reorganised into larger geographies at the same moment that budgets and specialist teams are being cut, and the knowledge of particular communities is leaving with the people who held it. Community trust does not transfer with an organisational chart. The methods most capable of reaching the silent majority, independent research and face-to-face engagement among them, take the time and money many teams no longer have, so the duty falls hardest exactly where the means are thinnest. Digital participation is fast and cheap, and used alone it misses people facing digital, language, trust or accessibility barriers.

Community relationships do not transfer with responsibility. Under the Health Bill 2026-27, which awaits Report Stage having completed Public Bill Committee on 16th July 2026, Healthwatch England and local Healthwatch will be abolished, with patient voice brought 'in house' to a new directorate within the Department, healthcare engagement functions passing to Integrated Care Boards and social care engagement functions to local authorities. At our session on the closure, an engagement commissioner at an Integrated Care Board said plainly that they do not hold the community relationships Healthwatch holds, naming homeless and LGBTQ communities as groups Healthwatch could reach and the Integrated Care Board cannot. A former Healthwatch officer, now inside an Integrated Care Board engagement team, described the in-housing as marking your own homework. This is the transfer condition at section 3 being tested in real time, and failing.

None of this suggests that practitioners are unwilling. The consistent finding is that they understand what good involvement requires but often lack the resources and capability to deliver it. The evidence from local government and the wider public sector suggests that local leaders are willing to do more, but do not currently have the capacity to do so. Willingness is not the constraint the White Paper needs to address.

Proximity is not capability

There is a further point in the statement's reasoning that deserves attention. Local government may be closer to the communities it serves and better positioned to integrate services, as the statement argues. But proximity alone does not produce effective or inclusive participation. Local political cultures, staffing, civil society infrastructure and access to skilled facilitation vary widely between places. Devolving responsibility for participation without also transferring the necessary resources, standards and scrutiny risks creating significant differences between places in the quality of public



involvement. The quality of a person's opportunity to influence decisions about their area should not depend on where they happen to live.

The OECD's guidance is consistent with this: meaningful participation requires funding, staff, expertise, accessibility and organisational capacity, not simply the freedom to choose how to involve people.

The obvious reply, and our answer

A policy official could reasonably argue that revoking performative duties releases the very capacity needed for better participation. We accept part of that case: stopping set-piece exercises with no prospect of influence may release time and money. Two questions remain. What capacity is actually released, when much routine consultation is delivered by generalist staff who would still need time, authority and training to carry out a different form of participation? And does the money follow the work, when savings from a discontinued statutory activity are not automatically reinvested in a discretionary one? Both are testable. The White Paper should publish the assumptions behind the expected capacity release.

7. Participation is harder, and it does a different job

Consultation became the default partly because it provides a clear and structured process: a proposal, a defined period, analysis, a decision and a published account. It gives an organisation a timetable and an audit trail. Staff can be trained to follow it and failure is visible.

There is also a legal advantage to that clarity. Where a public authority is under a duty to consult, or has promised to do so, a consultation is open to legal scrutiny and the basis on which it will be judged is clear. Section 6 of this paper records the practitioner view that if a process looks like a consultation, it probably should have been one. For public bodies, the label therefore carries weight even where it is not decisive. A discretionary model removes that certainty and replaces it with greater uncertainty.

Meaningful participation does not provide that structure automatically. Someone has to identify which communities are affected, including people who do not appear on a stakeholder list. They have to decide how early involvement should begin and what remains open to influence. They have to choose a method proportionate to the decision and maintain relationships where there is no live proposal to justify the resource. These tasks require judgement. Removing the word 'consultation' does not provide that judgement.

Nor can data do the whole job. At one of our continuous engagement sessions, a participant recalled a very senior colleague asking why any of this was needed when the data would surely tell him everything. The answer was that data can tell you what is happening, but not necessarily why. For example, if people have stopped attending appointments, the data will show the decline: asking people may be the only way to understand why they stopped attending.

Breadth and depth are different democratic goods

The important point is that open consultation and other forms of participation are not substitutes. They serve different purposes.

A well-designed citizens' assembly, ethnographic study or co-design process can produce deeper insight than a questionnaire. A representative mini-public brings together a cross-section of people who can learn about an issue, question witnesses and deliberate over several sessions. It can



produce informed and considered judgement. That is valuable, and the United Kingdom could make greater use of it.

It is different from what an open consultation provides. Consultation offers breadth: an open invitation to anyone affected, on a public record, with no gatekeeping over who may respond. A small representative sample cannot speak for every affected group, professional body, business, charity, local authority or person with a distinct legal interest. Nor is it designed to.

Put simply, a formal consultation performs five functions that a smaller participatory exercise does not automatically provide. It gives notice to the whole affected community. It offers an open route to participate, so that nobody has to be selected to take part. It allows rights-holders and organised stakeholders to put technical and legal impacts on the record. It creates a public record that survives the decision. And it requires the decision maker to confront contrary evidence rather than only the evidence surfaced through a facilitated process.

The OECD treats consultation and other forms of engagement as different and potentially complementary methods. It notes that broad consultation or crowdsourcing may usefully precede a representative deliberative process. On that reading, the question is which combination fits the decision. That is what section 9 proposes.

How it fails

Poor consultation fails visibly: a defective process, a legal challenge. Poor participation fails quietly. People give their time, see no consequence and withdraw: the organisation records activity while the community records disappointment.

That makes the way participation is measured important. Measurement should look beyond response volumes. It should test whether participation is declining across exercises, whether people drop out between phases, whether the same narrow group is repeatedly involved, and whether decisions continue to be contested despite extensive prior engagement.

8. The methods exist. The obligation to answer does not.

The methods already exist. Policy Lab, the Cabinet Office's own policy design unit, has published a matrix mapping a dozen participatory methods against the level of participation offered and the stage of the policy cycle.

How to read the matrix, and how not to

The horizontal axis is the International Association for Public Participation spectrum (IAP2 spectrum): inform, consult, involve, collaborate, empower. The vertical axis locates methods against stages, from setting direction through to iteration and learning. Its real strength is that it shows participation happening throughout policy making, and not only after officials have drafted a preferred solution.

Two points matter if the matrix is to guide the design of participation in the White Paper. First, the spectrum is not a ladder on which further right is necessarily better. Each level represents a different promise about the influence participants will have, and the appropriate level depends on the decision. Second, the name of a method does not determine its level of participation. For example, a citizens' assembly does not inherently empower participants, because most assemblies make recommendations while ministers retain the decision. The level of participation is determined by the decision-making mandate and the promise made publicly to participants.

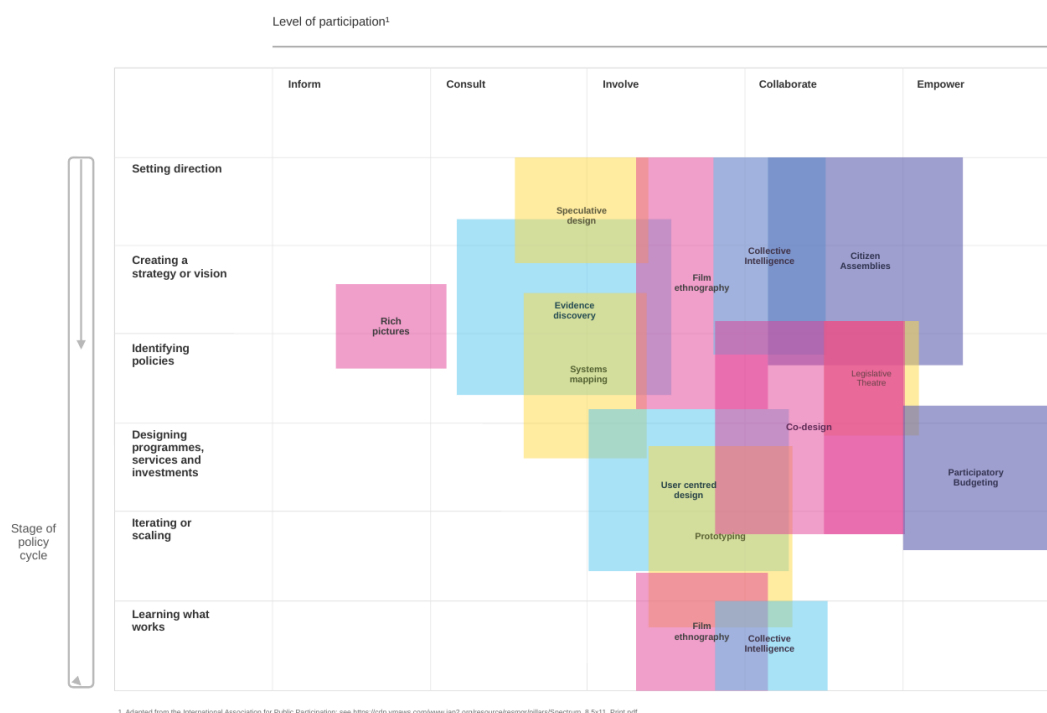


Figure 1. Participation methods mapped against level of participation and stage of the policy cycle. Redrawn from the matrix published by Policy Lab in its 2024-25 prospectus and its article of 19 November 2024, itself adapted from the IAP2 spectrum. Policy Lab describes the mapping as speculative.

The matrix also leaves out some questions that are critical to whether a method will work. It does not say who takes part or what those people can actually change. It does not say who frames the question, who selects the evidence, or what happens after the exercise reports. These are governance questions, and they can determine whether a method produces meaningful participation or merely gives the appearance of it. Choosing a method from the matrix does not answer them. The matrix therefore needs to sit within a wider governance framework covering decision rights, recruitment, accessibility, evidence standards, transparency, response and evaluation. Without that framework, even an attractive participation method can become tokenistic.

The missing axis

The matrix shows where a method sits on the participation spectrum and at what stage of policy making it is used. It does not show what happens to the contribution afterwards. Both axes therefore measure the asking: how much influence is offered, and when. Neither records whether anyone is obliged to answer.

Policy Lab's map is a planning aid, and it is not intended to answer this question. The White Paper should fill the gap by establishing an obligation to respond. Scotland already provides a simple model. Section 32A(9) of the Climate Change (Scotland) Act 2009, inserted by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, requires Ministers to respond to their assembly within six months. The principle is straightforward: a good participation process does not, by itself, guarantee that anyone will act on what people have said. That requires an accountable decision maker and an obligation to reply.



9. What we propose

It would be premature to design a national model in every detail before the White Paper. However, the shape of one can be put on the table now, and we would rather argue from a proposition than from a list of objections.

The proposition

Move from consultation by default to participation by design, and retain consultation as one component of a mixed system, particularly where openness, legal fairness, rights, stakeholder challenge or broad public scrutiny are required.

Participation should replace bad consultation practice. It should not replace the democratic and legal functions that consultation performs (see section 7).

This does not require legislative changes. The government's own consultation principles already state that consultation should happen while proposals are at a formative stage, and that consultation is one part of an ongoing engagement process that may be informal, iterative and collaborative. What is missing is a clear framework for deciding which form of participation is appropriate at each stage, and the resources to deliver it.

Participation by design, stage by stage

Stage	Preferred approach	Essential safeguard
Problem definition	Ethnography, lived experience work, systems mapping and open evidence gathering	Include the people experiencing the greatest impact, and not only the established stakeholder organisations
Agenda and vision	Collective intelligence, scenario work, assemblies or juries	Publish the question, the political and fiscal constraints and what participants can actually influence
Option development	Co-design, legislative theatre, technical stakeholder work and prototyping	Combine lived experience with legal, operational, economic and scientific expertise
Decision scrutiny	Open consultation where effects are broad, rights are engaged or legislation requires it	Provide realistic alternatives, adequate information and time and a published response
Bounded delegation	Participatory budgeting or community decision making	State precisely what authority and what resources have been transferred, and implement the decision
Delivery and learning	User research, ethnography, civic monitoring and repeat deliberation	Publish outcomes and show how implementation is being adjusted

Different participation methods should be combined rather than treated as substitutes. In particular, a representative deliberative process should not replace an open consultation where the purpose is to give everyone affected an opportunity to contribute.



The participation design statement

We would ask the White Paper to require a short public statement, published at the outset of any significant exercise, specifying:

1. *the decision owner*
2. *the issue still open to influence*
3. *the chosen level on the IAP2 spectrum, and the promise that goes with it*
4. *recruitment arrangements*
5. *the affected groups the exercise is designed to reach*
6. *accessibility support*
7. *evidence governance, including who selects the evidence and how it can be challenged*
8. *the expected output*
9. *the response timetable, including who will reply and by when*
10. *the evaluation plan*

The statement would turn the chosen level on the IAP2 spectrum from a description of the intended approach into a clear commitment that can be scrutinised. It would be inexpensive to produce, capable of being audited and, importantly, would make the promise checkable by the people to whom it is made. It would record and support compliance with the duties that apply to the exercise, but would not displace statutory, equality, environmental or fairness obligations.

Both IAP2 and the OECD emphasise that participants should know what is being promised and should later be told how their contribution affected the decision. The design statement provides a practical mechanism for making both commitments explicit and accountable.

What the model needs from government

Six things must be settled in the White Paper for the model above to work, and five already have a vehicle in the Cabinet statement.

A trigger. Which decisions require participation, who judges and what scrutiny applies when an organisation decides not to involve people. The first application is immediate: how will strong local support for a mayoral model be established and evidenced?

A standard, which government has already published. The Government Communication Service and OECD toolkit of 9th April 2026 sets a four-level hierarchy, a 10-step process and a list of failure modes. The OECD's *Catching the Deliberative Wave* supplies the international evidence beneath it. The White Paper's task is to give that material force.

An obligation to reply. The model exists in UK law, in one subsection:

"The Scottish Ministers must, within 6 months of receiving a copy of the report, publish a statement setting out how they intend to respond to the recommendations made in it."

An equivalent could be enacted for England, proportionate to the scale of the decision. Government's own toolkit identifies closing the feedback loop as the most critical step for trust.



Capability, built into the blueprint. The skills and judgements described in sections 6 and 7 can be taught, practised and assessed. The statement already commits to developing a capability blueprint, a delivery strategy and a leadership offer, and gives the National School for Government a role. Participation capability should be included in all four. How that capability is developed and maintained, whether through a professional body, a government academy or higher education, is a decision for government.

Assurance, inside the architecture being built now. If participation is designed, delivered and evaluated solely by the body making the decision, there is no external check on its quality. The White Paper can decide whether participation quality should fall within the strengthened remit of the Local Audit Office, but that decision will be harder to make once the new architecture is established. The Health Bill's treatment of Healthwatch moves in the opposite direction, and the Department's own assessment identifies the risk.

Resourcing, and a measure in the outcomes framework. Participation requires resources, and the cheapest method is not necessarily the most inclusive. A costed figure already exists: £21.9m to £31.2m in year one for a central programme, as estimated in the Citizens' White Paper, published by Demos and Involve in July 2024. Government should therefore resist presenting participatory methods as a faster or cheaper alternative. For example, a properly run citizens' assembly requires representative recruitment, balanced evidence, skilled independent facilitation, participant compensation, accessibility support and follow-up. This is why Involve advises reserving assemblies for difficult questions involving significant trade-offs. Under-resourcing them risks recreating the performative behaviour the government says it wants to remove.

The outcomes framework is now being streamlined, creating an opportunity to add a measure of whether people were involved and told what difference their participation made.



10. Nine questions for government

Scope and definition

1. Does the commitment to consider revoking performative statutory duties extend beyond departments and arm's length bodies, and if so to which classes of body?
2. What does 'modern public participation' mean in terms specific enough for a department, an arm's length body or a strategic authority to design, fund and compare its approach?
3. Section 3 proposes a test for identifying a performative duty. If government applies a different test, what is it, and against which duties has it been run?

Coherence and consequence

4. How will 'strong local support' for a mayoral model be established and evidenced, and how will communities be involved in realigning police, fire and rescue and Integrated Care Board boundaries?
5. What must a decision maker say in response to what participation produces, to whom and by when?
6. Given that the public sector equality duty, the common law duty and the Aarhus obligations all survive revocation, what assessment has been made of the effect on legal exposure for bodies that stop consulting?
7. Where a duty is proposed for repeal, will government publish its answers to the six questions listed in section 3, including the replacement mechanism and how ease of access would change for different sections of the population?

Capability, assurance and resources

8. Will participation capability be named in the strategic authority blueprint, the leadership development offer and the work of the National School for Government?
9. Will participation quality fall within the Local Audit Office's remit and the streamlined outcomes framework, and how will it be measured so that digital reach is not mistaken for representative influence?



11. Our position

tCI supports the government's stated intent. Consultation that changes nothing is worth stopping.

The weekly 'Coffee Morning' discussions we have facilitated since February suggest most practitioners also support the ambition for better participation. Their concerns are practical: how participation is defined, capability to deliver genuine participation, and how funding is found to deliver this properly.

The choice the government faces is between a familiar, imperfect model and a replacement that has yet to be defined. Presenting it as a choice between performative consultation and none understates what is at stake. A statutory duty provides a clear, advance requirement that applies to every organisation within its scope. Removing that safeguard before the replacement exists makes public involvement discretionary at the exact point when new institutions are acquiring greater power. It also removes one specific route for legal challenge while leaving other public law duties and grounds of challenge in place. The main change is therefore not that legal risk disappears, but that it becomes less clear which duties apply and when.

There is also a coherence question the White Paper cannot avoid. A reform whose delivery depends on establishing local consent for the reorganisation of strategic authorities, police forces, fire and rescue services and Integrated Care Boards in England cannot treat the machinery for establishing consent as surplus. The White Paper needs to reconcile its ambition for greater local consent with changes that may reduce the capacity to secure it.

Participation needs proper resourcing

Consultation is comparatively cheap. It involves publishing a document, allowing a period for responses and analysing them, mostly using generalist staff. That is one reason consultation became the default and it is, we suspect, part of what the statement means by 'performative'. Participation to the standard set out in the government's own toolkit costs more. It requires recruitment, facilitation, independent information, repeated involvement, a feedback loop and people with the skills to deliver it. The proposal in the Cabinet statement therefore replaces a relatively cheap statutory activity with a more expensive discretionary activity, without yet identifying how the money will move with it.

There are two further issues. First, a substantial participation exercise does not remove the need for consultation where consultation is legally required or has been promised. That is the Corby outcome. Discovering that boundary after the event is an expensive way to learn it. An organisation could therefore pay for a participation exercise and then find that it also needs to carry out a consultation.

Second, removing the statutory duty means that organisations have to decide for themselves, case by case, whether people should be involved. Under a statutory duty the decision about whether to involve people was taken by Parliament for every organisation within its scope. Without the duty, the decision depends on the organisation's willingness to accept the risk. That creates a risk of inconsistency. The same decision may attract involvement in one place and none in another, depending on the organisation making the decision and its capacity to assess what is required. The evidence in section 6 suggests that the greatest risk falls on organisations with the least capacity to make that assessment.

The resourcing problem is compounded by the loss of the people and structures needed to deliver participation well. Engagement teams are being folded into communications, specialist posts are being lost through reorganisation, and the independent local voice in health is being brought in house. The practitioners who have secured support for participation within their own organisations



have made the case in practical and financial terms. They have shown that listening can help avoid services that fail to meet need, decisions that have to be revisited at greater cost, and situations where communities' views are heard for the first time through a judicial review. The White Paper should make the resourcing case on the same basis.

The autumn White Paper should therefore sequence the reform: define and fund the replacement, establish how it will be assured and only then decide which duties can safely be revoked.

What we offer

The questions raised in this paper will be easier and cheaper to resolve before the White Paper is published. The timetable is already set: Mayors, permanent secretaries and the Cabinet Secretary meet in September. The White Paper lands alongside the Budget and the fiscal devolution roadmap. Business rates retention begins in April 2027 and retained income tax in April 2028.

As at the date of publication, we are aware of no published analysis of the consultation passage by a law firm, a set of chambers, the Public Law Project, the Constitution Unit or the Law Commission. We therefore have no evidence that the passage has been closely scrutinised and accepted. The more likely explanation is that it has not yet been read closely.

We are making three offers:

- Statutory schedule: We will work through the statutory schedule with officials and say, duty by duty, which we think meet the test in section 3 and which do not.
- Participation capability: We will contribute participation capability content to the strategic authority blueprint.
- Design statement: The design statement in section 9 is available for anyone to use.

These offers are open and none is conditional on a commission. The questions raised in this paper can be resolved now: there is no need to wait for the problems they identify to emerge in practice.

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