

# LONDON POLICING ETHICS PANEL

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Dear Sophie

## **Discussion Note: Ethical considerations relating to public consultation and engagement**

### **Executive Summary**

This discussion note aims to contribute to work in the Mayor's Office for Policing and Crime and the Metropolitan Police Service responding to equity issues raised both by Covid19 and Black Lives Matters. This is an opportune moment to reflect on ethical aspects of engagement and consultation as these may constitute a core part of the ongoing response.

The terms engagement and consultation are often used interchangeably, but they are different activities. Engagement is two-way communication between the police and the public, in part a process of relationship building. Consultation is task focused, less dialogic, but fulfils statutory obligations. Notably, official guidance in the 2004 White Paper 'Building Communities, Beating Crime' set out the aims of consultation from the perspective of the police, but because it is viewed as a one-way process there is little on public expectations.

Myhill (2012: 18) has provided a useful typology of consultation aims (reproduced in this note), that identifies the type of promise made to citizens in each approach. This is ethically important, because a promise is something that should be kept. Common pitfalls in consultation and engagement are not being clear about what is being promised, over-promising in order to secure co-operation, or breaking promises that have been made.

Literature on public participation in environmental decisions provides insight into public motivations and expectations. The clear message from such research is that these differ considerably as do beliefs about what constitutes a fair and just process. What is ethically acceptable, fair and just for one group may be perceived as unfair and unjust by another.

Arriving at consensus is often viewed as a central aim of consultation or engagement but dissent should be encouraged. 'Agonistic' engagement generates diverse perspectives on problems and solutions and requires public authorities to consider how to respect and respond to incompatible community views.

We have outlined five ethical imperatives for consultation and engagement:

- Serving needs first: that is, serving the public's needs in the participation process, and through the decisions that come out of them

- Respecting people equally both during consultation and in its outcomes
- Telling the truth, including about what cannot be done and why
- Keeping promises, including what the public can expect
- Distributing beneficial outcomes fairly, both during consultation and in its outcomes

We conclude by suggesting some ethical priorities for forthcoming exercises:

- Have clarity about the aims and be explicit about the role for the public.
- Set transparent rules of engagement, including consideration of how to address dissent and incompatible views.
- Provide feedback, justify and be accountable for subsequent decisions.
- Seek full engagement. Reconsider what it means to identify hard to reach communities: it is not the communities, but authority, that is hard to reach. Ensure that quieter voices are heard.
- Respect the critical voices, and listen carefully. ‘Opponents’ can offer expertise, alternative ways of thinking, and help generate new solutions.

## **1. Introduction**

We understand that MOPAC is developing a response to policing challenges in the wake of both Covid19 and Black Lives Matters. MOPAC’s current activity includes additional engagement with affected communities, and this may lead to a renewed emphasis on consultation and public engagement in future. The London Policing Ethics Panel views this as an opportune moment to reflect on ethical aspects of engagement and consultation, and offers this Discussion Note to support MOPAC’s response. It is not a comprehensive survey of the field, but a rapid review of some key issues.

We start from the position that there is considerable expertise and experience of consultation and engagement within MOPAC and MPS, so that that the points we make in this discussion note are probably not novel. However, this is a chance to take stock and appraise past practice and future intentions, and we hope the ethical questions we posed at the end will support this.

Community engagement of one form or another is logically necessitated by the Peelian principles that underpin British policing. In the present day, community consultation has been mandated through legislation including PACE (1984) and the Police Act (1996) s.96. Aspirations to gain public trust and increase legitimacy by improving police-community relations are a familiar part of community policing. Patel noted that “inclusivity in decision making to build trust and develop a law-abiding citizenry” is central to community policing (Patel, 2016: 794). However, Fielding has cautioned that in some respects community policing rests on “folk-mythic conceptions of the community as sharing a unified value system”, where harmonious police-community relations exist in “stable, consensus-based, homogenous neighbourhoods”. (2005:406) This vision of ‘community’ and ‘neighbourhood’ is far from the reality of London as a global city.

The 2004 Home Office White Paper ‘Building Communities, Beating Crime’ emphasised the need for better community engagement in order to identify priority problems, for community members to be part of the solution through collaborative problem solving, and for the police to provide feedback on the community’s inputs and how it has impacted local policing (Myhill 2012). It also recognised the need for police to understand the composition and variation in communities, adapting engagement process to reflect this diversity.

## **2. Consultation or Engagement?**

There is an extensive literature on public participation in general, across fields as diverse as environmental protection, management of high-risk technologies, and public attitudes to science. In this note we have drawn mainly on the policing literature, but we have also included some powerful ideas from other fields.

The terms engagement and consultation are often used interchangeably in the policing literature, but we think it helpful for MOPAC to draw a distinction between these two concepts. We view public **engagement** as two-way communication between the police and the public involving an exchange of ideas on equal terms, with a view to understanding (if not always agree with) the others' viewpoint. **Engagement** is a process of **relationship building**, based in recognition that policing knowledge, values, and goals and public knowledge, values and goals should be negotiated in the context of ongoing relationship building. On the other hand, **consultation** is mainly a **task focused** activity, which while it fulfils statutory obligations mostly involves sequential one way communication between the police and the public, where the police aim to elicit views of the public while providing as much (or little) by way of explanation or justification for the subsequent decisions made, as they think fit. **Engagement** is likely to be mostly synchronous and involve face-to-face interaction and exchange of views (albeit on virtual platforms), including views on what the aims of engagement should be. By contrast, consultation processes are more likely to be remote, asynchronous, and on the terms authority sets for it.

We therefore view engagement as a wider and more fluid range of activity than consultation. Engagement is ongoing and iterative, whereas consultation can be based in specific issues and limited in time and scope.

In the next section we consider aims for consultation and engagement.

## **3. Police and public aims for consultation and engagement**

Because the literature frequently does not differentiate between consultation and engagement, it can be difficult to unpick exactly what authors had in mind in various studies. However, the statutory requirements for police-public consultation suggest that the main preoccupation in the policing literature is consultation.

The 2004 White Paper 'Building Communities, Beating Crime' set out the aims of consultation from the perspective of the police. Prioritising the institutional perspective in this way suggests that the process under discussion is closer to consultation than engagement in the way we have defined these terms above.

The White Paper's aims have been summarised (Myhill, 2012: 9) as:

- Have a detailed understanding of the demographics of the community.
- Have a detailed understanding of the current concerns and problems of the community.
- Establish consistent and regular dialogue with the community to hear concerns and suggestions and act on feedback from the community.
- Tailor engagement process to the needs of the different sections of the community.
- Use a number of different means to facilitate ongoing dialogue and facilitate partnerships with the community.
- Be flexible to change priorities in accordance with community concerns and priorities.
- Provide ongoing feedback to the community on how their input is being incorporated in practice.

- Deliver police services in partnership where possible.
- Understand that public engagement is core to service delivery and not an optional ‘add on’

Interestingly, in an earlier study commissioned by the Home Office, Newburn and colleagues had included the perspectives of the public. Their research indicated that members of the public variously sought to:

- Influence local policing policy and style.
- Encourage action on specific problems.
- Elicit police recognition of community dynamics and culture.
- Pursue accountability and conflict resolution
- Obtain access to police resources and facilities

Myhill (2012: 18) has provided a useful typology of community consultation aims and methods, depicted in the figure below. For ethical purposes, it is notable that Myhill differentiates the different types of promise made to citizens. This is ethically important because a promise is something that should be kept. Common pitfalls in consultation and engagement are not being clear about what is being promised, over-promising in order to secure co-operation, or breaking promises that have been made. These pitfalls are both ethically and practically troubling, because broken promises undermine legitimacy.



While we find this typology helpful, we would make two observations.

First, it deals mainly with task focused elements of consultation and not relationship focused elements of engagement. Notably, it does not include engagement for ‘moral repair’ (Walker, 2006) which we would view as the process of listening, understanding, acknowledging, and acting on the distress of those who have been hurt by police action or systems. This is a key area for development in response to the potential breakdown in relations between some ethnic minority communities and the police in London.

Second, it focuses on the institutional promise to citizens, not citizens' motivation for engagement. We turn to this issue next, drawing ideas from the literature on public participation in environmental and scientific debate.

First, Kasperson suggested that community participants could usefully be divided into six groups. Their capacity to understand the issues involved and contribute meaningfully was derived from their motivation and level of involvement. His six types were:

- “the inactives (the uninvolved citizens);
- the voting specialist (citizens following their party political line);
- the parochial participants (involved only in issues of direct personal concern);
- the communalists (citizens involved in a wide range of local activities);
- campaign activists (those having strong partisan affiliations);
- complete activists (those involved in confrontational politics)” (Kasperson 1986, cited in Brown and Campbell 1996: 300).

In light of the Black Lives Matters protests, we would add to Kasperson's list ‘people who have been hurt or outraged’ and who may not fall neatly into any of his groups. Whilst many may be affected because the issue concerns them personally, the protests have also been an important demonstration of solidarity and support for other citizens.

A 2001 study of environmental public consultations noted that while public participation in policy making was widely assumed to be of value, how and precisely why to involve them remained controversial: hence the “search for principles that characterize good public participation”. The authors engaged the public in their research, and finally identified a range of ideological perspectives that are both recognisable and thought provoking. Views on the reasons for inviting public participation, and therefore what will constitute a good process, are:

- **Rational discourse.** From this perspective, legitimate decision making is grounded in rational discourse around facts and information. Faced with a defined problem, balanced debate between all interested parties will generate the best solution.
- **Values advocacy.** For some groups engaged in participatory process, what matters is that others will come to see and accept their values as ‘right’. These groups are less interested in legitimacy of process than in achieving acceptance of their value position, a position unlikely to change in the course of discussion.
- **Procedural fairness.** For those who adopt this position, a good public policy making process is one that succeeds in bringing the voices of the broader public to bear on the discussion. Whatever the outcome, properly attending to the full range of voices gives legitimacy to the process.
- **Power.** This perspective recognises that some sections of the public have formerly been disempowered or marginalised in public policy making. Participation allows people who are frequently overlooked to press their claims, with the expectation that policy will then be based on information (and perhaps empathy for marginalised groups) that ‘authority’ did not previously possess.
- **Respected leadership.** For those adopting this view, what is important is that responsible leaders ensure wide democratic participation in a robust process, with a focus in information and evidence, and high-quality interaction between participants. The final policy decisions sit with the leaders, and the decisions will be legitimate because they are based on the foregoing factors.

The point that the authors of this study press is that public participants are likely to be motivated by different expectations around what makes a good process and what gives

legitimacy to the outcomes. The difficulty this presents is that it is practically impossible to satisfy all of these different constituencies.

We return therefore to the suggestion that there be maximum clarity about how a process will proceed, and why. There will almost invariably be disappointed parties who would prefer things were done differently. But it is preferable to avoid a situation where the public ends up feeling they were made a promise that was broken.

The hallowed forms of community consultation found by Elliott and Nicolls (1996) are mostly still functional today and include meetings, social research, and networking. Each approach or mechanism promises different things. We would suggest that reflection on what each is intended to achieve, how each speaks to the different ideological perspectives set out in the preceding section, and whether other could be of value.

- *Police Community Consultative Committees* of variations thereof are usually the most common method of engagement, often chaired by either the police, PCC or community representative.
- *Social Research Mechanisms* to elicit public feedback through online social surveys, focus groups or consumer panels are very much still the method for engaging the public.
- *Networking* consisting of informal consultation with individuals and specific interest groups or what are traditionally known as 'hard to reach groups' can be quite effective.

We would challenge the labelling of some groups as being 'hard to reach'. That they have come to be labelled as such is not because of some intrinsic quality of these groups, or because they are unwilling to contribute, or because they have no interest in matters that should properly concern the police. Rather, it is that *authority* is hard for *them* to reach. Authority may appear impervious or unresponsive to their concerns, and conventional approaches to consultation or engagement may not surmount the barrier. There can be social, cultural, linguistic or cognitive barriers to engagement in conventional consultation processes, anxiety about how safe it is for some people to engage with state authorities, or their concerns and needs may be issues that the police have not historically been attentive towards.

#### **4. Legitimacy, diversity and dissent**

The rationale for mandatory community consultation appears to be grounded in '**legitimacy theory**' with the emphasis being on transparency, inclusivity and consensus building. From a normative point of view, on this account, it is essential that affected persons be included in the consultation process in order to enhance legitimacy of state authority (Patel 2016).

Recourse to mandatory consultation has, some argue, resulted in a majority of police public consultation processes being conducted in the spirit of "deliberation for deliberation's sake" and dominated by the desire for "consensus at the expense of avoiding dissent" (Patel 2016; 803). However, as we know, communities are not homogenous, nor are the interests of various community groups aligned perfectly with those of the police and political authorities.

Patel therefore offers an alternative theoretical perspective '**a democratic theory of agonism**' (attributed to Mouffe and Laclau). This view sees "dissenting adversaries as adding normative value in a meaningful democratic process, allowing us to question *and* appreciate the outsider and contentious insider as part of democratising community engagement" (Patel 2016: 798). *Agonism* is contrasted with *antagonism* on the one hand, which causes the adversary to withdraw from engagement; and *deliberation* on the other, which is aimed at

consensus building. Instead, agonism is an adversarial process of engagement with the dissenting parties, by acknowledging 'intractable differences', while at the same time respecting the adversary who disagrees (Patel, 2016: 804). This perspective is grounded in the belief that tension and lack of consensus is important for the preservation of democracy (Patel 2016, citing Mouffe 1994).

Adopting a democratic theory of agonism, community consultation or engagement should be seen not as a consensus building and legitimising process, but as a '*contested* process which elevates the role of dissenting stakeholders and affected citizens' and has the potential for a 'shift in power between the police and citizenry' (Patel 2016: 805). Dissenting views expressed in community engagement processes should not be seen as something to be discounted or ignored but welcomed as democratic participation. 'Agonistic' engagement paves the way for minority and marginalised groups to get a voice in the democratic processes of community engagement and diverse perspectives on problems and proposed solutions should be welcomed. Patel suggests that adopting this perspective would require a fundamental shift in the philosophy and spirit in which police public engagement processes are conducted (Patel 2016). This approach would call for thought to be given to how to manage dissent and contestation in community engagement, so that dissension can be positively harnessed rather than degenerating into open animosity and widening the gap between minority communities and the police.

The traditional focus of policy makers has been on 'output oriented legitimacy' i.e. ensuring a policy is effective. This implied a reliance on advice from expert opinions and interest organisations. However, increasingly according to Montpetit (2003) the emphasis has shifted from 'output oriented legitimacy' towards 'input oriented legitimacy' so that "expert opinion must now be carefully balanced with inputs from citizens" (Baylis 2009; 45). This is because legitimacy is conferred on a policy if the public at large consider that they have been properly consulted and their views heard. Finally, deliberative democratic theory (Habermas 1970) stresses 'process legitimacy' over input legitimacy. Deliberative democratic theory emphasises that what matters is the *quality* of deliberation (Dryzek 2000).

A genuine problem-solving mode of consultation requires a desire on the part of those conducting the consultation to hear and engage with a range of views and to be able to set aside preferred policy options (Baylis 2009). It is understandable that for the most part MOPAC or MPS have predetermined notions of what the strategic goals ought to be and what tactics they would prefer to use. There is considerable risk however of public consultation being a box ticking exercise because it is legislatively mandated, is rule bound, and is 'performative' rather than 'instrumental' with respect to eliciting the public's views. At the end of this paper we consider one of MOPAC's consultations in this light.

It will be noted that these theoretical accounts of approaches to public participation are in many ways similar to the views expressed by those studied in the course of environmental consultations that were set out in the section above. This reinforces the point that both in practice and in theory there is a range of distinctive and differing views on what constitutes 'proper' consultation or engagement and therefore – unfortunately - considerable scope for consultation to end up in dissatisfaction for one or more parties.

## **5. Consultation outcomes and impact**

Previous evaluations of police public consultations (c.f. Elliott and Nicholls, 1996) evidence that while public engagement exercises succeed in achieving a few of the police aims identified in earlier sections, often the public's intended aims are not sufficiently addressed. Furthermore, they indicate that there no universal consultation and feedback mechanism that can suit all force areas, and engagement must be customised to suit requirements of the force and the communities it serves, as well as the aims it intends to achieve.

Writing in 2001, Jones and Newburn summarised what they saw then were the limitations in police approaches to consultation:

- There existed confusion between means and ends of consultation for the police – especially with so-called 'hard to reach' groups.
- Often police forces approached consultation as an end in itself with little thought as to how they would work with the outputs.
- There was a danger of duplication and consultation overload.

Myhill's more recent review of the evidence concerning the effectiveness of police-public consultation in the US and England and Wales (bearing in mind that this was of the conventional types of consultation conducted in the past) indicated mixed results but with some positive findings. The evidence can be summarised as follows:

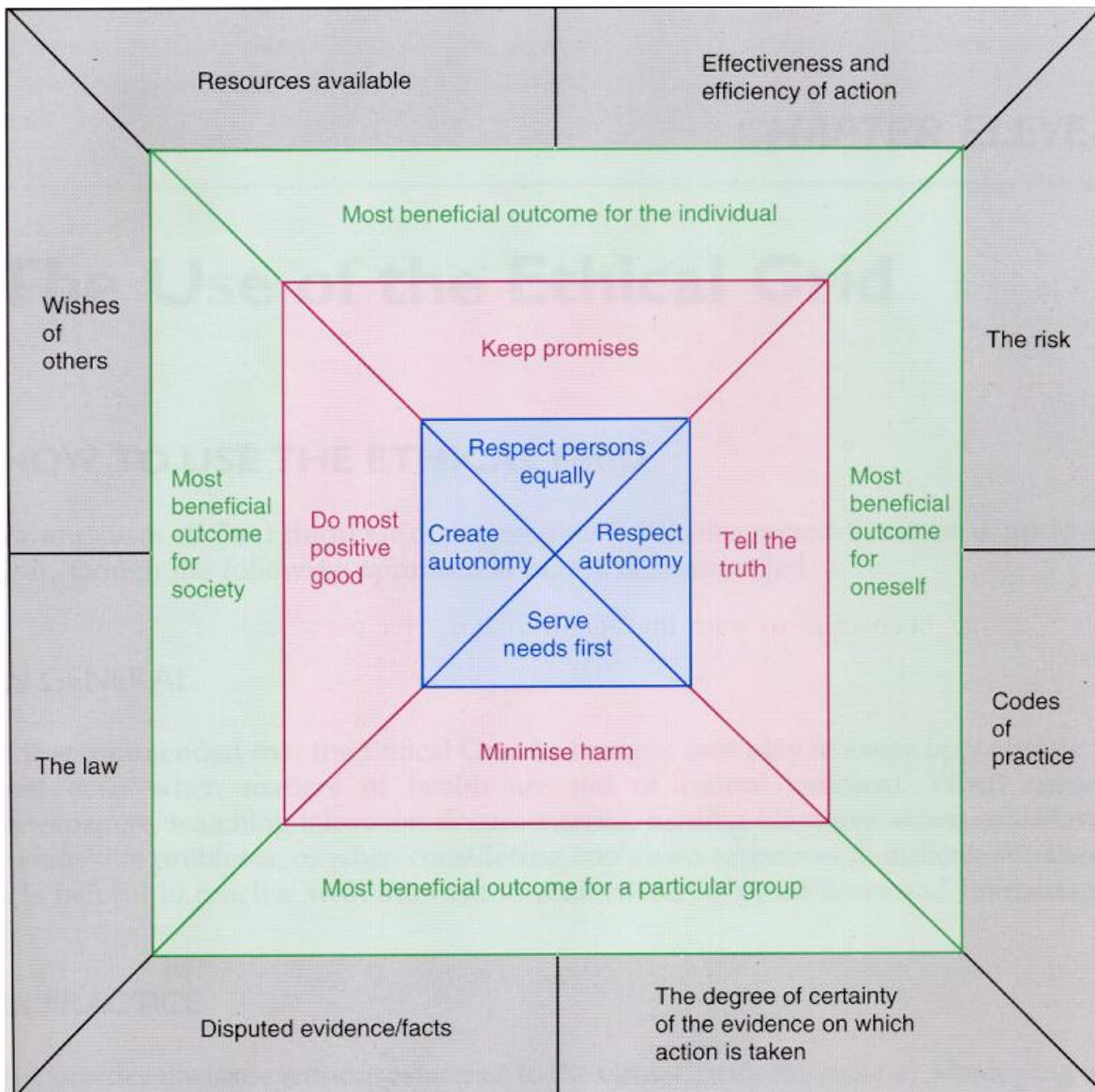
- **Reducing crime** – Weak positive evidence: some positive findings, some neutral, no negative.
- **Reducing disorder and anti-social behaviour** – Fairly strong positive evidence: mostly positive findings, some neutral, no negative.
- **Increasing feelings of safety** – Fairly strong positive evidence: mostly positive findings, some neutral, no negative.
- **Improving police community relations and community perceptions** – Strong positive evidence – almost all positive findings, minimal neutral, no negative.
- **Increasing community capacity** – Unknown: this is a gap in the evidence.
- **Changing police officers' attitudes and behaviour** – Fairly strong positive evidence on attitudes; mixed evidence on behaviour. (Myhill 2012, p.3)

We suggest it would be helpful therefore to identify clearly the range of anticipated outcomes for future public consultation processes, to consider how non-traditional approaches could be of value in achieving them, and to measure overall success.

## **6. Ethical dimensions of public consultation and engagement**

In this section we review the ethical dimensions of public consultation and engagement in policing, using the preceding discussion and the 'ethical grid' that appears below.





The ethical grid supplies an overview of key concerns highlighted in European ethical theories, serving as a prompt to ethical deliberation. Seedhouse developed the grid for use in healthcare, and readers will notice that he placed creating and respecting autonomy at the centre of the grid as a foundational principle. For purposes of thinking about policing ethics, the Panel views creating and respecting freedom as a foundational principle. As explained in our earlier report, policing is probably best morally justified in terms of social peacekeeping. Social peacekeeping enables people to engage in society's opportunities on a footing of relative equality by providing protection from threats and harm in both the public and private spheres. It achieves this by providing supportive services particularly important to those vulnerable to exploitation or the exercise of unequal power of whatever sort (racial, gendered, economic, official, etc.) In a democratic society, social peacekeeping aims to accomplish the social good of relative harmony and security whilst also accomplishing the social good of relative freedom.

In the following paragraphs, we suggest how key elements in the grid could offer scope for ethical reflection on the approach to consultation or engagement.

### **a) Serve needs first.**

*What* needs, and importantly *whose* needs, should public participation serve? We have noted above that the public's needs and expectations of consultation processes have not figured prominently in official accounts of why or how it should be done; and also, that there are widely differing views among the public about what makes participatory processes legitimate.

- Are policing authorities clear about the differing needs the public have of participation processes, how they view their legitimacy, and what processes the public thinks it worthwhile to contribute towards?
- To what extent are London's policing authorities attentive to the ways in which consultation or engagement can help them serve the public's needs more broadly?
- How can public participation contribute to understanding how effectively the police are serving policing needs? Are the public involved in evaluating whether the outcomes police are achieving are what they want and expect, and whether there are unexpected good or bad consequences?

### **b) Respect persons equally.**

We have noted above that conventional approaches to public participation can exclude a range of voices. Everyone has an interest in social peacekeeping, but what social peacekeeping means will differ according to their circumstances – gender, ethnicity, vulnerability, resilience, and so on.

- There is an ethical imperative to ensure that voices are equally heard and respected, even if not all needs can be met.
- How will authority explain and justify to the public why it has prioritised certain needs over others? Will it be open to challenge as plans develop?
- Under-represented social groups are not the ones who are “hard to reach”; rather it is public authorities who are hard for excluded groups to reach. How can the distance between citizens and authority be reduced?
- Poorly conducted processes have the potential for “majority mob rule” (Harfield 1997: 272). Participation processes that do not allow for dissenting voices or that do not incorporate disagreements and dissensions into a meaningful discussion appear to be a cause for dissatisfaction in BAME communities in particular.
- What support structures are required so that participatory processes allow both quiet and loud dissent to emerge; and promote constructive dialogue rather than antagonism?

### **c) Tell the truth.**

There should be honesty both about the goals and processes of engagement and also in sharing information in ways that are not misleading.

- There are some areas where policing might be strongly influenced by public input and also areas where professional police expertise and experience will trump public preferences in the operational realm. We would urge honesty about the reasons for and limitations to consultation or engagement. For example, is a proposed participatory process a problem-solving forum, a choice between predetermined options, a formal exercise? How is this explained to potential participants?
- How, why and by whom will final decisions be made?
- How open can authorities be about the data underlying their decisions? How can they help the public to understand and if necessary challenge these data?

#### **d) Keep promises.**

In our discussion of the aims and methods of public participation, we noted the ethical importance of keeping promises, fulfilling whatever commitment has been made to the public in the context of consultation or engagement.

- Every consultation or engagement has an implied promise within it. Clarity about what the promise is helps to ensure it is not broken, and thus contributes to building and maintaining trust.
- It is seldom the case that public authorities are called to account for the quality of consultation. What form of oversight or accountability could help to ensure that consultations or engagement meet the highest ethical and quality standards?

#### **e) Distribute beneficial outcomes fairly.**

The ethical grid highlights that maximising beneficial outcomes is an important ethical goal, but benefits may not be evenly distributed and may have to be ‘traded off’ between groups or individuals. There may be benefits to particular groups, for society as a whole, for identifiable individuals, and for oneself.

There are two ways of thinking about the benefits of public participation. One way is to look at the benefits that might flow to groups or individuals from being participants: these might be for example gaining further opportunities to influence, enhancing social status, or promoting a particular cause. The other way of looking at it is to consider all the beneficial outcomes that policing can potentially provide, and how public participation can help to identify which should be prioritised.

- First, as there are benefits to be gained from being involved as a participant, the ethical question is whether these benefits are fairly distributed. Do all groups get reasonable access to influence? This ties in with earlier questions about how authority can be made more accessible to marginalised groups.
- Second, how can the public meaningfully contribute to debating the merits of different claims on police resources? Are there deliberative forums where fully informed citizens can contribute, or is public participation simply used to endorse choices? And how are the risks in setting priorities to be shared between the police and the public (authority can be held accountable for its decisions, but not public participants)?

We suggest that these questions might be useful in prompting ethical reflection within MOPAC and MPS on future approaches to consultation and engagement. We believe that a richly ethical strategy is most likely to emerge from drawing on the expertise and experience existing in the two organisations, as well as the public participants already involved in their work.

A thin summary of what to aim for is provided, however, by Abelson et al (2004a and 2004b) cited by Baylis (2009: 43). Meaningful public consultation requires:

- “clear communication about the purpose of the consultation and its relationship to the larger decision-making process;
- identifiable links between the consultation and the decision outcome;
- information presented clearly, honestly, and with integrity;
- procedural rules that promote power and information sharing among and between participants and decision makers; and
- processes that are viewed as legitimate by citizens and decision makers.”

## **7. Learning from experience**

In this section we offer ethical analysis of a prior MOPAC consultation. In 2017 MOPAC sought to elicit the public's views on a "Public Access and Engagement Strategy" (MOPAC, 2017). Proposed changes to provision were intended to procure significant savings by reducing face-to-face contact in local police stations and moving towards communication online or via the telephone. A series of questions were put to the public in an online consultation exercise. This was subsequently subject to judicial review and although MOPAC was exonerated by the Court, it came in for some censure from the judge.

How might this consultation have been designed in light of the ethical principles we have discussed?

**Ethical Issue 1:** The consultation was designed to be conducted entirely online, understandably for cost saving reasons at a time of great austerity. However, online only consultations exclude sections of society without access to online technologies or who do not have the skills to use them (e.g older, poorer, and more marginalised groups).

In future consultation exercises, designers should consider whether the approach and design are inclusive and take all measures in order for it to be so. They could also ensure collection of relevant data to measure whether the responses cover all demographics, to be able to gauge credibility of the exercise based on representativeness.

**Ethical Issue 2:** The consultation presented participants with a predetermined strategy and questions worded so that citizens had only narrow options, or yes/no questions to answer.

In this instance the options were driven by the necessity to make cost savings. How far was MOPAC willing to be honest and open about why the options were so narrow, or indeed whether they even had the option of taking different decisions based on participants views? What was the promise to citizens? Where a public body has no scope for manoeuvre, a consultation 'in name only' can generate considerable dissatisfaction. Ironically, seeking to legitimise decisions through the guise of public consultation can have the opposite effect. A candid approach to managing expectations is likely to reduce the dissatisfaction of those who do engage in the consultation exercise in good faith.

**Ethical Issue 3:** The evidence provided and arguments for a particular pre-determined strategy (of closing several front-line counters) were skewed towards providing especially positive examples with no acknowledgement of the downsides of this policy. The use of leading questions and biased wording tacitly compels respondents to agree, as the change seems fait accompli.

A genuine consultation should prompt ongoing reflection and discussion about whether and why a preferred policy option is the right one, whether it is grounded in evidence, and how genuine uncertainty, ambiguity or disagreement is presented to the public. Furthermore, it should provide room for dissenting voices and opinions.

**Ethical Issue 4:** The tone of the document suggested that this was a box ticking exercise undertaken in response to a legislative imperative.

Genuine and ethical public engagement is not a rubber-stamping exercise whereby consensus is forced, but is a space for engaging positively with dissent and conflict.

**Ethical Issue 5:** Respect for persons implies that the results of a consultation survey should be provided in full to the public, that public bodies are open and transparent and accountable for the final policy choices they make, and they should explain whether and how conclusions were reached in light of consultation responses.

Future consultation exercises should have appropriate mechanisms for reporting outcomes, for addressing dissent and disagreement, and for responding to lack of support for preferred policy options.

## **8. Conclusion**

We conclude by suggesting that the following would constitute the Panel's ethical priorities for forthcoming consultation and engagement exercises:

- Having clarity about the aims and being explicit about the role for the public. This is about making the engagement promise to the public explicit, and then keeping to the promise.
- Setting transparent rules of engagement, including consideration of how to address dissent and incompatible views. This is about being honest and open, not avoiding conflict when it arises, and distributing the benefits associated with public consultation fairly.
- Providing feedback, justifying, and being accountable for subsequent decisions. This is about respecting the public, and their willingness and desire to provide a view in public engagement exercises. It is also about recognising the power that is vested in public body decision makers, and the responsibilities that go with that power to serve the most pressing needs of citizens.
- Seeking full engagement. Reconsider what it means to identify hard to reach communities: it is not the communities, but authority, that is hard to reach. Ensure that quieter voices are heard. This is about respecting people equally and distributing the benefits of public consultation fairly.
- Respecting the critical voices, and listening carefully. 'Opponents' can offer expertise, alternative ways of thinking, and help generate new solutions.



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**September 2020**

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