

Getting it Right or Getting it Right✓? Ticking boxes vs. delivering genuine public participation in water management in Ireland.

SWAN presentation to:

The joint meeting of
the Task Force on Public Participation in Decision-making of the
Aarhus Convention &
the Meeting of the Parties to the Protocol on Water & Health on
*'Public Participation in Environmental Decision Making:
Focus on Water and Health'*

Introduction

Technically performing public participation or “ticking the boxes”, does not mean that it has been successfully carried out.

Successful public participation delivers:

- Increased public awareness of issues
- Opportunities to identify & avoid risks/ mistakes
- Improved final outcomes/decision
- Cost savings & ongoing financial efficiencies
- Identification of public concerns & opportunities to address these
- Improved accountability & transparency in decision-making
- Wider acknowledgement of the legitimacy of outcomes/decisions taken
- Public support for (& engagement in) outcomes/ decisions taken.
- Enduring and sustainable solutions/outcomes

There is increasing evidence of public participation initiatives that do NOT deliver these benefits, and may even result in more negative outcomes.

This paper looks at the Irish experience of public participation in the implementation of the EU Water Framework Directive 2000/60/EC..

EU Water Framework Directive 2000/60/EC

Seeks to secure the “good ecological status” of all EU waters. Includes a clear commitment to public consultation, including:

“Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans.”

Article 14.1

Specific Consultation Requirements (EU 2000/60/EC, Art. 14.1)	Delivered
(a) a timetable & work programme for the production of the plan,	✓
(b) an interim overview of the significant water management issues identified in the river basin, ...	✓
(c) draft copies of the river basin management plan.....	✓
...consultation periods lasted for 6 months....	✓
...access shall be given to background documents and information ...	✓

In all 7 River Basin Districts (incl. 3 International), Ireland fulfilled these specific consultation requirements of the Directive fully: documents were made available in hard copy and digital format, public meetings were held, contributions from all interested parties were recorded.

Additional provision for public participation

- **Advisory Councils** –new, statutorily-established structures, at River Basin District level, included politicians & nominated representatives of different interest sectors (agriculture, business, environment, etc.), selected by a panel of local authority officials (Currently in abeyance.)
- **SWAN** (Sustainable Water Network) – new, national umbrella NGO, State-funded, to support the representation of environmental interests through the co-ordination of existing environmental NGOs.
- **Additional initiatives** – funding for development of a template for a national public awareness campaign on water management challenges & the opportunity to participate in WFD implementation. (Template was never used).
- **“Unofficial” additional consultation opportunities** – SWAN was invited to make additional inputs to specific work packages, (e.g. WFD Monitoring Programme, Surface Water Regulations, etc.). (Given the manner of engagement, it is unknown whether others participated similarly.)

Analysis of participation

Meaningfulness of participation can be measured in the extent that it enables the public to influence outcomes or decisions.

In Ireland, it is clear that little – if any – impact of public participation inputs is evident.

- ☒ No amendments were made following the required public consultations & in the River Basin Management Plans themselves.
- ☒ Advisory Councils - no impact on substantive content of the RBD Plans; poor representation of social & community sector (of 7 RBDs only 2 had a single representative from the community sector); high level of frustration at no mechanism to influence implementation
- ☒ No public awareness campaign was carried out, despite investment of resources in the production of a template for this. Public awareness of water issues & WFD continued to be extremely low (12% considered environmental water issues important).
- ☒ SWAN, as the umbrella environmental NGO engaged in every public consultation. No changes were made to the substantive content at any stage in response to their submissions.

Deep frustration and disappointment amongst participants at the lack of meaningful response to their input.

Was there any impact from public inputs?

- Yes, in two, “unofficial” cases, outside the consultation process required
- **A. Additional consultation inputs**
 - SWAN was invited to make input in work packages not open to public consultation.
 - Officials recognised value of their contributions, & these did influence the outcomes.
 - Officials chose what sectors of “the public” to engage, but were not actively open that it had occurred, “unofficial” nature of these engagements appears to make them “safer” for officials.
- **B. Traditional antagonistic engagement**
 - Unable to achieve any substantive impact on the River Basin Management Plans through public participation process, SWAN finally had to revert to traditional forms of NGO /Government engagement & stage an exposé-type media stunt outside government buildings, threatening complaints to Europe, if the most inadequate sections of the Plans were not amended.
 - After a lengthy last minute meeting with officials, some concessions were made. Neither the NGO nor the officials were happy with the outcomes, and much of the goodwill built up over the preceding 5+ years negated.

Structural & procedural constraints of government

- Public unaware of relevant systems & structures of government & may not understand or accept restrictions of these.
- Frustration amongst public & officials when no political will to make necessary reform, particularly where governance flaws are identified as creating problems.
- Deteriorating relationships between officials & public, increased cynicism, and reduction in future engagement, as officials defend existing system and public become disillusioned.
- Pervasive & persistent problem of lack of policy integration at an early development stage exacerbates problem.
- Increasing awareness of need for co-ordination to effectively & efficiently delivered policy objectives.
- Case study: a lack of authority within the Dept. of Environment, (responsible for WFD implementation) to command necessary action for compliance from other regulatory State agencies with a role, such as Agriculture.

Very poorly developed culture of participation

- Ineffective public engagement illustrates a poor understanding:
 - that participation is about allowing public to influence outcomes/ decisions;
 - or of what is needed for participation to work.
- “Unofficial” engagements suggest officials were challenged by participation & unsure how to generate positive results
- Were there conscious/subconscious decisions to limit public participation, perceived as a messy additional complication to already challenging implementation?
- Four negative aspects of the present culture are demonstrated (case study):
- A failure to fully grasp the benefits of good public participation;
- Structures and systems of governance that limit the potential of public participation;
- An absence of commitment to introducing effective public participation;
- Lack of understanding of what good public participation requires (expertise).

Lack of expertise in engagement

- Case study: failure to recognise the need for investment of time and expertise to deliver effective public participation. No evidence of any agency involved seeking any specific expertise in the design & delivery of best-practice public participation.
- Getting public participation right, requires a knowledge of how the process works from awareness-raising, through management of expectations, process design, delivery, development of outcomes, evaluation, onward iteration, and feedback. Investment in this is cost-effective in delivering the benefits outlined above.
- External skills and expertise are needed to develop internal capacity in agencies responsible, and to contribute to an independent process that adds credibility.
- While existing governance may create impediments, this should not delay/ prevent agencies engaging the public. Procedural means for delivering public participation must be developed within the context of existing limitations. Expertise is necessary to optimise the engagement possible within this context. This can be achieved with a commitment on the part of the agencies involved, even in the absence of a fundamental political will to create a more responsive system of governance.

Summary recommendations (I)

Short –term:

- Acknowledge and communicate existing political & structural constraints
- Engage with the public in a realistic, honest & transparent manner
- Identify real opportunities for involvement, where the public can have genuine influence
- Manage expectations accordingly
- Design appropriate processes (including awareness-raising)
- Deliver these effectively
- Ensure adequate expertise to do all of the above

Summary recommendations (II)

Long-term governance issues:

- Improve integration of policy at planning & implementation stage
- Enable flexibility in systems and structures of governance to facilitate necessary change (political will)
- Clarify roles & responsibilities between and within agencies
- Ensure agencies tasked with delivery have the authority (over other agencies where necessary) to fulfil their role
- Foster a culture of open and transparent government, with good communications.
- Develop mechanisms (structures and systems) that genuinely facilitate and support active public participation

Summary recommendations (III)

General:

- Develop an understanding, within both political & executive functions of government, of the benefits that good public participation can deliver;
- Integrate public participation into systems and structures of governance;
- Habitually plan for appropriate and effective public participation;
- Recognise that highly specialised skills and experience are necessary to foster a culture of positive public participation;
- Invest in such expertise in the design, development and delivery of public participation.

Success in achieving positive outcomes will stimulate the further use of such public participation and ultimately secure its integral role in governance systems. This will in turn support and assist officials in the execution of their functions, and generate better outcomes for the public.