

URBAN
FORUM

Involving Communities: A Legal Duty?

by Caitlin McMullin



Background

In April 2009, the government introduced a new Duty to Involve, placing a legal duty on all best value authorities¹, to inform, consult and involve local citizens in decision-making. The new Duty did not replace other requirements to involve people, such as in planning, but provided for a significant expansion of the types of decisions on which local councils and other local public bodies must take citizens' opinions into account.

The Duty has required local authorities to involve as appropriate 'representatives of local persons' (i.e. people who live, work or study in a local area) in how they carry out their activities by 'providing information, consulting or involving in another way'. It gave a legal underpinning to a raft of measures and initiatives to involve local people in decision-making - such as consultation on plans and local spending priorities, local forums, and participatory budgeting schemes.

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Changing policy context

The election of a Conservative-Liberal Democrat coalition government in May 2010 changed the context in which citizen involvement is understood. Involving local people in decision-making that affects them continues to be high on the public policy agenda. But the trend of local authority-led citizen involvement is being shifted, with the Big Society agenda emphasising the reform and co-production of public services as well as the devolution of power to the neighbourhood level.

The Localism Bill (which will be introduced in November 2010, with the expectation to be passed into law by November 2011) will contain measures to implement this policy agenda. In addition to more powers being devolved directly to local people to take over public services, local accountability, direct democracy and open data are major themes running through government priorities.

The idea of 'involvement' in the Big Society is one in which local people decide how their community should be and what services should look like, with a focus on volunteering, referenda, and running local services. Local people will be expected to take a more proactive role—for instance, instead of responding to local authority consultations on public services, they are being pushed to take decisions themselves through co-design and co-production.

What is clear is that the principle of enabling citizens to have a voice in local decision-making is firmly ingrained in the new government's thinking. What isn't clear is whether the Duty to Involve will have a part to play in this. The Duty is contained in the Local Government and Public Health Act 2007, which the government has signalled its intention to repeal. The Duty was meant to be enforced through Comprehensive Area Assessments (CAAs), which have already been abolished. It is not known yet if an equivalent duty will be included in the Localism Bill, or if there will be a move entirely away from the forms of involvement and engagement that the Duty makes mandatory.

¹ With the exception of the police, who have different arrangements

This report

Throughout 2009-10, Urban Forum ran several regional events for public bodies, councillors and local voluntary and community groups to raise awareness of the Duty, gauge reaction to it, and to discuss its implementation. We also carried out research looking at perceptions of the Duty, mainly from VCS organisations shortly after the Duty came into effect, and compared this to perceptions of the Duty with the same group of participants one year later.

With the future of the Duty to Involve in the balance, and new measures to involve citizens on the horizon, it is an opportune time to look at the impact of the Duty, its limitations, and what lessons it provides us for the future. This report contributes to this analysis, using the findings from the research, other relevant research and intelligence gathered from talking to practitioners at a local level.

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New research

In July 2009 Urban Forum, led by Elin Gudnadottir, surveyed members and VCS contacts, to find out how much they knew and understood about the Duty that had come into force three months earlier. We then conducted a follow up survey a year later (June 2010) to allow us to make a comparative assessment of impact.

The original survey elicited 241 responses. The majority (61%) of respondents to the original survey were from the voluntary and community sector, and 22% from the public sector. The survey consisted of 13 questions and respondents did not have to answer all of them. As well as multiple choice questions, respondents were asked to provide examples and to explain their answers.

The follow-up survey was only sent to respondents of the original survey, to which we received 70 responses (a 29% response rate). The survey was the largely the same, to allow for comparison over time. Public sector response to the follow-up survey was not significant (16 responses), so we have not analysed by sector.

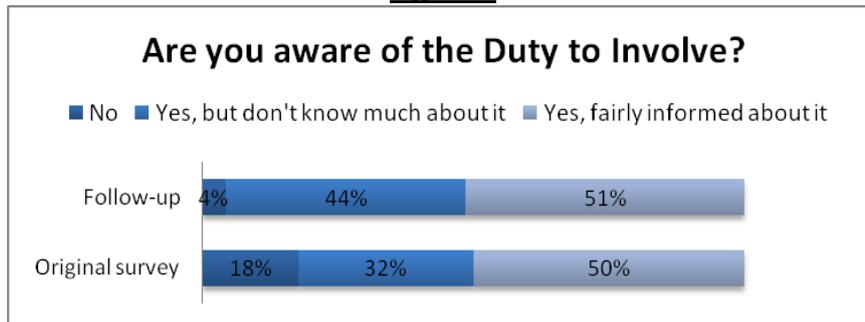
Both surveys asked respondents about their awareness of the Duty to Involve, engagement mechanisms and the effects of the Duty to Involve on these, as well as on involvement generally and obstacles to this.

Summary of research findings

- About half of respondents (51%) felt fairly well informed about the Duty three months after it was introduced. This figure remained virtually the same a year later.
- The main barrier to getting involved identified by respondents (87%) in 2010 is people not believing their involvement makes any difference.
- There was a marked decline in respondents believing the Duty to Involve will help overcome barriers to involvement – in the original survey 63% thought it would be helpful or very helpful, in the follow up survey, 59% felt the opposite – that it was of little or no help in overcoming barriers to involvement.
- There was an increase in participants believing that councillors did not do anything to implement the Duty, and a commensurate decrease in those who believe councillors do a lot, but with the numbers of those believing that councillors do a little to implement the Duty remained the same at 28%.
- Whilst 45% of respondents in 2010 believed that local authority officers were implementing the Duty, the majority of these believed this was not consistent across all departments.

Survey results in full

Figure 1



Survey respondents were asked about their awareness of the Duty to Involve. While awareness of its existence has increased (from 82% to 95%), it is important to note that this increase has occurred within the ‘don’t know much about it’ category. Thus, nearly half of respondents still don’t feel they’re very informed about the Duty to Involve. The sample surveyed, by virtue of the fact that they elected to take part in the survey, can be assumed to be more aware of the Duty than others. It is then significant to note that one year after the Duty’s introduction, 48% of respondents (most of whom are from the VCS) either are not aware of the Duty or don't know much about it.

Engagement mechanisms and structures

We wanted to gain a better understanding of the structures and mechanisms that already existed within local authorities to engage with local people, and the changes over the last year since the introduction of the Duty to Involve.

The survey asked whether or not the engagement structures used by local authorities meet the requirements of the Duty. Only 10% of respondents agreed that their local authority’s engagement

structures meet the requirements, while 53% believed that this was ‘partly’ true, and 19% saying ‘not at all’ true. 17% did not know, reflecting the lack of knowledge of the Duty in general. A year on this figure remains largely the same, with only 13% agreeing with the statement (a 3% increase over the year), 64% saying ‘partly’ and 22% saying ‘not at all’.

Table 1

	2009 survey Have new structures been introduced as a result of the Duty?	2010 survey Have new structures or mechanisms been introduced <i>over the last year</i> as a result of the Duty?
Don't know	45 %	43 %
Yes	26	30
No	29	26

What is most striking again from the responses to this question is the lack of knowledge of involvement processes, with 43 per cent of respondents still saying, over a year after the introduction of the Duty to Involve, that they don't know whether it had been implemented, only a two per cent decrease from the first survey.

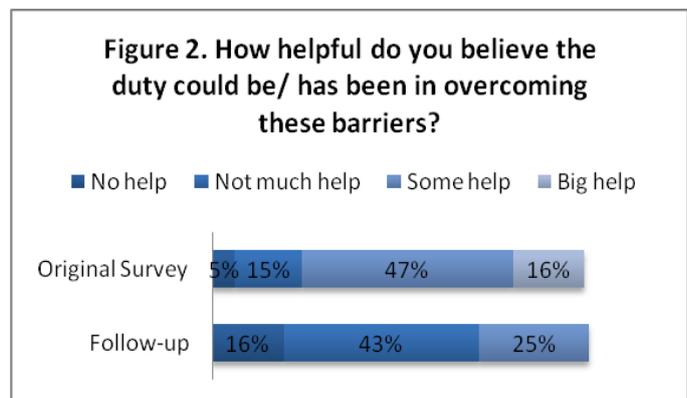
Though we cannot analyse by sector for the follow-up survey, it is worth noting that public sector respondents to the 2009 survey were more positive about the existence of new structures (41% as opposed to 27% of the VCS) and that an even larger percentage of the VCS (49%) did not know whether new structures had been introduced.

Barriers to involvement

The barriers to becoming involved do not seem to have changed a great deal over the last year. Survey respondents were asked what prevents people from being involved in decision-making, and could select as many of the choices as applied. While the original survey asked about participants' own barriers to participating and the follow-up asked about what prevents people in general from being involved, many of the same answers came up.

It is worth noting additionally that ‘Don't believe it will make a difference’, which was selected by 87% of respondents to the follow-up survey, had been added as an option to the follow-up to reflect respondents' comments to the original survey.

Table 2. Barriers to Participation	
2009	2010
1. Time (87%)	1. Don't believe it will make a difference (87%)
2. Lack of communication (86%)	2. Time (81%)
3. Opportunities (53%)	3. Lack of information (76%)
4. Not knowing how to get involved (39%)	4. Not knowing how to get involved (70%)
5. Money (38%)	5. Don't want to be involved (59%)



This issue of people feeling de-motivated to get involved is also demonstrated in other research² that shows how negative experiences of being consulted and being part of decision-making forums drives down feelings of influence.

The Duty to Involve survey results show a marked increase in scepticism between July 2009 and June 2010 about the effectiveness of the Duty in overcoming these barriers. Originally 63% of respondents believed that the Duty might be some help or a big help in overcoming these barriers. In the second survey the figures were virtually reversed, with 59% believing that it's not very helpful or not helpful at all.

The role of councillors and local authority officers

The original Duty to Involve survey revealed that the majority of those from the VCS (57%) felt that councillors are doing 'little' or 'nothing' to implement the Duty, while 78% of the public sector respondents felt councillors were doing 'a little' or 'a lot'.

Table 3		
Do you think local councillors have actively worked to implement the Duty?		
	2009	2010
Don't know	25%	25%
No, working against it	5%	7%
No, not doing anything	25%	29%
Yes, doing a little	28%	28%
Yes, doing a lot	16%	10%

Table 4	
Do you think local authority officers have actively worked to implement the Duty?	
	2010
Don't know	33%
No, working against it	4%
No, not doing anything	17%
Yes, but only in one part of the council	28%
Yes, across many/ all departments	17%

Overall, there has been little change in the perception of councillors' work to implement the Duty to Involve over the last year, with decreases in those saying that councillors are doing a lot and equivalent increases in those saying they're doing nothing at all, but the numbers saying they do a little have stayed constant. Many of the comments on the follow-up survey indicate cynicism at councillors' role in involving communities. As one representative noted, 'I'd be inclined to say working against it because a significant number appear threatened by attempts to get people more actively engaged, preferring to see themselves as the voice of the people.' However, other comments point out that it varies greatly from ward to ward and from councillor to councillor.

A slightly larger percentage of respondents felt that council officers are working to implement the Duty, although 28% of these suggested that this is only true in one part of the council. Again, comments point to a range of experiences in different councils. While some respondents can point out specific instances where the Duty to Involve has been taken on board by officers, many others

² Citizens and local decision-making: What drives feelings of influence, Newton, Pierce, Richardson and Williams, Urban Forum, March 2010

bemoan the lack of consistency of involvement across departments, and the fact that engagement often seems more of a tick-box exercise than a meaningful process to take local people's views on board. 'Some LA staff – e.g. to do with community cohesion – seem to take the Duty to Involve seriously, seem to be committed to it, but others seem to see involving people as a nuisance and as something to be done in a tokenistic way.'

It should be noted that 33% of respondents don't know if council officers have actively promoted the Duty to Involve, further suggesting that there is a gap in communication between what councils are doing and what the VCS' experiences of involvement are.

Policy Conclusions

The Duty to Involve was intended as a measure to drive up performance of public bodies through imposing the requirement of involving local people in decision-making. It did not, however, create a legally enforceable right of citizens and community groups to hold public bodies to account if they were not sufficiently involved. Enforcement of the Duty to Involve was intended to be through the now abolished CAA, and does not provide local citizens with a specific means to compel their local authority to involve or consult them.

When making an assessment on the impact of the Duty, it is important therefore to look at its tangible effects on how well citizens feel they can influence local decision-making. In terms of perceptions of influence among the population, we know that only a minority of people believe they have any influence over decision-making in their neighbourhood, and this figure is in decline³.

Indeed, our survey results show that people do not feel that a centrally imposed duty upon local authorities had proven successful in increasing peoples' influence in community decision-making. The research findings show a low awareness of the Duty, even in a group (voluntary and community sector representatives) that can reasonably be assumed to have a far higher awareness than members of the public in general. Repealing the Duty would therefore be unlikely to have a negative impact on how far citizens feel that they have an influence on decision-making where they live.

In terms of influencing the behaviour of local public bodies in relation to community engagement, it is well understood that practice by local authorities and other public bodies on engaging with VCS, residents and service users varies considerably. Many respondents to the follow-up survey believe that the Duty to Involve is not implemented actively by officers across all departments, which shows both its possible opportunities and limitations.

It is important to note that the shortfalls of the Duty to Involve are in part due to its approach of more top-down centrally managed involvement, which has been criticised for failing to empower local citizens to take action themselves. The Localism Bill could attempt to address this imbalance and begin a shift towards providing rights to citizens to enable their ability to take control over local decisions and services. Initiatives such as neighbourhood budgeting, co-production and mutualism are ambitious ways in which the government is seeking to actively empower individuals in a way

³ Citizenship Survey results have seen a decline from 44% in 2001 to 39% in 2009

that consultation has failed to realise. However, it is worth noting that the Duty to Involve has in some cases led to distinct changes in the culture of involvement within local authorities.

Case Study: Southwark⁴

In Southwark, there has been excellent work towards involving local communities which is attributable to the Duty to Involve. While Southwark Council already had a good tradition of involvement, the introduction of the Duty prompted the community involvement team to address the representation of different Muslim communities in their Southwark Muslim Forum, in order to more effectively ‘create a culture of engagement and empowerment’⁵.

When concerns were raised that not all communities were being represented in the Southwark Muslim Forum, the council made the decision to conduct an action research programme into the experiences of the Muslim population. They recruited active citizens from the Muslim community to become community researchers, who then recruited focus group participants and ran them themselves. Several broad themes and issues were drawn out from the focus groups and used to provide the basis for a report with recommendations to the council.

This example illustrates a way in which a council has used the Duty to Involve to go beyond simple tick-box involvement exercises. Southwark recognised that they were not involving all Muslim communities as effectively as they could be, and developed a nuanced and inclusive programme of engagement to respond accordingly to the needs of Muslims from different backgrounds. The result has been better, more targeted service delivery as well as a sense of community and involvement for individual community members.

Recommendations

Four recommendations stem from the evidence examined of the impact of the Duty to Involve.

1. If the Duty to Involve is repealed, then clear expectations need to be given to public bodies must do in terms of informing, consulting and involving the public, and how these will be enforced.
2. Any new measures introduced need to concentrate on behaviour change by public bodies so that informing, consulting and involving the public in making decisions and shaping areas is the norm across all public functions, and not just specific teams. At the same time they need to avoid the pitfall of encouraging a proliferation of consultation exercises that are a matter of form, rather than a genuine exercise in involving local people.
3. Effective community engagement takes resources and commitment. There are many examples of excellent practice in this area – giving rise to examples of the Big Society in practice. This practice will be essential to the successful implementation of new local initiatives to devolve power to the community level. Care needs to be taken to ensure that

⁴ London Borough of Southwark Duty to Involve Case Study, London Civic Forum (<http://www.londoncivicforum.org.uk>)

⁵ Duty to Involve briefing April 2009; Involve.

savings are made by cutting ineffective (and potentially counterproductive) public communication, consultation and involvement, but that effective work is still resourced.

4. The role of councillors in implementing the Duty to Involve is minimal compared to local authority officers, and may be getting smaller. Whether the Duty to Involve continues, or it is replaced with other measures to ensure the voices of local people are heard in decision-making, elected councillors need to be given a clear leading role. One place that this could be looked at is within local authority accountability (overview and scrutiny) which could include as a matter of course an examination of information provided to the public, the level of community feedback and involvement, and what influence this has had.



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