

8. Empowering Communities, Strengthening Decisions

Karen Ciesielski

Introduction

Public participation lies at the heart of the social contract, which has not always been a given in relation to environmental decision-making. Individuals and communities have come together to organise, mobilise and use legal mechanisms where necessary to protect their environment, working tirelessly to have their voices heard, whether they were formally invited to participate or not. Over time, the demand from the public to have a say in issues that affect them has led to the development of rights-based provisions for public participation in environment decision-making:

- Lisbon Treaty - Article 11(4) of the Treaty on European Union (TEU), which affords people the right to submit a citizens' initiative to the European Commission.⁶⁶
- Aarhus Convention (Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters)⁶⁷ – Ratified by all EU Member States, this Convention must be abided by both the European Commission and individual Member States, and gives citizens rights to access information, participation in decision making and access to justice on environmental matters. Under our *Access to Information on the Environment Regulations*⁶⁸, for example, Irish citizens are entitled to ask public bodies for documents on the likes of air, water, biodiversity, pollution, emissions, and waste, as well as documents linked to policies and plans likely to affect the environment.
- Protocol on Strategic Environmental Assessment, which is applicable in every EU Member State and copper fastens public participation in Strategic Environmental Assessment processes.

⁶⁶ <https://www.europarl.europa.eu/factsheets/en/sheet/149/european-citizens-initiative>

⁶⁷ https://www.unece.org/fileadmin/DAM/env/pp/Publications/2015/1514364_E_web.pdf

⁶⁸ <http://www.irishstatutebook.ie/eli/2007/si/133/made/en/print>

- United Nations Sustainable Development Goals (SDGs): Target 16.7 aims to, “Ensure responsive, inclusive, participatory and representative decision-making at all levels”.⁶⁹
- **Benefits of community-centred decisions which result from effective public participation:**
- Improved quality of decisions that are made, particularly when local knowledge and community concerns are reflected and incorporated in the outcomes.
- More effective implementation of decisions concerning the environment, with increased legitimacy and the potential to reduce conflict.
- Greater transparency and accountability, which builds trust in institutions and in the decision-making processes themselves, strengthening democracy.
- Active and engaged communities.

How does public participation currently work in Ireland?

There are a number of ways that public participation in Ireland currently happens in relation to environmental decision-making processes, including:

Established structures

Public Participation Networks (PPNs): Groups with a core focus on environmental issues can join the environmental college of their PPN, which is an important linkage to local government decision-making channels.

Local Environmental Networks (LENs) are made up of individuals and groups with interests in a wide range of environmental issues. They provide a central hub around which people from a given county can gather, discuss projects, ask for help, create change and become involved in their local PPN they wish.

Deliberative processes

Citizens Assemblies have provided space for context, rich dialogue and discussion in relation to movements for social change, for example regarding marriage equality and enhanced reproductive rights. The Citizens Assembly on

⁶⁹ <https://sdgs.un.org/topics/information-integrated-decision-making-and-participation-114>

Climate Action for example made 13 recommendations outlining how Ireland could transform into a leader in tackling climate change.

Public Consultations

Members of the public are asked to share their views on a particular piece of legislation, policy development, planning application, etc. How this happens and the process for gathering public inputs and feedback vary widely according to the government department or body, ranging from an online survey of multiple-choice questionnaires to detailed written submissions.

Public Engagement and Dialogue Events/Activities

Members of the public may be invited to take part in town hall type events, roundtables, seminars, webinars, etc. to learn more about a particular initiative, ask questions and provide direct feedback to public bodies.

The Environmental Pillar

The Environmental Pillar was established as an independent national social partner by the Irish Government in 2009 as a way to involve civil society in public debate and policy making as it pertains to the natural environment. The work of our members covers a broad range of areas including habitat conservation, wildlife protection, environmental education, sustainability, waste and energy issues, as well as environmental campaigning and lobbying.

We work towards achieving sustainable development, according to the Rio Declaration of 1992⁷⁰. These principles require the balancing of the three pillars of sustainable development - social, environmental, and economic.

Consultative Committees and Advisory Bodies

Representatives of civil society may be invited to join consultative committees and advisory bodies to advise on, and develop, policies pertaining to the natural environment.

⁷⁰ https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

Weaknesses of Current Models of Public Participation

Though there are a number of ways through which the public can engage and participate in environmental decision-making processes, there are weaknesses with these models, which include:

-
- There is a quite low level of general awareness and information among the public about how to get involved in local decision-making.
- Citizens Assemblies have proven to be fantastic opportunities for rich discussion, understanding and consensus building. We need to develop and facilitate models for public participation which encourage a similar level of debate and dialogue in other fora, including at local and regional levels.
- Persistent barriers for marginalised communities to participate fully in environmental decision-making remain and must be addressed through ways of working which are inclusive and accessible by design, right through to implementation. The Covid-19 pandemic has exacerbated inequalities in relation to participation, particularly in relation to the availability of high-quality broadband as we have seen a shift to online events and processes.
- There is no set rule around timeframes for public consultations. As a result, we generally see timescales which are too short, leading to challenges in obtaining proper feedback and engagement by the public.
- There is a lack of consistency from relevant departments and bodies in terms of where to find information about public consultations, how to participate, formats and nature of inputs.
- Inadequate resourcing for public participation prevents widescale engagement and limits contributions from individuals and communities.
- We need to close the feedback loop: when individuals, community groups and NGOs make submissions, they need to be kept informed about where that feedback goes and the impact that their contributions have made to the finished policy document.
- The public should be able to provide input/comments and have due account taken of them at an early stage of decision-making when all options are still open, on whether the proposed activity should go ahead at all (referred to as the “zero option”). This has special significance if the proposed activity may be of high risk and/or with unknown potential environmental impact.

- Public dialogue events can be more one-way in nature as opposed to allowing for genuine discussion and knowledge exchange among all stakeholders. As events have moved online, the prevalence of pre-selected questions has emerged as a potential barrier to a full and rich debate about issues of importance to communities.

Protection of Rights and Access to Justice

Though there are agreements and obligations to which Ireland is party that protect our access to environmental justice, there is always a threat that these rights will be weakened or diminished. For example, the Heads of the Housing and Planning Bill 2019 was published in 2019 and raised serious concerns among environmentalists, lawyers⁷¹ and community groups:⁷²

- The Bill would limit the ability of individuals and communities to access the courts to challenge planning decisions with a requirement around legal standing, stipulating that groups would need to have been in existence for 3 years before enacting proceedings.⁷³ This is particularly problematic, as often neighbours and communities may coalesce around specific issues which have arisen.
- Further, the Heads of Bill raised concerns that groups would need to have a minimum number of members before they could access justice, as well as the risk of incurring substantial costs if they challenged planning decisions in the courts⁷⁴.

This is in direct conflict with rights guaranteed under the Aarhus Convention, which ensures the public's rights with regard to the environment, including the right to access to justice that is fair, equitable, timely and not prohibitively expensive.

Moreover, there was a significant procedural issue with the public consultation process. The deadline for submissions was 13 January 2020, providing just 23 working days (many of which fell during the traditional holiday period) to submit detailed and constructive feedback on a Bill which would squarely reduce the ability of individuals and groups to have a say in the future.

⁷¹ <https://www.algoodbody.com/insights-publications/new-planning-rules-expected-to-make-it-more-difficult-to-challenge-planning-decisions>

⁷² <https://www.antisce.org/news/planningshutout>

⁷³ <https://greennews.ie/shock-bill-engos-access-justice/>

⁷⁴ <https://www.irishtimes.com/news/environment/environmentalists-say-proposed-bill-makes-it-harder-to-object-to-planning-decisions-1.4080944>

Following pressure from environmental groups, opposition politicians, and Committee members, the deadline for comment was extended until 27 January 2020. Community groups, activists and environmentalists made submissions to highlight the grave concerns with the Bill, which would affect their rights to environmental justice and would potentially leave the State exposed to legal challenges.

Next Steps?

Concerned groups will be poised and ready to take part in advocacy and awareness-raising activities once the Bill is presented for pre-legislative scrutiny, focussing on the extent to which our submissions and feedback have had an impact on ensuring that the rights of communities and individuals to access environmental justice remain protected and enshrined.

Case Study: Public Participation in Agri-Food Policy

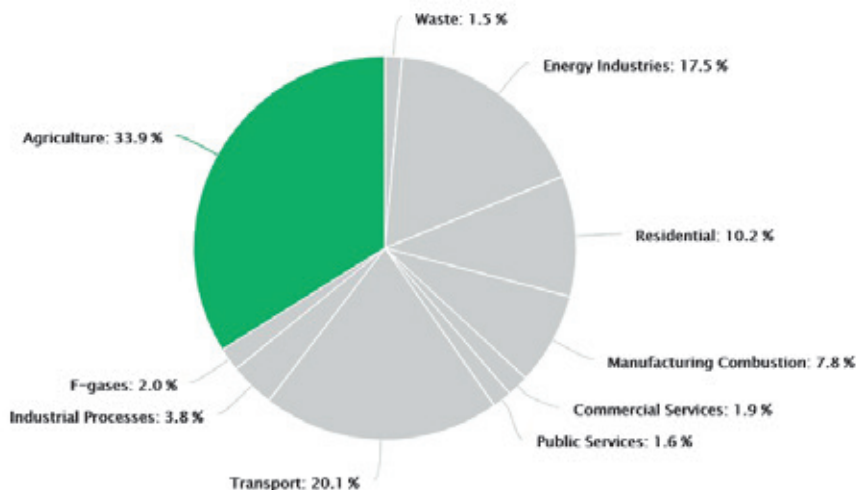
Ireland's next Agri-Food policy, the successor to FoodWise 2025, will play a fundamental part in addressing the climate and biodiversity emergencies over the next decade and will have an impact on every community throughout the country. The Agri-Food Strategy will act as a key policy driver during what is a critical time for action and must be based on principles of sustainability if we are to succeed in achieving our climate and biodiversity targets, supporting farmers in adapting to new practices while also ensuring fair prices for the production of healthy, nutritious food.

As the Agri-Food Strategy will have wide ranging effects on livelihoods, rural communities and our environment, the voice of the public in getting the Strategy right is critical, from the outset and right through to implementation and evaluation.

Setting the Scene:

Indicators show that trends for greenhouse emissions, biodiversity loss and water quality are all heading in the wrong direction and need to be reversed.

Fig. 1: Greenhouse Gas Emissions in 2018 by Sector



Source: <https://www.epa.ie/ghg/agriculture/>

Biodiversity and Water Quality

- Two-thirds of Ireland's regularly occurring wild bird species are Red or Amber-Listed Birds of Conservation Concern.⁷⁵
- One third of our 99 wild bee species are threatened with extinction. Reasons for decline include: loss of habitat through conversion of low-intensity farmland and semi-natural land to intensive farmland, forestry and urban/ industrial use;
- Loss of flowering plants as a food source due to changing farming practices are reasons for decline; Poisoning from pesticide use.⁷⁶

⁷⁵ <https://birdwatchireland.ie/app/uploads/2019/09/BOCCI.pdf>

⁷⁶ <https://www.teagasc.ie/news-events/news/2020/bee-friendly.php>

Water quality results show a decline in Ireland in the period 2013-2019, with now only 53% of Ireland's surface water bodies having a satisfactory water quality.⁷⁷

Role of Public Participation

The role and voice of the public in developing and implementing this Strategy cannot be under-stated. As such, there have been opportunities for individuals and communities to feed into the process since the outset.

1. Initial Consultation

In November 2019, the Department of Agriculture, Food and the Marine launched an online survey as part of its initial consultation phase on this critical policy document. Nearly 60% of responses were from primary producers (farmers/fishers) and 56% from those working in/representing the agriculture sector.

In relation to the importance of the contributions of farmers/fishers to society, protecting biodiversity, water and climate came second and third to ensuring safe, healthy food. Environmental sustainability also ranked as the number one concern for processors, as consumers are demanding this.

What we see from these findings is that the overwhelming majority of people who shared their views want agricultural practices and policies that are sustainable.

2. Public Stakeholder Engagement Event

A public engagement event was held in November 2019 to exchange views and information on what the next Agri-Food Strategy should look like, a step in the right direction to bring together a broad range of stakeholders in this way.

3. Stakeholder Committee

One seat on the 31-person Stakeholder Committee, was given to environmental NGOs.⁷⁸ Due to the breadth of wide-ranging issues to consider regarding climate, biodiversity and water quality, best practice would have been to broaden the representation of environmental NGO voices and allow civil society to select their own representatives in this important forum.

⁷⁷ <http://www.epa.ie/newsandevents/news/pressreleases2019/name,67351,en.html>

⁷⁸ <https://www.agriculture.gov.ie/agri-foodindustry/agri-foodandtheeconomy/agri-foodstrategyto2030/agri-foodstrategyto2030-stakeholdercommittee/>

4. Strategic Environmental Assessment (SEA) Scoping

A public consultation process in relation to the scoping element of the SEA process was launched on 12 August 2020, with the deadline for responses set for 8 September 2020. Environmental groups cited the tight timeframe for comment, again falling during a holiday period, and were granted an extension to submit detailed feedback.

Next Steps for Public Participation

The draft Agri-Food Strategy will be published in 2020, as stated in the Programme for Government, alongside the Appropriate Assessment document, and will be open for public consultation. Environmental NGOs will be advocating for a process which allows for:

Widescale public engagement activities to encourage participation from a broad range of stakeholders;

Clear and accessible ways of taking part and providing feedback and views;
A timescale which allows the public the opportunity to fully participate in a meaningful and constructive way;

Transparent and accountable methods of ‘closing the feedback loop’ at all stages of the consultation process.

Measuring the Impact of Public Participation

Critically, we will be assessing the extent to which members of the public’s views have been taken into account and asking the question – if not, why not?

A New Roadmap to Empower Communities and Strengthen Decisions

As we work towards a just recovery from the Covid-19 pandemic, we must put people and communities at the centre of decision making through deliberative processes that are participative, open and inclusive at every stage if we are to ensure that no one is left behind. We need to engage, inform and build trust, particularly among the most marginalised individuals and communities, adopting new ways of working:

- Appropriate levels of funding and staff resources to administer public participation processes are also necessary to be fully participative.

- Barriers to participation need to be mitigated, for example issues in relation to literacy, mobility, geographic location, etc. when designing and implementing public participation processes.
- Sufficient timeframes for all stages of public participation processes, which includes time for taking due account of the outcomes and provisions for ‘the zero option’ is absolutely critical.
- Policy making processes must be open, inclusive and transparent by design and implementation, with clear and widely accessible information sharing and consistent frameworks for participation.
- We need to close the feedback loop, ensuring people know what happens to their submissions and views after they submit them.
- Critically, we need to ensure that civil society can choose our own representatives in official fora, encouraging active citizenship and robust decision-making processes.⁷⁹
- We need to harness the knowledge and expertise available in local communities throughout the country by reinvigorating and appropriately resourcing PPNS, which can and should play a much bigger role in public participation.

⁷⁹ https://www.wheel.ie/sites/default/files/media/file-uploads/2018-08/Powering%20Civil%20Society_0.pdf