TRANSCRIPT

Episode 6 – Citizens’ juries

Paul Parsons - This is Not a Consultation.

Caroline Latta - I'm Caroline Latta...

Paul Parsons - and I'm Paul Parsons.

Caroline Latta - Welcome to Not a Consultation.

Paul Parsons - Our podcasts on all things patient and public involvement and NHS service change.

Caroline Latta - Today on the show, we're going to take a closer look at citizens’ juries.

Paul Parsons - In our Gloucestershire case study episode, we heard how valuable commissioners found the citizens’ jury approach in its process to decide where to build a new community hospital in the Forest of Dean.

Caroline Latta - We were excited by the possibilities and decided we needed to know more.

Paul Parsons - You were so excited by the idea of a citizens' jury, you couldn't decide what you wanted to do first - commission one or take part in one as a juror.

Caroline Latta - I know my mind was racing. It seemed like there were all sorts of challenges where a jury might be helpful. So to find out more, we spoke to the director of Citizens' Juries CIC.

Paul Parsons - And as always, we started by asking our guest to introduce themselves.

Malcolm Oswald - Hello, I'm Malcolm Oswald and I'm director of Citizens Juries CIC, which is a not-for-profit organisation which designs and runs citizens' juries in the UK with the Jefferson Center, which has just recently changed its name to the Centre for New Democratic Processes.

Caroline Latta - Hello, Malcolm, would you start by telling us what a citizens' jury is?

Malcolm Oswald - Yeah, I can. So they're designed as a different way of doing democracy. So it's considered what's called deliberative democracy. And what we do is we bring together a cross section of the public, typically for a jury that's between like twelve and 24 people, and we bring evidence to them, usually primarily through expert witnesses who present information to the jury about questions that have been posed to them, and they deliberate together to reach, if you like, policy recommendations at the end. So what we expect people to do with those is to always respond to them, not necessarily follow what they do, but there are colleagues of mine in different parts of the world who see this as a different way of doing democracy, a way of renewing democracy that we don't necessarily have just elected representatives, but we basically select a cross section of the public and we give them responsibility for making policy decisions.

Paul Parsons - It's interesting that you describe it as a democratic exercise. The NHS isn't a democratic institution. So how could a citizens' jury help with a big decision in the NHS?

Malcolm Oswald - Yeah, it's a good question. So I think that most policy decisions, public policy decisions, be there in the NHS or anywhere, they're informed by evidence, but they rely on values. So if you think of the recent pandemic, people talk about following the science, well, science never tells us what to do. Science can inform us about to help us make decisions but our decisions on policy are invariably based on both evidence and values. So I would say, well, where should those values come from? And I think that's a particular issue in the NHS compared to, say, local authorities, because in local authorities there are elected representatives. So they have what in political philosophy and political science you call legitimacy. So they are elected by local people. Now, in the NHS, you don't have that. One thing that citizens' juries does it enables us to get a more informed view of what the public thinks, compared to, say, an omnibus survey, where we might also get a cross section of people, but there's no opportunity to inform them.

Caroline Latta - We're used to the question a jury in a court of law is asked to consider the reasonably straightforward binary, guilty or not guilty. What kind of question would you expect a citizens' jury to respond to?

Malcolm Oswald - So I think they can answer most public policy questions. So one of the ones that I know that some of your listeners may have heard about is that in the Forest of Dean, we organised and ran a jury for the NHS in Gloucestershire. The local NHS had made a decision to close down two community hospitals in the Forest of Dean and build a new one. That was a very contentious thing to do. We are brought in to look at where should the new hospital be built. And there were three potential towns, and we brought together people from across the district to hear evidence around each of the three towns and what things maybe they should be taking into account, for instance, local population, health needs, travel, environmental impact. So a whole variety of different things that they learned about, and then they came up with their recommendations at the end on where that new hospital should be built.

Caroline Latta - How do you go about setting up a jury?

Malcolm Oswald - The gold standard for recruiting people is to send out letters in the post to a random selection of households, and then people come forward from those after receiving those letters. And then you essentially randomly select effectively from the people who come forward. We don't tend to do that because it's quite expensive. So we advertise on, and the most successful means we advertise, it's not usually the only way we advertise, but we advertise on a jobs website and people who are browsing around looking for jobs because they get paid to do this, that's quite an important thing. You have to pay people. People will then go and fill in a form online and we will basically select a cross section of the public in terms of age, ethnicity, gender, educational attainment, often postcode, perhaps employment status. So variety of things that we want to control for. So we're looking for what's called a stratified sample, a sample of people that broadly reflects the population. Then we'll use census data to compare who we get. And if you like, get a little microcosm on a local population as best we can, into the room.

Paul Parsons - You mentioned paying jurors to take part. Why is that important?

Malcolm Oswald - So if you don't pay people, you'll get a lot of older people and an awful lot of graduates, we tend to get more young people applying. So I would reckon in the 18 to 29 age group, that is in terms of applications, we get to be on the jury, probably 30% of people between 18 and 29. We have too many young people applying and not enough old people. And I speak as an old person myself at over 60. Basically what we're trying to do is reduce self selection bias so we can't eliminate it but reducing self selection bias, I would say, is very important. We want to try and hear from the sort of people you walk past in the street and not necessarily all the people who normally respond to public consultations. I've not got anything against them, and I admire them and they spend the time doing it but the vast majority of people have never responded to public consultation in their lives. And we just want people, an ordinary cross section of the public, to come

along, hear the evidence, and they become a little bit like many public policy makers when you watch them.

Malcolm Oswald - I remember my wife first sat in and looked and she said, they take it all so seriously, and they really do. So they take their responsibilities terribly seriously. And even though it might be something they'd never have responded to, they would never have gone and got the consultation documents and come forward, they will very much engage with all the evidence, and they take their job very seriously.

Paul Parsons - Do you think jurors take the exercise seriously because it's a serious exercise, or does paying them have a bearing on that as well?

Malcolm Oswald - Paying them helps, but I also think people often say, oh, it's very professional. If you think about in your own life, how many times do people come and ask you about for your views on things and really take it terribly seriously? So we go through a little interview with them before they get there. When they get there, they get a ring binder with all the information in, experts come and speak to them. So there's a huge amount of effort gone in to inform these people and finding out what they think. And I would say human beings respond terribly well to that, and it'd be lovely if we had more of that in our lives that actually people engaged with others and found out what they really thought about things. Because what I found is that when you do that, human beings respond terribly well.

Paul Parsons - You mentioned there achieving a stratified sample to make sure this jury is representative of the population. Caroline and I will often use stratified sample approaches in the exercises we plan and deliver so we can understand and explain how self selection bias might affect what we hear in a wider exercise. How would you say that a citizens' jury stacks up against those other approaches, targeted surveys, other targeted research.

Malcolm Oswald - So I think a survey with a lot of people like a large quantitative survey with a stratified sample. It's important. So it matters what the public think and what you're hearing there is you get greater confidence because of the number of people you're speaking to. I would also argue it matters what an informed public thinks, and what we find is that as people gain information, they change their mind. So as people learn more about whatever question is you're asking them, they are quite capable of changing their minds and also when they speak to their peers. So when there's an awful lot of time spent in citizens' juries working in small groups with others, so both of those things will often mean they change their minds. And sometimes we do. I have a question for them at the start of the event before the event, and I asked the same question at the end, and typically at least half of them have moved on that question through the course of the jury. Most public policy questions are complicated. It's quite a lot to know. So it matters, I think, finding out what a cross section of the public might think about something when they actually know more about it. But it also matters what the public think when they don't know very much about it, and that's what you get from a big survey.

Caroline Latta - After you've recruited and selected juries what steps does an organisation need to go through to make its jury successful?

Malcolm Oswald - One of the things that's quite important and quite difficult for most organisations is that we keep them a little bit at arms length from some of the, particularly from the process. So my view is it's for the organisation commissioning the jury to work out what questions it wants to ask the public. We help them because how you articulate the questions is something that can benefit from advice, but we don't let them design the process, so we keep them well away from the process. This can be quite a difficult thing for any organisation to accept because in a sense, they just see it like a management consultancy job, and they should be able to get involved in every single aspect of it and tell you what to do, where they want to. So that's quite a tricky thing. So when you work with an organisation for the first time, that can be quite hard. But the reason we do that is clearly it's important that we want to present impartial information as much as possible to the jury. And it's our job to try and be impartial. We're a bit like the honest brokers, and it may well be that the commissioning body have a particular interest

in a particular outcome. So we have various things to try and monitor, minimise and report bias, because bias is one of the main critiques of the method.

Caroline Latta - How do you go about collating the evidence needed?

Malcolm Oswald - You can't really begin until we know the questions. So we begin with the questions and once we know the questions and the questions are pretty well articulated, we then ask the questions. So this is what we'll do. Myself and my colleagues will say, so to answer those questions, what sort of information does the jury need? And then we'll go about thinking, well, how do we get that information to them? And usually it's a who, because we usually rely on expert witnesses. So I will tend to write a brief for all the expert witnesses, which sets out, if you like, the questions I want them to answer to provide impartial information. And one of the ways we try to ensure it's impartial is that we appoint something we call an oversight panel, which is a group. And we usually have three people who've got no special interest in whatever outcome the jury comes up with, and it could be respected and seen as impartial. So you might, for instance, have somebody, from Health Watch would be an example, on an oversight panel. And we get them to review the design of the jury that we do, and we get them also to review the slides that the expert witnesses come up with.

And their main job is to review them for potential bias, report it and then if they, so there's a bit of a process where I have to get the slides early from the witnesses. I feed them through to the oversight panel, we have a meeting and then there are changes needed afterwards and I have to feed them back, get the slides changed and then I get them all printed off and got into ring binders. So there's quite a lot of lead time involved in this. It's quite a lot of process under the bonnet. And I think when people come along to this process, they may be thinking, well, that can't be too much work. Well, there's a lot of work. So something like a three day citizens' jury or four day citizens' jury is probably 60 person days work. Just all of the recruitment and the preparation and running the juries and producing the outputs and so on. So there's a lot to them.

Paul Parsons - Have you moved juries over to the digital space during the pandemic? And if you have, what's the difference between doing them live and doing them online?

Malcolm Oswald - Yes, so you're right. So we usually do them in a room, in a physical room. So, for instance, that one I mentioned in the Forest of Dean, we did that in a physical room and we actually allowed the public to come in. Now, that isn't always the case. It's not that all citizens' juries and assemblies have the public watching and it's more complicated to make that happen. But when you're doing something of public interest and in the Forest of Dean, we had quite a lot of local people come in and watch sections of the jury. One or two people watch the whole thing. Four and a half day jury. That's something that's I think a potential advantage in terms of just the process being seen to be done and done fairly. The BBC Points West came and did a couple of reports about his interview and juries and so on. So that was quite nice. In the room we just done one in Gloucestershire about the way they deliver specialist hospital services, and it was actually about the consultation. In that one we had to do it on Zoom, and clearly that makes a difference. And we didn't allow the public in mostly to protect the jurors.

That was really the reason. So we didn't want people to be recording it and then pasting it online and so on. So that was a bit of a downside of doing it virtually. I think that was the first one we've done and I was cautious about how well the jurors would bond and communicate with one another. But by the end of it they did and they will, and that's an awful lot about the skill of my colleagues facilitating the process. But people do build up important relationships even on a flat screen, you don't quite get the same thing as you can get, I think when you have people mingling in the coffee breaks and over lunch, but it was still very effective, I think from that point of view.

Paul Parsons - Malcolm, I get the sense that there's anything but a typical day in a citizens' jury. As best you can, can you describe what goes on in the room for us?

Malcolm Oswald - Let's say it's a five day jury, but typically these things are a minimum of three days. So let's say in a typical five day jury, the first half day is a kind of induction

thing. You're getting to people learning to work in groups and so on. And then maybe for the next two and a half days, in a five day jury, you'd have the witnesses come do their presentations. After presentations, they do questions and answers with the jurors. Very often we'll get to work in small groups after they hear a presentation from a witness, they might go into small groups to agree the most important questions. So they'll actually deliberate about what questions to ask. And it's all timed. So the witnesses are held strictly to time and the Q and A is strictly to time. So there'll be a Q and A, and then they'll very often be another half hour to an hour after that, where they go off and deliberate about the most important things they learned from that witness. That kind of process might happen for the first half of the jury, there's then tends to be the last couple of days is deliberation.

And the way we do it on the last day, they might end up voting on what's the most important. They will be given some votes. The things with the most votes will become the most important things, and those things will have come from them expressing their own words, and then they'll have essentially ranked them. And then on the last day, we pulled together a report with them, which is mostly in their own words of these things that they've agreed through the process, and we show it to them on the screen. Here's what you've agreed. And then essentially, by the end of that process, we've got a draft report and we can usually release that within, we'll go away and tidy it up for a day and then we'll publish it online, and we don't usually, that one doesn't go to the commissioner, they can't review that, they can't comment on that, it just goes out there. So I then later produce a second report, which is more about describing how we recruited and stuff about the process and the commissioners get to review that and that also gets published. But what happens in the room ends up with a report which gets published pretty near immediately.

Paul Parsons - So when you do a live citizens' jury and you're at that final day, you review the report with the jurors. If the public's involved, if the public's allowed to be there observing, does the public get to hear the output of the jury on that day?

Malcolm Oswald - Yeah, they would. So in the Forest of Dean, it's quite nice. The BBC report does this very nicely. They voted on where should the new hospital be built? We

then process their votes, announced it to the jury, then we opened up the double doors and then we announced it to the public. So they got that result there. It was actually filmed by the BBC as it was happening. So the people who are watching and to the jurors themselves, it's a transparent process and that's quite powerful to do that in a room, letting the public watch it.

Caroline Latta - In service change exercises there are often campaign groups opposed to the basic idea at the centre of the programme. In your experience, how do they respond to a jury exercise? Do they feel that it has legitimacy? Whether the output of the jury agrees with them or not.

Malcolm Oswald - They might be more happy with it before they hear the answer. As soon as they hear the answer, if they don't like the answer, they definitely disagree with the jury process. But, yeah, I would say working with campaigners can be very challenging, just like it is for the commissioning body. They will often challenge everything you do. They will look to criticise what you're doing and we've had that and it definitely adds to the time and complexity of the process. When you have campaigners from the outside challenging what you're doing, it doesn't add massively, but it can potentially change what you're doing. It's definitely an extra challenge compared to juries we do where it's a public policy question that matters, but there isn't a campaigning local public scrutinising everything you're doing.

Paul Parsons - It seems like there are an awful lot of positives for citizens' juries and they seem to have a lot to contribute to answering a specific question. In your experience, are there any drawbacks for using this approach to deliberate something like the site for a new hospital?

Malcolm Oswald - Yeah. So I think and however you organise it, it can be difficult to get the people who come into the room to completely leave behind their local loyalties. So I think when they're being asked something which maybe doesn't have such a direct impact on them, maybe if they're in a particular part of a county, say, and whether it

moves to one place or another won't affect them too much, then I think then they will be more impartial with the evidence. But getting people who are in a particular town to vote for the thing not being in their town anymore, even in a process like citizens' juries, I've got to admit, it's not easy.

Caroline Latta - Finally, Malcolm, what would be your top tips for anyone thinking about using the citizens' jury in their patient and public involvement programme?

Malcolm Oswald - So I would say make it about a subject which is relevant to the public. So that be my first thing. And I think if it's about general health services, then everyone in the public cares about that. I would say pick something where there's evidence as well as values that matter. So you wouldn't do it about a trivial matter where really you could just do a survey. There aren't many public policy questions like that in the NHS, but that would be my second thing. I think my third thing would be go into it, realising that it's quite a major undertaking. It's quite costly because of the amount of time it can be done quickly. So I would say three months elapsed time is needed to particularly help articulate the questions, identify the kinds of witnesses you need, book busy people in their diaries so they can come and present. All of that takes a lapse time as well. So it's not something you can do very quickly. And I think the last thing would be, don't do it unless you're prepared to actually really take great notice of what the jury says. So I think the very worst thing you could do is run a jury and then not respond to every recommendation and not justify your response if you disagree.

Malcolm Oswald - It's not that you have to agree with everything they say, but you have to respond to everything they say potentially, and you need to be able to justify it where you disagree. So I'd say don't do it unless you're prepared to do that.

Caroline Latta - Well, that was really interesting. What was your take on it?

Paul Parsons - What a great way to involve people in decision making. I liked it and I can see us using it in the right project. The jury approach addresses two of the things we often find challenging in involvement exercises - self selection bias and how to get really well informed responses. Self selection bias is a feature of engagement. We see it in exercises across the country that people are more likely to participate if they disagree with or object to the proposals being put forward, or they think they or their community might lose out as an effect of the ideas being discussed. The jury approach deals with that by working hard to select a representative sample of the local population. Securing informed input is another challenge in engagement. Hitting that sweet spot between giving people enough information to mean that we get the best informed responses we can get and giving them so much detail that we lose their attention and with it, their participation. The jury approach tackles that head on by paying people to participate as jurors and serving information to them in manageable chunks. What did you think?

Caroline Latta - I loved hearing from Malcolm about citizens' juries. I found the concept of them being a different way of renewing democracy really interesting. It feels to me like a good model of participatory decision-making, and it can allow the voices of the most marginalised and we know they're that potentially the most impacted people to be heard and included, and that's really important under our equality duties. We normally use stratified social research methods as a benchmark alongside public surveys, so having another way of benchmarking against self selective responses is useful too. And I agree that paying people to take part is a really good way of reducing self selection bias. And good to know from Malcolm that jurors take their roles very seriously.

Paul Parsons - I wondered, with the collective decision of a dozen or so jurors, Malcolm told us it was 18 in Gloucestershire, would that decision carry weight with a broadly sceptical public? But it seemed to in the Forest of Dean, with even the campaign as reluctantly giving credit to the process. So it's definitely worth considering.

Caroline Latta - The NHS isn't a democratic institution, and it wasn't set up to be, but we can't pretend it doesn't operate in a political environment. We know NHS organisations work hard to engage with local elected members through health and wellbeing boards,

health overview and scrutiny committees, and briefing local members of Parliament on key issues, particularly the high profile and contentious ones. But that doesn't deliver the kind of democratic legitimacy that Malcolm described. Adding some of that type of democratic legitimacy to an exercise like a jury could be very beneficial to some programmes.

Paul Parsons - It could. We don't need it with every programme. As a public, we're mostly content to let the experts get on and make their decisions. But it could be a lot of help where the issues are contentious and have been politicised, where campaign groups form to oppose service change proposals and put pressure on local politicians. Anyway, have you decided yet?

Caroline Latta - Decided on what?

Paul Parsons - Whether you want to commission a jury or be a juror?

Caroline Latta - Well, both, of course. But whichever opportunity comes along first, and it's more likely we're going to commission one, though, isn't it?

Paul Parsons - There is a really good possibility of that it. It isn't for every exercise, but as part of a package with the right challenge, I can see it being really useful indeed.

Caroline Latta - And here we are again at the end of another episode already. Thanks to Malcolm Oswald for joining us to talk about citizens' juries.

Paul Parsons - We'd love to hear your experience in similar projects. Join the conversation by following us on Twitter @notconsultation or emailing us at listen@notaconsultation.com.

Caroline Latta - There's loads more learning in our other episodes all available on our website - notaconsultation.com.

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