

TRACCIA NON ESTRATTA

TRACCIA 1

1) Regole organizzative e loro riflesso sull'attività e sulla legittimità degli atti, con particolare riferimento al vizio di incompetenza.

2) Dolo e colpa nella responsabilità amministrativa

Informatica: Quali strumenti di sicurezza conosce per limitare i rischi nella navigazione sulla rete

Firma autografa omessa e sostituita a mezzo stampa ai sensi dell'art.3, comma 2 del d.lgs. 39/1993

than allow cross examination by lawyers although cross examination may be allowed. The application and examination would be subject to a strict time limit. All stages would be subject to full participation opportunities and "open floor" opportunities. Recommendations would be made according to national policy statements. These would be of varying levels of detail. The panel would not examine the case for need where an application was consistent with a NPS. The NPS would establish the need. Local questions concerning compliance with EU and domestic law (environmental information requirements, human rights, environmental standards, habitats, etc.) would be considered by the panel. After considering recommendations the final decision is made by the Secretary of State and will be challengeable in the courts.

Planning controls have faced legislative pressure to give more power to local communities (Localism Act 2011) with, paradoxically, an increasing centralisation of planning control through the Secretary of State and lifting the "burden" in other areas (Growth and Infrastructure Act 2013).

3. Consultation and Participation⁽¹⁸⁾

We are familiar with models which show how governance moves from a top-down executive autocratic mode, through representative democratic ones, to consultative and participatory ones to situations where interest groups are allowed to regulate themselves with minimal oversight by official organs. Consultation is important because it sets the scene for public influence on policy decision-making affecting the collective welfare. The present government guidance is in a 2012 publication.⁽¹⁹⁾ This emphasises the proportionate quality of consultation depending on the issues involved. The process should be as transparent as possible and feed-back on previous consultations should be given. Collective ministerial agreement needs to be obtained before public consultation which might indicate commitment to a particular policy. The leeway for adaptation is not clear. It is stated that consultation should take

Commission Panel Report]. In October 2015, the government announced a new National Infrastructure

<http://infrastructure-planningportal.gov.uk/projects/south-west/hinkley-point-e-new-nuclear-power-station/> [National Infrastructure Planning Hinkley Point C].

The controversial decision to proceed with the new high speed rail network (HS2) was to be made through a hybrid bill process through Parliament. The Supreme Court ruled that the government proposals set out in a Command paper did not require a strategic environmental assessment under EU law, that the Parliamentary bill procedure did not contravene EU law in relation to an EIA and no reference to the EUECJ was necessary. *R (HS2 Action Alliance Ltd) v Secretary of State etc.*, [2014] UKSC 3.

(18) The government web page for consultation is: <https://www.gov.uk/government/publications/consultation-principles-guidance>.

See Lords Secondary Legislation Committee HL 100 (2012-13) and Government Reply HL 111 (2013-14) on review of consultation principles.

(19) *Consultation Principles* (2012). See *Effective Consultation* Cabinet Office (June 2007).

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place before a decision is fixed. Previous guidance had fuller details on procedural safeguards. The guidance is relevant to implementation of EU directives for which detailed guidance exists.⁽²⁰⁾ The guidance does not override legal requirements.

Provision for consultation in statutes is a long-standing practice and has been subject to many judicial decisions on what a "duty to consult" means as a legal requirement. The legal tests are usually demanding.⁽²¹⁾ I can address these when we look at the courts below. There must be sufficient information to understand the proposals on which consultation is sought; the period of response must be reasonable, choice of parties for consultation must be reasonable. What is not clear is what duties there are to provide opportunities for feed-back on comments received and for further opportunities for comments from interested parties on these comments.

Consultation may also be accompanied by stakeholder groups, public meetings, web forums, "crowdsourcing", public surveys, citizen juries, focus groups, regional events and targeted campaigns and the White Paper *Open Data* lists the possibilities.⁽²²⁾ Information provided will be dealt with in accordance with the Freedom of Information Act 2000 (FOIA) and Environment Information Regulations 2004 (EIR) and Data Protection Act 1998 (DPA) requirements so information, excluding personal information protected by the DPA or confidentiality and exemptions, will be disclosed.

4. The Executive, Parliament and Select Committees

We should appreciate that many of the initiatives for good administration come from government itself. Government drives initiatives for legislation. It has promoted non-statutory codes and guidance on grievance redress, consultation, better government and better regulation and for virtually every aspect of administration including appointments post ministerial office or civil service office⁽²³⁾ and appointment of special advisers who are not civil servants.⁽²⁴⁾

It has also set as a focal point in public service the development of e-government and information technology (IT) and delivery is centred on the Government Digital Service. In 2012 *Open Data* proclaimed the UK government as a world leader in openness. By 2009 £16 billion was spent on IT provision each

(20) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229763/bis-13-775-transposition-guidance-how-to-implement-european-directives-effectively-revised.pdf.

(21) P. BIRKINSHAW and M. VARNNEY, *Government and Information*, 4th ed., Bloomsbury Professional, 2011, para. 167 *et seq.*

(22) Cm 8353 (2012).

(23) <http://www.acoba.gov.uk/> and see Public Administration Committee *The Business Appointment Rules* HC404 (2010-02).

(24) <https://www.gov.uk/government/collections/special-advisers-conduct-and-guidance> [2013].