

Ensuring Legitimacy in Stakeholder Engagement: The '5 Es' Framework

AlgorithmWatch has designed this framework to assist anyone with responsibility for designing and implementing processes for stakeholder engagement, to ensure the legitimacy of outcomes from these engagements - given these outcomes can affect people's lives and rights.

It can also provide specific principles and language for external parties to refer to when providing input, opinions, and critiques of stakeholder engagement.

These principles are designed to evaluate *who* is involved in stakeholder engagement and *how* it is conducted, rather than the outcomes (outcomes should be evaluated according to relevant substantive criteria e.g. whether certain legal requirements were met).

We provide examples specifically relating to risk assessments under DSA Article 34 in order to provide focus and clarity. However the framework could be extended to apply to other contexts.

A fuller explanation of the framework and the principles, how they were developed, and how they connect to key values and expectations of democratic societies, can be found in an accompanying paper (contact marsh@algorithmwatch.org for details).

Principle	Key question	Why important for ensuring legitimacy?	Example(s) of how to ensure the principle is met when designing stakeholder engagement around risk assessments	Example(s) of why one might challenge legitimacy of stakeholder engagement on the basis of this principle
Who should be engaged?				
Equity	Are valid moral and legal claims appropriately represented?	Perspectives of groups impacted – particularly those with the most urgent claims to avoid negative impact – must be properly accounted for, in a way that engenders trust amongst affected groups.	<p>The risks listed in the DSA should be weighted on urgency in the context of the risk assessment in question, and participation planned accordingly.</p> <p>Use prior research to evaluate the urgency of risks, consider whether most urgent risks are directly represented through the inclusion of stakeholders and trusted group representatives.</p> <p>Consider and, if necessary, justify the exclusion of direct representation and consider suitable alternatives to represent less urgent risks (e.g. surveys, literature).</p> <p>Assess the full range of direct experiences and perspectives of the planned group, not merely their subject areas and specialisms.</p> <p>Assess the overall capacities of experts and representatives to take into due consideration the range of reasonable but different political and moral views characterizing pluralist societies.</p>	<p>Each of the risks listed in DSA Article 34 were given equal weight, as a “tick-box exercise”, even though some were clearly more pressing in the particular context.</p> <p>Perspectives of an urgently at-risk group were accounted for merely through a secondary literature review.</p> <p>Even though stakeholders provided specialist input on a range of risks, they all brought insufficiently pluralistic perspectives on these risks (e.g. all researchers, all representing a similar point of view).</p>
Expertise	Is the influence of stakeholders in the process aligned with their proven expertise and competence	Participation should be conducted with the expectation that everyone can contribute relevant expertise to the benefit of the entire	<p>Experts should be chosen for their demonstrable relevance to the problem and their potential contribution to the overall stakeholder group.</p> <p>Inequalities of power and resources between different experts should be considered – including</p>	<p>Potential participants with highly relevant expertise were not considered, in favour of a more familiar group with less relevant expertise.</p> <p>Participants providing one form of expertise were selected from institutions with extensive</p>

	relevant to the primary objectives?	group, thereby increasing the <i>effectiveness</i> and <i>equity</i> of the process.	<p>their expertise and capacities related to stakeholder engagement in general - to ensure that unequal levels of capabilities and resources can be realistically levelled out during engagement (see <i>empowerment</i>).</p> <p>Take time to seek out those with nuanced understandings of the possible risks at hand, particularly from lesser-known or niche areas, to provide a complete picture.</p>	<p>experience of stakeholder engagement, while participants providing a different form of expertise were selected only from relatively untested organisations with little experience of providing policy-relevant input.</p> <p>The opportunity was advertised and conducted through a narrow range of channels, or is overly burdensome or too time-pressured for less well-resourced organisations.</p>
How should engagement take place?				
Effective	Does the process achieve its intended outcomes?	A procedure which is unlikely to deliver the intended outcome cannot be considered legitimate even if it were to be equitable, expert-based, etc.	<p>Methods for collecting and analyzing data should be demonstrably appropriate and up-to-date.</p> <p>The process should ensure rigour by building in opportunities for independent check and challenge from stakeholders of different backgrounds.</p> <p>Any gaps in data or tools, access to which could have improved the outcome, should be clearly highlighted.</p>	<p>Although data was analysed by relevant experts, the data made available for and used in the analysis was not the most relevant or sufficient data for the question at hand.</p> <p>Results of existing research findings were selectively cited to ignore findings which might undermine the risk assessment.</p> <p>Opportunities for independent challenge were limited.</p>
Empowering	Is there due consideration of low-power stakeholders and parties affected by the outcomes?	It is essential to be sensitive to the inputs (opinions and preferences) of all stakeholders, including the least powerful stakeholders with the most urgent moral and legal claims related to the main outcome of the process, by ensuring	<p>Ensure that stakeholder perspectives are genuinely able to shape outcomes all along the engagement process – how engagement is conducted, the topics discussed, how decisions are made, and actions emerging from the engagement.</p> <p>Consider ways to empower relevant stakeholders and consider potentially affected parties who are not directly 'at the table' (e.g. if <i>Equity</i> favoured, on balance, including other participants).</p>	<p>Key discussion points and decision-making criteria were imposed without due consultation with stakeholders, and with no flexibility to adapt to their input.</p> <p>The outcome weighs up and balances conflicting human rights, but in a manner which does not account for differing severity of impacts on and resilience of groups affected by the outcomes.</p>

		<p>that the procedure is designed in a way that ensures sensitivity to their input.</p>	<p>Provide resources and training tailored to specific participants as needed, to enhance their participation effectiveness (e.g., providing resources to help them understand and engage with the risk assessment process).</p> <p>Draw on best practice for facilitating inclusive forums, particularly for low-power stakeholders.</p>	<p>The consultation was only conducted using language which was more familiar to some stakeholders than others, with no accommodations; or was lacking other accommodations such as e.g. for disabilities.</p> <p>The process requires extensive time commitment or resources (such as travel for in-person meeting) without compensating participants for whom this is a disproportionate burden.</p>
<p>Expand Competencies</p>	<p>Does the process provide opportunities for individuals and groups to display their skills, gain recognition, enhance their status, and develop their capacities?</p>	<p>Encouraging continuous learning and recognition in risk assessment leads to broader societal benefits. It nurtures an informed and inclusive society, fostering innovation and resilience in communities facing evolving risks and challenges.</p>	<p>The process encourages stakeholders to collaboratively interact, transparently share information, and learn from one another's expertise; and facilitates sharing of experiences and expertise gained with wider networks.</p> <p>The process embeds feedback and evaluation opportunities of the engagement, to facilitate improvements of (i) future engagement processes and (ii) individual participants' abilities to contribute to other engagements.</p> <p>The process facilitates, where relevant and appropriate, future communication and collaboration amongst participants.</p> <p>Stakeholders are supported, and support one another, to communicate the value of their involvement to their audiences.</p> <p>Any value created in the engagement process and outcomes is fairly distributed amongst participants.</p>	<p>The process was unable to or did not respond to clear signs of behavior by participants which could negatively impact upon other organisations, and/or undermine the stakeholder engagement or its purpose.</p> <p>The stakeholder engagement led to innovative measurement methodologies which may bring benefits and value to platforms, but some stakeholders who developed these methods do not receive a proportionate recognition or ability to gain their own value.</p> <p>Particular members use their participation to gain disproportionate influence, leading to policies favoring local interests but neglecting wider societal needs.</p>