

**THE TRANSPARENCY OF EXPERTISE
IN EU POLICY-MAKING.**

MARK FIELD

**THIS THESIS IS SUBMITTED IN PARTIAL FULFILMENT
OF THE REQUIREMENT FOR THE AWARD OF THE
DEGREE OF DOCTOR OF PHILOSOPHY OF THE
UNIVERSITY OF PORTSMOUTH**

SUBMISSION: MARCH 2015

Abstract.

This thesis contributes to a growing body of literature on the role of transparency in public life. Analysing EU transparency through three levels of analysis, the thesis investigates how and why the expert advice proffered to EU policy makers is made transparent to EU citizens.

At the institutional level, the study compares the transparency provided through the online registers to assess the extent of compliance with the rules and guidelines on the provision of information. It shows significant errors and gaps in the publicly available data, and demonstrates that these inaccuracies are the result of poor quality assurance at the institutions.

At the group/actor level, the study draws on data from a series of elite interviews with policy-makers to consider the purpose of EU transparency. It shows that, whilst individual actors overwhelmingly frame transparency in wholly positive terms, collectively they bestow it with multiple attributes. The thesis posits that the EU has multiple transparencies and that the transparency tools - intended to improve citizen trust in the EU institutions - are frequently used by groups to undermine this trust.

The process level of analysis examines the nature of the expertise used in the policy process in two distinct areas. It shows that, overwhelmingly, individuals apply to join an expert group following an informal approach from officials at the relevant Directorate General, and that those appointed in a personal capacity are likely to be already known to the Commission official responsible for the appointment. The study argues that, for the Commission's expert group appointments, the non-transparent nature of these informal processes undermines the Commission's rules and guidelines on transparency.

Finally, the thesis recommends a number of specific and low cost measures to improve the transparency of the expertise used in the EU's policy-making process.

Table of contents.

Preface

Title page	i
Abstract	ii
Table of contents	iii
Declaration	viii
List of figures	ix
List of abbreviations	xii
Funding statement and acknowledgements	xv
Dissemination	xvi

Chapter one - Introduction

<u>Section</u>	<u>Title</u>	<u>Page</u>
1.1	Purpose and focus	1
1.2	Links to existing literature	4
1.3	Research approach	5
1.4	Conceptual framework	5
1.5	Research question	6
1.6	Research aims	6
1.7	Initial suppositions	7
1.8	Definition of transparency	9
1.9	Chapter breakdown	9

Chapter two - State of the art

<u>Section</u>	<u>Title</u>	<u>Page</u>
2.1	Introduction	13
2.2	Defining transparency	13
2.3	The nature of transparency	15

2.4	The nature of EU transparency	16
2.5	Linking EU transparency to legitimacy	17
2.6	Linking EU transparency to democratic participation	22
2.7	The link between democratic participation and expertise	24
2.8	The legitimacy of expertise	26
2.9	Expertise at the Commission	28
2.10	Defining an EG	29
2.11	Comitology committees and EGs	29
2.12	Number of EGs	29
2.13	Rationale for the establishment of an EG	30
2.14	Composition of the EGs	33
2.15	EGs and the Directorates General (DGs)	34
2.16	Commission control of EGs	35
2.17	EGs and decision-making	37
2.18	Lobbying and the EGs	40
2.19	Conclusion	41

Chapter three - Research methods

<u>Section</u>	<u>Title</u>	<u>Page</u>
3.1	Introduction	42
3.2	Research design	42
3.3	Conceptualising effectiveness	46
3.4	Comparative case study design - institutional	47
3.5	Data collection - institutional	48
3.6	Comparative case study design - group/actor and process	49
3.7	Selection of cases - group/actor	50
3.8	Selection of cases - process	53
3.9	Data collection - group/actor and process	57
3.10	Conduct of interviews	61
3.11	Coding scheme	62
3.12	Ethical considerations	63
3.13	Conclusion	64

Chapter four - Transparency as a changing concept

<u>Section</u>	<u>Title</u>	<u>Page</u>
4.1	Introduction	65
4.2	Distinction between transparency and openness	65
4.3	Directions of transparency model	66
4.4	Dichotomous models	67
4.5	Functional models	68
4.6	Summary of models	68
4.7	The lineage of the JTR	69
4.8	From SEA to Maastricht	69
4.9	Early transparency proposals	70
4.10	The Santer Commission	71
4.11	Aftermath of the Santer resignation	72
4.12	Right of access to documents	72
4.13	The Kinnock reforms	75
4.14	The White Paper on Governance	77
4.15	The Andreasen and Eurostat affairs	78
4.16	The Barroso reforms	78
4.17	European Transparency Initiative	79
4.18	The JTR	81
4.19	Societal groups as 'Monitocracies'	82
4.20	Conclusion	84

Chapter five - Institutional transparency

<u>Section</u>	<u>Title</u>	<u>Page</u>
5.1	Introduction	86
5.2	Background to the MEP Declaration of Interest register	86
5.3	Institutional impetus for increased transparency	87
5.4	Media impetus for increased transparency	89
5.5	Impetus for introduction of register of EGs	91
5.6	Code of Conduct for MEPs	92
5.7	Declaration of financial interests	93

5.8	EP and Commission registers - transparency test	94
5.9	Transparency test: MEPs declarations	95
5.10	EP register sample selection	95
5.11	EP register findings and analysis	96
5.12	Transparency test: EG register	101
5.13	EG register sample selection	102
5.14	EG register findings and analysis	102
5.15	Transparency test discussion	105
5.16	Internal Quality Assurance	106
5.17	External Quality Assurance	108
5.18	Conclusion	111

Chapter six - Actor and group transparency

<u>Section</u>	<u>Title</u>	<u>Page</u>
6.1	Introduction	113
6.2	Summary of models	113
6.3	The multiple functions of EU transparency	114
6.4	Transparency context	114
6.5	Interview approach	115
6.6	Findings: all	115
6.7	Findings: classified by actor type	116
6.8	The role of the European Ombudsman	127
6.9	The role of societal groups	129
6.10	Core and ancillary transparency advocates	130
6.11	Insider and outsider transparency advocates	130
6.12	Scrutiny by outsider transparency advocates	132
6.13	Conclusion	135

Chapter seven - Process transparency

<u>Section</u>	<u>Title</u>	<u>Page</u>
7.1	Introduction	137
7.2	Political and technical policy-making	138

7.3	Selection of cases for comparison	139
7.4	Indicator for political salience	140
7.5	Size of allocated budget	140
7.6	Background and context of cases	141
7.7	Framing of policy areas by Commission	143
7.8	Transparency of the formal procedures	145
7.9	Rationale for creation of groups	145
7.10	Requirements of membership	145
7.11	Call for experts	146
7.12	Record of meetings	147
7.13	Discussion	148
7.14	Experience of EG members	150
7.15	Formal and informal appointment procedures	151
7.16	Motivation of those applying for EG membership	154
7.17	Previous experience	157
7.18	Views of the conduct of EG meetings	159
7.19	Language issues	159
7.20	Group composition	160
7.21	Perceived transparency of process	162
7.22	Conclusion	163

Chapter eight - Conclusion

<u>Section</u>	<u>Title</u>	<u>Page</u>
8.1	Summary	166
8.2	Recommendations	170
8.3	Limitations of study	174
8.4	Contribution to knowledge	175
8.5	Concluding remarks	176
	Bibliography	178
	List of annexes	192

Declaration.

Whilst registered as a candidate for the above degree, I have not been registered for any other research award. The results and conclusions embodied in this thesis are the work of the named candidate and have not been submitted for any other academic award.

Word count: 72, 156.

List of figures.

Chapter two - state of the art

<u>Figure</u>	<u>Title</u>	<u>Page</u>
2.1	Transparency and input legitimacy	22
2.2	Paired hypotheses for EGs in DGs	31
2.3	Diagram of umbrella EGs	34
2.4	Diagram of autonomous EGs	35
2.5	Policy making phases	37

Chapter three - research methods

<u>Figure</u>	<u>Title</u>	<u>Page</u>
3.1	Effectiveness of transparency	47
3.2	Survey results on lobbying	51
3.3	Typology of interview participants	53
3.4	Faure's four types of comparative research design	54
3.5	Variables for case studies	56
3.6	MEPs interview request protocol	59
3.7	Summary of transparency and related concepts	63

Chapter four - transparency as a changing concept

<u>Figure</u>	<u>Title</u>	<u>Page</u>
4.1	Delineation of effectiveness of transparency	69
4.2	Definition of the term 'document'	73
4.3	Time limit for dealing with applications	74
4.4	Cost and procedure of applications	74
4.5	Language of documents	74

Chapter five - institutional transparency

<u>Figure</u>	<u>Title</u>	<u>Page</u>
5.1	Summary of MEPs Code of Conduct	93
5.2	Information included in MEPs declarations of interests	93
5.3	Summary of MEPs declarations	97
5.4	Remunerated activity	97
5.5	Inaccurate data on MEPs declarations of interests	99
5.6	Illegible entries on MEPs declarations of interests	100
5.7	Gender balance threshold in EGs	103
5.8	Classification of electronic data	104
5.9	Compliance scores for EG entry by DG	104
5.10	Written response to Denis De Jong MEP	105
5.11	Screenshot of DG ENTR entry showing ACEA as NGO	106
5.12	Responses to calls for expressions of interest	110

Chapter six - actor transparency

<u>Figure</u>	<u>Title</u>	<u>Page</u>
6.1	Summary of the transparency literature	114
6.2	Transparency and its conceptual linkages	115
6.3	Frequency of use of linking themes - all participants	115
6.4	Principal function of transparency by actor type	116
6.5	Frequency of use of linking themes - Commission officials	116
6.6	Frequency of use of linking themes - MEPs	119
6.7	Frequency of use of linking themes - interest groups	125
6.8	Frequency of use of linking themes -societal groups	126
6.9	Advantages and disadvantages of transparency by actor	127
6.10	Typology of transparency advocates	132

Chapter seven - process transparency

<u>Figure</u>	<u>Title</u>	<u>Page</u>
7.1	Comparability factors for case studies	140
7.2	Budget and participation for Erasmus programme over time	143
7.3	Summary of information available in EG register	148

List of abbreviations.

ACEA	European Automobile Manufacturer's Association
AIE	Access Info Europe
ALTER-EU	Alliance for Lobbying Transparency and Ethics
CEO	Corporate Europe Observatory
CEFIC	European Chemical Industry Council
CPI	Corruption Perception Index
CSO	Civil Society Organisation
DfID	Department for International Development
DG	Directorate General
DG AGRI	DG Agriculture
DG DEVCO	DG International Cooperation and Development
DG EAC	DG Education and Culture
DG ENER	DG Energy
DG ENTR	DG Enterprise
DG JUST	DG Justice
DG INFSO	DG Information Society and Media
DG MOVE	DG Mobility and Transport
DG SCIC	DG Interpretation
DG SG	DG Secretariat-General
DG TAXUD	DG Taxation and Customs Union
EACEA	Education, Audiovisual and Culture Executive Agency
ECCJ	European Coalition for Corporate Justice
ECEAE	European Coalition to End Animal Experiments
ECI	European Citizens' Initiative
ECJ	European Court of Justice
EG	Expert Group

EGR	Expert Group Register
EP	European Parliament
EPACA	European Public Affairs consultancies Association
EPP	European People's Party
EPSO	European Personnel Selection Office
ERASMUS	European Community Action Scheme for the Mobility of University Students
ESO	<i>Expertgrupp för studier i offentlig ekonomi</i> [Panel for the study of public economy]
ETI	European Transparency Initiative
EU	European Union
FoEE	Friends of the Earth Europe
FOI	Freedom of Information
HE	Higher Education
HEI	Higher Education Institution
IAP	Institutional and Administrative Policies
IFES	International Foundation for Electoral Systems
IMF	International Monetary Fund
IO	International Organisation
JTR	Joint Transparency Register
LLP	Lifelong Learning Programme
MEP	Member of the European Parliament
MNC	Multi National Company
MP	Member of Parliament
MS	Member State
NGO	Non-Governmental Organisation
NSS	National Student Survey
OECD	Organisation of Economic Cooperation and Development
OJEU	Official Journal of the European Union

PDF	Portable Document Format
PPA	Partnership Programme Agreement
QA	Quality Assurance
SEA	Single European Act
SEAP	Society of European Public Affairs Professionals
TFEU	Treaty on the Functioning of the European Union
TI	Transparency International
TI-EU	Transparency International - European Union
TNI	Transnational Institute of Policy Studies
TU	Trade Union
UN	United Nations

Funding statement.

This work was supported by the Economic and Social Research Council [grant number ES/1026460/1].

Acknowledgements.

A project of this scale cannot be undertaken alone, and I would like to express my gratitude to some of those that have helped me along the way.

Firstly, I would like to extend my sincere and heartfelt thanks to my Ph.D supervisor, Karen Heard-Lauréote. Karen encouraged me to undertake a research degree in the first place, and she has gently guided me throughout the process with good humour, tactfully pointing out the difference between ‘innovative’ and ‘hare-brained’ ideas.

I would also like to thank the two other members of my supervisory team - Wolfram Kaiser and Rob Frith - for their direction and guidance.

I am grateful to Karen, Wolfram, Rob and Ed Stoddard, for their perceptive and extensive feedback on previous drafts of this thesis, and to Chris Huggins for acting as an occasional sounding board throughout the writing process.

I of course owe a huge debt of gratitude to the individuals in and around the EU institutions who agreed to be interviewed. Without their willingness to give generously of their time, this project would have been impossible.

In terms of logistics, I am grateful to the Economic and Social Research Council for its financial support and, on a personal note, I would like to thank my old friend Paul Donovan who loaned me his house as an occasional writing retreat.

I wish to thank the Centre for European and International Studies Research at the University of Portsmouth for fostering a lively and supportive research culture for its Ph.D students. At Portsmouth, this extends beyond the quiet murmur of the research community, and I am proud to have undertaken this project at a University that values and nurtures its undergraduates and appreciates the buzz of activity they bring.

Finally, thanks to my family for their love and support, and to Kim, for keeping my feet firmly on the ground.

Dissemination.

Publication.

Field, M. (2013). The Anatomy of EU policy-making. *European Integration Online Papers*, 17(1), article 7.

Abstract.

Based on the assumption that technology can deliver greater transparency and strengthen civil society, this paper explores the theoretical mechanisms through which differing types of transparency increase public confidence and legitimacy. By decoupling the two, the paper considers whether accountability is more effectively achieved through transparency or actual scrutiny.

The paper applies this question to the case of the Commission's expert groups. These groups advise at all stages of the policy process, from the preparation of legislative proposals to the monitoring of implementation. Acknowledging that the interplay between expertise and the public is a crucial part of policy making, the Commission's website hosts a register of these groups together with guidelines and rules on their composition and the information that should be made publicly available.

The paper tests whether the groups are complying with these rules in two aspects: gender makeup and the availability of relevant documentation. On gender, we find low levels of compliance with Commission guidelines whilst, on availability of documentation, there is wide variation across DGs. The paper argues that, for the expert groups, transparency is not sufficient to ensure compliance with regulations suggesting that a robust scrutiny process is needed to hold power to account.

Conference papers given.

May 2011. *Inclusion and exclusion in the EU expert groups*. Presented at the Centre for European and International Studies Research annual postgraduate conference, University of Portsmouth.

July 2011. *Cooperation, Compliance and Coalitions within the EU Commission's Expert Groups*. Presented at the University Association of Contemporary European Studies annual student conference, University of Surrey.

September 2011. *Knowledge is Power? Influence and cooperation in the EU commission's Expert Groups*. Presented at the University Association of Contemporary European Studies annual conference, University of Cambridge.

November 2011. *Governance by experts? The workings of the European Commission's advisory groups*. Presented at the Political Studies Association graduate conference, University of Oxford.

June 2012. The antiseptic of sunlight? EU Transparency and the electronic registers: the case of the Commission Expert Groups. *Presented at the Transatlantic Conference on Transparency Research, University of Utrecht*.

June 2012. *Experts or lobbyists? Examining tensions in European networks*. Joint paper (with Christopher Huggins and Ed Stoddard) presented at the Centre for European and International Studies Research Flagship Conference 'Towards a European Society? Transgressing Disciplinary Boundaries in European Studies Research, University of Portsmouth.

June 2012. *Identifying centrality in the expert groups: transparency and the electronic registers*. Presented at the University Association of Contemporary European Studies Student Conference, Brussels School of International Studies.

Sep 2012. *Transparency and the electronic registers: the case of the Commission Expert Groups*. Presented at the 42nd annual University Association of Contemporary European Studies Conference, University of Passau.