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Good Corporate Governance

There's a developing theme within the justice sector that is worrying. It concerns some of the basic principles of good corporate governance that had supposedly been universally accepted. Regrettably, at least two of these principles are being challenged: transparency in the decision-making process, and consultation in a timely fashion.

Too many important decisions are being made in an opaque manner, leading to distrust and cynicism, unbalanced decision making, and potentially serious consequences for those in the legal sector – not to mention the claimants they represent. Technical but important changes to rules are being developed by a few individuals within a supposed formal framework.

For instance, some standard directions for dealing with credit hire have been published without any transparency about who precisely drafted the changes, and which organisation they represent. It is suggested that decisions are being signed off outside the Civil Procedure Rule Committee, which is composed of lay members from across the sector. Instead, some internal committees are often 'fluid' in terms of membership, but it has long been an important principle within the sector that both claimants and defendants are represented in order to strike a balance, and smooth implementation when an agreement is reached.

Consultation exercises are no longer as robust as they were only a few years ago in terms of length and role, but at the very least, they should be timely. This facilitates scrutiny and allows sufficient time for implementation by stakeholders. Too often, complex rule changes are being published at the last possible moment, or final versions of draft rules are being published late, such as the rules on fixed recoverable costs.

These may seem like trivial gripes, but important principles around fairness remains, ensuring a level playing field for claimants, defendants, lawyers and insurers that impact ordinary people when they come into force. These are principles that need protection.

