

Consultation Principles

This guidance sets out the principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation. It replaces the Code of Practice on Consultation issued in July 2008. It is not a 'how to' guide but aims to help policy makers make the right judgments about when, with whom and how to consult. The governing principle is proportionality of the type and scale of consultation to the potential impacts of the proposal or decision being taken, and thought should be given to achieving real engagement rather than merely following bureaucratic process. Consultation forms part of wider engagement and decisions on whether and how to consult should in part depend on the wider scheme of engagement.

Policy makers should bear in mind the Civil Service Reform principles of open policy making throughout the process and not just at set points of consultation, and should use real discussion with affected parties and experts as well as the expertise of civil service learning to make well informed decisions. Modern communications technologies enable policy makers to engage in such discussions more quickly and in a more targeted way than before, and mean that the traditional written consultation is not always the best way of getting those who know most and care most about a particular issue to engage in fruitful dialogue.

Subjects of consultation

There may be a number of reasons to consult: to garner views and preferences, to understand possible unintended consequences of a policy or to get views on implementation. Increasing the level of transparency and increasing engagement with interested parties improves the quality of policy making by bringing to bear expertise and alternative perspectives, and identifying unintended effects and practical problems. The objectives of any consultation should be clear, and will depend to a great extent on the type of issue and the stage in the policy-making process – from gathering new ideas to testing options.

There may be circumstances where formal consultation is not appropriate, for example, where the measure is necessary to deal with a court judgment or where adequate consultation has taken place at an earlier stage for minor or technical amendments to regulation or existing policy frameworks. However, longer and more detailed consultation will be needed in situations where smaller, more vulnerable organisations such as small charities could be affected. The principles of the Compact between government and the voluntary and community sector must continue to be respected¹.

Timing of consultation

Engagement should begin early in policy development when the policy is still under consideration and views can genuinely be taken into account. There are several stages of policy development, and it may be appropriate to engage in different ways at different stages. As part of this, there can be different reasons for, and types of consultation, some radically different from simply inviting response to a document. Every effort should be made

¹ "Where it is appropriate, and enables meaningful engagement, conduct 12-week formal written consultations, with clear explanations and rationale for shorter time-frames or a more informal approach." The Compact (Cabinet Office 2010) para 2.4)

to make available the Government's evidence base at an early stage to enable contestability and challenge.

Timeframes for consultation should be proportionate and realistic to allow stakeholders sufficient time to provide a considered response and where the consultation spans all or part of a holiday period² policy makers should consider what if any impact there may be and take appropriate mitigating action. The amount of time required will depend on the nature and impact of the proposal (for example, the diversity of interested parties or the complexity of the issue, or even external events), and might typically vary between two and 12 weeks. The timing and length of a consultation should be decided on a case-by-case basis; there is no set formula for establishing the right length. In some cases there will be no requirement for consultation, depending on the issue and whether interested groups have already been engaged in the policy making process. For a new and contentious policy, 12 weeks or more may still be appropriate. When deciding on the timescale for a given consultation the capacity of the groups being consulted to respond should be taken into consideration.

Making information useful and accessible

Policy makers should be able to demonstrate that they have considered who needs to be consulted and ensure that the consultation captures the full range of stakeholders affected. In particular, if the policy will affect hard to reach or vulnerable groups, policy makers should take the necessary actions to engage effectively with these groups. Information should be disseminated and presented in a way likely to be accessible and useful to the stakeholders with a substantial interest in the subject matter. The choice of the form of consultation will largely depend on: the issues under consideration, who needs to be consulted, and the available time and resources.

Information provided to stakeholders should be easy to comprehend – it should be in an easily understandable format, use plain language and clarify the key issues, particularly where the consultation deals with complex subject matter. Consideration should be given to more informal forms of consultation that may be appropriate – for example, email or web-based forums, public meetings, working groups, focus groups, and surveys – rather than always reverting to a written consultation. Policy-makers should avoid disproportionate cost to the Government or the stakeholders concerned.

Transparency and feedback

The purpose of the consultation process should be clearly stated as should the stage of the development that the policy has reached. Also, to avoid creating unrealistic expectations, it should be apparent what aspects of the policy being consulted on are open to change and what decisions have already been taken. Being clear about the areas of policy on which views are sought will increase the usefulness of responses.

Sufficient information should be made available to stakeholders to enable them to make informed comments. Relevant documentation should be posted online to enhance accessibility and opportunities for reuse. To ensure transparency and consistency of approach, all consultations should be housed on the Government's single web platform (GOV.UK).

² Holiday period assumptions: Easter = 5 Working Days (1 Week); Summer (August) = 22 Working Days (4.2 Weeks); Christmas = 6 Working Days (1.1 Week)

To encourage active participation, policy makers should explain what responses they have received and how these have been used in formulating the policy. The number of responses received should also be indicated. Consultation responses should usually be published within 12 weeks of the consultation closing. Where Departments do not publish a response within 12 weeks, they should provide a brief statement on why they have not done so. Departments should make clear at least in broad terms what future plans (if any) they have for engagement.

Practical considerations

Consultation exercises should not generally be launched during local or national election periods. If exceptional circumstances make a consultation absolutely essential (for example, for safeguarding public health), departments should seek advice from the Propriety and Ethics team in the Cabinet Office.

Departments should be clear how they have come to the decision to consult in a particular way, and senior officials and ministers should be sighted on the considerations taken into account in order to enable them to ensure the quality of consultations.

Departments should seek collective ministerial agreement before any public engagement that might be seen as committing the Government to a particular approach. Ministers are obliged to seek the views of colleagues early in the policy making process and the documents supporting formal consultations should be cleared collectively with ministerial colleagues. If departments are intending to use more informal methods of consultation, they should think about at what point, and with what supporting documentation, collective agreement should be sought. The Cabinet Secretariat will be able to advise on particular cases.

This guidance does not have legal force and does not prevail over statutory or mandatory requirements³.

³ Some laws impose requirements for the Government to consult certain groups on certain issues. This guidance is subject to any such legal requirement. Care must also be taken to comply with any other legal requirements which may affect a consultation exercise such as confidentiality or equality.