

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 is not a 'how to' guide but aims to help policy makers make the right judgements 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 following bureaucratic process. Consultation is part of wider engagement and whether and how to consult will 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. Modern communications technologies enable policy makers to gather information and to consult 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 the right evidence. This guidance replaces the Code of Practice on Consultation issued in July 2008.

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 improves the quality of policy making by bringing to bear expertise and alternative perspectives, and identifying unintended effects and practical problems. It should be part of strengthening policy making and should involve understanding the effects of the policy on those affected. 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 consultation is not appropriate, for example, for minor or technical amendments to regulation or existing policy frameworks, where the measure is necessary to deal with a court judgment or where adequate consultation has taken place at an earlier stage. 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 will continue to be respected¹.

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)

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 responses to a document. Every effort should be made 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. 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. In some cases there will be no requirement for consultation at all and that may depend on the issue and whether interested groups have already been engaged in the policy making process. For a new and contentious policy, such as a new policy on nuclear energy, the full 12 weeks may still be appropriate. The capacity of the groups being consulted to respond should be taken into consideration.

Making information useful and accessible

Policy makers should think carefully about who needs to be consulted and ensure the consultation captures the full range of stakeholders affected. 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 ways of engaging 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. The medium should be appropriate for the subject and those being consulted. Policy-makers should avoid disproportionate cost to the Government or the stakeholders concerned.

Transparency and feedback

The objectives of the consultation process should be clear. To avoid creating unrealistic expectations, any aspects of the proposal that have already been finalised and will not be

subject to change should be clearly stated. Being clear about the areas of policy on which views are sought will also increase the usefulness of responses.

Sufficient information should be made available to stakeholders to enable them to make informed comments. Relevant documentation should normally be posted online to enhance accessibility and opportunities for reuse. As far as possible departments should use the Government's single web platform to enable stakeholders to find information on consultations as easily as possible.

Departments should make clear at least in broad terms how they have taken previous feedback into consideration, and what future plans (if any) they may have for engagement.

Practical considerations

Consultation exercises should not generally be launched during local or national election periods. If there are exceptional circumstances where launching a consultation is considered 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.

The consultation process is also linked to the need for collective agreement in policy making at an early stage 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 consultations should be cleared collectively with ministerial colleagues. If departments are intending to use more informal methods of engaging with stakeholders they should think about at what point, and with what supporting documentation, collective agreement should be sought. For instance, a 'call for evidence' should be cleared collectively. 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 requirements².

² 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.