

BERR

Department for Business
Enterprise & Regulatory Reform

EFFECTIVE CONSULTATION

- **ASKING THE RIGHT QUESTIONS**
- **ASKING THE RIGHT PEOPLE**
- **LISTENING TO THE ANSWERS**

GOVERNMENT RESPONSE

DECEMBER 2007

BRE
BETTER
REGULATION
EXECUTIVE

Contents

	Page no
1. Introduction	3
2. Conducting a review of the Code of Practice on Consultation	4
3. Key findings and future actions	6
4. Summary of views expressed and Government responses	10
Annex 1. List of written responses received	21
Annex 2. Programme of meetings to discuss the future of Government consultation policy	23

1. Introduction

- 1.1 On 14 June 2007, the Government published “Effective Consultation” as part of its review of the Code of Practice on Consultation. The document was distributed widely to organisations which had recently responded to consultations as well as to stakeholder groups of various Government departments. Over the following four months, meetings were held around the UK to hear people’s views on how the Government consults and where improvements could be made. The Government also commissioned market research to seek the view of members of the public and ran an online discussion forum.¹
- 1.2 Public engagement, including consultation on policy development and service design, is an important part of a modern representative democracy. Consultation is a key stage of engagement with both public and stakeholder organisations as it ensures decisions are informed by listening to those who may be affected by new proposals. Since 2001 the Government has had in place a Code of Practice to provide officials with a framework for consultation exercises on policy development. The adoption of a Code proved particularly popular with stakeholder organisations which regularly participate in consultations and has also been used as a model by other public sector bodies around the UK.
- 1.3 Following the criteria of a Code of Practice is, of course, not an end in itself. The outcomes of consultation are what really count. The purpose of this review therefore has been to seek views on how the Government currently consults and on where improvements could be made, as well as to compare practice with the policy as set out in the Code.
- 1.4 The findings of this review are set out in this document. Alongside these findings, you will see the Government’s response. Over the coming months, the Government will work on developing a revised Code of Practice that takes on board many of the points made during the review. The new Code will form an important element of an overall approach to engagement and will be accompanied by more and better guidance on reaching different sectors of society and the economy, improved oversight functions and better support mechanisms. All this work will have the objective of improved outcomes from consultation, i.e. more effective policies.

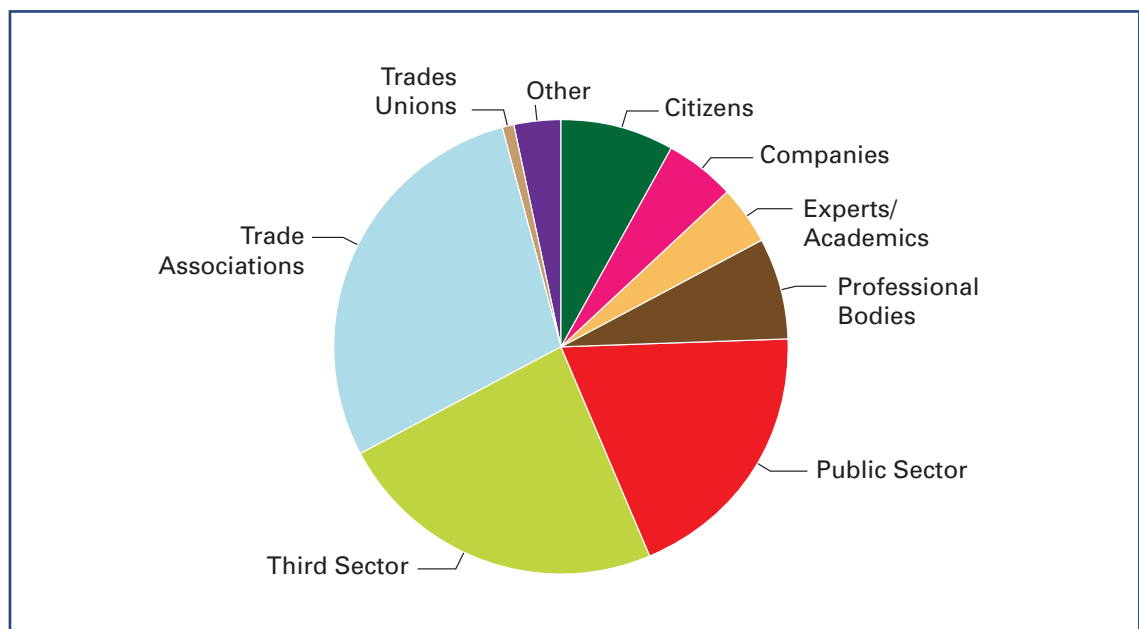
¹ For the archived discussion forum see http://haveyoursay.cabinetoffice.gov.uk/regulation/closed_topic.aspx?topic=consultation/.

2. Conducting a review of the Code of Practice on Consultation

- 2.1** Between the launch of the review in June and early October, the Government's Better Regulation Executive (BRE) organised a programme of 10 events around the UK (two in London, and one event in each of Edinburgh, Cardiff, Belfast, Newcastle, Leeds, Manchester, Birmingham and Bristol). Total attendance at these meetings was over 200 people including private members of the public and representatives of third sector organisations, businesses, trade associations and local government bodies. The BRE is grateful to the Government Offices in the regions, the Scotland Office and the National Assembly for Wales Government for their assistance in arranging these events. These events were based around participants' experiences of good and bad practice in consultations and discussions regarding when in policy development the Government should consult, methods of consultation, and improvements that people would like to see.
- 2.2** The BRE also either co-organised or was invited to participate in eight other meetings. These events were hosted by:
- the Consultation Institute (London and Manchester events for members of the institute),
 - the Department for the Environment, Food and Rural Affairs (meeting of consumer organisations),
 - the Department for Work and Pensions (annual forum),
 - the Economic and Social Research Council (event for academics),
 - Equality 2025 (Gateshead meeting),
 - Help the Aged (London meeting of stakeholder organisations) and
 - the Trade Association Forum (members meeting to prepare response).
- 2.3** The BRE also ran an online discussion forum for people to submit their thoughts and commissioned market research so as to learn about the citizens' perspective on Government consultations (see www.consultations.gov.uk).
- 2.4** 114 written responses were submitted to the Government. These came from a range of sources, from individual members of the public and businesses, to representative associations, third sector bodies and local government.

2.5 In terms of percentages, the written responses break down as follows:

Citizens	8%
Companies	5%
Experts and academics	4%
Professional Bodies	7%
Public Sector	19%
Third Sector	23%
Trade Associations	28%
Trades Unions	1%



2.6 With these written responses, notes of the many meetings, market research and the online discussion forum, the BRE now has a considerable amount of evidence regarding views of how the Government currently consults and many suggestions on how improvements could be made. The BRE is extremely grateful to all those who took the time to participate in this exercise and will endeavour to keep these people informed as this work progresses.

2.7 Documents related to this exercise can be found at www.consultations.gov.uk.

2.8 Should you wish to receive a hard copy of this document or wish to share your views on this paper or on the future of the Government's Code of Practice on Consultation, please contact Ian Ascough at Ian.Ascough@berr.gsi.gov.uk, call 020 7215 0149 or write to Ian Ascough, Better Regulation Executive, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London SW1H 0ET.

3. Key findings and future actions

- 3.1 Following analysis of all the written responses, market research into the public's attitudes to consultation, minutes of the many meetings, and the online discussion forum there are some key areas that the Government will address in revising its Code of Practice on Consultation and some key elements of the existing Code that will be kept or strengthened. These can be grouped under the themes of scope of the Code of Practice, timing of consultations, duration of consultations, clarity, responsiveness, accessibility, capacity and monitoring.

Scope of the Code of Practice

- 3.2 It is clear from several sources that the scope of the current Code of Practice on Consultation is not clear in regard to the definition of consultation and the public sector bodies for which it is intended. Some responses asked that the scope be widened to cover more, or indeed all, of the public sector. Moreover, several responses pointed out that it is not just the Code which governs how consultation exercises should be run. Some responses also stated that sometimes the Government seems to consult when things are already decided.
- 3.3 **The new Code, to be developed over the coming months, will be clearer than the current version with regard both to the specific kinds of exercises and the parts of Government it is intended to cover. As with the current Code, the new policy will not amount to a commitment to consult on everything – the issues the Government decides to consult on will depend on the circumstances in each case.**
- 3.4 **The Government takes seriously the Compact with the voluntary and community sector regarding how organisations in this sector should be consulted. The revised Code of Practice on Consultation will be in line with the Compact.**
- 3.5 **The Government will carry out more research into the costs of consultation as part of its work to revise the Code of Practice.**

Timing of consultations

- 3.6 With regard to timing, many responses stated that consultation should only happen at a stage when there are still elements of the policy to influence. Preference among most stakeholders is for consultation to happen earlier rather than later during the policy development process as this means there will be more scope to influence. However, market research into the views of members of the public showed that this should not happen too early as concrete proposals are often required to elicit views. Other responses meanwhile pointed out that consultation should take the form of a longer-term dialogue, employing different methods at different stages.
- 3.7 **In response to this, the Government will endeavour to address the issue of “tick-box consultations” so that consultation only takes place when there is a genuine desire to listen to stakeholders so as to develop more effective and efficient solutions. Clearly there is no point in consulting when everything is already settled.**

- 3.8 The revised Code of Practice will also provide departments with improved guidance on consultation during the various stages of policy development and the tools best used at these different stages.**

Duration of consultation exercises

- 3.9 The responses to this review show that, when a formal written consultation takes place, the minimum duration of 12 weeks is of vital importance to most organisations wanting to submit a written response.
- 3.10 The revised Code will maintain the 12-week minimum period for written consultations as set out in the current Code and state that this should be factored into project plans by officials.**
- 3.11 The new Code will state that any circumstances necessitating shorter periods for consultations should be set out clearly in consultation documents and that Ministerial approval will be required for this.**
- 3.12 The new Code will also emphasise the importance of publicising consultations when they are launched and the importance of allowing longer periods in certain circumstances, e.g. when the consultation period falls over the summer.**

Clarity

- 3.13 According to the responses received, much of the disappointment and cynicism that surrounds Government consultations stems from a lack of transparency. For many people participating in the review of consultation, it is often not clear what the exact scope of a consultation is, i.e. what has already been decided and what has not; nor is it clear what the process is. Responses stated that knowing exactly how the Government has got to the consultation stage and who the Government has talked to in getting to that stage would improve the process of consultation.
- 3.14 Several responses also stated that the Government should make better use of impact assessment in consultation documents to spell out clearly the expected costs and benefits of the options under consideration. Many people said that impact assessments were usually not integral parts of consultation documents but simply add-ons.
- 3.15 In revising the Code of Practice and associated guidance, the Better Regulation Executive will seek to address the lack of transparency in consultation exercises which currently contributes to consultation fatigue among some stakeholders.**
- 3.16 The Better Regulation Executive will work with departments to encourage consultation on impact assessments, for impact assessments to be comprehensive and for them to form an integral part of most consultation exercises.**

Responsiveness

- 3.17 Several responses stated that greater transparency with regard to what the Government intends to do with responses and good quality feedback from the Government following consultation exercises would improve consultation processes, relieve consultation fatigue and encourage participation. Many responses also said that feedback following consultation exercises should go beyond simply summarising the responses received; it should also set out how the consultation exercise has affected Government plans. There were also concerns among some consultees that the Government sometimes took action or made announcements regarding the topic which had been under consultation before publishing the Government response.
- 3.18 **The revised Code will place greater emphasis on the feedback Government provides following consultation exercises. The Code will state that wherever appropriate it should go beyond summarising the views heard during the consultation exercise by stating how the responses to the consultation will affect Government plans.**
- 3.19 **The new Code will also state that the Government should alert consultees to the publication of the Government's feedback following consultation exercises and that where possible this should be published before further action is taken or alongside this.**

Accessibility

- 3.20 Many responses stated that greater effort was needed to ensure consultation exercises are accessible to those potentially affected by the policy initiatives up for discussion. Responses stated that people and organisations need to be made aware of consultation exercises on their launch date and that consultation exercises should be designed around users' needs. It was pointed out that any barriers to the accessibility of consultation exercises will diminish their effect and therefore prove detrimental to the policy itself.
- 3.21 Several responses called for a new approach to publicising consultation exercises, including suggestions for a single website for all central Government consultations with a facility to register for alerts.
- 3.22 **The Better Regulation Executive will work with departments to provide improved guidance for departments on marketing/publicising consultation exercises so as to reach particular sectors/groups. The Better Regulation Executive, again in cooperation with departments, will also revise its guidance on consultation methods for engaging different groups and sectors and seek to improve best practice sharing and training in this area for officials conducting consultation exercises.**
- 3.23 **The Better Regulation Executive will look into the feasibility of one website indexing all central Government consultation exercises and providing an automated alert system.**

- 3.24 The Government will also seek to bring greater transparency to the decision-making process adopted by departments regarding the choice of consultation methods used.**

Capacity

- 3.25 Some responses raised issues around the capacity of the Government to run the many consultations it launches each year and to do so well.
- 3.26 The capacity issue is, however, not just an internal issue for Government. Indeed many third sector organisations raised this issue, stating that the Government needs to be more mindful of what it asks of consultees.
- 3.27 In revising the Code of Practice, the Better Regulation Executive will consider how improved accessibility, supplementary methods of consultation and enhanced coordination within Government can help reduce the burden of consultation on consultees while not affecting the quality of input and its effects on policy-making.**
- 3.28 Once the new Code of Practice has been launched, the Better Regulation Executive will revisit the issue of training for officials conducting consultation exercises.**

Monitoring

- 3.29 Many of those who participated in the review of the Government's consultation policy stated that a weakness of the current system is the lack of independent oversight and qualitative monitoring of Government consultations.
- 3.30 The Better Regulation Executive will carry out a full review of monitoring and evaluation and explore the idea of independent, qualitative monitoring.**

4. Summary of views expressed and Government responses

4.1 Below, you will see each question posed in *Effective Consultation* and a summary of the responses received both from formal written responses and through other channels (the meetings, research and the online discussion forum).

1 Do you think the Government's Code of Practice has led to an improvement in the way the Government consults and to improved policy outcomes? Please illustrate your answer with any concrete examples you may have.

4.2 Many responses stated that the Code had brought benefits, such as greater clarity and transparency, the requirement for Government to consult during its policy development, and enforcing the point that people need time to respond.

4.3 However, there is concern about the coverage of the Code of Practice, i.e. that it is only for central Government rather than public sector-wide (although several non-central Government public sector bodies pointed out that they had adopted the Code or based their policies on the Code).

4.4 There is also concern expressed in some responses that there is too much focus on the process (e.g. criterion 1 – 12 weeks), rather than on the quality of the consultations and the outcomes – the whole point of consultation is good policy outcomes but consultation sometimes feels like a tick-box exercise, i.e. departments going through the motions because consultation is something they have to do.

4.5 Some responses stated that the Code needs to be in line with other commitments to consultation, such as the Compact.²

4.6 Many responses discussed issues such as quality of feedback, impact assessments, methods, quality assurance and monitoring. These points are covered under other questions.

4.7 The Government believes in having a coherent and transparent policy on consultation in policy development. The new Code, to be developed over the coming months, will be clearer than the current version with regard to which parts of Government it covers and the Better Regulation Executive will work with other public sector organisations to encourage high quality consultation across all levels of Government.

4.8 While process criteria are important to maintaining standards, the Government will consider how it can redress the balance of the Code in future so that outcomes are given greater weight in the revised Code. In doing this, we will also endeavour to address the issue of "tick-box consultations" so that consultation only takes place when there is a genuine desire to listen to stakeholders so as to develop more effective and efficient policies.

² See http://www.thecompact.org.uk/shared_asp_files/GFSR.asp?NodeID=100320

- 4.9 The Government takes seriously the Compact with the voluntary and community sector. The revised Code of Practice on Consultation will be in line with the Compact. The Government will also work with the newly established Commissioner for the Compact to evaluate and address the need to update the Compact Code.**

2 Are 12 weeks generally the right amount of time for the formal, written element of Government consultations to last? Do you think that there are circumstances where a shorter or longer duration may be more appropriate?

- 4.10** Most responses stated that the introduction of the 12 week minimum was the key benefit from the Code and that this criterion of the Code must survive the review of the Code. This point was made most strongly by representative organisations which will usually want to consult the people they represent before drafting a response. Several responses pointed out that this “secondary consultation” may often require organisations to produce materials more suitable for their members/people they represent and to organise meetings, which all takes time and costs money.
- 4.11** Many people pointed out that 12 weeks was supposed to be the minimum duration but that it seemed to have become the maximum with several consultations lasting for a shorter period. There were calls for this to be addressed.
- 4.12** Also, it was stated that often people do not learn about consultation exercises until several weeks after they have been published and so the full 12 weeks provided are not available to people wanting to draft considered responses based on the views of the people they represent.
- 4.13** Several respondents also pointed out that 12 weeks which include the summer holidays or other holiday periods is insufficient, and that when there are several consultations aimed at the same people/groups/sectors at the same time, more time for each consultation would help.
- 4.14** Advance notice would also be appreciated by many people so that they could organise themselves, their members, their regular meetings etc. around a consultation if it is important to them.
- 4.15** On the other hand, a few respondents from the private sector argued that shorter consultations, when on smaller issues, might be acceptable.
- 4.16** Some respondents stated that they understood that, on occasions, consultation periods have to be curtailed and that the Government should be open about the reasons for this. Some stated that a short consultation may well be better than no consultation.
- 4.17** While some responses suggested a more flexible approach to duration would work for them, the majority view was that this criterion of the Code should remain and, if anything, be enforced more rigorously.

- 4.18 The revised Code will maintain the 12-week minimum period for written consultations as set out in the current Code and state that this should be factored into project plans by officials. Additional points will be made around the importance of publicising consultations when they are launched and the importance of allowing longer periods in certain circumstances, e.g. when the consultation period falls over the summer.**
- 4.19 The new Code will state that reasons for any shorter consultation exercises should be set out clearly in consultation documents and that Ministerial approval will be required for this.**

3 Is the system for monitoring and promoting performance of departments in relation to the criteria in the current Code of Practice on Consultation right? What improvements could be made?

- 4.20** While some respondents were content with the current system of monitoring, the majority view was that the current regime was lacking because of its focus on duration and the coverage of the annual reports on Government consultations.
- 4.21** Many respondents called for a more qualitative approach, e.g. analysing the degree to which the consultation exercise affected the eventual policy development. Other things that might be monitored included response rates, Government feedback and the appropriateness of the methods used to seek people's views.
- 4.22** Some respondents suggested that the Government should regularly seek feedback on the quality of its consultation exercises (e.g. including a question in consultations on how people find the consultation exercise or opening up the annual report on Government consultations to allow those who have responded to Government consultations over the last year to feed in their views).
- 4.23** Several responses asked questions such as whether Government departments ever evaluated their consultation exercises and whether this was against the criteria in the Code of Practice other than criterion 1; what sanctions there were for departments which regularly deviate from the Code of Practice; and what was the precise status and role of consultation coordinators within Government departments.
- 4.24** A common theme among responses was the idea of there to be some independent monitoring of consultation exercises, e.g. by parliament or by the National Audit Office.
- 4.25 In its work to revise the Code of Practice on Consultation and its support mechanisms, the Government will carry out a full review of monitoring and evaluation and explore the idea of independent, qualitative monitoring. The Government will also work with departmental consultation coordinators to carve out a clearer role appropriate and applicable to all Government departments.**

4 Is the new approach to Impact Assessment sufficient to improve public consultation on the evidence base for Government policy-making? How could consultation policy improve consultation on Impact Assessments?

- 4.26 On the whole, respondents welcomed the changes made to the impact assessment template and guidance earlier this year, although some stated it was still early days and so any judgement is based on a limited number of examples. Some also highlighted the difficulties in producing good impact assessments, and assessing impacts on different sectors of society.
- 4.27 The most commonly expressed view was that impact assessments are often not an integral part of a consultation exercise – when they are included in consultation documents they are all too often just to be found in an annex with little reference to them in the body of the document and there are rarely any questions about the impact assessment. Several responses stated that consultation documents should be discussing the impact assessment, asking people if they agree with the impact assessment and to provide additional evidence to feed into the impact assessment. Others also stated that in order to draft initial impact assessments which go into consultation documents, early, informal consultation with key stakeholders is vital.
- 4.28 Criticisms of impact assessments included the lack of analysis in some cases of the effects on society, especially equality issues, and on small businesses; that the Government does not regularly state how confident it is in its figures at the consultation stage; that impact assessment work is often done late in the day rather than from the outset and so it is not a tool in policy development; and that the options are not always all realistic and so the exercise is leading. Some responses followed this argument through by stating that this can lead impact assessment work and consultation on it to be more a matter of process than of decision-making.
- 4.29 **The Government considers impact assessment to be a key tool in the policy-making process rather than an “add-on”. Consultation on impact assessments is vital for their credibility and reliability. Moreover, to draft an initial impact assessment which will then be consulted on, Government departments will usually have to consult stakeholders informally to assess the likely costs and benefits of policy options. The revised Code will therefore place greater emphasis on impact assessment, including equality impacts, in consultations. The Better Regulation Executive will work with departments to encourage consultation on impact assessments, for impact assessments to be comprehensive and for them to form an integral part of most consultation exercises.**

5 When in the policy development process do you think the Government should consult stakeholders? Please cite relevant examples when you have been consulted at the right or wrong time.

- 4.30** There was virtual consensus across many consultees on this point, i.e. that consultation should be a continuous process and formal consultation should take place early during the policy development process but that before publishing the formal consultation document, it is important the Government seek views from stakeholders informally (“pre-consultation”). Several responses were quite specific about the process, saying that the Government should define the problem, work with key stakeholders to identify potential, workable, solutions and the issues; consult widely on these options and then take the decision. One response suggested definitions for different sorts of consultation that could take place at various stages during the policy development process. However, many people stated that often consultation happens at a relatively late stage when much has already been decided. One person stated that when consultation is late in the process, it can feel more like “policy-based evidence-making” than evidence-based policy-making and others stated that when so much of policy is already decided it can feel like a waste of time responding.
- 4.31** However, the results of market research into the views of members of the public were not always in line with the above. On very big issues, consultation was wanted early, but on more day-to-day issues, it was felt that consultation should happen quite late in policy development so that there was enough content for people to react to.
- 4.32** Many responses stated that there needs to be greater clarity as to the scope of consultation exercises (what has already been decided upon and what has not), and greater transparency as to how the Government has got to the stage of publishing a consultation document, e.g. what engagement work has already taken place. People also stated that the Government needs to get better at understanding its stakeholders.
- 4.33** **The Government acknowledges fully the value to be gained from dialogue with stakeholders over the course of policy development and the need to adopt different methods during the policy development process so as to define the problem, define potential solutions, to refine these and consider implementation options. At each stage the analysis of the costs and benefits will need to be refined. For these reasons, when revising the Code of Practice, the Government will endeavour to provide departments with improved guidance on consultation during the various stages of policy development and the tools best used at these different stages.**

6 Do you think that more emphasis should be placed on alternative or supplementary approaches to consultation in a revised consultation policy? What supplementary approach or approaches would work best for you/ your organisation?

- 4.34** Many responses state quite clearly that while supplementary methods of consultation are very important, the written element of consultation exercises should remain at the core of all Government consultations. It is clear to many people participating in this exercise that written consultation should take place in a context of continuous dialogue and should be supplemented with additional consultation methods depending on the people it is important to reach when discussing a particular policy area.

- 4.35 Several responses stated that the revised Code of Practice should not be prescriptive here but advice should be given as to which methods are suitable for which groups and sectors or types of consultation. Other responses stated that Government officials should receive training on how best to encourage/enable participation of different audiences. However, it was pointed out that people incur costs when they participate in meetings with the Government and that the Government could/should reimburse people for their expenses.
- 4.36 Visits to organisations potentially affected by policy proposals, standing committees/consultative forums, surveys, public meetings, workshops, citizens' juries, better use of IT and the internet were all suggested as supplementary methods. Face-to-face meetings are better for consensus building and "bouncing ideas off each other": such discussions will not just be between the Government and the stakeholder but also between stakeholders with the Government observing.
- 4.37 Some responses asked the Government to provide materials that they can use to reach the people they represent. At the least, they requested that the Government should make materials available that are easy to adapt, translate, etc., e.g. Word documents or HTML rather than pdfs.
- 4.38 **The issues addressed in the responses summarised above are vital to effective consultation and therefore to good policy-making. The Government will revise its guidance for reaching different groups and sectors as part of its revision of the Code and will seek to improve best practice sharing and training in this area for officials conducting consultation exercises. The Government will also seek to bring greater transparency to the decision-making process used by departments regarding the choice of consultation methods used.**

7 How do you generally become aware of Government consultations and how would you like to learn about upcoming and current Government consultations?

- 4.39 Respondents answering this question seem generally to fall into three, fairly equally sized groups. First there are those which receive direct alerts (usually by email) from Government departments about consultations. This can be because they are on departments' stakeholder databases, because they are known by the policy lead, or because they have signed up to an alert service offered by the department. Second there are those who learn about Government consultations from non-Governmental organisations. This generally means paying for a monitoring service or receiving alerts from another organisation (trade union, trade association, representative organisation, etc.). Third there are those who learn about Government consultations in a more haphazard way, e.g. through trawling through Government websites, by word of mouth or press releases.
- 4.40 Several responses suggest ways of improving the current process. Suggestions included one website for all of central Government listing all consultation exercises and allowing people to register interests in certain policy areas so that they would receive email alerts when consultations of interest to them are launched. Similar suggestions to this related to standardisation of departments' consultation webpages, RSS feeds and

better use of existing websites. The websites of the Scottish Executive and Welsh Assembly Government were referred to as sites that central Government could learn from. However, some responses stated that if such a service were put in place, the Government should not rely purely on this site. First, the onus should remain on the Government to find stakeholders; second, not everyone has access to technology.

- 4.41 Other responses asked for better stakeholder management, e.g. named officials owning the relationship between certain sectors/groups/organisations and the department, greater effort in keeping stakeholder databases up-to-date, and better coordination across Government so that a more holistic approach to stakeholder management could be achieved.
- 4.42 Meanwhile, other responses requested greater use of hard copies, libraries and advertising in local press, on radio, and on public transport.
- 4.43 **The Government is grateful for the responses to this question as stakeholder management and publicising consultation exercises are key to their success, and therefore, most importantly, crucial to the development of effective policies. The Government will look into the feasibility of one website indexing all Government consultation exercises and providing an automated alert system. The Government will also look to provide improved guidance for departments on marketing/publicising consultation exercises so as to reach particular sectors/groups.**

8 How do you rate the feedback you have seen from Government departments following consultations and what improvements or changes would you like to see in relation to reporting back?

- 4.44 While some responses stated that the requirement on the Government to give feedback was a strength of the Code of Practice, people went on to say that in reality, feedback is often not provided and when it is provided the quality varies considerably. Many responses stated that the feedback documents should be sent to all who participated in the consultation exercise.
- 4.45 Regarding the quality of feedback, according to several responses, it is often little more than a summary of the views expressed. While people are interested in hearing other people's views, the most interesting things to read about are what is being taken on board by the Government and how, and what is not being taken on board and why not, i.e. the document should focus more on the impact of the consultation on the policy.
- 4.46 Some responses raised the issue of weighting, either asking whether the Government weighted responses according to the number of people/businesses/organisations the response represented, or saying that the Government should weight responses if a response expresses the views of a large organisation. On the other hand, some responses stated that the Government should not be in the business of counting votes or weighting responses, and that it should be only interested in the quality of the arguments made.

- 4.47 Feedback, in several people's eyes, is key to trust in the process and key to future engagement. When the Government announces things during the consultation exercise, trust is eroded. Also, it makes little sense when the Government takes action, e.g. laying bills before Parliament, prior to publishing the Government's response to the consultation exercise.
- 4.48 A few responses suggested better guidance on feedback/Government responses and that a template could be introduced to standardise the process. Others emphasised the importance of not relying purely on IT – hard copies should be posted to those without internet access.
- 4.49 **It is clear that the revised Code should place greater emphasis on the feedback Government provides following consultation exercises, and that wherever possible it should go beyond summarising the views heard during the consultation exercise by stating how the responses to the consultation will affect policy development. It is also clear that participants in consultation exercises should be alerted to the publication of the Government's feedback following consultation exercises and that this should be published where possible before further action is taken or alongside this. The Government will strengthen the Code and accompanying guidance on these points.**

9 Is "consultation fatigue" an issue for you? If so, why is this and how do you think this issue could be overcome?

- 4.50 Consultation fatigue is an issue for many of those who responded to this consultation, particularly third sector organisations which participated in this review. It was generally noted that the Government is consulting more than ever and other layers of Government are also consulting more (local authorities, devolved administrations, the European Commission, etc).
- 4.51 For some organisations, particularly in the private sector, the issue is however more about initiative fatigue or regulation fatigue rather than consultation fatigue. Smaller organisations and organisations in the third sector stated often that they do not have the resources to respond to all the consultations that are important to them and so they have to prioritise. Early warning that these consultations are coming up would help them to plan resources. More creativity in the ways the Government seeks people's views (use of non-written methods in addition to written consultation) would help alleviate the fatigue.
- 4.52 Many responses stated that consultation fatigue would be less of a problem if the consultation exercises were well organised and had a real impact on the policy. Under these circumstances participation would be deemed worthwhile.
- 4.53 Suggestions to help combat fatigue included a single point of contact in Government for each sector, shorter consultation documents with less jargon, better coordination across Government so as to avoid duplication, and possibly merging some consultations (although some people said this contains risks as key issues may get overlooked), better use of existing knowledge (e.g. from previous consultation exercises), enforcing the minimum 12 week period, avoiding holiday periods,

staggering consultations, a calendar of planned consultations, greater clarity in the objectives of consultation exercises, and quotas for departments.

4.54 The Government recognises that there are capacity issues for some regular consultees, especially in the third sector³ and that the Government needs to be mindful of what it is asking of stakeholders. In revising the Code of Practice and the associated guidance, the Government will seek to address the lack of transparency, joining-up within Government, the impact of consultation on policies and use of supplementary methods; issues which may help alleviate consultation fatigue.

10 Please feel free to give us any other views you may have about the effectiveness of current consultation policy, the future of consultation policy, the case studies in this paper and other examples from the UK or elsewhere.

5.55 Many people took the opportunity offered here of sharing their views on Government consultation. The issues covered included

1. The importance of pre-consultation so as to carry out stakeholder mapping;
2. The need to avoid leading questions in consultation exercises;
3. A proposal that all consultation documents should ask for any additional comments;
4. Requests for greater clarity as to what issues covered in consultation documents are devolved to Scotland, Wales and Northern Ireland;
5. Requests for greater clarity in consultation documents as to the extent to which the European Union owns policy in the areas being consulted on;
6. The handling of “Uncomfortable truths”, i.e. the narrow scope of some consultation exercises
7. The importance of clear language in consultation documents;
8. The capacity of Government to carry out high quality consultation exercises, with one response suggesting that each team should have one staff member trained up in effective consultation;
9. A need for more coordination within Government before publishing consultations;
10. The importance of setting out clearly the objectives of each consultation;
11. The introduction of incentives to respond to consultation exercises;
12. A suggestion to introduce minimum response rates whereby if a consultation received fewer responses than the minimum, the Government would have to repeat the exercise; and
13. The issue of weighting of responses.

4.56 The Government is grateful for the many responses received on this question, citing many concrete examples of consultations when things had not worked well and when things had worked well.

³ The Government wants to create the right enabling environment for third sector organisations to provide voice to citizens and to campaign, including through capacity-building. The Office of the Third Sector will invest in research to promote better understanding of innovative and effective methods of consultation and engagement with the third sector. The Office of the Third Sector has invested £150m in “ChangeUp”, delivered by “Capacitybuilders”, which sets out a 10 year strategic framework for giving the sector support, and will allocate £88m to Capacitybuilders over the 2007 CSR years.

- 4.57 **Issues numbers 1-11 will all be considered carefully when drafting the new Code of Practice and the accompanying guidance on running consultation exercises. Issues 12 and 13 are more complex.**
- 4.58 **With regard to the suggestion of minimum response rates (12), the Government agrees that it is important that consultations reach all groups of potentially affected stakeholders. The new Code and accompanying guidance will therefore emphasise the importance of stakeholder mapping and reaching all potentially affected groups. Moreover, the impact assessment work carried out by Government will need to include evidence of the impacts on these various groups.**
- 4.59 **Regarding weighting (13), the key issue for Government is the potential impact of proposals on different groups, especially any disproportionate impacts. These should be reflected in the impact assessment.**

11 Do you think any of these options would make for a good consultation policy? If so, which option and what changes could be made to improve it?

- 4.60 Setting out three possible consultation policies led to interesting debate at meetings and many different views being expressed in written responses. Many responses prefer the principles-based approach, stating that it would lead departments to adopt more proportionate approaches to consultation and to think more about stakeholders' needs. However, many of these same responses state that it would need to be supported by significant amounts of training and monitoring. Some people stated that certain departments are mature enough in their approach to consultation to adopt a principles-based approach but others are not.
- 4.61 While the fast-track option has its backers (people saying that for small-scale consultations, i.e. consultations on policies only affecting a handful of organisations), it is the least liked option of the three, with many responses stating that it would be too open to abuse. People ask who would approve a fast-track consultation. Some responses also state this option is already available to departments as with Ministerial sign-off criterion 1 of the Code of Practice can be circumvented.
- 4.62 While some responses point out that option 1 (the written consultation plus one supplementary method) is happening already in most instances, there are many supporters of a Code requiring an additional method, but flexibility as to what that additional method should be and for the department to justify its choice based on proper stakeholder analysis. Some responses gave specific suggestions as to how and when supplementary forms of consultation should be used.
- 4.63 **It is clear that people want the Government to design its consultation exercises around the needs of stakeholders, that people value the opportunity to feed into consultations in ways other than written responses, and that there is scepticism as to the Government's willingness to consult those who might be affected by new policies. The Better Regulation Executive will work with departments to devise a policy that promotes the application of best practice principles and greater transparency in the choice of methods, and maintains the minimum standards which are in the current Code of Practice.**

12 Are you content with the Government's preliminary analysis that the options identified in the consultation document would not impose costs on the private or third sectors?

- 4.64** Responses were divided on this question, some thinking that if the Government were to adopt any of the options in the Effective Consultation paper, there would be no new costs put on consultees or new costs would be negligible, while others thought there would be new costs. For example, were the Government to adopt option 1 (written plus one other method), organisations may decide it is important both to submit a written response and participate in the supplementary methods of consultation; attending meetings will always have a cost in time as well as in getting to the meeting. Of those stating that costs would increase, many believed that if changes led to better consultation and better policy outcomes it would be worthwhile.
- 4.65** Some stated that better use of technology ("e-participation") may help keep costs down for those who have access. Others stated that clearer documents with better summaries would help keep costs down as less time would be needed to understand whether a consultation is relevant. A handful of respondents believed that Option 3 (principles-based approach) may lead to increased costs because of the variety in approaches to consultation that might be adopted by Government.
- 4.66** One response requested that if the Government asks for greater involvement and more detailed submissions it should counterbalance this with a commitment to legislate less. Another response suggested paying people for their involvement in consultation exercises while another stated that consultations often discriminate against smaller organisations or those outside London.
- 4.67** **Given the variety of the responses, the Government will carry out more research into the costs of consultation as part of its work to revise the Code of Practice.**

Annex 1: Written responses were received from the following:

Addenbrooke's Hospital	Consultation Institute
Advertising Association	Consumer Council for Water
Alex Plows	Cornwall and Isles of Scilly PCT
Association for Spina Bifida and Hydrocephalus	Devon Countryside Access Forum
Association of Chartered Certified Accountants	Dialogue by Design
Association of Energy Producers	Disabled Persons Transport Advisory Committee
Association of North East Councils	Dwr Cymru Welsh Water
Bar Council	Engineering Construction Industry Association
Big Lottery Fund	Environment Agency
BioIndustry Association	Environmental Services Association
Biosciences Federation Institute of Biology	Equality 2025
Board of Community Health Councils in Wales	Experian
British Bankers' Association	Faith Communities Engagement Team, Home Office
British Beer and Pub Association	Federation of Small Business
British Chambers of Commerce	Fire Services Consultation Association
British Humanist Association	Friends of the Earth
British Insurance Brokers Association	GM Freeze
British International Freight Association	Hampshire Association of Parish and Town Councils
British Medical Association	Headlines
British Psychological Society	Help the Aged
British Security Industry Association	Heritage Railway Association
Business in Sport and Leisure	Forum
Campaign for Science and Engineering	House of Lords' Committee on the Merits of Statutory Instruments
Campaign to Protect Rural England	Inland Waterways Advisory Council
Catering Equipment Suppliers' Association	Institute of Chartered Accountants of England and Wales
Central Council of Physical Recreation	Institute of Chartered Shipbrokers
Central Lancashire Community Health Link	Institute of Directors
Charity Commission	Institute of Physics
Chartered Institute of Housing	International Business Machines
Chartered Institution of Wastes Management	International Powered Access Federation
Cheltenham Borough Council	Laurence Elks
Chemical Business Association	Law Society
Chemical Industries Association	Law Society of Scotland
Christine Malkin, link worker for Bolton patients' council	Legal Services Commission
Cleaning and Support Services Association	Local Authorities Coordinators of Regulatory Services
Clive Johnson	Local Government Association
Colin Chatten	Mark Boleat
Commission for the Compact	Mark Whittet
Communication Workers' Union Merseyside and SW Lancashire	Music Industries' Association
Construction Products Association	

National Caravan Council
National Consumer Council
National Consumers Federation
National Council of Voluntary Organisations
National Council of Women
National Joint Utility Group
Office of the Immigration Service
 Commissioner
Open Rights Group
Orange
Participation Works
Professional Contractors' Group
Ramblers' Association
Recruitment and Employment Federation
Rotherham Primary Care Trust
Royal British Legion
Royal College of Nursing
Royal College of Radiologists
Royal Institution of Chartered Surveyors
Royal Yachting Association
Sense
Sheila Page
Shipbuilders and Ship Repairers'
 Association
South Gloucestershire Primary Care Trust
Stanley Melinek
Stoke on Trent and Staffordshire Fire and
 Rescue Service
Supporting Others Through Volunteer
 Action
Surrey County Council
Susan Jones
Thames Water
Trade Association Forum
Voice 4 Change England
Walsingham
Welsh Language Board
Wildlife and Countryside Link
Wine and Spirit Trade Association
Yorkshire and Humber NHS

Annex 2: Programme of meetings to discuss the future of Government consultation policy

	Date	Venue	Organiser
1	26-Jun-07	London (DEFRA)	DEFRA Consumer Forum
2	05-Jul-07	London (Lambeth)	Consultation Institute
3	10-Jul-07	London (Admiralty Arch)	Better Regulation Executive
4	11-Jul-07	London (Victoria)	DWP (Annual Forum)
5	03-Sept-07	London (CBI Offices)	Trade Association Forum
6	03-Sep-07	Newcastle (GONE)	Better Regulation Executive
7	04-Sep-07	Leeds (GOYH)	Better Regulation Executive
8	05-Sep-07	Manchester	Consultation Institute
9	12-Sep-07	Bristol (GOSW)	Better Regulation Executive
10	14-Sep-07	London (BERR Conference Centre)	Economic and Social Research Council
11	17-Sep-07	London (Help the Aged Offices)	Help the Aged
12	24-Sep-07	Birmingham (GOWM)	Better Regulation Executive
13	24-Sep-07	Edinburgh (Scotland Office)	Better Regulation Executive
14	25-Sep-07	Gateshead	Equality 2025
15	25-Sep-07	Manchester	Better Regulation Executive
16	28-Sep-07	London (BERR Conference Centre)	Better Regulation Executive
17	11-Oct-07	Belfast (Northern Ireland Office)	Better Regulation Executive
18	15-Oct-07	Cardiff (Cardiff City Hall)	Better Regulation Executive

Better Regulation Executive
Department for Business, Enterprise and Regulatory Reform
3rd Floor
1 Victoria Street
London SW1H 0ET

Website: www.consultations.gov.uk

Publication date: December 2007

URN: 07/1710

© Crown copyright 2007

The text in this document may be reproduced free of charge in any format or media without requiring specific permission. This is subject to material not being used in a derogatory manner or in a misleading context. The source of the material must be acknowledged as Crown copyright and the title of the document must be included when being reproduced as part of another publication or service.