



## **Code of Practice on LSC Consultations**

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# 1. Introduction

Effective consultation is valuable because it:

- helps build trust with stakeholders
- plays a key role in promoting openness and transparency
- encourages proper planning and careful consideration of all the options
- highlights potential problems early on so that they can be put right before a policy is implemented
- helps shape policy developments and set the agenda for better public services
- helps us to check our assumptions, provides a broader view and brings new ideas.

**This Code sets out the Legal Services Commission's approach to consultation. The Chief Executive has agreed that all our consultations should follow the principles and criteria set out within this Code.**

The Code is based on the [Cabinet Office's Code of Practice on Consultation](#), which the LSC is encouraged to follow as a non-departmental public body.

Consultation is an essential part of the policy-making process. However, policies and proposals on which we need to consult can arise in every LSC directorate. This code also applies in these contexts.

We may have an obligation to consult under the Access to Justice Act 1999 or related legislation, or as set out in our contracts with service providers. Section 4 of this code lists the main circumstances in which the LSC will need to consult.

As a public body our decisions are subject to scrutiny by the Administrative Court, a process known as judicial review. As well as considering whether any policy is rational or proportionate, the LSC may be challenged on the policy-making process. If we get it wrong we may have to answer to the court. A fair consultation exercise will reduce the risk of such a challenge as well as being good policy-making practice.

During consultations the LSC will need to take care to comply with our legal duties, such as those that arise under the Access to Justice Act 1999, the Human Rights Act 1998, the Data Protection Act 1998, the Freedom of Information Act 2000 and our contracts with service providers. In addition, we need to ensure we comply with the extended duties owed by public bodies under equalities legislation. The LSC's *Equality Scheme* contains specific obligations relating to consultation and the assessment of the impact of proposed policies on the promotion of equality.

This code does not have legal force and the LSC retains its discretion not to conduct a full, formal consultation under the terms of the code. A full consultation is defined as one that lasts 12 weeks or more, and a formal consultation is defined as one that involves the publication of a written consultation paper.

The principles in the code should be followed as best practice, unless in particular circumstances the Chief Executive authorises a departure from the code. Any deviation from this code must be highlighted to stakeholders, stating the reasons for the departure and what specific measures have been taken to ensure that the consultation follows best practice in every other respect.

The LSC aims to ensure that the public and other stakeholders are made aware of the policy following a consultation, with an explanation of the consultation process we undertook.

## 2. The six consultation criteria

The six consultation criteria have been developed from court decisions concerning consultation and are listed below. Click the links to see each of these in full.

1. **Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
2. **Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
3. **Ensure that your consultation is clear, concise and widely accessible.**
4. **Give feedback regarding the responses received and how the consultation process influenced the policy.**
5. **Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator.**
6. **Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.**

### 3. Responsibilities and contacts

A **Consultation Owner** should be nominated to lead on any LSC consultation.

As Consultation Owner, you should familiarise yourself with the principles set out within this Code. It is **your responsibility to ensure that the consultation is run in accordance with the Code** or where necessary, that the Chief Executive's agreement is sought to deviate from it.

You should liaise with the **Consultation Coordinator** to notify him/her of any new consultation to be launched. The Commission has appointed the Corporate Governance Manager, Secretariat as its current Consultation Coordinator.

The Consultation Coordinator's main tasks include to:

- oversee the organisation's consultation activities
- give advice or answer queries about our consultations process
- maintain a register of LSC consultations
- arrange approval of the consultation process for each LSC consultation, in liaison with the Legal Director and Chief Executive as necessary
- liaise with the Corporate Legal Team to ensure compliance with legislation
- ensure that consultation documents on our website are up to date
- evaluate the process to improve future consultations.

The **Legal Director** aims to ensure that every LSC consultation complies with our legal obligations. The Corporate Legal Team can give advice on any legal aspects relating to consultation. As Consultation Owner, you should liaise with the Legal Director at every key decision-making stage of the consultation, to ensure legal compliance.

Key contacts listed within this code, who you as Consultation Owner may need to contact for advice, are summarised in the table below.

Contact name	Role	Advice on
<a href="#">Holly Perry</a>	Consultation Coordinator	Registering a consultation, the contents of the code, and the consultation procedure including arranging necessary approval
<a href="#">Ruth Wayte</a>	Legal Director	Approval of key stages of the consultation, legal aspects and compliance with legislation
<a href="#">Jenny McGeeney</a>	Head of Communications Delivery	Communications and stakeholder engagement strategy including publications and stakeholder events
<a href="#">Alison Clarke</a>	Programme Office Manager	Projects and programmes including project management standards
<a href="#">Lily Loke</a>	Impact Assessment Coordinator	Impact assessments

## 4. When to consult

Use the tables below to help you answer the question 'How extensively do I need to consult?' Try to see the issues from an external perspective, particularly the points of view of clients and service providers.

There will need to be some form of consultation where any one of these applies to your proposals or policy
There is a statutory duty to consult (for example, it is set out in the Access to Justice Act 1999 or the Funding Code)
There is a contractual duty to consult (for example, it is set out in the Unified Contract)
A previous commitment has been made to consult (for example, in a letter, speech or email)
A precedent has been set therefore there is a reasonable expectation to consult (for example, the LSC has already consulted on the same or a similar issue)

There should be some form of consultation where any one of these applies to your proposals or policy
Impacts significantly on legal aid practitioners
Impacts significantly on the not-for-profit sector
Impacts significantly on a specific sector or sectors of the community
Impacts significantly on legal aid clients/members of the public
Introduces significant new compliance burdens or costs

You may not need to consult where one of these applies
A statutory exemption applies
Arrangements are specified by Government or other relevant third party
The issue is very specialised
There are a limited number of stakeholders

## Levels of consultation

### The process

You should start the consultation process **as early as possible**, so that stakeholders can input to your proposals when they are still at a formative stage, and give people **adequate time** to give full consideration to the proposals.

As soon as you know you will be running a consultation please notify the Consultation Coordinator of your proposals or policy using the consultation registration form attached at Annex 1. The Legal Director and the Consultation Coordinator need to sign this.

The Consultation Coordinator will **register your consultation** on the LSC's consultation register. The Consultation Coordinator will **discuss the issues** with you and the Corporate Legal Team as appropriate.

If you wish to run a limited consultation or a re-consultation you must consult the Legal Director, who will consider the issues from the point of view of the administrative court and advise on what is reasonable and proportionate. The Legal Director reserves the right to make a **final decision** on the level of consultation required.

If you cannot comply with the standard prescribed by the Legal Director, you should read the next sub-section entitled 'Non-standard consultations'. Otherwise you can move on to Section 5 'How to consult'.

### Length of consultation

**Full, formal consultations** are usually required where the LSC has an obligation to consult, unless that obligation limits the level of consultation. For example the Unified Contract states that non-urgent amendments are subject to 6 weeks consultation with representative bodies only. If the proposals are likely to have a significant impact on the public or the majority of our service providers, the Legal Director would be likely to prescribe that you carry out a full, formal consultation.

You must ensure there is an adequate **rationale** for the level of consultation proposed. Less significant proposals would not require a full 12-week consultation, although you should allow 12 weeks if possible. Generally speaking a period of 4 weeks should be considered as the minimum response time for non-urgent formal consultations.

### Re-consultation

It may sometimes be necessary to issue a second follow-up re-consultation on the same subject matter as the first, for example where the proposals or circumstances vary from those originally consulted on. Re-consultations should only be used to gain feedback on relatively minor amendments to a recent consultation. Any re-consultation is unlikely to require a further 12-week formal process and may, depending upon the significance of the changes to the original proposals, require only some form of informal consultation exercise.

If any issues emerge in the main consultation, do not automatically assume that you need to re-consult. You should consider what re-consultation would achieve and remember that it will lead to delays to your timescales. It can also cause complications by setting precedents for re-consultations in future. To conduct a re-consultation you must seek the Legal Director's approval by explaining why the circumstances are exceptional and the justification for re-consulting. The legal team and Consultation Coordinator may be able to recommend alternative ways of solving the problem.

*Examples of different levels of consultation:*

**Full, formal**

The Preferred Supplier scheme: This was a new scheme which would impact significantly on all legal aid service providers and ultimately upon service provision for legal aid clients. The LSC and then DCA published a 12-week consultation paper and we held regional roadshows to inform stakeholders about the new proposed scheme and answer any questions.

**Limited, formal**

Amendments to the Funding Code procedures: This was of interest to civil providers and the consultation and amendment arrangements were set out in the legal aid contract. We met with key stakeholder groups such as the Law Society then launched an 8-week consultation.

**Limited, informal**

The LSC disability equality scheme: This built on an the LSC's existing equality scheme. We liaised with specialist diversity stakeholders and published the draft scheme on our website but did not issue a formal consultation paper.

## Non-standard consultations

If you are unable to carry out the appropriate level of consultation prescribed by the Legal Director, you will need to get **authorisation from the Chief Executive to deviate from the standard**.

Any request for authorisation must be copied to the Consultation Coordinator and the Legal Director.

You should set out:

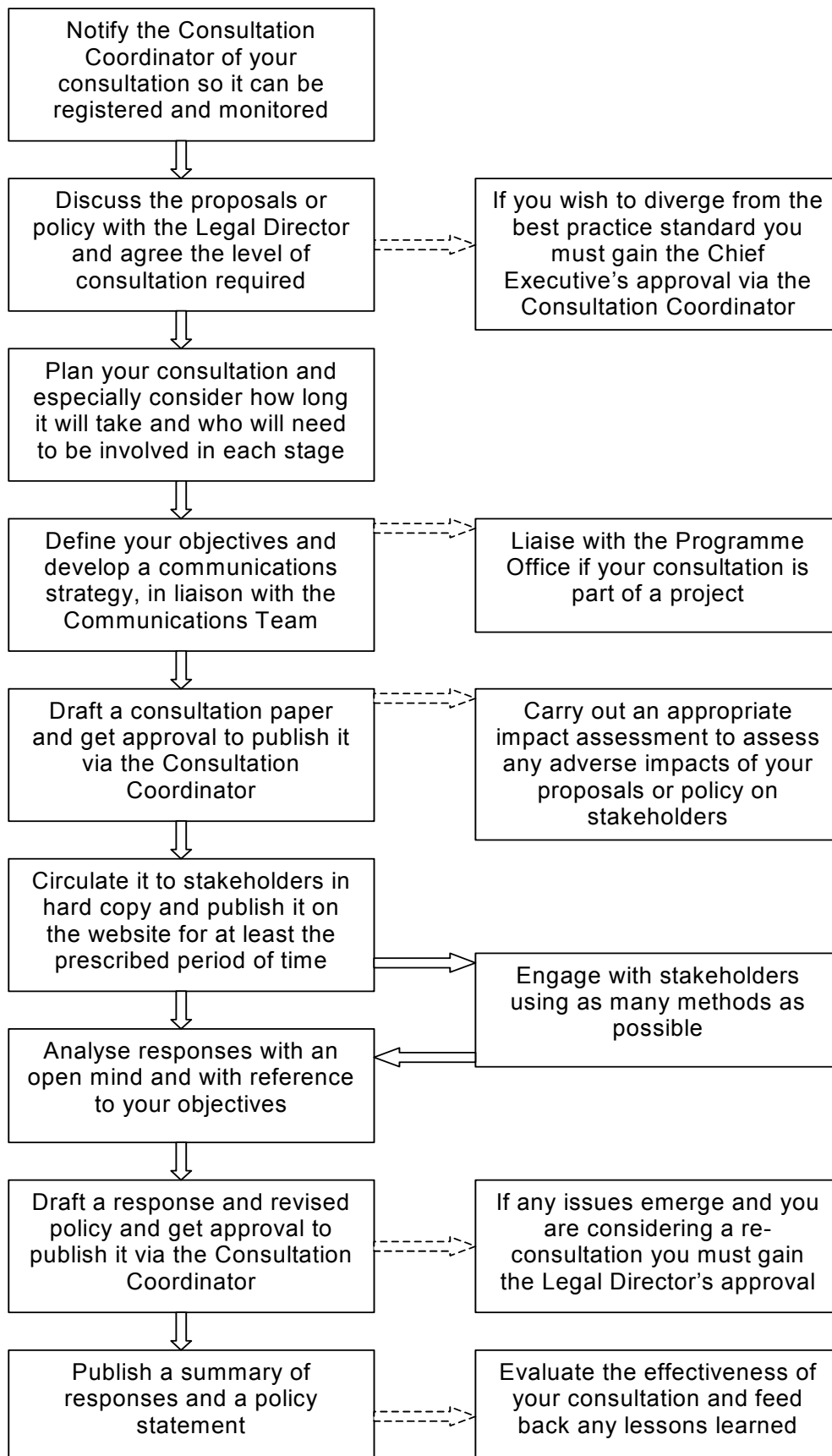
- the objectives of your consultation
- any relevant background
- how it will deviate from the standard, for example if it will last less than the prescribed time period
- the reasons for limiting it, for example a timetable has been set by government, or other exceptional circumstances
- the measures you will take to ensure that the consultation is as effective as possible, for example if you will engage stakeholders in other ways such as focus groups or will target a specific stakeholder group.

The Chief Executive will consider the issues and take a decision, based on advice from the Legal Director.

If the Chief Executive agrees that you can conduct a non-standard consultation, you should ensure that the consultation complies with best practice in every other way. You should **explain to stakeholders** how and why your consultation deviates from the code and what you are doing to ensure the consultation is as effective as possible.

## 5. How to consult

You can use the flow diagram below as a reference. Details follow on the next pages.



## Planning

Genuine consultation is carried out at a time when your **proposals or policy are still at a formative stage**, and adequate time must be given for stakeholders to give full consideration to the proposals.

You should therefore start the consultation process **as early as possible**, although bear in mind that you need to be able to give sufficient clarity about the policy or proposals to enable considered responses.

You should avoid planning your consultation period around your policy timetable and ensure you allow as much time as possible for stakeholders to respond. You may also need to consider any religious festivals, holiday periods or forthcoming elections, and extend your timescales for these.

As well as the minimum period you need to allow for written consultation, you will also need time for:

- liaising with the Consultation Coordinator and Legal Director
- setting clear objectives
- planning and budgeting for consultation activities
- planning communications and stakeholder engagement
- writing a consultation paper
- conducting informal consultation activities
- analysing responses and giving feedback to stakeholders
- reformulating policy and drafting a post-consultation response
- getting approval from the Commission and/or Ministers.

If another department is consulting on a similar or connected issue you should work together and join-up your consultations. For example, if your consultation refers to proposals that are not yet finalised, your consultation should only close after stakeholders have been adequately informed about all the connected issues. You should also look for opportunities to wrap up consultations on similar or related issues into one document to avoid consultation fatigue.

If a consultation is part of an LSC project, then you should also liaise with Alison Clarke in the Programme Office as early as possible and follow the LSC's [project management standards](#).

## Setting objectives

It is important to establish a set of **well defined objectives** as soon as possible in the policy-making process.

You should be clear on your reasons for carrying out the consultation and the benefits you expect to achieve. One of the objectives should be to improve the quality of the policy proposal and outcomes through evidence-based input from a range of stakeholders.

## Approval

You will need to get **approval at least twice** during the consultation:

- before you launch the consultation paper - to gain approval of the draft consultation paper
- after consultation responses have been incorporated into the final policy - to gain approval of the summary of responses and the final policy.

The Legal Director is the first point of approval for each of these key stages in the consultation process. In addition:

- the Executive Team, one of the Commission's sub-committees or a Programme Board will be able to give approval for a minor consultation
- the Commission board should always be given the opportunity to consider any proposals which raise major policy issues, or are likely to lead to significant public comment or criticism, once the Executive Team has given sign off
- major consultations, especially those which will involve costs to the legal aid fund, will also have to be approved by the Ministry of Justice.

The Consultation Coordinator can advise on the levels of approval required.

## Publications

For each formal consultation you will need to publish:

- **a consultation paper** – see Annex 2
- **a summary of responses report** – including feedback regarding the responses received
- **a statement of policy** – explaining the consultation process, how the consultation influenced the policy and how the policy will affect people.

If you take time to write a clear, structured and informed consultation document you will receive a higher standard of responses. You should use plain English, and avoid acronyms, abbreviations or jargon. A standard consultation paper template is at Annex 2.

All publications should be **clear, concise and accessible**. They should be publicised as widely as possible, electronically and in hard copy, using at least the [LSC website](#) and the fortnightly e-alerts to providers.

A guide to [publishing a consultation paper](#), produced by the Communications Team, is available on the intranet. This page also contains information about developing a communications and stakeholder engagement strategy.

## Engaging stakeholders

A consultees list, showing contact details for the LSC's main stakeholders, is available on the Consultations page of our intranet or from the Consultation Coordinator.

You should ensure that you **publicise** your consultation effectively, including targeting groups which may be harder to reach, such as young people, small businesses, voluntary organisations or those from minority communities.

In addition to your key stakeholder group, you may need to consider the **specific needs** of certain communities. Language should not be a barrier to consultation. You may need to translate documents where your stakeholders include those who have sight impairment or do not speak English. You should always publish **bi-lingual papers relating to stakeholders in Wales**. You will need to factor in extra time for translation.

For more information on the Welsh Language Scheme and other issues specific to Wales please contact [Rhian Davies](#), Wales Policy Officer.

## Impact assessments

If your proposals or policy are new, or might have a significant impact on any particular stakeholders, you should carry out an impact assessment.

A good impact assessment will help you decide what is the **best way of achieving your objective**, by allowing you to analyse the issue you want the policy to address, the options available to do this and the risks and benefits of each option.

An IA helps you to use your common sense to decide what is a **reasonable and proportionate** approach to take. For example, it could help you identify whether your proposal would put an unreasonable financial burden on legal aid providers, and the steps you could take to minimise this.

An IA also allows you to assess whether your proposals or policy are likely to have an adverse affect and if so to identify what changes you need to make to avoid unlawful discrimination.

Where an impact assessment is required, it should be attached to the written consultation document for respondents' comments. Any changes to your proposals or policy made as a result of the consultation process must be recorded in the final impact assessment document, to be published with the post-consultation response.

For more information about how and when to carry out an impact assessment, visit the Cabinet Office's [impact assessment guidance website](#)<sup>1</sup>. You can also contact Lily Loke, the LSC's Impact Assessment Coordinator, for advice.

## Informal consultation

In addition to the formal written consultation, you should use at least one informal method of consultation. These may be concurrent with the written consultation.

The main methods for informal consultation include:

- **representative groups** – these can be useful for targeting particular groups such as solicitors, not for profit or barrister groups, or those with particular areas of interest such as diversity, housing or Wales
- **focus groups** – these can be useful for seeking a range of views on a particular issue under debate or engaging clients
- **roadshows** – these can be useful for providing information briefings across England and Wales
- **public meetings or conferences** – these can be useful for launching an initiative and giving opportunities for question and answer sessions

Other, less common, methods include practitioner panels, surveys or questionnaires.

More information on informal consultation methods can be found in the [Viewfinder](#) guidance produced by the Cabinet Office. You may also wish to discuss the options with the Consultations Coordinator.

## Keeping track

You should keep accurate records of all formal and informal stakeholder engagements undertaken throughout the course of the consultation. For informal consultation, this may involve taking notes of meetings, recording names, organisations and views of those present.

You can use a **response analysis grid**. This should include:

- name of respondent
- organisation represented
- method of response
- a summary of their comments for each of the questions asked in the consultation.

It is also useful to categorise respondents into different common groups, for example private sector, voluntary sector, member of the public etc. This helps you to collate and compare responses once the consultation is closed.

## Analysing responses

Responses should be **carefully analysed with an open mind**. This is one of the most important parts of the consultation process.

You should not just focus on statistical data. It is important to understand the backgrounds of respondents, who they represent and how they have been consulted. For example, the views of professional bodies can be given more weighting than those of individuals as they represent a wider group of stakeholders and will have been subject to wider consultation.

You should always **consider your objectives** when you are deciding the way forward, as this helps you to stay objective and focused on the outcomes.

Once you have identified the range of key views and ideas, you should explore the potential pros and cons of each option. Separate the practical and plausible options from those you know to be unrealistic and ensure that you can support your decisions with comprehensive reasoning and evidence.

Where possible, you should involve your key stakeholders at this stage (see 'Informal consultation' above) so that you can discuss and finalise your proposals.

If you have set clear objectives at the start of the consultation process and have approached it in an open, transparent way then analysing your responses and producing a comprehensive summary report should be easier.

It is essential for the LSC to fully take into account all of the feedback from the consultation when the ultimate decision is taken.

### Giving feedback

You should give prompt and comprehensive feedback on the consultation, including:

- a summary of the responses
- an analysis of the responses
- an explanation of how the consultation influenced the proposals.

The summary of responses should be published on the LSC website **within three months** of the consultation closing date. You should set out the list of respondents. It is important to emphasise the views of representative or professional bodies. You can identify respondents by name unless they have expressly stated otherwise, in which case the summary should state that the name was withheld.

You do not need to publish every response in full, but according to the remit of the Freedom of Information Act, all information contained in each consultation response may be published unless an exemption applies under the Act.

The final statement of policy will need to be fully considered and approved by the Executive Team and the Commission board before it can be published (see 'Approval' above).

For more information about whether or not you can publish certain information, you can contact the Consultation Coordinator or Jacque Elliot, Information Compliance Manager.

### Evaluating effectiveness

When you have finished your consultation, you should evaluate how well it achieved your objectives and whether there were any lessons learned.

You may wish to consider:

- how cost-effective your consultation was
- which parts were successful or not and the reasons for this
- whether any unexpected problems emerged and how to mitigate them in future

- which methods of relating to stakeholders were most effective
- how the consultation influenced the policy.

You can give feedback to the Consultation Coordinator to inform future LSC consultations.

**Annex 1- Consultation registration form**

The Consultation Owner should complete this form and email it to the [Consultation Coordinator](#) so it can be logged on the LSC consultation register.

Title of consultation:

Consultation start date:

Consultation end date:

Details of consultation:

(Please specify changes to any contracts/ changes to LSC/NfP Manuals/ Commission sign off dates etc.

You must include a justification if the consultation will last less than 12 weeks, and also explain it in the consultation paper.)

Consultation Owner:  
(sign and date)

Legal Director:  
(sign and date)

Consultation Coordinator:  
(sign and date)

# [TITLE OF CONSULTATION]

## Basic information regarding this consultation

**To:** Insert names of intended recipients, and particularly groups who you would welcome responses from (eg. bodies that represent clients interests)

**Closing date:** DD/MM/YEAR

**Enquiries to:** Name, Phone or Email [insert email link]

**How to respond:** In writing to Address, Postcode  
Or by email to Email [insert email link]

**Additional ways to feed in your views:** Outline informal or alternative methods of consultation (eg. online discussion, MoJ website, via rep bodies, stakeholder meetings and contact details for attending such events etc

**Post-consultation response:** The LSC will publish a response to this consultation exercise by DD/MM/YEAR at [www.legalservices.gov.uk](http://www.legalservices.gov.uk)

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## Foreword by [Name and Title]

### Photo

A foreword is particularly useful for major or high profile consultations. It should be signed off by whosever name it is in, usually the Chair or Chief Executive, or both.

A best practice example from Cabinet Office 'Effective Consultation: asking the right questions, asking the right people, listening to the answers' is set out in the text box below.

Consultation helps. It helps public bodies make better-informed decisions on matters of policy. It helps them improve public-service delivery. And it helps improve the accountability of these bodies to the public, to business and to civil society. Government is most credible when it listens and shows that it is listening to the customers of public services, the country's experts, businesses, charities and NGOs and those who are most directly affected by the Government's actions.

There are many ways in which Government can listen and learn effectively, from informal contacts with interested parties to formal policy forums. And in recent years, many departments have gone the extra mile, using online tools, regional events, citizens' juries, and so on. Through the many available communication channels, Ministers and officials in Government departments have broadened their engagement with stakeholders, fostering a more inclusive approach to policymaking and improving the evidence on which proposals are grounded.

The Consultation Code has been in existence since 2001 and has spread best practice across Government, facilitating effective stakeholder engagement in relation to formal, written consultations.

This paper looks to the future of consultation policy; it asks how Government can improve its consultation work so that we truly get to hear the views of those who use public services, those who might be affected by changes to policy or new legislation, and the country's experts. Please use this opportunity to tell us about your experiences of Government consultations, how they can be improved and how we can ensure that the views of all those who should have a say in future policies can be heard. I look forward to hearing from you.

Signature

Name

Title

## Executive summary

The executive summary allows readers to decide whether the consultation is relevant to them. You should keep it as succinct as possible, and no longer than two pages.

It should include: the **aims and objectives** of the consultation; provide a summary of the **issues and options** being consulted upon; make clear the period for which the consultation is open; state that your consultation is being conducted in accordance with the six criteria (see Annex 1) or give an explanation if the **consultation period** is less than the full 12 weeks - this is essential. The justification might include that the issue has already been consulted on previously, it is very specialised, there are a limited group of stakeholders or a shorter period is prescribed by statute or the contract.

It is useful to give a short **overview** of each chapter of the document, or each option under discussion. This will enable people who have little time to quickly decide which sections of the document they should focus on most closely.

A best practice Cabinet Office example is below.

This consultation exercise, aimed at those with an interest in how the Government currently consults, forms the centre-piece of a review of consultation policy. It follows discussions within Government and with a number of external organisations with regard to how consultation exercises can be improved. This consultation exercise is intended to seek evidence on this topic from a wider range of stakeholders to help in the design of an updated consultation policy which will lead to better consultation practices across Government.

Consultation is an integral part of policy development whereby the Government seeks evidence, validates existing evidence and exposes preliminary policy analysis and options to scrutiny. The Government's current policy on consultation is set out in the Code of Practice on Consultation. This sets out the criteria for carrying out formal, written Government consultations. Observance of these criteria is monitored by Consultation Coordinators in departments and the Cabinet Office reports on fulfilment of the first criterion of the Code – the "12-week criterion".

This consultation document is in two parts. The first part discusses how Government currently consults and how this can be improved upon. It asks questions about what the principles for Government consultations should be and how fulfilment of these principles should be monitored. It also explores the relationship between consultation and impact assessment and discusses how departments should consult and when during the policy development process. Issues including awareness-raising, Government responses to consultations and consultation fatigue are also addressed.

In the second part of this consultation document three options for consultation policy are presented. These options have been designed to address, to varying degrees, some of the issues addressed in the first part of the document. They are intended to stimulate discussion and should not be regarded as an exhaustive list. Combinations of various elements from each option might also make for an improved consultation policy.

## Introduction

### Why are we carrying out this consultation?

Explain policy context and objectives.

This exercise is the centre-piece of a review of Government consultation policy.

By exposing preliminary policy analysis and options to scrutiny and listening carefully to the views of stakeholders, the Government can build up a broad evidence-base which allows for effective and efficient policymaking. Good consultations therefore lead to better policies and reduce the risk of policies failing to meet their objectives and of unintended consequences.

The Code of Practice on Consultation, setting out how Government departments should consult, is now firmly embedded across Government. However, compliance with the criteria Code is not an end in itself. It is now time to review the Code and to consider ways of supplementing or replacing the existing criteria so to improve the quality and effectiveness of Government consultations and ultimately improve policy design.

The aim of this consultation, therefore, is to hear the views of those who regularly respond to Government consultations and those who may feel that Government consultations do not sufficiently engage them. The written consultation is being supplemented with consultation events across the country and an online discussion. Taken together, these will help the Government bring its consultation policy up to date.

### Scope of this consultation

Explain what it does and does not cover, including outlining any policy that has already been decided on. This section is particularly important in terms of managing expectations.

The Government is committed to maintaining a central consultation policy and does not plan to open this point up for discussion. Such a policy, undoubtedly, plays an essential role in the democratic process and in the achievement of a better regulatory environment. The Cabinet Office is, however, open-minded as to the form this consultation policy should take in the future and wants to stimulate an open and broad debate on this matter.

### Definitions

As well as ensuring that the consultation paper is clear, concise and written in plain English, it is important to define some of the terms used in the document from the outset.

It is important to define some of the terms used in this document from the outset.

Consultations are generally aimed at “stakeholders”. For the purposes of this exercise, the term is used in a wide sense, meaning those outside of central Government with an interest in the topics under discussion. These may be organisations or associations, companies or individuals who take an interest in, or who might be affected by the new policy, the policy change or the proposed legislation. In very many cases members of the public are interested in Government consultations even if they might not be directly or immediately affected by the topics under discussion. All views need to be considered carefully in any consultation exercise.

Consultation is an integral part of policy development which takes place when the Government has some clear ideas on a problem it wants to tackle, or an objective it wants to achieve. Consultations are an opportunity to seek evidence, validate existing evidence and expose preliminary policy analysis and options to scrutiny, so as to help the development of effective, efficient and proportionate solutions to a particular issue. Consultation in these terms is not a form of market research; it is not a way to determine what people want the Government to do in general terms; and it is not an exercise to learn how the public feel about broad topics. While Government may and does carry out such deliberative exercises (public engagement), these are not what we are addressing in this consultation.

### What happens next?

A best practice Cabinet Office example is below.

This consultation exercise will be accompanied by an online discussion space and by events around the country. These will provide additional opportunities to discuss the issues addressed in this document and thereby supplement our evidence-gathering. If you would be interested in attending such an event, please get in touch with the Cabinet Office using the contact details at the beginning of this document.

Following the close of this consultation, the Cabinet Office will analyse carefully all the responses received (formal written responses, online discussions and points made at events), and by 30 November 2007 on the Cabinet Office website <http://www.cabinetoffice.gov.uk/regulation/> publish a summary of the responses and state how these views are being taken on board in the design of an updated consultation policy.

## Current policy

Explain background, existing arrangements and any context on why we're consulting.

## [Subject of consultation]

Try to organise your proposals into **chapters** that cover a discrete issue or policy option. Start each chapter with a summary, highlighted in bold font so it stands out, and end each chapter with a conclusion.

Use **clear, concise** language and explain any unavoidable technical terms, as this will improve the quality of responses you receive.

The consultation paper must include sufficient reasons for particular proposals to allow stakeholders to fully consider the issues and give an informed response.

Your **proposals should be set out clearly and comprehensively**, with any relevant background, costs and benefits of implementing that option and alternatives where possible. Remember to include a 'do nothing' option here: what would happen if you made no policy changes at all and things remained as they were?

In each chapter, **emphasise the questions which are pertinent** to that particular issue or policy option. Use a mixture of open and closed questions to invite new ideas and help your analysis by combining qualitative and quantitative information. It is useful to put consultation questions in text boxes so they stand out clearly.

<b>Question 1</b>
<b>Question?</b>

You may also find it useful to include relevant case studies or practical examples wherever possible in each chapter, to bring the proposals to life. Again, it is useful to highlight these using a shaded box or a different colour.

If you are proposing changes to an existing document then you should use tracked changes mode to highlight the differences between the original document and the new version.

## Options

Consider the options with an open mind and reference to your **objectives**.

It is important to get the **consultation questions** right first time, to avoid the need to re-consult if your final proposals differ significantly from those consulted on. It is helpful to leave an open question so that people can suggest a new option that you might not have thought of already.

You should also make reference here to the impact assessment and the **costs and benefits** that relate to your options.

A best practice Cabinet Office example is below.

We will set out three possible options for an updated consultation policy. These have been designed to address, to varying degrees, some of the analysis offered above and comments made, over recent months, to the Cabinet Office about Government consultations.

These options are intended to stimulate discussion and should not be regarded as an exhaustive list. Combinations of various elements from each option might also make for an improved consultation policy.

This consultation exercise is very much an open discussion where all options are open for consideration within the scope set out at the beginning of the document (page 6) Please, therefore, do not feel restricted to the three options set out in this document – we would be most interested to hear other ideas for an updated Government consultation policy.

Please share with us your views on these options.

## **Option 1 Written consultation plus one other method**

### **Introduction**

This option is based around the current Code of Practice on Consultation but with a new criterion on supplementing all written consultation exercises with at least one other form of consultation. The decision as to which form or forms of consultation to use would rest with the Minister in the Government department and this supplementary consultation would have to be appropriate for the stakeholders. The Department of Trade and Industry already has an internal policy along these lines – all written consultations must be supplemented with at least one additional form of consultation.

### **Reasoning**

The thinking behind this option is that written consultation may not always be sufficient for certain stakeholders and an additional form of consultation would allow their views to be heard.

### **In practice**

With such a policy, departments may decide to issue internal guidance on the best methods for particular groups of stakeholders. If the proposals under consideration could affect more than one stakeholder group, and the best way of reaching these two groups differed, then departments may consider running more than one additional form of consultation.

Additional forms of consultation could include stakeholder workshops, public meetings, citizens' juries, expert panels, online forums, etc. The Cabinet Office would facilitate the sharing of best practice across Government and provide guidance regarding the effectiveness of supplementary forms of consultation for different stakeholder groups.

Government consultations are available online. Making available hard copies and online versions of the same Consultation Document would not meet the goal of having a written consultation plus one other form.

### **Possible pros**

- # Greater opportunity for stakeholders not currently engaged with Government consultations to share their views/feed in their evidence
- # Little disruption and few one-off costs as Consultation Code largely unchanged

### **Possible cons**

- # Extra costs to Government of always supplementing written consultations with other means of consultation
- # Potential extra costs to stakeholders already participating in Government consultations should they wish also to be involved in the supplementary consultation methods
- # Issue of consultation fatigue not addressed, and possibly worsened.

## Summary of questions

If you are thinking of submitting a formal response to this consultation, please do not feel obliged to answer every question and feel free to make other comments on the consultation proposals, process and policy that you consider relevant.

### [Sub-heading]

1. Question?

2. Question?

### [Sub-heading 2]

3. Question?

### Impact assessment

4. Do you agree with the assessment of impact outlined in Annex 3? Do you have any evidence of impacts that we have not yet considered?

### Options

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

## Consultation information

The LSC wishes to consult individuals and organisations about [subject of consultation] over the period DD/MM/YYYY to DD/MM/YYYY.

This consultation exercise will be accompanied by [explain other consultation activities, for example, public meetings, focus groups or road shows].

Following the consultation, the LSC will consider responses and, by DD/MM/YYYY [within three months of the consultation closing date], publish a document containing a summary of the responses received; a statement of how these will affect future policy; and an outline of future activity as regards consultation policy. This will be published at <http://www.legalservices.gov.uk/>.

**Please send your responses to this consultation by DD/MM/YYYY to:**

**Email:** [dedicated email address]@legalservices.gov.uk [insert email link]

**Address:** [Name/Team]  
Legal Services Commission  
85 Gray's Inn Road  
London WC1X 8TX.

Electronic versions of this document can be found at <http://www.legalservices.gov.uk/>.

We are able to supply copies of this consultation document in alternative formats (such as large print or Braille) upon request.

For enquiries or comments about our consultation process, you can also contact Holly Perry, Consultation Coordinator via email at [consultation@legalservices.gov.uk](mailto:consultation@legalservices.gov.uk) or on 020 7759 0424.

Please attach any supporting evidence to support your response. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions, when they respond. Individual contributions will not be acknowledged unless specifically requested.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). The LSC will process your personal data in accordance with the DPA.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Commission.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

## The six consultation criteria

This document and the consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Cabinet Office and is in line with the six consultation criteria, which are:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses
3. Ensure that your consultation is clear, concise and widely accessible
4. Give feedback regarding the responses received and how the consultation process influenced the policy
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator
6. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.

## Who we are consulting

You should attach a list of all stakeholder organisations you have consulted informally, as well as all those to whom you are sending copies of the consultation document. You may wish to refer to the 'consultees list' on the intranet under CLS or CDS consultations. You can also invite respondents to contact you with the names of any other stakeholder groups not on the list who might wish to contribute, so that you can make the consultation as broad as possible. Remember to include any specialist, 'hard to reach' or minority groups.

This consultation document has been sent to the organisations listed below. Representative bodies and agencies have also been asked to alert their key stakeholders as to the launching of this consultation exercise.

Please feel free to forward this document, a link to it or the contact details set out at the beginning of this document to any organisations or individuals who you think might be interested.

[List of main consultees]

## Impact assessments

Your consultation paper should usually include an attached impact assessment outlining a costs and benefits analysis of your policy proposal. This helps you to decide the best way of achieving your objectives. Attach this as an annex unless it is very long, in which case you should prepare it as a separate document and include a website and postal address where respondents can access a copy.

**[TITLE OF CONSULTATION]****Consultation Response**

Name:

Organisation you are from or responding on behalf of:

Postal Address:

Email:

Respondent type (please tick on of the following):

- Solicitor
- Not-for-profit provider
- Barrister
- Mediator
- Representative Body
- Client Group
- Government
- Client
- Other

**Where possible, please send your consultation response electronically to**  
**[insert email link]**

Please provide evidence where possible to support your response.

In accordance with the Freedom of Information Act 2000, the Legal Services Commission may publish your name and the contents of your response. Please tick here if you wish not to have your details or content of your response disclosed

**Section 1:**

Question 1 .....

**Section 2:**

Question X .....

**Section 3:**

Question X .....

**General Comments**

Please use this space to make any points that have not been specifically addressed in the questions asked as part of this consultation paper.