

Summary Report of Consultation Processes Workshop
held at the British Computer Society on 14th February 2001

Background

Two years ago EURIM produced a Briefing Paper which examined the issues in a European context. This is a follow-up exercise to review the situation in the UK, relating to both central and local government and in the context of e-government initiatives.

There has been a significant increase recently in the amount of consultation taking place, including attempts, as part of the Modernising Government programme, to be more joined up, both between and within departments. This has led to a significant problem of consultation overload for industry and individuals.

The quality of consultation exercises varies, but there is evidence of a serious wish by government and most civil servants to make consultation effective and better. A code of practice for consultation was published on the Cabinet Office website in November. However, some departments still appear to be consulting because they have to, not because they want to. The implications of devolution, with different procedures in Scotland and Wales have made some type of consultation extremely complex.

Issues raised in discussion

1. A distinction needs to be made between consultations about what should be the ends and those on the means to achieve predetermined ends. Those about what Government should do tended to get better results than when the question was "how shall we do it?" However, where government has an absolute commitment to do something, it is still valuable to consult on how to achieve it. What is essential is that, when a consultation is only about means, this is made absolutely clear.
2. As well as different reasons for consultation, there are a great many different ways to consult. Local government is noticeably more innovative than central in this regard. There will often be a need to use more than one method.
3. Consultation can overlap with both market research and academic research. It can also be closely related to democratic decision making processes. Conversely, the results of consultation may be viewed by officials as being biased by lobby groups. Different types of consultation may be undertaken as market testing exercises to find out whether policy ideas will fly or to gauge the level of opposition to them. Consultations may also be used to develop consensus or shape attitudes so that people are happy with what is provided. The packaging of ideas can be an important feature, since the consultation document is often the first public presentation of them.
4. Those undertaking consultation need to be open about what will happen with the input received, as well as about the background to the consultation. There can be conflicts between the openness required for effective consultation and the need to keep certain policy or commercial information confidential. This is a particular problem in handling planning enquiries. Central government departments have noticeably different attitudes to the consultation process and this is reflected in the results. At the worst extreme, we can have unworkable legislation because of failure to consult all the groups affected or to listen to their concerns. The risk of this is increasing as it becomes more difficult to predict, identify and consult those who may be affected.
5. A balance has to be struck somewhere between an over-structured set of questions and an excessively vague "what do you think of this?" approach. People like to respond to defined

options and the less structured the exercise, the more necessary it is for face-to-face contact between officials and those consulted.

6. The timing of a consultation exercise is critical and decisions regarding it should be taken early in the life cycle of any applicable project. (This is particularly vital if an outside contractor is to conduct the consultation, since their appointment may well be subject to the procurement rules.) Whatever stage is chosen, it is important that those consulted know which matters have already been decided and which can be influenced by their responses. There may be a need for more than one iteration, with the results of the first made widely available.
7. The length of any consultation period needs to be appropriate to the bodies being consulted. Membership organisations have particular time lags before they can present the considered views of their members. On the whole, 6-12 weeks seems to be the ideal window to give time for considered replies while avoiding the "manana" syndrome.
8. Both timing and length of consultation need to recognise that it is sometimes in the public interest to move rapidly to a decision and implementation. There are also circumstances when there is no opportunity to consult because of the political imperative for rapid action or a surprise announcement. If so, the risk of error or opposition needs to be taken into account.
9. Who to consult is always a critical issue and one that must be considered at an early stage. Organised groups, whether employers, unions, professional bodies, trade associations, are important targets, but it can be as crucial to obtain the views of concerned individuals or small firms. Sometimes it is only as a result of a consultation exercise that the full range of stakeholders becomes apparent.
10. Many organisations are consulted frequently and would benefit from more feedback from government on the results and how their own submissions were received. This would improve the quality of future responses.
11. More notice seems to be taken of a lot of responses from individuals than a few submissions with multiple signatures. This has a particular impact on the way in which some membership organisations react to consultations.
12. Consultation exercises need to be publicised to ensure that all with an interest are aware of them within the response time. This could, for instance, include media advertising and notices in cybercafes and libraries. A significant amount of work is required by the consulting department to ensure that responses are obtained from the appropriate range of people and organisations.
13. Many now feel they have legitimate cause for complaint if an electronic version of a consultation document is not available over the Internet at the time of the announcement of the consultation. There is a good case for making this mandatory and stating that consultations have not legally started until the consultation papers are available over the Internet and the location has been announced to both Members of Parliament and the Press. The Open.gov website should have a single easy to use consultation database containing or pointing to all current consultations, their status and, if appropriate, the results to date.
14. Analysis of the results and determining the weighting to give to various views is also critical. There is a shortage of officials with the expertise to plan consultations, evaluate the results (or sometimes even understand the issues being addressed). This is especially acute in complex areas requiring technical or business knowledge. The problems are probably worst with regard to Regulatory Impact Analyses, which suffer particularly from the lack of involvement by people with experience of the practical workings of those who may be affected.
15. The cost of consultation, to both departments and those responding, is rarely assessed and can be substantial. Such costs should, however, be compared with the cost of implementing poorly targeted or constructed policies. There is evidence of considerable duplication of effort, with multiple departments consulting the same groups on the same issues but it can be dangerous to rely on answers obtained elsewhere for a different purpose. Responses also change over time.