

# **SCOTTISH GOVERNMENT: CONSULTATION GOOD PRACTICE GUIDANCE**

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### **ABOUT THIS GUIDANCE**

The Scottish Government Consultation Good Practice Guidance provides practical advice and information to SG teams on all aspects of carrying out a consultation exercise. The guidance on consultation methods in particular is not intended to be prescriptive; instead it is designed to prompt staff to consider a full range of issues and options when deciding how to consult. All consultation exercises vary and each individual consultation team is best placed to decide how to consult on their particular issue, taking account of all relevant factors including the issues under consideration, the objectives of the exercise and the target audience, and the wider policy environment. The aim is to achieve the optimum level of input for any given policy issue, and the GPG is a resource to help staff achieve this. Ultimately, though, individual consultation teams should be able to justify the particular strategy adopted in their exercise.

The guidance demonstrates the SG's commitment to promote good practice in this important area of work. It has been drawn up taking account of the views and experiences of SG staff. The guidance will continue to evolve in response to feedback from staff and external parties, and as we learn from our own and other's continuing experience in this area of work. The SG Consultation Good Practice Guidance and supporting documentation is updated regularly to incorporate the latest available advice.

### **INTRODUCTION**

This document provides good practice guidance to any individual or team within the Scottish Government embarking upon a consultation exercise. It contains a series of checklists to guide staff through the key stages of the consultation process.

The SG attaches great importance to involving customers and stakeholders in developing new policies and laws, and their implementation. Although we aim increasingly to achieve that involvement at an early stage and as part of an ongoing dialogue, the consultation process remains fundamental to good government as a way of broadening the range of those who are engaged. Our aim is to ensure that consultation is thorough, effective and appropriate to the target audience. This guidance is designed to facilitate this by promoting a consistent approach.

The Government's consultation guidance is endorsed by the Permanent Secretary and is relevant to all Scottish Government departments and agencies, and all consultation exercises, whether large or small.

#### **Using the Guidance**

The checklists here are designed to prompt teams to consider relevant issues and take appropriate action at each stage of the consultation process. It is, though, important to remember that no two consultation exercises are likely to be the same. Many factors will

influence the consultation strategy used in any particular exercise but key factors for consideration should always be the objectives of the exercise and the needs of the audience. Final decisions about the strategy adopted will, though, also take account of other factors in the wider policy environment. Crucially, a consultation team should be able to justify the methods adopted in any exercise.

Please remember that consultation should be a dynamic process. The checklists here present consultation as a standard linear process. However, your strategy should always be kept under review and revised as necessary to achieve your objectives.

## REMIT OF THE GUIDANCE

The following **definition** of consultation has been adopted for the SG Consultation Good Practice Guidance:

***‘Consultation is a time-limited exercise when we provide specific opportunities for all those who wish to express their opinions on a proposed area of our work (such as identifying issues, developing or changing policies, testing proposals or evaluating provision) to do so in ways which will inform and enhance that work.’***

Whether your consultation refers to a tightly defined technical matter or to a broad conceptual policy development, the recommendations in this guidance will help you make the most of your exercise.

A consultation *exercise* may include a number of papers and methods of gathering information and views on a particular issue. The SG Good Practice Guidance provides advice on *how* to conduct a consultation and not on *whether* or *when* to conduct a consultation. The decision to consult will be informed by the history of the policy area, the issue under consideration, the existence of any Parliamentary/EU obligations to consult and the stage of the policy/legislative process

## THE ESSENTIALS OF SG CONSULTATION

These **essentials** should be read alongside the main body of good practice guidance presented in this document. They include administrative procedures to ensure that consultation exercises comply with relevant legislative obligations and SG procedures.

In order to meet important legal requirements relating to the Data Protection Act you must:

- Provide respondents with information on how their response will be used
- Ask all respondents to 'opt-in' to making their response available to the public and to being contacted again (if appropriate)

You should therefore:

- Use the NEW Scottish Government standard covering letter for consultations and the NEW acknowledgement statements to acknowledge all responses

In order to protect Scottish Ministers from legal action (and the reputation of named individuals) you must:

- Screen all responses being made available to the public for defamatory statements and remove these

In order to meet existing SG consultation commitments you must:

- Publish all consultation papers and resultant reports on the SG internet using SEIPS
- Allow consultees at least 12 weeks to respond, except in very exceptional circumstances
- Distribute your consultation paper to core recipients
- Make responses available to the public (in the SG library) 20 working days from the closing date of your consultation exercise

In order to adhere to agreed important internal procedures, you must:

- Register your consultation with CRES (the SG Consultation Registration and Evaluation System) using the on-line registration form
- Obtain appropriate Ministerial and Cabinet clearance for the exercise and papers
- Treat your consultation paperwork as complete sets of formal records marked 'Preserve in NAS' and manage in line with SG Records Management Manual
- Complete an on-line CRES evaluation form at the end of your consultation

To achieve effective engagement, it is also essential to:

- Design a consultation strategy that is appropriate for the objectives of your exercise and the needs of your target audience
- Treat your exercise as a dynamic process, reviewing and adjusting your strategy as necessary
- Provide all respondents and consultees with feedback on the exercise

## **GETTING STARTED**

The preliminary stage of any consultation exercise is crucial to its success. There are a number of issues which you need to consider and steps you need to take which will help ensure that your exercise is successful.

### **GETTING STARTED: CHECKLIST**

- Specify clear objectives for the exercise
- Gather a team with the necessary skills to conduct the consultation
- Define the stakeholders for your consultation and consider how to involve them
- Register your consultation with CRES (SG Consultation Registration and Evaluation System) using the on-line registration form
- Review any previous consultation and research activity on this topic
- Seek advice from internal and external experts at the earliest opportunity
- Use external stakeholders to assist you at the earliest stage of your exercise in establishing the broader picture and in identifying the issues

## **PLANNING CONSULTATION**

Planning your consultation involves a number of key steps, crucially relating to identification of your target audience and decisions about how best to consult this audience.

### **PLANNING CONSULTATION: CHECKLIST**

- Obtain appropriate ministerial clearance
- Be clear about your target audience
- Equality mainstreaming: Consider how you will encourage greater access to the policy and consultation process.
- Identify groups at risk of exclusion from your consultation and take steps to remedy this
- Establish appropriate consultation method(s) based on your objectives and audience
- Consider and budget for alternative formats and community languages
- Consider the use of face-to-face or research methods of consultation as an additional or alternative way of capturing views
- Identify the outputs you will need for policy development and feedback to your audiences  
Ensure that you set realistic timescales for planning and conducting your consultation, including at least 12 weeks for responses to your consultation paper
- Ensure that the resources your exercise will require are in place (both in terms of staff time and additional costs)
- Plan the form that your signposting and feedback to consultees should take

## **DOING WRITTEN CONSULTATION**

Issuing a consultation paper and inviting response is the most commonly used consultation method. Careful use of this method will help ensure it is effective for your target audience.

### **DOING WRITTEN CONSULTATION: CHECKLIST**

- Be clear about your audience and objectives when writing a consultation paper
- Ensure your paper is concise, clearly laid out and written in plain English
- Use the new standard covering letter for consultations

- Provide background information on the consultation/policy process
- Ensure your paper/covering documentation includes: summary; discussion of the issues; outline of options; relevant views and information; assessment of impact on different groups; proposed timetable; statement regarding availability of paper in alternative formats; list of those being consulted; how responses will be used
- Ask questions that will elicit the views and information you require
- Test your consultation paper with appropriate colleagues and contacts
- Contact MCG and Astron about publishing your paper
- Ensure that your consultation is published on the SG website
- Consider the needs of equality groups and the need to produce the paper (or make it available on request) in alternative formats or community languages
- Update and amend your distribution list for your specific exercise
- Advertise your forthcoming consultation and alert key stakeholders
- Ensure you send your consultation paper to SG core recipients
- Consider publicising your consultation, taking advice from MCG and your press team
- Ensure you are maximising ICT opportunities
- Make arrangements to receive and process responses
- Establish a system for dealing with complaints
- Acknowledge all responses using the new standard acknowledgement statements
- Organise responses according to information provided in the Respondent Information Form and prepare what can be made available to the public
- Screen responses for defamation
- Place a copy of all appropriate responses and respondent information in the SG library within 20 days of your closing date
- Make arrangements for analysing responses
- Refer to the SG Guidance on Analysis of Consultation Responses if you are doing the analysis in-house
- Publish a summary and full report of the analysis in 'hard' copy and on the SG Internet
- Provide feedback as soon as possible to all respondents and other stakeholders

## **DOING CONSULTATION – OTHER METHODS**

Non-written methods can be used to achieve effective consultation with your target audience, either on their own or in conjunction with a written consultation paper. They are especially useful for targeting groups less likely to respond to a written consultation paper. You need to consider carefully which methods will best widen the access to your consultation exercise and the practicalities of carrying out the associated work.

### **OTHER METHODS: CHECKLIST**

- Consider how to widen access to your consultation by using different methods, determined by its purpose, the needs of your target audience and your resources
- Use more than one method to reach and engage different audiences
- Consider using face to face methods (eg, meetings and workshops)
- Consider individual and group needs to ensure face to face events are inclusive
- In face-to-face events, use techniques which encourage interaction and participation
- Write up and publish a report of any events and provide feedback to participants
- Consider using research methods to supplement your open consultation
- Consider the use of deliberative research methods for complex issues or for issues where informed opinions from the general public would be of value to your exercise
- Consider using a contractor to carry out your research
- Publish your research findings and provide feedback for participants

## **CONCLUDING A CONSULTATION**

Concluding your consultation is an important stage in any exercise. A number of important activities will help ensure the success of your exercise and contribute to effective ongoing engagement with your stakeholder community.

### **CONCLUDING A CONSULTATION: CHECKLIST**

- Produce a consultation report
- Publish and disseminate the report
- Publish the report on the SG website
- Complete a CRES evaluation form on-line
- Update your stakeholder information for future use

## **EVALUATING CONSULTATION**

Evaluation of your consultation exercise allows good practice to be demonstrated and lessons to be learned. Sharing the results of your evaluation can help improve consultation and ongoing engagement activity within your immediate policy area and more widely.

### **EVALUATION: CHECKLIST**

- Spend time and resources on the evaluation commensurate with the scale of the consultation
- Determine how you will evaluate the effectiveness of your exercise during the planning stages
- Carry out evaluation following each stage of consultation or at the end of the exercise
- Refer to the SG consultation evaluation frameworks for suggested questions on the consultation process and outcome to guide your evaluation
- Ensure that your evaluation is inclusive and evaluate experiences of all stakeholders
- Use existing information as well as research methods to answer evaluation questions
- Share the findings and lessons learned, via a report and possibly a meeting
- Publish your evaluation report, particularly if external stakeholders have been involved