



**Isle of Man  
Government**

*Reiltys Ellan Vannin*



# Isle of Man Government Code of Practice on Consultation

The Council of Ministers

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# Code of Practice on Consultation

## The Six Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or 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 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.
6. Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

These criteria must be followed in consultation documents.

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## Introduction

This Code of Practice on Consultation applies to all public consultations carried out from the 1 July 2008 by Government Departments, subject to the provisions below. The term Department is used throughout this document but should be read to include Statutory Boards and Offices.

Non-departmental public bodies and local authorities are encouraged to follow this Code<sup>1</sup>.

Although the Code does not have legal force, and cannot prevail over statutory or mandatory external requirements, it should otherwise generally be regarded as binding on Departments and their agencies for Primary Legislation, unless Ministers conclude that exceptional circumstances require a departure from it.

Ministers have discretion not to conduct a formal written consultation exercise under the terms of the Code, for example where there is a national, international or operational need or where the issue involved is very specialised and there is a very limited number of interested parties who have been directly involved in the policy development process. In these circumstances the general principles of the Code should still be followed as far as possible, and Departments should consider how to ensure that the public is made aware of the policy, for example through a press notice or statement on the Department's website. This should state the Minister's reason for their decision.

Although the Code is designed for use with primary legislation, the Council of Ministers endorses the use of the Code as a template for best practice by Departments, Boards and Offices when considering major policy decisions where consultation may be appropriate.

If consultation is not felt to be appropriate or cannot be carried out in accordance with the Code, then it is expected that the reasons for this will be documented in, for example, a Report to, or a Minute of, a Department meeting.

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation or policy.

It is suggested that if outcomes are predetermined or change is not possible then this should be made explicit in the consultative documents. Consultations should not slow down the day to day operation of a Department or inhibit management choice and in the main will simply formalise current consultation practices.

Consultation documents should carry a disclaimer pointing out that a response does not guarantee a change to that which is proposed.

When you consult, care must be taken to comply with your legal duties, such as those that arise under the Human Rights Act 2001 and the Data Protection Act 2002.

Any deviation from this Code for primary legislation must be highlighted in the consultation document and should state the Minister's reasons for departing from the Code, and what specific measures have been taken to ensure that consultation is as effective as possible.

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<sup>1</sup> For non-Ministerial departments and other organisations, where 'Department' is used it refers to the consulting organisation and where 'Minister' is used it means the decision-maker, for example the board, responsible for the consultation.

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Departments should include the information at Annex 1 to record a summary of the consultation and make this available to the public.

The Chief Secretary's Office will review the effectiveness of the Code after 12 months from its introduction and then at three year intervals. Feedback is welcome to the address below:

Policy and Administration  
Chief Secretary's Office  
Government Offices  
Bucks Road  
Douglas  
IM1 3PM

Tel: 01624 686268

E-mail: [linda.mccauley@cs0.gov.im](mailto:linda.mccauley@cs0.gov.im)

## Consultation criterion 1

**Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of legislation or policy.**

- 1.1 Consultation is a continuous process that needs to be **started early** in the policy development process.
- 1.2 It is important to identify proactively relevant interested parties and those whom the policy will be likely to affect. These groups should be contacted and engaged in discussion as early as possible in the policy development process.
- 1.3 Informal consultation with these stakeholders may be conducted prior to the written consultation period. Not only does this lead to a more informed consultation exercise but it also ensures that stakeholders are engaged early and have a better understanding of the policy.
- 1.4 The formal consultation period should always include a written consultation exercise. A 6 week period is thought appropriate to the Isle of Man with its population size however discretion is given to Departments to determine a suitable time frame.
- 1.5 Reasons for variation in the timeframe could be that a timetable is set out in statute; those unavoidably dictated by international processes; those tied to the Budget or other annual financial cycles; measures where there is a health and safety or security dimension; or some other urgent requirement for the introduction of new measures. Public holidays or other events may also justify extending the period of consultation. Where a second consultation takes place on the basis of amendments made in the light of earlier consultation, a shorter period may also be appropriate.
- 1.6 Where consultation takes place over a holiday period or lasts less than 6 weeks, extra effort should be made to ensure that the consultation is still effective, by supplementing the written exercise with other methods of consultation.
- 1.7 Where a consultation period is less than 6 weeks this must be highlighted in the consultation document, which should explain the Minister's reasons for this and the extra efforts taken to ensure that the consultation is as effective as possible.
- 1.8 Some stakeholders, for example small businesses and children, may be particularly difficult to reach. It is important to engage proactively with individuals, organisations and trade associations. Written consultation is not the only or even always the most effective means of consultation. Other forms of consultation may help in this process. These might include:
  - stakeholder meetings;
  - public meetings;
  - web forums;
  - public surveys;
  - focus groups;
  - regional events; and
  - targeted leaflet campaigns.

This list is indicative only and other options identified may be used if considered beneficial to the consultation process.

## Consultation criterion 2

**Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**

- 2.1 Ask focused questions and be clear about the areas of policy on which you are seeking views. Responses that do not refer to the specific questions asked should still be accepted. Encourage respondents to provide evidence, where appropriate, to support their responses.
- 2.2 Explicitly state any assumptions made about those who are likely to be affected by the proposed policy. Encourage respondents to challenge these assumptions.
- 2.3 As far as possible, consultation should be open. However, if there are things that cannot be changed because, for example, they are part of an international obligation or due to prior Ministerial commitments, then make this clear. The risks and consequences of doing nothing should be outlined.
- 2.4 If there are particular areas where respondents' input would be especially valuable, make this clear as well. Responses are likely to be more useful and focused if the respondents know where to concentrate their efforts.
- 2.5 Representative groups should be asked when responding to give a summary of the people and organisations they represent.
- 2.6 Provide a list of consultees as an annex to your consultation document and ask for suggestions of other interested parties who should be consulted. It may also be helpful to refer to any earlier or informal consultation. Bodies which should be consulted on primary legislation are set out at 7.1 of this Code.
- 2.7 Clearly state the deadline for responses and any alternative ways of contributing to the process in the consultation document.
- 2.8 Explicitly state both who to respond to and who to direct queries to, giving a name, address, telephone number and e-mail address. This may be the same person.
- 2.9 You should state from the outset within the consultation how information received will be treated. For example 'a summary of responses' will be publicly available and/or the names of respondents and their responses will be publicly available.
- 2.10 Evidence provided should only be accepted if the person providing it is willing to be named. Information to this effect should be included in the consultation. The process should be open and honest. Any abusive or offensive responses should be discounted.

## Consultation criterion 3

**Ensure that your consultation is clear, concise and widely accessible.**

### 3.1 Clear

Use plain language: avoid jargon and only use technical terms where absolutely necessary. Explain complicated concepts as clearly as possible and, where there are technical terms, use a glossary.

### 3.2 Concise

Provide an executive summary to the written consultation document that covers the main points of the document, preferably no longer than two pages. Even if the document is technical, ensure that the executive summary is accessible to all. Having read the executive summary consultees should be in a position to decide whether the consultation is relevant to them, and whether they need to read further.

### 3.3 Accessible

A consultation should be as accessible as possible. Ensure that the consultation documents are available in paper format and with the fullest use of electronic means. They should be available and easily found on the internet from the day that the consultation is launched. The title and brief detail of the consultation should be sent to Chief Secretary's Office (CSO) to enable the consultation web page to be updated. A link to the Department's website will be inserted on the CSO site.

3.4 Efforts should be made to bring the consultation to the attention of all interested parties. As well as using the internet you should consider publicising the consultation in ways most appropriate for the groups you wish to reach.

3.5 Respondents should be able to respond electronically if they choose. Produce documents in electronic formats appropriate to achieving wide accessibility. Consider the range of electronic response methods to ensure that providing a response is simple, engages a broad range of people and encourages deliberation.

3.6 Consider groups who cannot access traditional written consultations or the online versions of these. There may be some circumstances in which written consultation is not the best way to reach your target audience.

3.7 With regard to equality issues, ensure that your consultation engages with the whole community. You may need to consider the format of the consultation to achieve this and to consider how to reach groups which could be overlooked.

3.8 Ensure that the consultation is suitable for the topic and groups involved. Certain issues may demand particular approaches to consultation: for example, discussion groups or meetings may be appropriate, especially where representative groups' capacity to respond to formal consultation is limited and many bodies are seeking to consult with them.

3.9 The consultation criteria should be reproduced in all consultation documents. Consultation documents should also advise respondents who to contact if they have any comments about how the consultation has been carried out. Wherever possible, this person should be someone outside the team running the consultation.

## Consultation criterion 4

### **Give feedback regarding the responses received and how the consultation process influenced the policy.**

- 4.1 Responses should be carefully and open-mindedly analysed. Do not simply count votes when analysing responses. Particular attention may need to be given to representative bodies, such as business associations, trade unions, voluntary and consumer groups and other organisations representing groups especially affected. In order to ensure that responses are analysed correctly, it is important to understand whom different bodies represent, and the methodology used to gain members' input into the response.
- 4.2 Particular attention should be paid to:
  - possible new approaches to the question consulted on;
  - further evidence of the impact of the proposals; and
  - strength of feeling among particular groups.
- 4.3 The consultation document should state the aim of publishing the summary of responses within three months of the closing date of the consultation. A template for information which could be included within the summary of responses can be found at Annex 1. A web address where the responses document will be published should be provided. Those without web access should be able to request a paper copy of this summary from the Tynwald Library where a minimum of five copies should be deposited by the Departments involved. Feedback should also be available in formats which are appropriate to the audience. A summary of responses is sufficient to satisfy the Code. It does not prohibit more detailed feedback being given but is thought to be a practical option if a large number of responses have been received.
- 4.4 If the consultation document asks questions then the summary should give an analysis of the responses to questions asked. For each question there should be a summary of responses to that question and then an explanation of whether it is proposed to change the proposal in light of the responses received. There should also be information provided on themes that came out of the consultation which were not covered by the questions.
- 4.5 Wherever possible the summary of responses should also include a summary of the next steps for the policy, including reasons for decisions taken.
- 4.6 Explain that information provided in response will be dealt with in accordance with the access to information regimes. These are primarily the Guidance on the Code of Practice on Consultation and the Code of Practice on Access to Information.
- 4.7 When providing copies of responses, it is legitimate to make a reasonable charge for copying and postage.



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## Consultation criterion 5

### Monitor your Department's effectiveness at consultation.

- 5.1 If possible each Department should have a nominated consultation co-ordinator, who should ensure that the Code is followed. They should act as an adviser to those conducting consultation exercises.
- 5.2 Consultation should be evaluated for effectiveness, looking at numbers and types of responses, whether some methods of consultation were more successful than others, and how the consultation responses clarified the policy options and affected the final decision.
- 5.3 This evaluation should be used to inform future consultations in the Department, and any lessons learnt can be disseminated across Government. The number of responses may not necessarily indicate how successful a consultation exercise has been. Quality of evidence will be considered.
- 5.4 The individual in charge of the consultation process should collate information regarding how many consultations their Department has carried out and any deviations from the Code, with the reasons given for these. This data should be available for the Chief Secretary's Office to collate annually. A template has been created that will briefly detail each consultation carried out (Annex 2). This should be completed and forwarded to the Chief Secretary's Office. It is intended that good practice will be highlighted and its inclusion in future consultation exercises encouraged.

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## Consultation criterion 6

**Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.**

- 6.1 Ensure that where required an Impact Assessment (IA) is attached, highlighting the costs, benefits and risks of the proposal. Respondents should be encouraged to comment on and challenge the assumptions in the IA where one is included.
- 6.2 Ask respondents to highlight any unintended consequences that they believe will result from the legislation or policy being consulted upon in their response.
- 6.3 When consulting, ensure that you ask about the practical enforcement and implementation issues of your policy, including asking respondents for alternative approaches to implementation.

## Bodies to consult

7.1 Departments will consult the following when drafting Primary Legislation:

- Tynwald Members
  - Attorney General
  - Local Authorities
  - Chief Officers
  - Chamber of Commerce
  - Law Society
  - Any Island based professional body relevant to the legislation
  - Any Island based voluntary body where known relevant to the legislation
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**Insert Name of Department/Office/Board**  
**Summary of Responses to Consultation**  
**to be made available to the public e.g. website**  
**“Insert Title of Consultation”**

**Part 1 – Introduction**

This can include:

- background
- what the documents contained
- what the subject relates to
- why the change is required

**Part 2 – The Consultation Exercise**

This can include:

- date consultation started and ended
- how the documents were drawn up and by whom
- who documents were distributed to
- website
- newspapers, media coverage

**Part 3 – The Responses**

- How many responses were received?
- State whether the responses were broadly supportive or not supportive.

Responses can be separated into comments made and questions asked and also into appropriate sections or subject matter.

It is not necessary to state who asked a question as it is likely that a number of responses will be about the same subject so a reply can generalise.

State whether an amendment will be made to the proposal following on from each comment or question.

Refer to any other issues/suggestions raised that were not actually part of the consultation process.

**Part 4 – Conclusion**

- State what the Department intends to do on the basis of the responses i.e. minor amendments outlined above
- State what happens next i.e. Report to Department, Report to Council of Ministers, second consultation, proposal withdrawn etc.

Date this document is published on the website

**List of Respondents to the Consultation**

**Template for Annual Return of Consultation Carried out**  
**Please complete one template for each consultation**

1.	Name of Department/Board or Office
2.	Name of Person completing Form
3.	For which year is this return being made?
4.	What was the Subject of the Consultation Exercise?
5.	Start Date of Consultation?
6.	End Date of Consultation?
7.	How was the Consultation advertised?
8.	Have all parties listed at paragraph 7.1 of the Code been contacted?
	If No then identify which and reason for not consulting?
9.	How many Responses were received?
10.	Summary of major responses received.
11.	Were there deviations from the six consultation criteria? E.g. time more or less than 6 weeks. If 'yes' please explain the reason.

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**Please return to Policy and Administration, Chief Secretary's Office, Government Offices by 31 March each year.**

Electronic copy to download available at [www.gov.im/cso/consultations](http://www.gov.im/cso/consultations)