

The Code of Practice on Consultation

Comments by Mark Boleat on Cabinet Office Consultation Document

Introduction

1. On 1 September 2003, the Regulatory Impact Unit of the Cabinet Office published a consultation document, *The Code of Practice on Consultation*. The document proposes to replace the existing code, which mixes guidance and principles, with a new, shorter principle-based code that will be supplemented by guidance. Comments are invited by 23 November 2003. The proposed criteria are –

1. Consult throughout the process, allowing a minimum of 12 weeks for formal consultation at least once during the development of the policy.
2. Be clear about who will be affected, what questions are being asked, and the timescale for responses.
3. Ensure that your consultation is clear, concise and 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 use of a designated consultation co-ordinator.
6. Ensure your consultation follows the principles of better regulation, including carrying out a Regulatory Impact Assessment if appropriate.

2. This response is by an individual who does not purport to represent any organisation or group of people. However, the respondent has substantial experience in this area as a consultant to trade associations and professional bodies; as a former director general of major national trade associations; as the author of a number of books and papers relevant to the subject; as someone who is actively involved in consumer representation, and also as someone experienced in the establishment, operation and monitoring of codes of practice. The respondent has also sought the views of a number of trade association executives and has taken them into account in preparing this response. A short biographical note on the respondent is set out at the end of the response.

3. This response is in six parts –
- A brief description of the background to the current consultation exercise.
 - An evaluation of the current code of practice.
 - Key issues.
 - Detailed comments on the proposed code.
 - Possible topics for guidance.
 - An analysis of the process.

The response is accompanied by two appendices –

- Evaluation of the effectiveness of the current code.

- Brief answers to specific questions raised in the consultation document. (These are not dealt with in the body of the evidence as they are not considered to be the right questions.)

Summary

4. The key points made in this submission are –
 - There has not been an adequate evaluation of the effectiveness of the present code to enable an informed decision to be taken on new arrangements.
 - Some departments are consistently good at consulting; those that are not are patchy, relying on individual officials rather than well-tested machinery.
 - Effective consultation is a vital component of good policy-making yet its importance does not appear to be appreciated in large parts of government.
 - There is a danger that the guidance will lead to a box ticking mentality which the code being regarded as something which has to be followed because the Cabinet Office says so rather than a tool which contributes to better policy-making.
 - The guidance should cover as much of the public sector as possible, including non-departmental public bodies and regulators.
 - A general weakness of consultation exercises is the failure to obtain an adequate input from consumer interests, meaning that the process is biased towards commercial interests and one-interest pressure groups. Positive action is needed to address this problem.
 - The consultation mechanism would be improved if interest groups could be more easily identified and were required to be open.
 - The proposed code gives too little emphasis to the need for proper analysis of consultation responses and feedback statements; the two exercises are often best kept separate.
 - The proposed evaluation and monitoring arrangements are very weak, particularly when compared with the Office of Fair Trading requirements for its code of practice regime.
 - Consultation documents need to be made more accessible on departmental and organisational websites and centrally.

Background

5. It is only in recent years that there has been any central attempt within government to promote and disseminate best practice on consultation. In 1998, the Cabinet Office published *How to Conduct a Written Consultation Exercise*. This in turn drew on the work of the National Consumer Council, whose paper *Government Consultations: not just a paper exercise* was published in 1997.

6. In November 2000, the Cabinet Office published *Code of Practice on Written Consultation*. The code applied to consultation documents issued after 1 January 2001 and was binding on UK departments and agencies. The code set out a number of general principles and then set out seven consultation criteria which are required to be reproduced in all consultation documents. The criteria are: build the timing of consultation into the planning process, be clear about the purpose of the consultation, keep a consultation document simple, make consultation documents widely available, allow 12 weeks for

consultation, carefully and open-mindedly analyse responses and make the results widely available with reasons for decisions taken, and departments should monitor and evaluate consultations. The criteria individually are a few lines long but are accompanied by up to ten subsidiary points. The Prime Minister wrote an introduction to the code, seemingly indicating the importance that was placed on it within government.

Evaluation of the current code

7. It is in line with good practice generally that policies and procedures are regularly reviewed on the basis of an appropriate analysis of how they are operating. There is a commitment to such an analysis in the 2000 Code. The general principles in the code stated that the effectiveness of the code “will be evaluated starting two years after it is launched, and the results published”. In addition, criterion 7 of the code required each department and agency to appoint a consultation co-ordinator who would monitor consultations regularly. Departments were also required to evaluate consultations and to make available annual statistical and qualitative assessments. The Cabinet Office committed itself to producing guidance on this and to collating the information.

8. One is therefore entitled to expect to see the results of this detailed monitoring and analysis as part of the current consultation exercise. Sadly, there is no such analysis. The executive summary of the consultation document (a misnomer as the points in it do not appear anywhere else in the document) stated that the DTI had completed a review of consultation practices within DTI; that the Better Regulation Task Force had highlighted consultation as a priority, and that the Cabinet Office had conducted informal consultation with a number of external stakeholders. It was stated that feedback from these sources led to three messages –

- The code has been effective in embedding the twelve week consultation period.
- There could be an improvement in the feedback given to respondents after consultation.
- The general view of the current code is that the criteria are sensible but that the code is long and a mixture of guidance and principles.

9. There has been no proper evaluation either by departments (except the DTI) or by the Cabinet Office and therefore the current exercise is being conducted on the basis of inadequate information. The Better Regulation Task Force, in its Annual Report 2001/2002, said that “there is not much sign” that departments are reviewing their own consultation exercises as required by the code, with the DTI being singled out as an honourable exception. The BRTF also said that the government objective of putting all government consultations on line and being accessible in one place “falls short”.

10. The only evaluations published by the Cabinet Office are not evaluations but merely the results of the compilation of returns from departments based on the first two years of the operation of the code. This itself is inadequate as a number of departments declined to make returns. The analysis also concentrates on compliance with the 12 week consultation period. The conclusion therefore that 71% of consultations covered by the code complied with the twelve week consultation period is misleading as it is based on returns provided by the good guys who, on the whole, are those that comply.

Interestingly, of the 68 responses on the central register issued between July and October 2003 only 57% complied with the 12 week period. The headline findings in the Cabinet Office study for 2001 included that “there is very little systematic evaluation of consultations”.

11. Appendix 1 comprises the author’s own evaluation of the operation of the current code. The major conclusions are –

- Consultation exercises have generally improved and the code has been of significant benefit in this respect. However, performance varies greatly between departments and, in the case of poorly performing departments, within them as well.
- Much of the compliance with the code is on process rather than substance.
- Analysis of consultation responses and feedback to those participating in consultation exercises is very poor.
- The impact of consultation of the policy-making process is not at all clear and can lead to considerable frustration.
- Consultation documents remain not always accessible, with the government centrally and individual departments seemingly incapable of keeping websites up to date.

Among consultations exercise which are regarded by some trade association executives as having been successful are the Inland Revenue consultation on the Construction Industry Scheme, the DTI consultation on the National Minimum Wage and the Low Pay Commission consultation on changes to the Minimum Wage.

12. It is recommended that a proper external evaluation of the operation of the current code be commissioned as a matter of urgency and that this is used to inform the current consultation exercise. The exercise should cover a sample of consultation exercises from a number of departments, concentrating on feedback statements, and perhaps an in-depth analysis of one department to complement the DTI analysis. A telephone survey should also be undertaken of around 30 interest groups. If that means delaying the exercise, this would be preferable to the current attempt to significantly soften key aspects of the code on the basis of inadequate information.

Key issues

13. The *importance of good consultation* is not generally accepted within government. The 2000 Code usefully set out three purposes of consultation –

- The main purpose is to improve decision making by ensuring that decisions are soundly based on evidence; that they take account of the views and experience of those affected by them; that innovative and creative options are considered, and that new arrangements are workable.
- Effective consultation ought to ensure that everyone concerned feels they have had their say, or at least that their interests have been taken into account.
- Without consultation with a wide cross section of the public, openness and accountability of government could be impaired.

14. The Code went on to say that departments need to develop expertise and best methods and to learn from each other and that a web based central register of current public written consultation would be introduced “shortly”.

15. These points are exactly right and a place should be found for them somewhere in the current document. The impression is sometimes given that consultation has become a box ticking exercise with departments feeling that they must formally consult so that they can tick the box but with the process not significantly influencing the policy-making process. The result has been government decisions which represent poor policy-making because policy-makers have chosen not to consult properly or alternatively have chosen to consult but have ignored the results. It is also necessary to try to prevent fictitious consultation, that is where the sole purpose of “consultation” is to tie-in the consultees to the policy and to claim that there has been consultation when in fact there has never been any intention to take account of comments made.

16. It is probably not helpful that in parts of government consultation is seen as being something that has to be done because the Cabinet Office says so. This is sufficient in the minds of some civil servants to treat it as a minor issue. Whatever the means, the Cabinet Office has to sell throughout government the importance of consultation. In this context, it is depressing to note that contrary to what is said in the 2000 Code the Cabinet Office failed to set up an Internet based best practice forum (the Office has been able to point to a single document *A policy maker’s guide to public involvement*) and the Centre for Management and Policy Studies appears not to have pursued this work as part of its responsibility for modernising policy making. Consultation should feature prominently in the training of civil servants.

17. The *scope of the code* is both unclear and unsatisfactory. The section on applicability refers to “all UK public consultations by government departments and agencies” and it is added that “UK non-departmental bodies and local authorities are encouraged to follow this code”. While the differences between a department, an agency and a non-departmental body may be widely understood within Whitehall, they are not anywhere else. Businesses in particular expect the same consultation rules to be followed regardless of which part of the public sector they are dealing with. An interest group may be dealing with the same broad set of issues with a government department, a regulator and a non-departmental public body, and there is no reason why it should be conscious of the particular status of who it is dealing with or why it should expect different standards on consultation. A good example of a regulator departing from the existing code is the decision of the new regulator, Ofcom, to adopt 10 rather than 12 weeks as its consultation period.

18. If the rules are thought necessary to ensure good policy-making, then they are as applicable to regulators and to non-departmental public bodies as they are to government departments and agencies. The Cabinet Office should actively seek the agreement of those bodies to abide by the code. The Better Regulation Task Force made the same point in its recent report on independent regulators. Similarly, the Cabinet Office should

work with the Local Government Association to ensure either general adoption of the code or adoption of a similar code more specific to local authorities.

19. While the code makes some references to *hard to reach groups* (amazingly defining these as including women), it fails to address a major problem. The organisations best able to respond to consultation exercises are industry groups and one issue pressure groups, the majority of which are dominated by middle class interests. The consumer is often left out of these consultations, with disadvantaged consumers fairsing particularly badly. It is no use a government department simply saying that it welcomes views from consumers and consumer groups. They are not in a position to offer views unless they are resourced to do so. As a result, on the vast majority of public consultations affecting consumers, the consumer input is at best modest and often non-existent.

20. This can be addressed only by positive action. This could include funding a consumer body to provide an effective response (as is done, for example, by the financial services, food, utilities and communications industries and their regulators) or by departments commissioning consultants to prepare a consumer view which must include either drawing on existing surveys of consumer opinion or conducting such surveys. This is costly but the money would be well spent. There are examples of such good practice in Scotland. The Scottish Executive Health Department has commissioned that Scottish Consumer Council and Scottish Health Feedback to undertake pre-consultation on public involvement in the NHS and also to carry out a consultation exercise on the draft interim guidance on consultation and public involvement in service change. In a smaller area, the respondent was commissioned by the Government of Jersey to provide a consumer perspective over a six month period on proposed changes to telecommunications and postal services in the Island.

21. The requirement for *representative bodies to state who they represent* needs to be strengthened. The respondents to consultation exercises are predominantly organisations claiming to represent a particular interest group. Policy-makers and others studying the responses have no easy means of knowing whether the British Widgets Association, for example, is a large trade association representing a major industrial sector producing evidence that is well researched and based on the views of the members, or rather whether it is one man operating from Wapping. Similarly, it is often difficult to identify who should be consulted. The apparently random selection of the organisations being consulted in this exercise admirably demonstrates this point – see paragraph 43. Similarly, organisations can set themselves up and call themselves, for example, the National Association of Bank Customers or the British Association of Sausage Eaters, and claim to be representative of consumers.

22. It is important that policy-makers and others can easily identify interest groups and know who they represent. This does not mean that interest groups should be taken note of only if they are representative. There is nothing stopping one person claiming to be an interest group provided it is clear that it is one person who is speaking. For individual consultations, the requirement should be vigorously enforced but the

government would be better advised to put in place arrangements which ensured that there was a proper directory of interest groups that policy-makers and others could easily refer to. This does not imply legislation, registration or regulation but rather a clear message from the government that it will expect such an Internet based directory to be established and that those organisations that have an entry in the directory can expect to be given due weight while other organisations will be regarded as representing only the views of an individual. This issue is also very relevant to the next point.

23. The *analysis and feedback* sections need to be considerably strengthened. It is vital to re-introduce the key parts of the old Criterion 6, which is headed “Responses should be carefully and open-mindedly analysed, and the results made widely available with an account of the views expressed, and reasons for decisions finally taken.” The 2000 Code made the point that analysing responses is never a matter of counting votes and that particular attention may need to be given to representative bodies. In practice, many feedback statements do simply count votes, a practice which in the longer term is bound to encourage representative bodies to organise write-in campaigns from their members. This is wasteful and will not improve the policy-making process. The point should be made somewhere that there can be advantage in using outsiders to analyse responses, but it is important to select outsiders who know the issues and who do not simply count votes.

24. There should be a requirement to publish promptly an analysis of responses to a consultation exercise and a separate requirement to publish a feedback statement indicating how the consultation has influenced the policy. Analysing responses to a consultation exercise is a fairly scientific exercise which can be done completely independently of the policy work. The sooner an analysis of the responses is published the better it will be for the public debate on the issue in that those wishing to be involved will know the views of stakeholders. Some agencies, for example Ofcom, go further and as a matter of policy publish all responses on their website. Deciding what action to take as a result of the consultations may take much longer, indeed many months or perhaps years. It is inappropriate to hold up the analysis while decisions on policy are made, and equally it would be rash to make policy decisions simply to publish a summary of responses. The whole of criterion 4 should be amended to require publication of responses or an analysis of responses within a month and for subsequent policy statements to indicate how the consultation has influenced the outcome. It would often then be appropriate to allow a further, perhaps brief, consultation.

25. The practice in House of Commons Select committees is worth noting in this respect as the following example shows. The ODPM has been consulting on the draft Housing Bill and the ODPM Select Committee has also been considering the Bill. The Select Committee invited written evidence by 15 May. It published the written evidence on 4 June – within three weeks. This publication is the only document that contains the views of interest groups on the proposals in the Bill and therefore help inform the policy-making process. The ODPM invited responses by 9 June (and also responses to a separate consultation exercise on the contents of the proposed Home Information Pack by 30 June). The ODPM has yet to publish anything other than a very thin response to the

Select Committee report. The Select Committee report also comments on the views expressed by the institutions most relevant to the proposals.

26. *The code is very weak on evaluation and transparency* and again some of the sensible points in the previous version of the code have been removed. It is instructive here to learn from another government department, the Office of Fair Trading (OFT), which is in the process of introducing a new regime for consumer codes of practice. For some years, the OFT had a duty to encourage trade and professional associations to prepare and disseminate to their members codes of practice. There was increasing dissatisfaction with the regime. The OFT itself concluded in 2001 that the regime was not delivering the theoretical benefits. Subsequently, it has introduced a new approach under which clear criteria for codes of practice are set out and if those criteria are seen to be met then the OFT will give formal endorsement of the code. The OFT's criteria include that the operation of the code should be regularly monitored, that code sponsors should develop performance indicators and must regularly assess customer satisfaction, and that there must be a procedure for handling non-compliance by members with the provisions of the code.

27. The 2000 Code had a series of measures designed to ensure reasonable evaluation, although falling well short of the OFT requirements for private sector codes. These included –

- The appointment of a consultation co-ordinator in each department and agency to ensure that the code is complied with.
- A requirement that departments should monitor consultations regularly and should seek to develop internal expertise in effective consultation.
- A requirement that departments should evaluate consultations once complete, perhaps with an independent involvement.
- A requirement for departments to make available annual statistical and qualitative assessments.

28. These requirements have been watered down in the new version of the code. While there is a requirement to evaluate consultations for effectiveness there is no requirement to publish any information and the suggestion of using outside expertise to evaluate codes has disappeared. The requirements need to be considerably strengthened. The consultation process is often fictitious with respondents telling the Government what they think the Government wants to hear as long as does not adversely affect them. There is therefore a reluctance to point that practical problems and an unwillingness to complain about the process. It is good practice to evaluate the effectiveness of the consultation process, both for individual policies and for the department as a whole. This is not difficult and would basically involve a desk study of relevant documents, interviews with the key officials and telephone interviews with the key stakeholders. The Cabinet Office should give guidance on how such evaluations should be carried out.

29. It is clear in the private sector that codes of practice without enforcement mechanisms are a waste of time. The Better Regulation Task Force, in its report *Imaginative Thinking for Better Regulation* (September 2003) commented: “A code of

practice has to have teeth to be effective.” The same is true in the public sector. As this submission has shown, the existing code is not complied with and there is room for improvement in respect of consultation generally. The provisions in section 5 of the new code are too weak and need to be strengthened considerably.

30. If the consultation mechanism is to work effectively then *consultation documents need to be readily accessible*. The proposed central register is not functioning effectively. The register has just 68 consultation documents issued between July and October 2003. This is probably fewer than a third of the total number. Neither the Department for Transport or the Financial Services Authority, for example, have any documents on the register. The register has four DTI consultation documents that are not on the DTI site while there are three documents on the DTI site that are not on the register. The record of departments varies from very good to very poor. The best departments (eg DTI and DEFRA) have a direct link to consultations from their home page and consultations then being divided into current and closed with consultation responses also being published. Ideally, the department has a brief statement about its consultation policy and identifies the consultation co-ordinator. In the case of the worst departments (eg DFT and ODPM) there is no central register and it is difficult to find documents. The code needs to provide for consultation documents to be accessible on departmental websites and on the central register.

Detailed points

31. This section of the response provides a detailed commentary on the draft consultation criteria.

32. *Criterion 1 Consult throughout the process, allowing a minimum of 12 weeks for formal consultation at least once during the development of policy.*

(ii) The expression “small businesses should always be involved” should be removed. There is no reason to pick out small businesses as a group and not, for example, consumers. It is also manifestly incorrect to say that small businesses should be consulted on every matter. There are consultation exercises that are completely irrelevant to small businesses, for example an FSA consultation on supervision on banking conglomerates, or the many consultations aimed particularly at user groups, where these do not include any businesses.

(v) The point about holiday period should be strengthened. The practice remains of papers being published towards the end of July. This makes it difficult for representative bodies as often they have no meetings planned for August. Also, officials may well be away in August which prevents useful informal discussions on consultation documents from taking place.

(vi) One effect of introducing the minimum twelve week period has been that there are probably fewer consultations. Departments are put in the odd position that if they do not consult that is fine but if they do consult they are subject to fairly rigid rules. While twelve weeks is ideal, it is far better to have some

consultation in two weeks than no consultation at all. This point needs to be made but in such a way so as not to give an easy let out to departments that simply cannot get their act together. The ideal is to for commonsense to be used. On major issues 12 weeks is the minimum and may be needed for than once. On minor issues with just a few consultees or on third goes four weeks might be quite adequate.

The EU should not be allowed to be used as an excuse. The EU generally moves at a snail's pace. Deadlines for implementing directives for example are known about years in advance. A short consultation period is acceptable only on a new issue with a tight deadline.

(ix) In this (or in another section of criterion 1) it is necessary to bring out the issues in relation to consulting consumers. Unlike businesses and single issue pressure groups, they are generally not able to provide meaningful responses to consultation exercises. If a proposal has a considerable consumer impact, then the department must ensure that a proper consumer input is obtained. This is most likely to be done by commissioning an appropriate consumer body or a consultancy to provide that input. It will not appear on its own. (See the detailed analysis of this point in paragraph 20.)

33. *Criterion 2 Be clear about who will be affected, what questions are being asked, and the timescale for responses.*

(i) The practice of asking specific questions but be useful but should not be used to dumb down the process. While analysis of responses may be easier if respondents are encouraged to answer set questions the practice may discourage consultees from making the points that are most important to them.

(iv) This point needs to be strengthened. Consultation documents should state quite explicitly what points are non-negotiable and what are open for consultation. This will save a great deal of effort on the part of consultees and those issuing the consultation documents. Purporting to consult when decisions have already been taken or when no change is possible causes cynicism about the whole process.

34. *Criterion 3 Ensure that your consultation is clear, concise and accessible.*

The word "your" should be removed.

(v) It is difficult to understand why women should be singled out as a group that could be overlooked.

35. *Criterion 4 – Give feedback regarding the responses received and how the consultation process influenced the policy.*

(i) The first sentence should refer to “analysis of responses” rather than simply “summary”. It is difficult to see why preparation of an analysis should take as long as three months.

(ii) It would be sensible to re-introduce the key parts of the old Criterion 6, which is headed “Responses should be carefully and open-mindedly analysed, and the results made widely available with an account of the views expressed, and reasons for decisions finally taken.” The 2000 Code made the point that analysing responses is never a matter of counting votes and that particular attention may need to be given to representative bodies. In practice, many feedback statements do simply count votes, a practice which in the longer term is bound to encourage representative bodies to organise write in campaigns from their members. This will achieve nothing.

The point should be made somewhere that there can be advantage in using outsiders to analyse responses but it is important to select outsiders who know the issues and who do not simply count votes.

It is a mistake to require analyses of responses also to cover how responses are influencing the policy. Analysing responses to a consultation exercise is a fairly scientific exercise which can be done completely independently of the policy work. The sooner an analysis of the responses is published the better it will be for the public debate on the issue in that those wishing to be involved will know the views of consultees. Deciding what action to take as a result of the consultations may take much longer, indeed many months or perhaps years. It is inappropriate to hold up the feedback statement while decisions on policy are made and equally it would be rash to make policy decisions simply to get a feedback statement out. The whole of paragraph 4 should be amended to require prompt publication of all responses or an analysis of them and for subsequent policy statements to indicate how the consultation has influenced the outcome. DEFRA and DTI already adopt such a policy.

36. *Criterion 5 – Monitor your department’s effectiveness at consultation, including through use of a designated consultation co-ordinator.*

The words “your department’s” should be removed and the word “evaluate” should be added after “monitor”.

This needs to be considerably strengthened. Ideally the consultation co-ordinator should be named on the department’s or agency’s website.

There should be a requirement for each department or agency to publish an annual report on the effectiveness of its consultation arrangements.

While it should not be a requirement, the code should suggest, as did the 2000 Code, that independent involvement might be used for evaluations.

The code should require departments regularly to consult stakeholders on the effectiveness of their consultation arrangements and to publish the results.

Sub-paragraph (iv) should not provide for data to be available only to the Cabinet Office, but rather for the data to be published.

37. *Criterion 6 – Ensure your consultation follows the principles of better regulation, including carrying out a Regulatory Impact Assessment if appropriate.*

At first sight this criterion seems out of place and has rather been dropped into the code, presumably because of the new location of the team responsible for consultation policy. The points made are primarily to do with policy-making rather than consultation which is just one aspect of it. Paragraph (iii) in particular looks completely out of place as do the specific references in the body of the code to website addresses that in all probability will be out of date even before they are published. The whole of this section should be removed and simply replaced by a page giving sources of additional information.

Possible topics for guidance

38. At first sight these seem sensible. Ideally, they should include, where appropriate, standard documents, for example, a template for a consultation document and a template for an analysis of responses.

39. On the specific suggestions –

- The second one should refer to “*the* policy development process”.
- The third should read “how to *draft* a consultation document”.
- The fifth point should not refer to e-consultation specifically. There is nothing superior or special about e-consultation which requires it to be separately identified and it rather gives the impression that e-consultation (which can be cheap and ineffective) has something superior about it.
- The topic about RIAs should be removed.
- It is difficult to see what purpose issuing guidance on statutory requirements, such as race equality issues, would serve.
- The topic on hard to reach groups should refer to “*identifying and accessing* hard to reach groups”.
- There should be separate topic of analysis of responses and then another topic of drafting a government response to consultation responses.
- New topics should be added
 - Obtaining a consumer input.
 - Compliance tool kit.
 - Consulting trade associations.
 - Consulting interest groups.
 - Tool kit for evaluating consultation exercises.
 - Tool kit for evaluating a department’s consultation policies and practices.

Process

40. It is appropriate in a consultation exercise on consultation to comment on the process being followed. On the whole this has been satisfactory although the process shows up some of the problems identified in this paper. The good points include –
- Sensible pre-consultation with selected parties (including the author of this submission) on the basis of a structured questionnaire.
 - A well written consultation document that largely complies with the existing code of practice.
 - The holding of two consultation meetings.
41. However, there are several weaknesses in the process. The first, which has already been discussed at some length, is that there has been a failure to analyse effectively the current policy. This makes taking decisions on the future difficult. One would have expected there to have been a comprehensive analysis of the views of departments on the code and also on the views of stakeholders on the consultation process. The absence of such an evaluation casts doubt on the commitment of the government to have an effective consultation mechanism.
42. Other areas where the process could have been improved are –
- The consultation questions are mainly concerned with process rather than substance.
 - The failure to include in the consultation document as an appendix the differences from the present consultation code. As the new code largely represents a weakening compared with the existing code, this might be taken to be an attempt to conceal what was going on.
 - There is a commitment to publish a summary of responses by 24 February 2004. It is difficult to see why this should take three weeks let alone three months. More importantly, there is no indication of the next steps in the process. Perhaps the Cabinet Office could set a good example on this matter and publish all responses (it is unlikely that there will be many) and an analysis of them on its website within a month.
43. Finally, the list of consultees can best be described as bizarre and admirably illustrates the point about targeting made in this submission. The list has clearly been taken from somewhere else and it is difficult to find any logic in the organisations which have been selected. For example –
- Just four commercial companies are named, all of which are supermarkets. Thus Waitrose is being consulted but not Marks & Spencer.
 - Just for good measure, the British Retail Consortium is being consulted but not, for example, the British Hospitality Association.
 - There seems to be an obsession with taxation with the Chartered Institute of Taxation and the Tax Faculty of the Institute of Chartered Accountants of England and Wales being invited to comment but not the rest of the Institute or, for example, the Chartered Institute of Bankers.

- The National Farmers Union preserves its position as a favoured consultee even though farming is a tiny industry in the UK. Much bigger industries like banking are not invited to comment.
- How on earth does the Campaign for Real Ale get on the list but not, for example, the Beer and Pub Association?
- Why are London Transport Users consulted but not transport users anywhere else?
- Why are lawyers singled out for special treatment but not teachers?
- Why does the International Transport Workers Federation get a mention but not major national unions such as Amicus or, indeed, the Transport and General Workers Union?
- Why is WaterUK consulted but not the Electricity Council?
- Is the reason that Demos is being consulted but not IPPR because Geoff Mulgan used to work for Demos?
- Why is Alan Woods the only individual to get a mention?

44. Although these points might be trivial and of course the consultation is open (although not many people know about it), the point is made to illustrate just how difficult it is for policy-makers to know who they should be targeting, hence the importance of having a comprehensive directory.

Appendix 1

Evaluation of the effectiveness of the present code

1. This appendix is a very poor attempt at what should have been done as essential groundwork for the consultation exercise, that is an analysis of the effectiveness of the current code and of consultation arrangements generally. It is little more than a “back of the envelope” analysis based on a few hours research using websites and what little information is publicly available. It is intended to be indicative of the sort of project which should have been undertaken and ideally which should still be undertaken. It is divided into two broad sections –

- Official studies.
- The respondent’s own analysis of websites.

Compliance with the code - the analysis of the 2001 returns

2. There are few official sources of information on compliance with the current code, notwithstanding the requirements within the code for departments to make available annual statistical and qualitative assessments and to evaluate consultations.

3. In October 2002 the Cabinet Office published an analysis of annual returns for 2001 by departments on compliance with the code. This was originally published in such a way as to be virtually inaccessible. This has more recently been remedied.

4. The analysis has figures for ten government departments and two agencies (the Inland Revenue and the Office of National Statistics). Among the departments that did not produce returns were the Treasury and the Department of Trade and Industry, the two departments most relevant to business. Clearly, those departments that do not comply with the code in respect of submitting returns probably do not comply with it more than others, therefore the whole of the analysis is faulty in that it is based on the “good guys”. Having said that, the key findings from the exercise were –

- About 80% of consultations covered by the code complied with the requirement for a twelve week consultation period.
- There were few departures from the code criteria.
- There was very little systematic evaluation of consultations.
- Central record keeping with individual departments on their consultations was not comprehensive.

5. The short paper has no proper evaluation. The section on evaluation of consultations reported that only five of the thirteen departments had carried out some evaluation even though this is a requirement of the code. The paper drew the general conclusion that departments in general are complying with the code and that the code appears to have encouraged departments to improve the quality of their consultations and reduce the number with very short deadlines. These conclusions must be regarded as tenuous, bearing in mind that major government departments decided it was not necessary to submit returns at all.

Compliance with the code – the analysis of the 2002 returns

6. The Cabinet Office published the results of the returns for 2002 in November 2003. The headlines in the analysis were –

- There were 621 consultations by the 23 respondents.
- 71% of consultations complied with the 12 week period (if the sample used for the 2001 analysis was used the proportion was the same as in 2001 – 79%).
- Departments reported few departures from the code.
- “Many consultation documents were praised for their clarity”.

7. In respect of the 12 week period two departments had a high proportion of exercises that did not meet the 12 week criterion – DEFRA (32%) and the Food Standards Agency (65%). For the other departments the proportion was 84%.

8. The respondent asked a number of departments for their individual returns. The key question is the one on evaluations of consultations. The responses were –

- ODPM: “no systematic qualitative assessments were made, to our knowledge”.
- DEFRA: This question was answered as follows: “From discussion with Cabinet Office, we understand that this question is seeking information on consultations where the comments received had a direct influence on the proposals/policies which were the subject of the consultation.” It went on to give many examples most on which said no more than the consultation responses influenced the final outcome.
- Home Office: “In most cases analysis was undertaken in house by the policy unit concerned. One has made use of an independent analyst. Summaries of the results are published on the consultation area of the Home Office website.”
- Food Standards Agency: “Generally, policy divisions are responsible for reviewing the consultation process ‘in-house’ and disseminating ideas and best practice locally. Best practice or successful aspects of consultations, as well as potential & actual ‘elephant traps’ have been shared across the Agency by virtue of being reported via returns made to the Consultation Co-ordinator. This has been used to feed into the updates currently being dovetailed into the new staff consultation guidance (as amended). The sharing of ideas by Divisions is further facilitated by the quarterly forum known as the Consumer Contacts Group. This is run by our Consumer Branch and specifically looks at stakeholder involvement and associated issues (of which consultation is one aspect).”
- Oftel: Could not identify the document.
- Treasury: promised an answer shortly (on 10 October) but nothing has been received.
- Department of Health: “None”.
- Financial Services Authority: “Unable to help with your enquiry” – and for good measure adding that this information was confidential.
- DWP: “I review all consultations with a view to determining and disseminating best practice. DWP has various standing networks of expert external stakeholders in areas such as welfare rights, pensions and finance industry, employer representatives, ethnic minorities, disability issues, and short-term networks to

deal with specific projects and initiatives.” The response went on to set out examples of specific events and initiatives.

- Inland Revenue: referred only to the aggregate figures made available by the Cabinet Office.
- Department of Transport: no response.
- Department of Trade and Industry: no response.

This of the 12 departments that responded on this point, only two, DEFRA and the Food Standards Agency, complied with the code by evaluating consultations.

The DTI study

9. In 2002/2003, the DTI undertook a department wide consultation project. This is a useful model for other departments. A project team was established which –

- Issued a questionnaire to 30 DTI officials.
- Interviewed officials from other government departments.
- Issued questionnaires to Dixons, Marks and Spencer, the British Retail Consortium and the Radio Electrical and Television Association to evaluate the retail sector’s experience of Whitehall consultations.
- Undertook a pilot online consultation.
- Worked with the Consumer and Competition Directorate on developing effective consultation structures on the Commission’s proposals for reform of the EU consumer protection regime.
- Worked with the Energy White Paper team to learn lessons from their “highly successful recent consultation”.

10. As part of the project, some open meetings were held. It might be observed that the consultation was not predominantly with customers of DTI but rather was internal and with other government departments. The consultation of business seemed to a very limited group and did not include, for example, the CBI, the Federation of Small Businesses or indeed anyone outside the retail sector.

11. The project resulted in a number of commitments –

We will embed consultation as a key part of the policy making process

- DTI will integrate improved consultation processes into a corporate ‘Better Policy-making’ programme, and will monitor progress with key stakeholders on an annual basis.

We will improve our processes

- DTI will develop, manage and maintain a database of ‘Consultation Stakeholders’ as part of the wider DTI customer relationship management solution.
- DTI will ensure that all consultations deploy at least two of the following methods: Written consultations; On-line consultations; Web-casting; Focus groups; Interviews; Listening events; Road Shows/ Exhibitions.
- DTI will ensure that all consultations are listed in a Departmental ‘Consultations Forward Look’ programme and that, where sensible, they are linked and scheduled in a co-ordinated fashion.

- DTI will develop an evidence base and success measures as bases for annual performance evaluation.
- DTI will launch the new consultation regime as part of a series of information seminars on better-policy-making.
- DTI will report back to stakeholders after consultations, making clear how we have taken on board comments.

We will provide guidance, advice and training on consultations

- DTI will recruit a Consultation Champion to provide access to guidance, advice, monitor process, facilitate training and spread good practice on consultation.
- DTI will establish a Department-wide network of consultation experts/champions who are available to provide advice and training.
- DTI will establish and maintain a Better Policy-making intranet facility that will provide guidance on all stages of the policy-making process including consultations.
- DTI will work closely with Human Resources and Strategy Unit in developing overall training provisions on better policy-making for DTI officials.

We will have a consistent house - style in future DTI consultations

- DTI will use a consistent template and will follow departmental branding guidelines in all future consultations, to make it easier for our stakeholders to see where we want their views.

Better Regulation Task Force analysis

12. The Better Regulation Task Force, in its Annual Report 2001/2002, has a section devoted to consultation. This is reproduced in full below–

“Along with RIAs, consultation is essential to making good policy and we want both to be top-rate. Departments usually do consult but could do better. In January 2001 a Government Code of Practice came into force. It implemented our recommendation that consultations should last for twelve weeks.

We recommended that the Government should review the Code of Practice after the first year of operation. The Government agreed, and in October 2002 produced its report. A copy of this report is on our website: www.brtf.gov.uk.

The report said that the Code of Practice had improved the Government’s performance on consultation. The Task Force agrees – the Code has had an impact, creating an expectation inside and outside Government that departments should observe the standard minimum 12-week period. The Government’s figures show that 80% of consultations now last 12 weeks.

“The report showed particular departments – DEFRA, DTI, Treasury and Inland Revenue, for example – used short consultations most frequently.”

We took these issues up directly with the individual Departments concerned, who justified this in part on the basis of the exceptions built into the Code.

“We look forward to the planned review of the second year of the Code’s operation, and hope that at that point, the Code might be tightened up. We understand that Cabinet Office plans to give new impetus to its work on consultation.”

We recognise that the Code must be flexible enough to reflect the “realities of Government”: including tight European timetables. But this must not be used as a cover for poor project planning. The Budget is cited by the Inland Revenue, and in the Code, as a reason for short consultations. WE understand the problem, but is there any good reason why so many Budget measures have to be introduced in such a rush?

The Code tells Departments to review their own consultation exercises. There is not much sign that they are doing this, with the honourable exception of the Department of Trade and Industry. They are evaluating all aspects of the consultation process and piloting different ways of consulting people

“We are keen to see that the lessons learned from the DTI evaluation are shared with other departments, so all improve their performance.”

Business wants to be able to access all live government consultations from one place. This was the objective of www.online.gov.uk, but our experience is that it falls short.

“Too many consultations are not listed on uonline thought the Government has promised to do better.”

The European Commission has recently pledged to set minimum consultation periods. Unfortunately, it proposed a six week minimum period. The Task Force objected. The Commission has now increased this to eight weeks. But eight weeks is still far too short a time to allow for proper consideration of the big issues involved in European regulation.

Good consultation is vital. Regulation should be something government does with people, not to them.”

Departmental websites

13. This section briefly analyses a sample of departmental and agency websites so as to assess availability of consultation documents, compliance of consultation documents with the code and availability of information about responses and how consultation has influenced the process. The analysis is inevitably superficial but is sufficient to illustrate the different practices between departments, to demonstrate good practice and to suggest areas where there is scope for improvement.

Department of Trade and Industry

14. The DTI website has a link from the home page to a page for consultations which is then broken down into current consultations, closed consultations awaiting a response from government, closed consultations where a response from government has been published and consultations on other key DTI sites.

15. A consultation document on informing and consulting employees, published in July 2003, sets out the issues well and includes responses to an earlier consultation exercise which including thirteen round table meetings attending by ministers and hosted by the TUC, CBI and other organisations. The summary of the responses is in very general terms with no naming of names and only a few references, for example to “..... Union” and another to “some business stakeholders”. The section on closed consultations where a response from government has been published helpfully notes that in some cases a response may have been incorporated in regulatory guidance, legislation or a code of practice. Generally, the section is a model of good practice. For example, taking the important issue of the European Union green paper on corporate social responsibility, a single page sets out the issue, gives access to the EU issues paper and discussion paper, and a summary of the responses received on the green paper which clearly identifies between businesses, NGOs and local authorities. A government response to the green paper for a consultation exercise on modernising trading standards gives a summary of the responses and then its own specific response. There is immediate access to responses categorised by industry and business, consumer organisations, consumer groups and local authorities.

Department of Work and Pensions (DWP)

16. DWP does not have a link to consultations from its home page. Rather, consultations are accessed through a resource centre. All consultations are filed by date order with the closing date for responses being given. Ten consultation papers are listed for 2003 but for several of these there is a very short consultation period, often only one month. To be fair, these are generally consultations on regulations. For the major consultations, for example on housing benefit sanctions in respect of anti-social behaviour and the proposed product specifications for Sandler stakeholder products, there is a three month consultation period. The most recent consultation document (on implementing a European directive) seems to be a model of how a consultation document should be written, although interestingly while it states that it follows the principles laid down in the Cabinet Office code of practice, it does not actually include the consultation criteria as is required by the code. Also, there is no summary of key questions. The substantive consultation document on housing benefit sanctions and anti-social behaviour again fails to have a summary and list of questions on which views are being sought. This consultation paper makes no mention of the consultation code of practice and again does not include the consultation criteria.

17. The consultation section of the website also includes some responses to consultations. For example, a consultation document on measuring child poverty was published in April 2002. Preliminary conclusions were published in May 2003 in a comprehensive document. In an analysis of responses it is stated that the Department

sought to encourage debate and that it organised a range of events including some involving children and families experiencing poverty, organisations working in the field and academics. It is stated that in the analysis no greater weight is given to any contribution over another but that the Department has looked at innovative suggestions as well as those that were repeatedly suggested. The paper uses qualitative rather than quantitative language. It is clear that all the responses have been systematically analysed. It is stated that they were summarised in a database and assessed to see whether a clear view was expressed in favour of one of four options that had been put forward in the consultation paper. A number of quotes are included in the paper to illustrate particular points. However, there is no naming of names.

18. There is a similar document responding to consultation exercises on occupational pensions. This usefully sets out the themes emerging from the consultation and does include views expressed by organisations such as the Institute of Directors, Age Concern and the Pensions Institute. This document does not give a list of respondents however.

19. Generally, DWP seems to consult well with policy papers clearly indicating innovative approaches to consultation and that responses have been taken into account. However, the way that consultation responses and feedback are handled could perhaps be improved. A section of the website on consultations also gives responses to consultations and in some cases the government response to consultations. There would be obvious merit in having a section of the website that explicitly covered not only consultations but also analyses of responses and feedback statements.

Food Standards Agency

20. The Food Standards Agency has a section of the website on consultations accessed through the “Your views” page on the home page. There are sections for consultations that are UKwide and then those that are for England, Scotland, Wales and Northern Ireland only and also a section for completed consultations.

21. The most recent consultation paper, on research into organic food, seems well written with a list of questions, although the consultation paper does not accord with the code of practice and does not mention it. The previous consultation document, on accessing and acting on information from food incidents and food surveys, states that it has been written in accordance with the Cabinet Office code of practice on written consultation, although in a number of respects it has not (for example, the requirement to include the consultation criteria). It was difficult to find on the website any formal feedback statement or any indication in policy documents that consultation responses had been taken into account.

ODPM

22. The consultation documents issued by the ODPM seem generally to comply with the code and to be sensible documents. However, there is no central listing of consultations; rather they can be found under each of the various policy areas that the Department deals with. The number of consultation exercises seems to greatly exceed documents giving feedback or subsequent policy statements. One that has been analysed

in relation to leasehold reform is a comprehensive analysis and does sensibly divide respondents between leaseholders and those representing them and others. However, the entire report is still done in the form of percentages with no individual respondents being named. The respondents are categorised by type but there is no listing of individual respondents anywhere in the document. In respect of “Sustainable communities: delivering through planning”, the government’s proposals are set out and, although frequent references are made to previous consultation exercises, nowhere is there any indication of what was said in these exercises or how the government policy has been influenced.

Department for Transport

23. The Department for Transport has no central register of consultation exercises. Under the heading of “Transport strategy” there is just one consultation document listed under the “current” heading. This is a very technical document “Advice on variable demand modelling” and the only suggestion that it is a consultation document is something above the first few words “The Department for Transport is seeking views on this draft advice”. There is no indication of where views should be sent to or what the deadline is. The local transport section has just one current consultation document (a discussion paper on walking) which seems to have been written completely in ignorance of the code of practice. A consultation document on seatbelt wearing is written in accordance with the code. A consultation document on the carriage of assistance dogs in private hire vehicles makes no mention of the code and does not comply with it in a number of respects, although generally it is a very sensible consultation document. It is difficult to find anything on the website in the form of a feedback statement or policy document that gives feedback on consultations. By contrast, responses to select committee reports are published.

Treasury

24. The Treasury website has immediate access from the home page to consultations and legislation which includes The Treasury’s own code of practice on consultation (which also covers the Inland Revenue and Customs & Excise). The code makes no mention of the Cabinet Office code and is different from it in a number of respects, for example on timing all that is said is “We always aim to give the maximum time for consultation consistent with [these] factors”, the factors being whether the consultation is on policy proposals or draft legislation, the number of people to be consulted and the Budget and Finance Bill timetable. On feedback, there is a commitment to make available on request responses to consultative documents and “any factual analysis of the responses which may have been prepared”. A recent consultation document (Efficiency review: releasing resources to the frontline), issued on 20 October 2003, states what the government is trying to do and then simply asks for suggestions “on the most effective ways that resources can be released for the frontline”. Responses are requested by 21 November. A consultation document on corporation tax reform, published in August 2003, also comments on the results of an earlier consultation exercise. The document sets out a useful brief summary of responses with a fuller summary being given in a background note. The background note gives no real flavour for the weight of argument. For example, there are references to “some respondents”, “mixed views”, “a general

view” and “little support”. There is no indication of the institutions which expressed particular views.

DEFRA

25. The DEFRA website is probably the best for ease of access. There is a direct link to consultations from the home page and a useful introductory page about consultation exercises, including a working link to the relevant Cabinet Office page on consultation and to the consultation criteria. There is an excellent list of current consultations with those being issued within the previous ten days being highlighted. Almost all the consultations have exactly twelve weeks as the consultation period and the one that has just two months is a final consultation on a second review of some guidance notes. The most recent consultation document, on a voluntary code of practice for the fast food industry, seems a model of how a consultation document should be written. Another consultation document, on regulations on energy labelling and household electrical goods, again seems well drafted although it does not comply with the consultation criteria in a number of respects, for example by not giving the criteria. No doubt the Department, with some justification, feels it has done this by including them on the consultation page of the website.

26. The consultation page leads to a page of consultation responses which lists closed consultations. For many of these there is no response but a number have summaries of responses. For example –

- A consultation paper “Seas of change” was published on 14 November 2002; a summary of responses was published on 16 October 2003. Notwithstanding the long period of time to prepare the summary, this is very comprehensive, listing each organisation, the key points made and any additional points.
- The response to the consultation exercise on the DEFRA race equality scheme also lists individual comments although there were very few of them and significantly, although the consultation exercise closed on 31 January, the responses were published only on 10 October.
- The consultation exercise on the transposition of the European directive on end of life vehicles, where the responses were required by 6 June, had a summary of responses published in September 2003, which summarises responses on each individual question but the analysis is purely numerical with references to, for example “most” and in one case “only”. However, there was one reference to insurers.
- A consultation document on the UK small cetacean bycatch response strategy required responses by 1s June. An analysis of responses was published on 23 September. 43 responses were received; these are categorised between conservation organisations, organisations representing the fishing industry, public bodies, members of the public and others. However, the analysis is generally in terms of numbers and percentages which misleadingly go to one decimal point. Usefully, on one issue it is stated that of the seven organisations that strongly disagreed with the strategy, six were involved with the fishing industry. Generally, however. The views of different categories of respondents are not given. The percentages are in many respects misleading because they indicate

only those who expressed a view. For example, 10% of respondents welcomed that a formal review of the effectiveness of the measures would take place within three years of publication and a further 7.5% thought that the formal review should be undertaken within twelve to eighteen months of publication. It is not clear whether the remaining 82.5% had no view or thought there should be a longer period before a review. Where percentages are being used in this way, it would seem sensible to have an annex giving the actual figures.

- A consultation on developing a compendium of UK organic standards began on 9 May with a closing date of 4 August. A summary of responses was published on 23 September. This identifies the 26 respondents by numbers and gives their specific answers to each question. This goes to one extreme in naming names would probably be more useful if there was a summary of the views expressed.
- A consultation on the national scrapie plan, for which the closing date was 4 February 2003, had the summary of responses published on 15 August. This lists every organisation which made responses and their views on the specific questions asked. There is no overall analysis.

What cannot be ascertained easily from the website is how the responses have influenced policy.

27. Generally however, the DEFRA approach has much to commend it –
- There is a very useful standard format for consultation exercises which is user-friendly.
 - Consultation documents, both open and closed, are readily accessible as are consultation responses.

However, the consultation responses vary somewhat in approach and quality and sensibly there is no attempt to combine consultation responses with the government response to the consultation responses. Many of the analyses of responses do name names but some still make too much use of percentages and those that do literally summarise responses sometimes give no overall flavour of the results of the consultation exercise. Also, some of the analyses of responses seem to take an inordinate amount of time to prepare, which should not be the case if there is no policy response.

Office of the e-envoy

28. In May 2003 the Office of the e-Envoy published a consultation document *Policy framework for a mixed economy in the supply of e-government services*. The document seeks views on the vision of the involvement of private and voluntary sector intermediaries in the delivery of electronic government services. The OeE paper appears to have been written largely in ignorance of the consultation criteria. There is no brief summary. It is not clear what is being consulted on. The stated questions in the introduction mix up a fundamental all-embracing question with questions about the nature of the respondent. It is not clear who is being consulted. Page 2 refers to “an intermediary acting on your behalf” implying that the paper is aimed at consumers. Page 3 asks if respondents would identify whether they are acting as a potential intermediary, while the introduction (which appears on page 11) states that the target audience is strategic planners and leaders in public sector organisations. The consultation paper does not include the consultation criteria. There are no details of who to contact for queries

about the paper and indeed the paper itself does not even say to whom responses should be made and by what date (although this is on the OeE website to be fair). The paper is labelled “A consultation document”, is described in the overview as a draft consultation document but in practice there is no indication anywhere of why views are being sought or for what purpose.

Appendix 2

Answers to the consultation questions

To facilitate the analysis of responses, this appendix answers the seven questions set out on page 4 of the consultation document.

1. *Do you feel that the government consults effectively at present?*

The government does not consult effectively at present. Partly because of the Cabinet Office guidance, consultation is often seen as a box ticking matter and even where there is a willingness to consult the ability to do it is limited by lack of expertise and knowledge which can be drawn on. Particular problems include poor targeting (exemplified by the consultation document itself) and the failure to obtain a proper consumer view. Once consultation responses have been received there are inordinate delays in publishing an analysis and all too often this is done by simple counting of votes.

The 2000 Code has undoubtedly improved the position and generally the quality of consultations has got better. However, it is still largely within the hands of individual departments and agencies and there seems little learning across the civil service.

2. *Is the proposed code an improvement on the existing code?*

The proposed revised code is an improvement in terms of presentation and clarity but not an improvement in terms of content. Important sections of the current code, in particular the importance of not counting votes in preparing analyses of responses and the need for effective evaluation have been omitted.

3. *Do you find the criteria clear?*

The criteria are very clear. Any problems relate to what the criteria say rather than their clarity.

4. *Is there anything in the criteria you would change?*

Yes. In particular –

- The scope should cover non-departmental public bodies and regulators as well as government departments and agencies.
- The code should emphasis the importance of obtaining a meaningful consumer input.
- Representative bodies should be required to be much open about their membership, structure and policy-making process.
- There should be separate requirement to publish a summary of responses promptly and a detailed feedback statement subsequently.
- The requirement for consultation policies and practices to be evaluated should be considerably strengthened.
- There should be a firm requirement that to put all consultation documents on both the departmental website and the central register,

5. *Is there anything missing from the code?*

Two points should be emphasised –

- Consultation is important to the policy-making process.
- Policy-makers should be explicit about what is open for consultation and what has already been decided.

6. *What would be helpful to be included in the guidance?*

Additional subjects for guidance should be-

- Obtaining a consumer input.
- Compliance tool kit.
- Consulting trade associations.
- Consulting interest groups.
- Tool kit for evaluating consultation exercises.
- Tool kit for evaluation a department's consultation policies and practices.

7. *Do you have any further comments on the code of practice?*

Yes, see the detailed response.

Biographical note

Mark Boleat is a company director and consultant specialising in the handling of public policy issues.

He joined the Building Societies Association in 1974, holding a number of positions before being appointed Director General in 1986. He was responsible for establishing the Council of Mortgage Lenders and became its Director General in 1989. He held both positions until 1993. In 1993 he joined the Association of British Insurers, the largest British trade association, to become its first Director General.

He left the ABI in June 1999 to set up a consultancy business specialising in trade association strategy and management and the handling of public policy issues. He has helped establish, merge and reorganise trade associations in a number of sectors. He has undertaken two major products which have been part-funded by the DTI – on models of trade association co-operation and trade association effectiveness at the European level. He has also undertaken projects for the World Bank on housing finance in Russia and Egypt and for the Government of Jersey on consumer policy.

Mark Boleat is also a non-executive director of Countryside Properties and the Comino Group, Chairman of Hillingdon Community Trust and the Retail Motor Industry Code of Practice Scrutiny Committee, and a member of the National Consumer Council, the Gibraltar Financial Services Commission, the Council of the Association of Charitable Foundations and the Court of Common Council of the City of London.

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