

STATES OF JERSEY



PUBLIC CONSULTATION

**Presented to the States on 25th October 2005
by the Policy and Resources Committee**

STATES GREFFE

PUBLIC CONSULTATION

1. Introduction

The Policy and Resources Committee has developed a system of public consultation that will come into effect following the introduction of ministerial government. The Committee is now publishing this Report in order to provide a detailed guide to the new consultation system.

2. Background

- 2.1 The report and proposition on 'Machinery of Government: Proposed Reforms' (P.122/2001) (Policy and Resources Committee) adopted by the States on 28th September 2001, set out proposals for a formal system of consultation based on the U.K. model of 'Green Papers' and 'White Papers'.
- 2.2 Green Papers set out for debate and discussion proposals that are still at a formative stage. They invite comment and discussion from all sections of society and usually cover pertinent social and economic issues.
- 2.3 White Papers are often produced following the consultation process that is initiated when the government issues a Green Paper. White Papers are statements of proposed government policy on a particular area of concern.
- 2.4 Green and White Papers are governed by a Code of Practice on Written Consultations. This document sets out very detailed guidelines, standards and content for all government consultation documents.
- 2.5 Policy and Resources' proposed model for public consultation builds on P.122/2001's proposals, and is based on the U.K. Code of Practice on Written Consultations, adapted for use in Jersey.

3. A model for public consultations in Jersey

- 3.1 The Policy and Resources Committee's objective in proposing a model for public consultations in Jersey is to provide greater opportunity for people in Jersey to contribute to the development and delivery of States policy and services.

The Policy and Resources Committee proposes a form of written consultation using 'Discussion Papers', 'Draft Policy Papers', and reports and propositions.

- 3.2 A Discussion Paper is similar to a Green Paper – it sets out for debate and discussion proposals that are still at a formative stage. It may contain several policy options which can be used in gauging public opinion.
- 3.3 A Draft Policy Paper is similar to a White Paper. It is a statement of proposed government policy on a particular area of concern. It may pave the way for legislation, but there is no obligation to act along the lines that a Draft Policy Paper proposes, indeed, the draft policy may change as a result of further public comment.
- 3.4 Both Discussion and Draft Policy papers will be governed by a detailed code of practice, based on the U.K. Cabinet Office Code of Practice on Written Consultations and adapted to take account of local requirements, including the Scrutiny process. This adapted Code of Practice is attached as **Appendix 1**
- 3.5 A Report and Proposition is the final stage of the consultation process (as it currently is) and enables people to comment on a proposal before it is finally debated by the States.

4. Proposed consultation model

- 4.1 Where possible, an intention to publish a Discussion Paper or Draft Policy Paper should be outlined, in advance, in the departmental business plan.
- 4.2 The decision to publish a Discussion Paper or Draft Policy Paper should be made by the relevant minister and the title, purpose and date of issue should be notified to the Corporate Management

Board, the Communications Unit and Scrutiny.

- 4.3 Not all proposed policies or decisions will be subject to a process of a Discussion Paper followed by a Draft Policy Paper. In the main, the publication of consultation papers should broadly be limited to (a) major policy decisions, or (b) decisions that affect a broad cross section of the community. Less significant decisions that affect only a small group of stakeholders could be taken after going through a less extensive consultation process.
- 4.4 Before proceeding, the ministry will check a central register of forthcoming consultations to avoid publishing a Discussion Paper or Draft Policy Paper at the same time as another ministry, where possible.
- 4.5 A Discussion Paper or Draft Policy Paper will be published in accordance with the Code of Practice on Written Consultations, on a standard template that provides basic summary information about the subject matter, as well as the deadline and contact for comments, and any further relevant documents.
- 4.6 Each ministry should designate a member of staff to be responsible for receiving, collating, evaluating and reporting responses in each consultation exercise.
- 4.7 Immediately before it is launched publicly, the Discussion Paper or Draft Policy Paper should be presented to the States Assembly.
- 4.8 Once the consultation deadline has expired, the Minister's department should prepare a report outlining responses, and notify the Communications Unit and Scrutiny of the planned publication date.
- 4.9 Information about forthcoming consultations and how to respond, reports on past consultations, and the Code of Practice on Written Consultations will all be available on a new site on the www.gov.je website. This website will also allow people to register to receive regular emails notifying them of forthcoming consultations.

For detailed guidance on how the proposed consultation model will work, see the Code of Practice on Written Consultations in **Appendix 1**.

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STATES OF JERSEY CODE OF PRACTICE ON WRITTEN CONSULTATIONS

General principles

The criteria in this code apply to all States of Jersey public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

This code is intended to make written consultations, and specifically the publication of Discussion and Draft Issue papers more effective, opening up decision-making to as wide a range of people and organisations as possible.

The emphasis here on written consultation is not to suggest that this is the only or best method of consultation. It is the classic method and has many virtues, but also limitations. Additional forms of consultation should always be considered from an early stage. Some possibilities are set out under criteria 1 and 4 below.

The purposes of consultation need to be borne in mind throughout the development of a policy (including legislation) or service.

- (a) 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.
- (b) Effective consultation ought also to ensure that so far as possible everyone concerned feels they have had their say or at least that their interests have been taken into account.
- (c) Consultation should always be as wide as the circumstances permit. Other things being equal, public consultations are preferable to closed ones.

Really effective consultation will not be achieved solely by following this Code. It is good practice for departments to share best practice on effective consultation.

In order to prevent a number of consultations being issued at the same time, www.gov.je will contain a register of forthcoming consultations, helping organisations to prepare to respond. It will also encourage 'joining up' of consultation documents between different parts of the States.

Summary

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Make documents as widely available as possible, with the fullest use of electronic means (though not to the exclusion of others), and effectively draw consultations to the attention of all interested groups and individuals.
5. Allow sufficient time for considered responses from all groups with an interest. Eight weeks should be the standard minimum period for a consultation.
6. Analyse responses carefully and with an open-mind. Make the results widely available, with an account of the views expressed, and reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.

CRITERION 1

Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.

1. Time must be set aside so that a written consultation can be properly designed, and reasonable intervals allowed for responses and their analysis. The timetable for implementation should be such that people affected have a reasonable opportunity to prepare.
2. It may not be adequate to rely on a single written consultation alone. Early consultation is often the key to the success of an initiative, and to securing co-operation in it: omitting it may cause delay and expense later. It is important that the agenda for early consultation is not too circumscribed, so that others can have a part in developing it. A range of options should be canvassed where possible.
3. It is helpful to let others interested know the likely timing of different forms of consultation as early as possible (and any later changes to it). Consultation documents should describe any earlier, parallel and planned later consultation. Other forms of consultation that may be helpful include –
 - Listening events.
 - Meetings or seminars with, and visits to, representative groups and other interested parties.
 - Internet discussions.
 - Research, including surveys of consumers and the general public and qualitative research (including in-depth interviews and focus groups).
4. The key is to get the best spread of views, including the views of those most likely to be affected, and with most to contribute.
5. Set aside resources. Effective consultation may involve some expenditure of time and money, and planning in the light of earlier evaluations to ensure value for money is important.

CRITERION 2

It should be clear who is being consulted, about what questions, in what timescale and for what purpose.

1. A document should explain which people and groups the consultation is particularly directed at (and in what capacity, if there is any room for ambiguity). It should generally invite suggestions about others to whose attention the document should be drawn. To help avoid duplication of effort by respondents, it may be useful to include a list of those it is being sent to and in what capacity they are being invited to comment.
2. A document should, as far as possible, include an assessment of the impact of the proposals on groups likely to be particularly affected, and every effort should be made to ensure that views are received from all such groups. Ministerial departments should consider whether there is a particular impact by gender, age, ethnicity or disability; in particular types of area; or on the socially excluded.
3. Regulatory proposals (including EU legislation) that may create burdens for business, charities or voluntary organisations should include an assessment of the impact of this draft law. Where a proposed policy may have significant environmental impacts these should be described along with any proposals to mitigate them.
4. The document should also be clear about any aspects of an issue on which decisions have been taken, or are inevitable, so as to avoid wasting the time of respondents.
5. It may also be useful to indicate where the department provisionally favours a particular course. But the agenda should not be so rigidly defined as to deter respondents from offering views on related questions of interest to them.
6. The deadline for responses, and so far as practicable the timetable envisaged after that, including any further opportunity for consultation, should be clearly set out.
7. Representative groups should be asked in responding to give a summary of the people and organisations they represent.
8. It should be made clear that responses may be made public in all media, as appropriate, unless confidentiality is specifically asked for. With some subjects, such as where the responses may concern individuals' private lives, or matters of commercial confidentiality, this may need to be flagged up prominently, so that no-one inadvertently fails to register a wish for confidentiality. In some cases, confidentiality cannot be guaranteed, for example where a response includes evidence of serious crime: this may also need to be brought out.

CRITERION 3

A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.

1. Respondents may have a great many documents to deal with, and lack time from their everyday work to study a comprehensive paper. But their views may be of great value, and everyone should be helped to identify quickly if they are affected, and if so to contribute productively. That is why clarity, and a summary, are important.
2. A summary need not encapsulate every point in a document. Its purpose is to help potential respondents focus, highlighting difficult and contentious issues. It will rarely be necessary for Ministers to decide that the two-page limit needs to be exceeded.
3. Documents should be clearly focused. They should be set out in plain language, as free as possible of jargon. Technical detail may be unavoidable, indeed central to the issues; but documents should be as widely understandable as possible. Worked examples may help in explaining technical concepts to lay people. A guinea pig audience or public 'users group' may be useful in developing or testing a draft document.
4. Glossy and elaborate documents are rarely justified. Time spent preparing them would be better spent on a longer consultation period, or on devising supplementary means of consultation.
5. Documents should, however, set out the main information and competing arguments relevant to a decision, or say where they can be found. Significant sources of information and opinion outside government should be quoted if relevant, whether they support the executive's views or not. Accounts of EU and overseas law and practice, and other background materials such as legal texts proposed for amendment, might be included or put on an associated website, if they help illuminate the questions.
6. It will often be helpful to set out key questions in a questionnaire – though questionnaires need careful design, in which expert help may be useful, so as not to encourage a biased response. Responses in other forms, and on different but relevant questions, should always be accepted.
7. Any questionnaire should feature on a website, as an electronic form if possible. An e-mail, as well as a postal, address should be given for responses, and preferably a fax number.
8. Identify paragraphs in a consultation document by numbers or letters (in preference to bullets, which are less easy to refer to in responses). Pages should be numbered.
9. Give details (address, phone, email and preferably fax) of a contact who can respond to consultees' questions.
10. Where possible, give details of someone who can pursue complaints or comments about the consultation process. This should be a person outside the team responsible for the document.
11. Consultations should be joined up within or across departments wherever reasonably possible: some respondents, especially small businesses, may not have time to deal with multiple requests for comment. Departments should contribute as early as possible to the register of forthcoming consultations and examine it regularly for possible partners.
12. To avoid imposing extra burdens on people, and organisations with very limited resources for replying, like smaller firms and some voluntary and community organisations, it may be better to target consultation through umbrella bodies, including trade associations and business organisations. But it is important to speak to those bodies at an early stage, to establish that they can conduct properly representative consultations, and work out timing; for example, they may be able to make use of routine consultation processes among their members.

CRITERION 4

Documents should be made widely available, with the fullest use of electronic means (though not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.

1. Make every effort to ensure effective communication with all those who are, or potentially are, interested. This may involve contact with representatives of broad consumer, business, voluntary or other interests; as well as more narrowly defined groups.
2. The rest of the public sector, where it is likely to be affected, including local government and front-line staff, should be included too.
3. Generally, consultation should be publicised by a media release or similar announcement to encourage wide publicity.
4. Documents should always be available free of charge on a website from the time of publication, ideally in a range of formats. Internet versions should be quickly downloadable (for example, give the option of option of avoiding large graphics). It may not be practical to include complex attachments (such as large charts), though early planning will often permit the information in them to be presented satisfactorily on the web. Consider using email to alert interested parties (on prior request) to consultations.
5. But though effective use of the internet is increasingly important, people should not be excluded from consultation because they are not internet users. Unless the cost is prohibitive, generally make free paper copies of documents available, and accept paper responses.
7. The methods above will often not effectively reach all interested groups. Other methods to be considered include –
 - (a) targeting relevant media;
 - (b) targeted mailings and email notifications;
 - (c) workshops.

CRITERION 5

Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks is preferable on major policies, and eight weeks should be the standard minimum period for a consultation.

1. Inadequate time for responses is the single greatest cause of complaint over consultation by government in the U.K. Avoid consultation periods being limited in order to meet later deadlines by proper planning in accordance with this code. Consultation should never have to be shortened below an acceptable minimum for reasons of departmental convenience, for example because a department has fallen behind its own implementation schedule.
2. There will sometimes be circumstances which unavoidably require a consultation period of less than eight weeks. Among these may be timetables set out in statute; those unavoidably dictated by EU or other international processes; and those tied to the Budget or other annual financial cycles. Where a further consultation takes place on the basis of amendments made in the light of earlier consultation, a shorter period may also be necessary.
3. The nature of the problem dealt with may also occasionally mean that urgency is in the public interest, though real urgency of this sort is rare. Except where the circumstances listed in paragraph 2 make shorter consultation unavoidable, if the period is less than 12 weeks, the document should state Ministers' reasons for departing from the Code, and what special measures – for example advance notice of at least the broad issues covered – have been taken to ensure that consultation is nevertheless as effective as possible.
4. Consultees' circumstances should always be taken into account in fixing a period. Issues consulted on may be complex, requiring a period of weeks to draft responses. Organisations may have many staff or members and may not meet regularly or simply to fall in with a consultation timetable. Be aware of substantial holiday periods which may reduce the opportunity for adequate time for consultation.
5. To ensure consistency between respondents, departments may wish to consider how to deal with requests for deadlines to be extended, before the consultation paper is issued.

CRITERION 6

Responses should be analysed carefully and with an open-mind. Make the results widely available, and include an account of the views expressed, and reasons for decisions finally taken.

1. Responses should be acknowledged where possible.
2. They should be carefully analysed, in particular for –
 - (a) possible new approaches to the question consulted on;
 - (b) further evidence of the impact of the proposals; and
 - (c) levels of support among particular groups.
3. Analysing responses is not simply a matter of counting votes. Be aware of the risk of single issue groups monopolising debate. Particular attention may, however, need to be given to the views of representative bodies, such as business associations, trade unions, voluntary and consumer groups, and other organisations representing groups especially affected. Eventually it is for Ministers to assess the argument and evidence and reach decisions in the public interest.
4. Keep as full an account as possible of both formal and informal responses to consultations to ensure that everyone's view is fairly considered.
5. Decisions in the light of consultation should be made public promptly with a summary of views expressed (subject to respondents' requests for confidentiality), and clear reasons for rejecting options that were not adopted. As far as reasonably practicable, this material should be accessible to all who responded, including on a departmental website.
6. If significant new options emerge from consultation, it may be right to consult again on them (though a shorter consultation period may be justified: see criterion 5 above).
7. Individual responses should also generally be made available to anyone else who asks for them. But it is reasonable to make a modest charge for copying and postage. But where respondents have sought confidentiality, it should generally be respected. It may also be necessary to keep confidential responses that may affect third parties' interests or privacy unfairly.

CRITERION 7

Departments should monitor and evaluate consultations, and should consider designating a consultation co-ordinator who will ensure the lessons are disseminated.

1. A single official for each department should be designated as consultation co-ordinator and contact details should be published.
2. This person should ensure that the code is complied with, that consultations are joined up where possible, and that the department contributes to and learns from the central register of consultations.
3. Departments should monitor consultations regularly as they proceed, to ensure that the code, and good practice generally, are being followed. They should analyse complaints carefully. They should seek to develop internal expertise in effective consultation, and awareness of where support can be found outside.
4. Departments should evaluate consultations once complete – perhaps with independent involvement. Questions to be addressed include –
 - (a) whether they fully complied with the code;
 - (b) which techniques were particularly effective in securing a wide range of useful responses, and which not;
 - (c) which represented value for money (taking into account staff time, as well as direct expenditure);
 - (d) how far policy and service provision changed as a result. If it did not, the reasons should be explored with Ministers; and
 - (e) respondents' feedback. This might emerge from response rates; an analysis of complaints and other comments, or other dealings with regular departmental contacts. It may also be worth surveying users after major consultations.

**Extract from ‘Machinery of Government: Proposed Reforms’ (P.122/2001), adopted by the States on
28th September 2001**

‘The States Assembly – Policy and Legislation (Extract):

- 7.14 As part of the strategy for developing a culture of consultation, one of the main proposals is that there should be a regular and formalised use of “green” and “white” papers. These are forms of consultation paper that would generally be issued by departments when they were considering major changes in policy. A “green” paper would be issued at a relatively early stage in the process of policy formulation, and States members, scrutiny committees, and the general public would be invited to comment on the contents. Once these comments had been taken into account, a department would then formulate its proposals in more detail and issue a “white” paper, which would again be the subject of comments from the public and scrutiny committee(s). When this stage was completed, a department would formally define its proposals for consideration by the Council of Ministers and onward transmission to the States Assembly.
- 7.15 There is nothing radically new about this aspect of the Committee’s proposals. What is new, however, is the proposal that green and white papers should be a regular and integral part of the policy-making process. Many States Committees have issued consultation papers in the past, but this has by no means been a universal or consistent practice. In future, more emphasis would be placed on the use of consultation papers, and both the public and their elected representatives would become more involved in the process of policy formulation.’

Extract from ‘The Machinery of Government: Proposed Reforms – Implementation Plan’, published in November 2001 (Policy and Resources Committee)

‘The States Assembly – Policy and Legislation...

During the debate on the Reform of the Machinery of Government, many States Members asked how they would be involved in the formulation of policy and the Scrutiny of legislation. The Policy and Resources Committee is proposing that an obligation will be placed upon the Council of Ministers and Ministers to consult in a number of formal and informal ways.

Both the Clothier report and Policy and Resources report and proposition (P.122/2001 paragraphs 7.14 and 7.15) refer to ‘green papers’ and ‘white papers’ in the general discussion around more formal processes of consultation.

This note sets out proposals for three forms of consultation papers which may be used in the future which are the equivalent to ‘green papers’ and ‘white papers’. From the examples given, it is clear that Committees are already engaged in these forms of consultation, although perhaps they have not been described as such.

A clear distinction is also drawn between consultation and the formal Report and Proposition which may be the result of the consultation. There is also a need to draw a distinction between consultation before a policy debate and the process of consultation which leads to legislation.

Issues Report

An Issues Report (equivalent to a ‘green paper’) is a discussion document that sets out a problem, or problems, or a policy objective or the intention to change a law or create a new law.

The Issues Report would set out all matters (or those aspects understood) which need to be considered, and the understanding of the subject matter, in an open manner. The Issues Report may also refer to a wide range of possible solutions, but this would not be expected to be the definitive list.

Discussions can be initiated by an Issues Report, the objective being to ensure that the debate begins with all known information set out and with an open invitation for everyone to contribute. The contributions may be either further information about the issue or suggested solutions.

It is also possible that Scrutiny Committees may publish Issues Reports as a way of drawing attention to particular matters which they consider have not been adequately addressed by the Executive.

Examples: Island Plan Issues Document, Finance and Economics Fiscal Review.

Draft Consultation Report

The Draft Consultation Report (equivalent to a ‘white paper’) is a paper which sets out, for consultation, the preferred policy or proposal for a new law or changes to existing legislation. The purpose of this stage of consultation is to test the proposals with Scrutiny Committees, States’ Members and the public.

The Draft Consultation Report would set out the problem or objective and the proposed solution or policy proposal(s). It should justify the solution proposed, but would not have to restate all the options which may have been set out in an Issues Report.

The consultation process would request views on the proposals on the basis that the draft is likely to proceed unless there are significant difficulties or fundamental problems.

In the case of new legislation, the Draft Consultation Report would form the basis of the brief to the Law Draftsman.

Examples: Draft Island Plan, Policy and Resources draft proposals for reforms.

Draft Law

In the case of new or changed legislation, a draft of the law would be issued at an early stage to ensure, through consultation, that the law reflects accurately the issues previously considered in the Draft Consultation Report.

Report and Proposition

The Report and Proposition lodged in the States is still subject to consultation, but represents the final considerations to be put to the States for a decision. This should represent the culmination of the process of consultation outlined above.

The consultation process as outlined here is likely to be initiated by Ministers. As we have said elsewhere, there will be nothing to stop Scrutiny Committees seeking to examine policy or legislation under formulation.’

Consultation around the world

The following information provides examples of a range of consultation mechanisms that are used elsewhere. It is not intended to serve as an exhaustive or comprehensive guide.

1. U.K.

Consultation documents issued by the U.K. government are known as Command Papers. Command papers include Green Papers. These are consultation documents issued by the Government which contain policy proposals. They set out for debate and discussion proposals which are still at a formative stage. Green Papers do not commit the government or a minister either to the views expressed or to a particular direction for future action. This means that Green Papers are published before a final decision is taken on the best policy option. They invite comment and discussion from all sections of society and usually cover pertinent social and economic issues. Green Papers will contain several policy options which will be used as the foundation of firmer recommendations published in White Papers. Green Papers are actually printed on pale green papers.

White Papers are often produced following the consultation process that is initiated when the Government issues a Green Paper. White Papers are statements of proposed government policy on a particular area of concern. White Papers often pave the way for legislation however there is no obligation to act along the lines that White Papers propose. White Papers are often commonly referred to as Command Papers and they can contain a statement of policy, although the term White Papers can also be applied to non-parliamentary items. Government responses to select committee reports are also occasionally regarded as White Papers.

When White Papers are published, a statement in the Houses of Parliament will often accompany them from the Secretary of State of the department sponsoring the proposals. Recent White Papers that have grabbed headlines include those analysing economic reform in Europe and a review of the gambling laws in the United Kingdom

2. Isle of Man

There is no standard process or guidance on public consultation though this is planned, nor does the Isle of Man have an equivalent of the UK green/white paper process.

Departments often issue consultation papers (either to the general public or to the relevant sectors) on important issues prior to the drafting of legislation. These consultation papers are processed by the branches of Tynwald, which can establish select committees offering further consultation opportunities.

3. European Commission

The EC consults the public through its website 'Your Voice in Europe'. This provides a 'single access point' to a wide variety of consultations, discussions and other tools which enable people to play an active role in the European policy-making process. These include –

Consultations: do you want to give us your opinion on EU policies and influence their direction? Take part in shaping European policy by responding to a consultation in one of many activity areas.

Discussions: do you want to discuss the main issues of the day and chat on-line to the EU's leaders? Have your say in discussions on the European Union and its future.

Your Experience: would you like us to help you overcome problems you have experienced in the EU and help us – anonymously – to monitor how EU policies work in practice?

4. Scotland

Consultation is an essential and important aspect of Scottish Executive working methods. Given the wide-ranging areas of work of the Scottish Executive, there are many varied types of consultation. However, in general Scottish Executive consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

Consultation exercises may involve seeking views in a number of different ways, such as written papers, public meetings, focus groups, questionnaire exercises or online discussion forums.

Typically Scottish Executive consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the area of consultation, and they are also posted under the current consultations section of this website, enabling a wider audience to access the paper and submit their responses. The Scottish Executive now has an email alert system for consultations (SEConsult). The system allows individuals and organisations to register and receive a weekly email containing details of new and forthcoming consultations (including web links).

Copies of all the responses received to consultation exercises (except those where the individual or organisation requested confidentiality) are placed in the Scottish Executive library at Saughton House, Edinburgh.

The views and suggestions detailed in consultation responses are analysed and used as part of the decision-making process. Depending on the nature of the consultation exercise, the responses received may –

1. indicate the need for further policy development or review
2. inform the development of a particular policy
3. help decisions to be made between alternative policy proposals
4. be used to finalise legislation before it is implemented

Within the Consultation section of the Scottish Executive website there is a full list of all closed consultations and a listing of forthcoming consultations. The ‘closed’ section will, in the future, provide details about the outcome of consultations and have links to any reports produced from the consultation exercise.

5. Australia

Different government agencies use different mechanisms for community consultation and there appears to be no single federal system of community consultation employing discussion papers. Examples of current participation mechanisms include –

- parliamentary committee inquiries
- stakeholder consultation mechanisms
- client surveys by Centrelink and other service providers
- the youth round table, and
- funding of advocacy groups.

Community consultation is ad hoc: that is, some government agencies may well publish discussion papers for community feedback in certain circumstances but this would be done on an agency-by-agency and case-by-case basis and only the agency concerned would be in a position to comment on the effectiveness of the process.

From the point of view of the Parliament, some parliamentary committees publish discussion papers at the start of some inquiries but again there would be no across-the-board evaluation of their effectiveness.

Example of a national discussion paper

<http://www.simplerwrsystem.gov.au/discussion/outsidersoninside.htm> Getting the Outsiders Inside - Towards a Rational Workplace Relations System in Australia

Queensland Australia

Discussion (Green) Papers and Policy (White) Papers

Ministers get written permission from the Premier before commissioning work leading to a public discussion paper or to a major policy review. In seeking permission, the Minister provides the Premier with details of the rationale for preparing the paper; how it relates to Government priorities, the nature of options likely to be

considered and whether it is intended to consult with other portfolios. If consultation with other portfolios is intended, the Minister should advise the Premier which portfolios will be involved.

Policy Papers (White) are papers or reports which embody a statement of government policy on a topic of significance. They are prepared at the direction of a Minister, approved by Cabinet and express a clear government policy framework.

The submissions to Cabinet proposing approval of circulation of the papers should include the rationale for the policy discussion or policy initiative, the strategy for consultation, the public availability of any technical or consultants' reports arising from the study and a timetable for the publication and release of the reports.

Discussion and Policy Papers should be tabled in Parliament after being cleared by Cabinet.

Discussion and Policy Papers should be widely distributed to achieve the desired level of information dissemination, public discussion and comment. They should normally be distributed to all areas of government, the Judiciary (where appropriate), academic and other relevant parties (e.g. employer and employee groups, community and special interest groups, professional organisations).

It is crucial that Cabinet be advised candidly and succinctly on the result of a Discussion or Policy Paper consultation process. This should include quantitative assessment of support or otherwise for the proposal, as well as qualitative judgements of submissions received. Ministers and Chief Executive Officers should adopt the use of Discussion and Policy Papers for the formulation of policy matters wherever necessary.

6. Canada

Broadly speaking, Canada follows the English government system of Green and White papers. A Green Paper is taken to be an official document sponsored by Ministers of the Crown which is issued by government to invite public comment and discussion on an issue prior to policy formulation.

In Canada, green covers are not used consistently so the colour of the cover cannot be used as a guide. Furthermore, the name 'Green Paper' does not always appear in the title nor are these documents always tabled in the House of Commons or listed in any official source.

The term White Paper is now more commonly applied to official documents presented by Ministers of the Crown which state and explain the government's policy on a certain issue. For further information, see:

www.parl.gc.ca/Information/about/related/Federal/papers/index.asp?lang=E&hea=1

Example of a Canadian discussion paper

PUBLIC COMMENTS INVITED ON DEVELOPING A PROPOSED PROCESS FOR THE REVIEW OF THE CANADA – UNITED STATES GREAT LAKES WATER QUALITY AGREEMENT

The Governments of Canada and the United States invite your participation in developing a "process" to review the Canada – United States Great Lakes Water Quality Agreement (GLWQA). Voice your suggestions for defining both your role and that of members of the Great Lakes community in the review of this vital agreement.

A consultation document has been developed which summarizes the proposed review process and describes what information we are seeking from the public. In addition to this summary document, a detailed GLWQA Proposed Review Process has been prepared as background information.

We ask that you submit your comments no later than March 8, 2005. This is to ensure the timely commencement of the review. The review and analysis of the Great Lakes Water Quality Agreement is expected to take 12 to 18 months to complete.

Comments may be submitted in writing, via email, or fax.