

EFFECTIVE CONSULTATION

The Royal Society of Chemistry (RSC) welcomes the opportunity to make the following submission to Cabinet Office. The RSC's Royal Charter obliges it to serve the public interest by acting in an independent advisory capacity and we are happy for this submission to be put into the public domain.

The Royal Society of Chemistry only wishes to respond to those questions which fall within its area of its experience, and in particular on Government use of scientific advice with respect to chemicals.

1. Do you think the Government's Code of Practice has led to an improvement in the way the Government consults and to improved policy outcomes? Please illustrate your answer with any concrete examples you may have.

The code of Practice is an important contribution to improving the consistency of approach. However, the issue of whether this always contributes to improved policy outcomes is less certain. The RSC recognises that unless good scientific (and technical) advice is taken into the policy making process then the process will yield policies that are not technically acceptable or, worse, not technically feasible. In such circumstances the consequences could include inappropriate Government positions, unsatisfactory/unenforceable legislation and potentially conflicting legislative requirements. The RSC believes that there is a problem concerning the nature and adequacy of the in-house expertise in Government Departments, causing potential problems when setting consultation questions, assessing responses, and when assessing the impact of proposed regulations. This also may also render a serious discussion of individual points difficult.

The RSC supports soliciting input from a wide range of groups (stakeholders) and in being open about the process and the people involved. However, there is some concern that evidence from some scientific experts may be marginalised because they are not considered as 'independent' by virtue of their affiliation. It is important to note that experts working in the field are more likely to be up-to-date with developments than those who are not. In particular, it is in industry that the closest liaison between the different branches of risk analysis takes place. In contrast the views of campaigning organisations that may have a vested interest in a particular outcome are often regarded as more credible and independent as, it is claimed, they are not directly involved in a particular industry. This is self-evidently incorrect as the campaigning organisations usually have a clear vested interest. Such organisations are often able to make unsubstantiated claims that can distort the discussion and make informed, evidence-based policy-making difficult.

2. Are 12 weeks generally the right amount of time for the formal, written element of Government consultations to last? Do you think that there are circumstances where a shorter or longer duration may be more appropriate?

The RSC considers 12 weeks to be an appropriate time to produce a well considered, formal, written response to a majority of consultations. This period should allow sufficient opportunity for large organisations to confer with their membership. Consultations of shorter duration may be appropriate under exceptional circumstances, provided the input sought is limited to a few well defined issues. In these situations, the justification for the shorter consultation duration should be stated and significant effort should be made to publicise the consultation. Care must also be given to the time of year for which the consultation period will occur; short term consultations in August, for example, should be avoided.

Monitoring compliance

3. Is the system for monitoring and promoting performance of departments in relation to the criteria in the current Code of Practice on Consultation right? What improvements could be made?

NO COMMENT

Consultation and Impact Assessment

4. Is the new approach to Impact Assessment sufficient to improve public consultation on the evidence base for Government policymaking? How could consultation policy improve consultation on Impact Assessments?

NO COMMENT

Consulting for the right reasons at the right time

5. When in the policy development process do you think the Government should consult stakeholders? Please cite any relevant examples when you have been consulted at the right or wrong time.

The Government should begin informal discussions with key stakeholders well in advance of formal consultations in order to properly define the issues upon which it wishes to consult. In our experience, even when a staged approach is used, the specific questions in the consultation documents often do not address the key issues directly or are too broad in their scope. Analysis of the responses of stakeholders to poorly conceived consultations could result in inappropriate policies and regulations that do not address key issues.

How best to seek stakeholder input?

6. Do you think that more emphasis should be placed on alternative or supplementary approaches to consultation in a revised consultation policy? What supplementary approach or approaches would work best for you/your organisation?

Greater provision should be made to accept supplementary oral evidence especially in those cases involving complex scientific and technical issues. If this is not done the technical and scientific aspects of consultations may not be given proper consideration due to a lack of understanding of the implications of certain courses of action and discounted when the evidence is being evaluated prior to the formulation of new policies and regulations.

Awareness-raising

7. How do you generally become aware of Government consultations and how would you like to learn about upcoming and current Government consultations?

In our experience, notification about consultations, even those originating in the same Government Department is patchy. In part this may be due to different sections of Government Departments using out-of-date contact lists. In many cases awareness of current consultations is mediated through informal professional networks and in others through ad hoc visits to Government Department websites. In view of the way that information is disseminated in the real world, it would be helpful if Government Departments notified stakeholders as soon as a decision has been taken to consult on an issue and to provide the proposed dates for the intended consultation. This would contribute to enhancing the flow of information about forthcoming consultations via formal and informal networks resulting in the greater awareness and participation among important prospective stakeholders who may be left off departmental mailing lists. As stated in the answer to question 1, there is a lack of in-house expertise; improved internal expert knowledge would help government departments identify key stakeholders.

Reporting back following consultations

8. How do you rate the feedback you have seen from Government departments following consultations and what improvements or changes would you like to see in relation to reporting back?

Feedback would be welcomed on which scientific and other advice was incorporated into policy development. This could be enhanced by providing a publicly available record detailing how such advice was used or not.

Consultation fatigue

9. Is “consultation fatigue” an issue for you? If so, why is this and how do you think this issue could be overcome?

In our experience consultation fatigue is primarily caused by a lack of coordination within and between Government departments leading to several consultations on closely related topics e.g. REACH Regulation. This is often compounded by poor design which appears to be the result of a lack of fundamental understanding of the issues about which a department may be consulting on. As stated in answers to questions 1 and 7, a lack of in-house expertise impacts on the setting of appropriate consultations and on the identification of key external advice.

The RSC believes that consultation fatigue relates to the large number of consultations, not to the use of staged consultations. For large impact consultations, for example on climate change or energy, then staged consultations are appropriate and should continue to be used.

Other issues

10. Please feel free to give us any other views you may have about the effectiveness of current consultation policy, the future of consultation policy, the case studies in this paper and other examples from the UK or elsewhere.

Some consultations often do not address the key issues directly or are too broad in their scope to yield useful information upon which appropriate policies and regulations can be developed.

Options

11. Do you think any of these options would make for a good consultation policy? If so, which option and what changes could be made to improve it?

Of the three options listed, the RSC believes option 1 to be the most appropriate. Option 2 seems to be superfluous to the current regulations, with ‘fast track’ consultations of under 12 weeks already permitted. Option 3 has the potential to eliminate key stakeholders from the consultation process and give greater weight to those organizations already working closely with the government. The lack of in-house department expertise alluded to previously would cause problems in the identification of stakeholders.

Option 1 provides a transparent and effective consultation process and would allow government to access relevant knowledge. Problems of consultation fatigue are not related to this model, but rather to those issues raised earlier in answer to question 9.

The US has a different, more long winded, but probably better model of public hearings on all new regulations. The RSC also supports the Environment Agency approach to some consultations which produced a response document with all the comments made and their response, including arguments as to why some comments are being rejected.

12. Are you content with the Government’s preliminary analysis that the options identified in the consultation document would not impose costs on the private or third sectors?

All options impose costs on organisations participating in consultations. These can be significant and unjustifiable when consultations are poorly defined i.e. ask the wrong questions, which could potentially result in inappropriate policies and regulations.

We hope the above comments are of assistance. Please do not hesitate to contact us should you wish us to expand on any of these points.

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Notes: The Royal Society of Chemistry is the UK Professional Body for chemical scientists and an international Learned Society for the chemical sciences with 43,000 members world-wide. It is a major international publisher of chemical information, supports the teaching of the chemical sciences at all levels and is a leader in bringing science to the public.