

Code of practice on written consultation

Applies to consultation documents issued after 1 January 2001

Cabinet Office, November 2000

www.cabinet-office.gov.uk/servicefirst/index/consultation.htm

Introduction by the Prime Minister

We have worked hard since this Government came to power in May 1997 to make the administration of the country more open and responsive: giving more information about the way departments and services are operating, taking more account of people's views of policy, and of what they want from public services. And we have made a special effort to work better with business in developing policy, legislation and services.

But we still have more to do, and this Code is another major step along the road, and a real contribution to modernising the way the country is governed.

We are consulting now more than governments ever have in the past. That is welcome in itself. But it means extra work for the people we consult. Their contributions can improve, sometimes transform, initiatives we embark on. But we need to ensure that we keep the burden on them to a minimum. Many of the people we are consulting, in business, in the voluntary sector or wherever else, have large and increasing demands on their time.

We need to help them however we can to help us. That means presenting proposals simply and clearly. It means joining up within government, so that we ask for views once, not several times.

And, as many people have made very clear to us, it means giving long enough for a response. Occasionally, being a responsive government means acting quickly, because it is clearly in the public interest to do so. But much more often, it means organising our time and efforts so that people outside government have a real opportunity to contribute.

We also need to give people time to act on our decisions. The guidance on implementation periods¹ we are introducing in parallel with this Code is another important step forward.

¹ www.businessadviceonline.org/regulationstaxes/implementationguidelines.pdf

Real changes in behaviour are needed here. We have seen examples of excellent consultation. But not always, and I believe we must as a government do better overall.

We must take also advantage of new technology – while ensuring no-one is left behind. Our new central Register¹ of current consultations will be an excellent example of information technology being used to make the democratic process more effective.

This Code aims to ensure we consult better on written documents. It has its origins in views expressed by people regularly consulted, and it was itself published as a draft for comment. It has itself improved greatly as a result of consultation.

Written consultation documents are not, of course, the limit of consultation – they are one tool in the participation process. As the Code makes clear, consultation must be built into the development of an initiative from the start.

I believe the message is spreading throughout the administration that better consultation means better results. My ministerial colleagues and I will continue to work in that spirit.

TONY BLAIR

¹ www.ukonline.gov.uk

General principles

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

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (eg under European Community law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure

The criteria should be reproduced in consultation documents, with an explanation of any departure, and confirmation that they have otherwise been followed

1. This code is intended to **make written consultations more effective, opening up decision-making** to as wide a range of people and organisations as possible.
2. All **UK government departments and agencies** who conduct any public consultation should ensure they have the **arrangements in place** to operate it in respect of **all consultation documents issued from 1 January 2001**. This will include designating a consultation coordinator to oversee the organisation's consultation activities, as outlined under criterion 7, and ensuring the department's own consultation web page, and the central register of consultations¹, are absolutely up to date.
3. **UK non-departmental public bodies**² should be encouraged to follow the code, and contribute to the register. References to 'departments' in this document should generally be read to include agencies and complying NDPBs (and appropriate adaptations should be made where a Minister does not head the body concerned).
4. **Devolved administrations** are free to adopt this code, but it does not apply to consultation documents issued by them unless they do.
5. The code is not about consultation within government, on which other advice is available³. Consultation documents will often require collective consideration within government before issue.

¹ www.ukonline.gov.uk

² www.cabinet-office.gov.uk/quango/

³ www.cabinet-office.gov.uk/regulation/1999/checklist/consultation.htm

Effective consultation

6. 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.
7. 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) The Committee on Standards in Public Life¹ has drawn attention to the importance of consultation with a wide cross-section of the public, without which the **openness and accountability of Government could be impaired**, and the dangers of privileged access magnified (Sixth Report, Chapter 7²). The House of Lords Select Committee on Science and Technology³ has emphasised the need for **open dialogue on science** (Third Report, February 2000⁴). Consultation should always be as wide as the circumstances permit. Other things being equal, public consultations are preferable to closed ones.
8. Really effective consultation will not be achieved solely by following this code, however.
 - a) **Departments need to develop expertise** in the best methods, and learn from each other. To help this process, an **Internet-based best practice forum** will be set up by the Cabinet Office (and the Centre for Management and Policy Studies⁵ will pursue further work in this field as part of its responsibility for Modernising Policy Making).
 - b) A **web-based central register of current public written consultations**⁶ will be introduced shortly, to ensure widest possible awareness of what is being consulted on, with links to comprehensive consultation pages on each department's website.

¹ www.public-standards.gov.uk/

² www.official-documents.co.uk/document/cm45/4557/chap7.pdf

³ www.publications.parliament.uk/pa/ld199900/ldselect/ldsctech/38/3807.htm

⁴ www.publications.parliament.uk/pa/ld199900/ldselect/ldsctech/38/3801.htm

⁵ www.cmps.gov.uk/

⁶ www.ukonline.gov.uk

Detailed guidance on this is being issued. Later on the site will offer users the option of being **notified by e-mail of consultations** in particular areas.

- c) There will also, later, be a **register of forthcoming consultations**, helping organisations to prepare to respond. It will also encourage **'joining up' of consultation documents** between different parts of government: the Performance and Innovation Unit report *Wiring It Up*¹ has emphasised the importance of better consultation, especially on cross-cutting themes.

Wider application and evaluation of the code

9. The code is directed at national consultations – that is, over the whole area of a department's responsibility, which may be England, or may include other parts of the UK – where views are sought from the public. But parts of it may be **relevant to more limited consultations** – which in any event are often put in the public domain – such as those seeking views from professional bodies or departmental trade unions, regional or local consultations, or consultation with local government (which is covered by the Framework for Partnership between central and local government). Departments should consider applying the code to regular consultations of this kind, so far as circumstances allow.
10. Where there are inconsistent statutory or other requirements, departments should, as legislation comes to be reviewed, assess whether those requirements can be brought into line with it. In the EU and international context, departments should seek to ensure that so far as possible the timetable permits compliance with the code.
11. The code replaces the guide *How to conduct a written consultation exercise*. It may be supplemented by more specific guidance, for example the Code produced under the Compact on Relations between Government and the Voluntary and Community Sector². Any such guidance must be consistent with it.
12. The effectiveness of the code will be evaluated starting two years after it is launched, and the results published.
13. Feedback and complaints on individual consultation documents should be sent to the person nominated in them, in accordance with criterion 3. Comments on this guide are welcome to MPS-ConsultationPolicyTeam@cabinet-office.x.gsi.gov.uk; tel 020 7276 1730; fax 020 7276 1705; or by post to Consultation Team, Modernising Public Services Group, Cabinet Office, Admiralty Arch, London SW1A 2WH.

We gratefully acknowledge the work in this field of the National Consumer Council³, whose paper Government Consultations¹: not just a paper exercise was

¹ www.cabinet-office.gov.uk/innovation/2000/wiring/accountability/08.htm

² www.ncvo-vol.org.uk/main/gateway/compact.html

³ cgi.www.ncc.org.uk/cgi-bin/www.ncc.org.uk/kmdb10.cgi/listcurrent.htm

heavily drawn on in preparing How to conduct a written consultation exercise.
The code is, however, the responsibility of the Government alone.

¹ www.ncc.org.uk/pubs/govt_consultations.htm

The consultation criteria

To be reproduced in consultation documents

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The criteria should be reproduced in consultation documents, with an explanation of any departure, and confirmation that they have otherwise been followed

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. 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
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for a consultation
6. 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
7. Departments should monitor and evaluate consultations, designating a consultation coordinator 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: in the context of legislation impacting on business, see Guidance on Implementation: Timing of the Issue of Guidance to Business on Compliance with New Legislation¹.
2. But it will often 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 cooperation 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.
4. The House of Lords Select Committee has commented on some **other forms of consultation that may be helpful** (Third Report, chapter 5²). They include:
 - a) Listening events
 - b) Meetings or seminars with, and visits to, representative groups and other interested parties
 - c) Internet discussions. (The 10 Downing Street website³ offers a forum for these; Departments may want to equip their websites).
 - d) Research, including surveys of consumers and the general public (which may involve the People's Panel⁴), and qualitative research (including depth interviews and focus groups)^{5 6}.

¹ www.businessadviceonline.org/content/pdf/implementationguidelines.pdf

² www.publications.parliament.uk/pa/ld199900/ldselect/ldsctech/38/3807.htm

³ www.pm.gov.uk/default.asp?pageid=7

⁴ www.cabinet-office.gov.uk/servicefirst/index/pphome.htm

⁵ www.cabinet-office.gov.uk/central/2000/guidance_on_government_research_attitudes.htm

⁶ www.cabinet-office.gov.uk/servicefirst/1998/guidance/users/index.htm

5. 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.
 6. **Resources** need to be set aside. Effective consultation may involve significant expenditure of time and money, including outside expertise, and planning in the light of earlier evaluations to ensure value for money (see criterion 7) is important.
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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. It may be useful to include a list of those it is being sent to, to help avoid duplication of effort by respondents.
2. A document should so 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. Departments should always consider whether there is a **particular impact by gender, age, ethnicity or disability; in particular regions, or types of area; or on the socially excluded**. The *Policy Appraisal for Equal Treatment guidelines*¹ are relevant here, as is the *Cabinet Office Departmental Policy Maker's Rapid Checklist*².
3. Regulatory proposals (including EU legislation) that may create **burdens for business, charities or voluntary organisations** should include a **draft Regulatory Assessment**: see *the Good Policy-Making: a Guide to Regulatory Impact Assessment*³. Where a policy may have **significant environmental impacts**, proposals should include a draft Environmental Appraisal: see *Policy Appraisal and the Environment*⁴.
4. A document should make clear **which parts of the United Kingdom** it relates to, and whether it contains proposals which are the responsibility of more than one administration.
5. 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. 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.

¹ www.cabinet-office.gov.uk/regulation/1999/checklist/equaltreatment.htm

² www.cabinet-office.gov.uk/regulation/1999/checklist/intro.htm

³ www.cabinet-office.gov.uk/regulation/2000/riaguide/default.htm

⁴ www.environment.detr.gov.uk/appraisal/index.htm

8. It should be made clear that **responses may be made public 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 especially prominently, so that no-one inadvertently fails to register a wish for confidentiality. In some cases, confidentiality cannot be guaranteed, eg where a response includes evidence of serious crime: this may also need to be brought out.
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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 conclude 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**¹. 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 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 Government'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. In any event an **e-mail, as well as a postal, address should be given for responses**, and preferably a fax number.

¹ www.cabinet-office.gov.uk/servicefirst/2000/plainlanguage/guide.htm

8. Paragraphs in a consultation document should be identified by numbers or letters (in preference to bullets, which are less easy to refer to in responses). Pages should be numbered.
 9. Details (address, phone, e-mail and preferably fax) should be given of a **contact who can respond to consultees' questions**.
 10. Similar details should be given of **someone who will pursue complaints or comments about the consultation process**. This should be a person outside the team responsible for the document: it might be the department's consultation coordinator.
 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. Consultation coordinators should encourage such mergers within departments. Departments should contribute as early as possible to the register of forthcoming consultations when established, 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.
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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. Every effort should be made 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. There may be separate organisations in devolved regions of the UK.
2. The **rest of 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 **press release or similar announcement**.
4. **Documents should always be available free of charge on a website from the moment of publication**, ideally in a range of formats. Internet versions should be quickly downloadable – that is, for example, with the 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.
5. But though effective use of the Internet is increasingly important, people should not be excluded from consultation because they are not Internet users. **Paper copies of documents should always be available**, and paper responses accepted.
6. **Costs to users** should never be such that they are an obstacle to effective consultation. Every effort should be made to avoid charging for paper copies.
7. But the methods above will often not **effectively reach all interested groups**. **Other methods** to be considered include:
 - a) Targeting relevant newspapers and magazines (eg trade and other specialist journals);
 - b) Targeted mailings and e-mail notifications;
 - c) Reproducing the document in **different languages and formats**: consultation coordinators may want to identify providers of translation and other services:
 - i) If a consultation applies to Wales, it may need to be published in **Welsh**. Departments with a Welsh Language scheme should follow it; others should consider any

guidance published by the Welsh Language Board¹ or contact Head of Public and Voluntary Sectors, Welsh Language Board, Market Chambers, 5-7 St Mary Street, Cardiff CF10 1AT; Tel No: 029 2087 8000; Fax No: 029 2087 8001; E-mail: rhys.dafis@bwrdd-yr-iaith.org.uk.

- ii) Where there is a special impact on **other linguistic groups**, or particular **ethnic minority groups**, translation into relevant languages may be necessary or desirable;
 - iii) Requests for documents in a **format suitable for people with visual disabilities** (large print, Braille, tape etc) will need to be responded to quickly, so that the people concerned are not disadvantaged. Where a consultation concerns questions with a particular impact on these groups, other formats should be available from the start, and details should be included in copies of the document. Guidance is available from the Royal National Institute for the Blind². Further guidance on formats will be published by the Central Office of Information³ later in 2000.
 - d) **Face-to-face visits**, presentation and discussion of the proposals with interested organisations, stakeholder groups, user panels etc. Such measures may especially need to be considered where there is known to be a low level of literacy in a group especially affected.
 - e) Funding **outreach activity** by umbrella groups or independent facilitators. This may be particularly appropriate when hard-to-reach groups, with little central organisation, are especially targeted.
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¹ www.bwrdd-yr-iaith.org.uk/

² www.rnib.org.uk/

³ www.coi.gov.uk/

Criterion 5

Sufficient time should be allowed for considered responses from all groups with an interest. Twelve 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.** Proper planning in accordance with this code should avoid consultation periods being limited in order to meet later deadlines. 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 less than twelve 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 reconsultation 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 twelve 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 themselves be complex, requiring a period of weeks to draft responses. Organisations may have many staff or members that need to be consulted, sometimes through a structure of committees with members from all over the country, which will rarely be able to meet simply to fall in with a consultation timetable. An otherwise adequate period may be less so if a **substantial holiday period** falls within it.
 5. In order to ensure consistency between respondents, a provisional view should be taken before the consultation about dealing with **requests for deadlines to be extended.**
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Criterion 6

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

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;
 - c) **Levels of support** among particular groups.
3. **Analysing responses** is never simply a matter of counting votes. The House of Lords Science and Technology Select Committee¹ has drawn attention to the risks 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. It is desirable to **keep as full an account as possible of both formal and informal responses** to consultations; both to ensure that everyone's view is fairly considered, but also, in line with the reasoning of the Neill Committee², to help address any allegation of privileged access.
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 (individual notification may be practicable in the case of those who have replied by e-mail). Respondents who ask why **individual proposals** have been rejected should receive an explanation.
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. Failure to make material available may be incompatible with Open Government or Freedom of Information³ provisions. It is legitimate, in accordance with those provisions, to make a reasonable charge for copying and postage. But where respondents have

¹ www.parliament.the-stationery-office.co.uk/pa/ld199697/ldinfo/ld16sctk/ld16sctk.htm

² www.official-documents.co.uk/document/cm45/4557/4557.htm

³ www.homeoffice.gov.uk/foi/index.htm

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, designating a consultation coordinator who will ensure the lessons are disseminated

1. A single official for each department and agency should be designated as **consultation coordinator** – perhaps the department’s consumer champion¹ – and contact details should be published.
2. He or she 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**² and the **good practice website** (see General Principles, paragraph 8).
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.
 - 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.
5. In the light of this, Departments should **make available annual statistical and qualitative assessments, including information on departures from the code and on cost**. The Cabinet Office will produce guidance on this, and collate the information.

¹ www.cabinet-office.gov.uk/servicefirst/consumerfocus/champions.htm

² www.ukonline.gov.uk