

Code of Practice on Public Consultation



Introduction

This Code of Practice is intended to be used for consultation on all policy, plan and programme formulation that takes place at the Malta Environment & Planning Authority (MEPA). In compiling this document MEPA consulted existing national legislation, the UK Cabinet Office Regulatory Impact Unit's Code of Practice on Consultation and drew on current practice in the Authority. For the purposes of this document, policy is defined as:

'a statement of organisational intent to achieve corporate objectives and outcomes'.

MEPA through the course of regulating the environment and land use planning sectors, produces a number of policy-related documents at different stages of the policy process, not all of which may require the same extent of consultation. This Code of Practice addresses mainly the stage at which formal written plans, policies and programmes are prepared by MEPA for publication. However, what is applicable to this phase should also be applied to those stages of policy making that involve the definition of issues and the outline and formulation of the options, particularly for land use plans.

The Policy Lead Officer and the Consultation Coordinator shall co-ordinate early in the policy process to agree in written form the extent of consultation required for that policy process. Depending on the context, scope, implications and complexity of the document, as well as the cost-effectiveness of going for consultation, a Consultation Plan will be drafted. Agreement should also be reached on the style and form of the consultation document(s); normally these follow the accepted 'house style' (which is outlined in separate guidance).



It should also be noted that the possibility exists that certain documents do not fit easily within the framework summarized in Diagram 1, since despite their name they might be taking the role of a formal written policy. This might be the case for example with many of the legal notices under the Environment Protection Act that transpose EU directives. In this case it is the content that is important rather than the name, and the document author and Consultation Coordinator should ensure that the consultation undertaken matches the scope of the document.

The **purposes of consultation** need to be borne in mind throughout the development of policy (including legislation) to:

- a. **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 and that alternative options are considered and to ensure that the proposed policy is workable.
- b. **Ensure that everyone concerned feels they have had their say** through effective consultation and that as far as possible that their interests have been taken into account.
- c. **To enhance openness and accountability** through consultation with a wide cross-section of the public, without which the dangers of privileged access become magnified. Consultation should always be as wide as the circumstances permit.
- d. In the case of legislation **to ensure that the impact on stakeholders has been duly considered** and as far as possible does not encumber operators unnecessarily

Effective consultation will not be achieved solely by following this code, however,

- a. **Units within the Authority need to develop expertise** in the best methods, and learn from each other. To help this process, an **Intranet-based best practice forum** will be set-up to help in the sharing of ideas and experiences.
- b. It would be desirable, that a **register of forthcoming consultations**, shall be compiled and made accessible. It will also encourage **'joining up' of consultation documents** between different units of the Authority to ensure co-ordination. To this end, the Consultation-Coordinator shall be notified on commencement of a policy, plan or programme, by the lead officer in charge of the preparation. These shall be responsible for a timeline for the duration of the compilation of the policy, plan or programme.



Legal Framework

The law requires MEPA to consult with the public on both planning and environment policy. Of particular relevance in these contexts are the following:

- Developing Planning Act (1992) particularly Articles 18(6), 19(1), 27(2) and 29A(3).
- and
- Environment Protection Act (2001) particularly Article 10(1)

With regards to Planning Policy, Art 18(6) of the DPA specifies that for the preparation of the Structure Plan, “the Authority shall make known to the public the matters it intends to take into consideration and shall provide adequate opportunities for individuals and organisations to make representations to the Authority”. This applies also to subsidiary plans (Subject Plans, Local Plans, Action Plans and Development Briefs) and to other planning policies (Supplementary Planning Guidance). Article 27(2) specifies a minimum period of six weeks for the reception of comments by the public. This article further specifies that the public’s comments shall be taken into consideration and a statement of the representations and responses by the Authority prepared. Once the draft plan or policy has been prepared, it should then be subject to a further round of public consultation, again for not less than six weeks; followed by the preparation of a statement of representations and responses.



CODE OF PRACTICE ON CONSULTATION

The five consultation criteria

Consult widely throughout the process, allowing a minimum of 6 weeks and a maximum of 12 weeks for written consultation at least once during the development of the policy.

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

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

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

Monitor your unit's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

These criteria must be reproduced within all consultation documents.

Consult widely throughout the process, allowing a minimum of 6 weeks and a maximum of 12 weeks for written consultation at least once during the development of the policy.

1.1 Consultation is a continuous process that needs to be **started early** in the policy development process. Formal consultation may be supplemented by informal consultation at any stage.

1.2 It is important to identify proactively relevant interested parties, including relevant non-governmental organisations meeting any requirements imposed under national law, such as those promoting environmental protection and those whom the policy will be likely to affect. These groups should be contacted and engaged in discussion as early as possible in the policy development process. So, for example, the Kamra Tal-Periti, for non-development plan planning policies, and Local Councils, for Local Plans, are bodies which should be involved at an early stage. **Particular attention** should be given to **internal consultation** at this stage in the process.

1.3 The public should be informed whether by public notices or other appropriate means such as electronic media where available, about any proposals for such policies, plans and programmes or for their modification or review. The public is entitled to express comments and opinions when all options are open before decisions on the policies, plans and programmes are made. Informal consultation, both internal and external, may be conducted prior to the written consultation period.

1.4 The formal consultation period (and for statutory planning policies, the two consultation periods) should always include a written consultation exercise, at least one public meeting and a consultation document. **This written consultation period should be a minimum of 6 and a maximum of 12 weeks.** During this period, it will be especially useful to directly target those stakeholders who are likely to be able to offer informed, specialist views on the specific policy.

1.5 Although there will sometimes be circumstances that require a consultation period of less than 6 weeks and more than 12, this should not apply to statutory planning policies and should, in other cases, be the exception and should be avoided wherever possible. Such circumstances may be timetables set out in statute; those unavoidably dictated by EU or other international processes; those tied to the Budget or other annual financial cycles; measures where there is a health and safety or security dimension; or some other urgent requirement for the introduction of new measures. Where further consultation takes place on the basis of amendments made in the light of earlier consultation, a shorter period of consultation may also be appropriate.

1.6 Where a consultation takes place over a holiday period or lasts less than 12 weeks, extra effort should be made to ensure that the consultation is still effective, by supplementing the written exercise with other methods of consultation.

1.7 Where a consultation period is less than 6 weeks, this must be highlighted in a consultation document, which should explain MEPA's reasons for this, and the extra efforts taken to ensure that the consultation is as effective as possible. MEPA should ensure that the document outlines the consultation process and highlights the main issues for discussion.

1.8 Some stakeholders, including children and consumers, may be particularly difficult to reach. It is important to engage proactively with individuals, organisations and trade associations. Written consultation is not the only or even always the most effective means of consultation. Other forms of consultation may help in this process. These might include:

- stakeholder meetings;
- public meetings;
- web forums;
- public surveys;
- focus groups;
- regional events; and
- targeted leaflet campaigns.



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

2.1 Policy documents may sometimes be large and complex, written in a language that may be too technical for public consumption. For this reason, where deemed necessary by the Consultation Co-Coordinator, the policy document should be accompanied by a simpler document, which guides the public to the key areas of the main document without closing the avenue for generalised comment.

The simpler document should ask focused questions, and be clear about the areas of policy on which you are seeking views. Responses that do not refer to the specific questions asked should still be accepted. Encourage respondents to provide evidence, where appropriate, to support their responses.

2.2 State any assumptions made about those who are likely to be affected by the proposed policy.

2.3 As far as possible, consultation should be completely open, with no options ruled out. However, if there are things that cannot be changed because, for example, they are part of a European Directive or due to prior Government commitments, then make this clear. The risks and consequences of doing nothing should be outlined.

2.4 If there are particular areas where respondents' input would be especially valuable, make this clear as well. Responses are likely to be more useful and focused if the respondents know where to concentrate their efforts.

2.5 Representative groups should be asked when responding to give a summary of the people and organisations they represent.

2.6 Provide a list of consultees as an annexe to your consultation document and ask for suggestions of other interested parties who should be consulted. It may also be helpful to refer to any earlier or informal consultation.

2.7 Clearly state the deadline for responses and any alternative ways of contributing to the process in the consultation document.

2.8 Explicitly state both who to respond to and who to direct queries to, giving a name, address, telephone number and e-mail address. This may be the same person.



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

Language

3.1 MEPA will ensure that the consultation document and, where applicable, the non-technical Executive Summary are available in both Maltese and English.

3.2 Clear

Use plain language: avoid jargon and only use technical terms where absolutely necessary. Make your objectives clear. A consultation should be as accessible as possible with as wide a media mix as possible. Explain complicated concepts as clearly as possible and, where there are technical terms, use a glossary.

3.3 Concise

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

3.4 Accessible

Ensure that the consultation documents are available in paper format and with the fullest use of electronic means. They should be available and easily found on the internet from the day that the consultation is launched. Most policy documents should be made available, at a nominal cost, on CD as this is a relatively low cost way in which those interested may gain access not only to the policy document itself but to accompanying maps and to any background papers.

3.5 Efforts should be made to bring the consultation to the attention of all interested parties. The formal consultation processes required by legislation should be announced and

introduced by formal advertisements in the press. As well as using the internet the Authority should consider publicising the consultation in ways most appropriate for the publics it wishes to reach through the use of current technologies including radio and TV.

3.6 Interested parties should be able to respond electronically if they choose. Produce documents in electronic formats appropriate to achieving wide accessibility. Consider the range of electronic response methods to ensure that providing a response is simple, engages a broad range of people and encourages discussion. Costs to users should never be such that they are an obstacle to effective consultation.

3.7 Access should be provided to groups who cannot access consultations both in written or electronic form.

3.8 The whole community should be made aware of the consultation to ensure equal access to all. Special effort must be made to ensure that disadvantaged groups are reached in the process of the participation.

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

3.10 The consultation criteria should be reproduced in all consultation documents. Explicitly state that the consultation should abide by these criteria.

Invite respondents to comment on the extent to which the criteria have been adhered to and to suggest ways of further improving the consultation process. Explicitly state whom to contact if respondents have comments or complaints about the consultation process. This should be someone outside the team running the consultation, and is likely to be the consultation co-ordinator of MEPA.



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

4.1 Responses should be carefully and open-mindedly analysed and given their due importance. The Authority will not simply count the number of responses but will evaluate the argument. In order to ensure that responses are analysed correctly, it is important to understand whom different bodies represent, and the methodology used to gain members' input into the response.

4.2 Particular attention should be paid to:

- possible new approaches to the question consulted on;
- further evidence of the impact of the proposals; and
- strength of feeling among particular groups.

4.3 The consultation document should include the web address where the summary of responses will be published. The Local Councils shall be advised a week before these comments are to be published. Those without web access should be able to request a paper copy of this summary. Feedback should also be available in formats, which are appropriate to the audience.

4.4 The summary should give an analysis of the responses to questions asked: for each question there should be a summary of responses to that question and then an explanation of how it is proposed to change the proposal in light of the responses received. There should also be information provided on themes that came out of the consultation which were not covered by the questions.

4.5 Wherever possible the summary of responses should also include a summary of the next steps for the policy, including reasons for decisions taken.

4.6 Explain who will use the responses and for what purpose, and make it clear that responses, including the names and addresses of respondents, may be made public unless confidentiality is specifically requested. The Authority shall ensure that this procedure is clearly explained in the consultation document. Individual responses should be made available in accordance with the Data Protection Act 2003.

4.7 When providing copies of responses, it is legitimate to make a reasonable charge for copying and postage. The price of the document shall not exceed the cost of printing and distribution.



Monitor your unit's effectiveness at consultation, including through the use of a designated Consultation Coordinator

5.1 The Authority will have a nominated consultation co-ordinator, who should liaise with the policy focal point and ensure that the consultation code is followed. The -Coordinator will act as an adviser to those conducting consultation exercises.

5.2 Consultation should be evaluated for effectiveness, looking at numbers and types of responses, whether some methods of consultation were more successful than others, and how the consultation responses clarified the policy options and affected the final decision.

5.3 This evaluation should be used to inform future consultations in the unit, and lessons learnt can be disseminated in the Authority.

5.4 The Consultation Coordinator should collate information regarding how many national consultations the Authority has carried out and any deviations from the code, with the reasons given for these.

