

Review of the DTI's Business Support

Comments by Mark Boleat

In June 2001 the Department of Trade and Industry (DTI) announced reviews of its priorities and structure and its support for business. This paper comments on a particular, but important, issue relevant to the reviews – the relationship between the DTI and trade associations and other representative bodies.

The importance of good policy-making

Good government is about policy making and not just service delivery. The Cabinet Office paper *Better Policy Delivery and Design* (March 2001) was confined to the public sector implementing government policy. But in many areas policy is directed at the private sector – either to stop something being done or to encourage it. For example, the private sector has been expected to implement government proposals on individual savings accounts, stakeholder pensions, the Quality Mark scheme in the building industry, universal banking etc etc.

Where there are problems it is always tempting to attribute these to poor implementation; that is the policy is fine but those responsible for implementing it have failed. In practice, the problems often lie in policy formulation. All too often the means becomes the objective and the end is lost sight of; eg a Universal Bank rather than banking facilities for the poor, take up of the Quality Mark scheme rather than getting rid of cowboy builders, promotion of ISAs rather than encouraging savings, providing token help to small businesses (the 10% tax rate – but only for companies - and help on payroll) rather than addressing real problems.

This is largely a matter for government. The current environment is not conducive to good policymaking –

- There is no proper scrutiny of policy or legislation by Parliament, the Opposition or the media.
- The policy-making process is seen as being closed – a small number of unelected people are considered to have undue influence while normal channels (the Civil Service included) are not always used to their full effect.
- Those who seek to be constructive by pointing out why something will not work and suggesting how the objective could be achieved tend to be seen as being obstructive. Constructive comment is, in effect, discouraged.

The role of consultation in the policy making process

Good consultation with stakeholders facilitates an efficient policy making process. It should ensure that all interests are properly considered. As important, it is a useful tool for the policymakers. The consultation process may well throw up issues that had not previously been considered or fully thought through. Consultees may well be able to point to a more effective way of pursuing a specific objective.

Formally, the government has recognised the importance of good consultation. In November 2000, the Cabinet Office published a code of practice on written consultation. The code has an introduction by the Prime Minister, indicating a serious commitment to the subject.

The code lists seven criteria that must be followed. These are required to be reproduced in consultation documents, with an explanation of any departure and confirmation that they have otherwise been followed –

- 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.
- It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
- 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.
- 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.
- 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.
- 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.
- Departments should monitor and evaluate consultations, designating a consultation coordinator who will ensure the lessons are disseminated.

On matters of detail the consultation process may work quite well. The new regime is at least being observed, unlike its predecessor, which was widely ignored. However, the consultation process is still not effective for the reasons outlined in the previous section. Sometimes it is clear what the government wants, that is for the rest of the world to agree with it. The emphasis seems to be on getting the government's message over rather than listening to the views of others. The consultation process can therefore be a fiction with the private sector telling the government what it wants to hear. A typical trade association response to a consultation document will begin with the words: "We fully support the Government's objective but have some comments on the detail of what is being proposed". This can be translated as: "The Government's proposals are unworkable and will not achieve their objective. However, it is not in our political interests to say so, so we will go along with what is being proposed and try to minimise the damage to our members."

It would be salutary for the DTI to commission reviews into the consultation process for three initiatives which have not gone according to plan –

- The proposals for a Universal Bank (or universal banking).
- The Quality Mark scheme in the building industry.
- Legislation to discourage late payment of bills.

It could well be discovered that what was being said formally in the consultation process was rather different from what organisations actually believed.

A wider policy on representation

Even if the Government conducts its side of the consultation process properly the process may still not be effective either because interest groups are ineffective or because policymakers consult the wrong interest groups or give the wrong weight to the views of particular groups.

A good representative body that effectively represents its constituency can be helpful to the process of government by making more effective and simplifying the consultation process and also by acting as a check to ensure that what the government wishes to achieve is actually achieved. Most representative work by trade associations and other representative bodies is concerned with making government policy work rather than changing government policy. It is the detailed scrutiny of all forms of legislation and guidance that is important rather than publicity-seeking press statements.

The Cabinet Office code recognises that trade associations and other representative bodies can facilitate the consultation process: “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.”

The government needs a policy on representation that goes well beyond the new code of practice. This is a good starting point but it is not sufficient. The government needs to have in place arrangements that encourage and give due weight to proper representative bodies. An essential part of this is being able to know just how representative a body is. First impressions are often wrong here. The least representative bodies are often able to get maximum media impact because they can speak instantly without having to consult their members and without their members criticising the line being taken. Such bodies may also use the media as a means of gaining additional membership or just for massaging the egos of the people who run them.

Britain has seen a burgeoning of interest groups, all of which seek to influence government. The current *PMS Guide to Interest Groups* lists 500, ranging from small single interest groups, some with one or two staff and many manned by volunteers, to substantial interest groups such as Age Concern England and major trade associations. Many have privileged access to government, including discussion of policy proposals at an early stage. They have privileged access to the media, often out of all proportion to their importance. But many are unaccountable and secretive. Surely it is important to know whether the British Association of Widget Manufacturers represents the whole widget manufacturing sector, or rather whether it has been set up by a disgruntled former member of staff of the Association of Widget Manufacturers and has just two members operating from an upstairs bedroom somewhere in Watford? Similarly, does the (mythical) National Association of Insurance Customers have three million members who have signed up to its constitution or does it represent 28

people all with the same surname? And does the fact that the Consumers' Association has 700,000 members mean that it represents them or are they members merely to buy *Which?* every month?

The point is usefully illustrated in the list of consultees for the current DTI consultative exercise on Modernising Trading Standards. The consultees appear to have been partly selected on a random basis. Why the Association of Master Upholsterers and Soft Furnishers but not any of the construction trade bodies? Why the Society of Local Government Chief Executives but not the Local Government Association? And why the Union of Independent Companies?

A representative body meeting a civil servant or a minister can turn to *Dods* and other reference books and find out as much as they need to know about the person they are seeing and their position. A civil servant has no ready reference book on representative bodies. In a number of countries, the USA and Canada for example, representative bodies are required to register, and information about them is readily available. This would be a very bureaucratic approach. There are several ways in which a similar result could be achieved in Britain. All would build on a principle in the Cabinet Office code of practice on consultation: "Representative groups should be asked in responding to give a summary of the people and organisations they represent."

The first would be for the government to endorse a directory of interest groups (as in effect it endorses *Dods* and *Vachers*). The directory would have to impose strict standards of disclosure of information. The directory would then become the authoritative "bible" on interest groups.

A variation on this would be for individual departments and agencies to draw up their own directories by requiring the necessary information from organisations they consult. This should be part of an overall policy on consultation. A number of regulatory bodies (for example the Financial Services Authority and Ofcom) have such policies.

A final option would be for the government to throw the problem back to the trade associations by challenging them to produce a code of practice and an on-line directory of trade associations that subscribed to the code. It would be more difficult, although not impossible, to use this mechanism to handle other interest groups.

In his recent publication *Good Practice in Trade Association Governance* the author has suggested a model accountability statement for trade associations that could be used as the basis for a directory. A copy of this is appended.

Weighting policy representations

Some government departments give the impression that their policy is to weight each response equally. Even worse, many consultation documents include an expression that even where people have asked for their views to remain confidential, they will be taken into account in any "statistical analysis of responses". Trade bodies have received messages directly and indirectly from officials that government departments are influenced by the number of responses on a particular issue and that the responses of representative bodies are not adequately weighted.

It is difficult to see how the process of government can be helped by a trade body arranging for all its 400 members to say broadly similar things rather than the trade body putting in one response representing 400 companies. The government needs to deal with this problem if it is to improve the policy-making process and prevent officials being overwhelmed with huge numbers of responses to consultation exercises saying similar things.

Encouraging representative bodies to be more effective

The government could go further in some sectors to help develop a more effective network of representative bodies. Encouraging openness on their part would help by exposing just how unrepresentative some bodies are. Also, by being publicly or privately critical of ineffective representative bodies, the government could do much to promote the effectiveness of this informal arm of the political process in a way that could benefit itself. There is a simple way that government can do this. Leaders of an industry are often only too well aware that their representative structure is inadequate. But the politics of trade associations is such that a catalyst is needed before any change is possible. A simple comment by ministers that an industry is poorly represented can often be sufficient to galvanise industry leaders into action.

The need for joined-up government

Governments have not generally had a policy towards representative bodies. This is no longer consistent with the steps being taken to improve the quality of policy making. Currently, responsibility for policy towards trade associations rests with the DTI while responsibility for the process of government rests with the Cabinet Office. With very modest expenditure the DTI has in fact contributed greatly to an improvement in the effectiveness of trade associations over the last few years. It has funded a number of projects undertaken by the Trade Association Forum and has otherwise given encouragement to the activities of the Forum. It has also taken some initiatives in particular sectors where there has been a need to rationalise the trade association structure.

However, such work is of limited value if government generally does not see trade associations as adding value to the policy making process. There is a case for the Cabinet Office to take over the current responsibilities of the DTI if it is in the driving seat of improving the process of government. However, it would equally acceptable if there was a consistent policy being followed by the two departments. It is less important where responsibility lies than that responsibility should be accepted.

Summary

- Interest groups can greatly improve the quality of the decision making process in government.
- The code of practice on written consultation is a good starting point for the way that government consults interest groups.
- Policy needs to develop further, in particular though enabling departments and agencies to be better informed about the nature of interest groups. There are a number of ways in which this can be achieved, at no cost to government, built around the principle that trade associations and other interest groups should be open about who they represent and that information about them should be readily available to policy makers.

- The government should take a more proactive stance to improve the quality of interest groups, for example by being openly critical of those that are ineffective and by encouraging rationalisation where this is needed.

The author

Mark Boleat is an independent consultant specialising in trade associations and the relations between government and business. He has been Director General of three major national trade associations (the Building Societies Association, the Council of Mortgage Lenders and the Association of British Insurers), he started the first benchmarking projects between associations and he founded the Trade Association Forum. His publications include *Trade Association Strategy and Management*, *Models of Trade Association Co-operation* and *Good Practice in Trade Association Governance*.

He has facilitated the rationalisation of trade associations in three sectors – on two occasions with DTI funding – and has assisted a number of associations to improve their governance structures and effectiveness generally.

He also has direct business experience as a director of two listed companies (Comino Group and Countryside Properties) and three insurance companies, and experience of the handling of public policy issues as a member of the National Consumer Council and of the Gibraltar Financial Services Commission.

Mark Boleat
Boleat Consulting
26 Westbury Road
Northwood
Middlesex
HA6 3BU

Tel: 07770 441377
Fax: 01923 836682
E-mail: Mark.Boleat@btinternet.com
Website: www.martex.co.uk/boleat.

Appendix

Model accountability statement for a representative body

[This is drafted for a trade association but can be easily adapted for any interest group.]

A trade association should be totally transparent as to its membership, the markets it seeks to represent, its governance and its policy views.

Status statement

Each association should have a status statement that should be posted on its website, and included in its annual report, any list of members and any promotional material.

The statement should comprise –

- Usual contact details – name, address, phone, fax, e-mail and website.
- Name of chief elected officer and position in his or company (not necessarily appropriate to be included in a list of members or promotional material).
- Name and title of chief executive.
- Mission statement.
- Description of market covered.
- Number of members and percentage of market covered by volume of business.
- Relationships with any related bodies.

Annual report

Each association should publish and make available on request an annual report or other document or documents (including a website) that should include –

- The information that is in the transparency statement.
- A list of members. [Where membership exceeds a certain number, the names of the largest members and a description of the membership.]
- A list of the officers and the members of the governing body together with their positions in their companies.
- A summary income and expenditure account and balance sheet. Subscription income should be specifically identified.
- A list of formal policy papers published during the year and details of how they can be obtained.

Policy submissions

Other than in exceptional cases, formal policy submissions should be public documents and available either at no cost or at no more than a reasonable handling charge.

Formal policy submissions should include a statement of the sector covered by the association and the market share its members represent.