

The role of interest groups in improving the policy-making process

In November 2000 the Cabinet Office published a Code of Practice on written consultation. The Code has an introduction by the Prime Minister, itself indicating the seriousness with which the government now takes the subject.

The Code recognises the special position of trade associations and other interest groups. This paper suggests that the government should build on the Code to develop a more general policy for dealing with interest groups, not because this is desirable in its own right, but rather because it should lead to more effective policy making. The paper concentrates on trade associations but is largely applicable to all types of interest group.

Application of the Code of Practice

The criteria in the code apply to all UK national public consultations on the basis of a document in electronic or printed form and are regarded as relevant to other sorts of consultation. The Code states that the criteria should generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

A web-based central register of current public written consultation will be introduced shortly, with links to comprehensive consultation pages on each department's website. In due course the site will offer users the option of being notified by e-mail of consultations in particular areas. There will also, later, be a register of forthcoming consultations, helping organisations to prepare to respond.

The consultation criteria

There are seven criteria that are required to be reproduced in consultation documents, with an explanation of any departure and confirmation that they have otherwise been followed.

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.

Criterion 2

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

There is an important point for interest groups in the explanation of this criterion: "Representative groups should be asked in responding to give a summary of the people and organisations they represent." A similar requirement in the previous Code was almost universally ignored.

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.

The document sees trade associations and other representative bodies as a means of facilitating 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.”

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.

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.

This is an extension from the previous minimum time period of two months. At first sight it is a welcome development but it runs the risk of slowing down the policy making process unreasonably and in some cases encouraging departments not to consult at all.

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.

The Code makes an important point which is relevant to representative bodies: “Analysing responses is never simply a matter of counting votes. The House of Lords Science and Technology Select Committee 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.”

Criterion 7

Departments should monitor and evaluate consultations, designating a consultation coordinator who will ensure the lessons are disseminated.

The coordinator must 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. Departments are required to evaluate consultations once complete – perhaps with independent involvement. Departments are also required to

make available annual statistical and qualitative assessments, including information on departures from the code and on cost.

The importance of the Code

The new Code represents a significant departure for the government. Previous attempts to improve the quality of written consultation have largely failed – because there was little incentive for departments to take any notice of what the Cabinet Office said, or even to be aware of what it said. The compliance arrangements are probably the most important feature of the new Code. Perhaps the Cabinet Office has learned a lesson from the private sector – that codes of practice without comprehensive compliance arrangements are not worth the paper they are written on.

A wider policy on representation

A good representative body that manifestly 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 good representative bodies is actually 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 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 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 as 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 annual PMS guide to pressure groups lists no fewer than 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. These bodies play an important part in the political process. 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?

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. 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. But a similar result could be achieved by the government endorsing a directory of interest groups (as in effect it endorses Dods and Vachers) or individual departments and agencies drawing up their own directories by requiring the necessary information from organisations they consult. The author has suggested a model accountability statement for trade associations in a recent book on trade association governance that could be used as the basis for a directory. A copy of this is attached as Appendix 1.

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 possibly 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 take urgent action 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.

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.

Summary

- The code of practice on written consultation is a good starting point for the way that government consults interest groups.
- Interest groups can greatly improve the quality of the decision making process in government.
- Policy needs to develop further, in particular though enabling departments and agencies to be better informed about the nature of interest groups.

- 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.

Appendix 1

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.