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The policy inclusion framework

Comments by Mark Boleat on Government of Jersey consultation document

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Introduction

1. On 16 November 2022 the Government of Jersey published a consultation document [The Policy Inclusion Framework](#). This is based on a longer document the [Jersey Policy Inclusion Framework](#) (“the full document”). This framework comprises engagement good practice guidance and a policy engagement toolkit, which are based on an engagement pyramid structure. Comments are sought by 6 February 2023.

2. This response is a personal response by someone with substantial experience of public policy in the UK and Jersey as chair of two government owned businesses and one regulator in Jersey, chief executive of major UK trade associations and author of a number of papers on consultation and policy development.

3. The response is disjointed, covering some issues on which no questions were asked, but covering the important points. This reflects a disjointed consultation document(s), covered subsequently.

Summary

4. The framework is basically sound but not user-friendly.
5. The Government is poor at transparency – both in providing evidence to support the policy-making process and in publishing in an accessible way agreed policies.
6. The framework is unduly focussed on engagement with individuals rather than with charities, businesses and representative bodies. There is at times an implication that the engagement process is a substitute for proper policy development work.
7. Regular polling is essential to facilitate better policy-making. This could usefully be modelled on the Ipsos Issues Index.
8. Consultation is currently very poor. Consultations are often badly framed, lack essential background information, rely on poorly constructed surveys for responses and are not followed up with publication of an analysis of the responses. A comprehensive and enforced code of practice, which should be a public document, is needed.
9. Misuse of the term “proposition” and failure to publish agreed policies must be tackled in order to ensure transparency. Referring in public documents to, for example, P.111/2021, which was a proposition to the States Assembly, as if it is agreed policy and that the public are expected to know what it refers to is unacceptable.

General comments

10. The framework is sound in principle. However, it is focussed on individuals rather than organisations that have relevant expertise and experience. Charities (eg Age Concern and Autism Jersey), organisations providing public services (eg Jersey Family Nursing) and trade associations – sectoral (eg Jersey Hospitality Association) and broad-based (eg Jersey Chamber of Commerce) are particularly well placed to contribute to policy development. Level 4 – “producing” refers to “Citizens assemblies and juries, ongoing forums or deliberative workshops, robust feedback loops”. It is significant that representative bodies and charities are not considered relevant at this stage. Similarly, in the background section of the full document it is stated that –

Public engagement describes "the practice of involving members of the public in the agenda setting, decision making, and policy forming activities of institutions responsible for policy development".

This takes a very narrow, and wrong, view of public engagement.

11. The paper fails to recognise the importance of engagement being supported by a sound evidence base. It is almost as if the consultation process can be a substitute for proper policy development work, which involves research and analysis by suitably qualified people and preliminary consultation with relevant experts. In some cases, for example the consultation on population policy in 2021, the evidence was actually prepared but then not made available to the public who were asked for their views with minimal facts or analysis to help them.

Transparency

12. The full document includes the following –

ensuring that information is open and accessible to all, that Government is accountable to Islanders for the decisions it makes, and that decision making is transparent and responds to the views and needs of Islanders.

13. Performance in this respect is currently abysmal. This is recognised in the excellent [Engagement and Information Improvement Report](#). The recommendation in this report is fully supported -

all key areas of government policy should have a dedicated page on gov.je containing relevant information, policy documents and public announcements. These pages should be organised by area of ministerial accountability.

14. However, there is little confidence that this will actually be implemented and if it is done by areas of ministerial responsibility the chances are that there would be no consistency. It would be more sensible to organise the pages by subject not by area of ministerial responsibility, partly because some subjects cross ministerial departments and also because it is not clear to outsiders which minister is responsible for which area. It is essential that this recommendation is implemented but it should be the responsibility of one person or organisation. The Policy Centre Jersey, which is in the process of being established, is willing to take on this responsibility. It has already prepared a number of such pages , which will be published on its website.

15. Another example of lack of transparency has been the practice of issuing a press release announcing a new report but without a link to the report or in some case without the report even being published. This happened for example with the Jersey Care Model Review Report and the independent reviews of the emergency services. It is understood that arrangements are now in place to ensure that this does not happen again – but it is worrying that the practice was allowed to continue for so long without seemingly anyone being concerned about it.

16. Relevant to this point is misuse of the concept of “propositions”, which are invariably presented as being agreed policy. This is covered in more detail subsequently. Finally on this point many of the key policy documents produced by the government are not available on the government website at all but rather can only be accessed from the States Assembly website as part of a proposition, and then only by those very few people who have the knowledge to navigate a very complex website with a terrible search engine. I have submitted a separate report on accessibility of documents on the States Assembly website, available on request, much of which is relevant.

17. Finally on transparency, it simply cannot be acceptable that the guidance on consultation is an internal document.

Stakeholder groups

18. The full document (paragraph 13) recognises the importance of stakeholder mapping but then includes a comment which is worrying –

and the establishment of an Older Persons Living Forum to ensure that older Islanders have a say on matters that affect them and the Island as a whole.

19. The establishment of such a forum cannot remotely “ensure” that older islanders have a say. It is understood that 14 people attended the first meeting of the Forum. There is nothing on the Government of Jersey website to indicate who these people are, how they were selected, the agenda for the meeting and the outcome of the meeting, all of which flies in the face of commitments on transparency. The terms of reference state that minutes of meetings will be posted on the government website; this has not happened. A request to the relevant officer for the names of the members of the Forum was responded to only after more than six weeks with an email that included the terms of reference and the criteria for membership but with no names. It is understood that the meeting was unsatisfactory, but it seems that the real objective is to have an “Older Persons Living Forum” rather than “to ensure that older Islanders have a say on matters that affect them and the Island as a whole”. It is of course vital that the views of elderly people are fully taken into account in the policy-making process. This needs to be done through multiple channels including –

- States Assembly members, some of whom count as elderly and all of whom who were elected by voters who disproportionately are the elderly. 53% of over 65s voted in the General Election compared with just 17% of the under 35s. Assembly members should be well qualified to know and be able reflect the views of the elderly.

- The Jersey Opinions and Lifestyle Survey gives valuable information with an age breakdown for some of the results – and presumably an age breakdown can be made available for all of the results.
- Regular polling (covered in paragraphs 23-24) should provide valuable data.
- On specific issues focus groups are appropriate.
- Age Concern is an excellent charity and of all organisations in the Island is best placed to know and be able to reflect the views of the elderly.
- Providers of services to the elderly, such as care homes and social housing providers, have a good insight into issues facing their clients.

20. How the views of the elderly should be sought on specific issues should depend on the nature of the issue. If the Forum is properly constituted and well managed – that is members are provided with appropriate information to enable them to contribute effectively – then it should be one useful means of obtaining the views of the elderly. But to suggest that it alone will “ensure that older islanders have a say” is absurd and deeply worrying.

21. Exactly the same comments can be made about young people. The Jersey Youth Parliament is a valuable resource but like the Older Persons Living Forum it is not nearly sufficient.

22. More generally, the “Producing” section of the draft guidance completely ignores key stakeholders – saying this can be done only through citizens assemblies and juries, ongoing forums and deliberative workshops and robust feedback loops. Paragraph 26 of the full document at least acknowledges that the “Government also engages with citizens via a local network of third sector organisations, charities and forums”. There follows a listing -

- Jersey Library, Highlands College and Jersey Sport;
- Community organisations and charities such as Recovery College; Salvation Army; Caritas; Mind; Shelter Trust; Autism Jersey; Friends of Africa; Liberate and Les Amis;
- Community forums such as Care Ambassadors and the Care Survivors Network; and
- Professional forums such as the Motor Traders Association and Sustainable Finance Group.

This is a very odd listing, with only one representative body, the Motor Traders Association, being mentioned and it is a trade association rather than a professional forum. And how the (excellent) Jersey Library gets on to this list is baffling.

Polling

23. Paragraph 29 of the full document makes an important point on polling –

Having compared Jersey's current practice with best practice in other jurisdictions (see Annex B), an identified gap is polling (i.e. the continuous monitoring of public opinion through mass surveying). Polling would assist Government in understanding public opinion on a broad range of issues, in turn allowing Government to assess its priorities and how policies might be received.

24. This view is fully supported – policy making in Jersey is seriously “evidence-light”. Various options for polling are considered. Whatever system is selected it must produce data that can be compared with data for the UK and possibly other jurisdictions; indeed this might usefully be a joint project with Guernsey. The best model is probably the [Ipsos Issues Index](#) which on a monthly basis asks the question “What do you see as the most/other important issues facing Britain today?” The local firm 4Insight could probably easily do a similar study for Jersey, although perhaps quarterly rather than monthly, and the published report should include the Ipsos Issues figures for the UK as a comparator.

Consultation

25. Effective consultation is an essential part of the policy making process. Jersey's performance is poor in this respect. It is not helped by lack of clarity as to what the existing arrangements are. There seem to be three current documents all of which give guidance on how consultation should be done –

- The full document states: “The Framework will be accompanied by internal guidance to ensure that officials know who, when and how to engage with the public on policy matters. The guidance is high level and based on the Engagement Pyramid structure and good practice principles. This guidance will supersede existing [Government consultation guidance](#), though key principles will remain.” Clicking on the link produces an undated page on the government website with a ten point code of practice and link to the “States of Jersey consultation portal” which produces nothing.
- Putting “consultation code of practice” into the search engine on the government website produces a 2015 [document](#) with a seven point code of practice.
- The Engagement and Information Improvement Report refers to “consultation Code of Practice, can be found on the Government of Jersey's Intranet.”

26. An obvious question is why the guidance should be an internal document, hardly consistent with the commitment to transparency. As there is confusion as to how consultation should be done it is not surprising that there is substantial variation in practice. A cursory review of a number of consultations suggests the following –

- Consultation documents that do not have basic housekeeping matters such as closing date for consultations, how responses should be made, a contact point for queries and when a response to the responses can be expected. Sometimes these are covered in the accompanying press release, which is not sufficient.
- Not including consultation questions in the consultation document but only in an online questionnaire.
- Failure to include available information and analysis that help responders make an informed response.
- Poor quality surveys some of which are simply a tick box approach and which fail to ask basic information about the characteristics of responders and with little attempt to get a representative response (which means that warm words about diversity are meaningless). The proposed good practice principles on surveys simply refer to using online survey tools and using external providers, with nothing about questionnaire design (eg no leading questions), how to secure a meaningful response or how to analyse responses.
- Improper use of statistics, in particular by failing to give the total number of respondents and related to this giving percentages to unrealistic degrees of precision.
- Failure to publish an analysis of responses and the government response.

27. To illustrate these points, 11 consultations, all of which had closure dates before the end of April 2022, have been briefly examined in respect of one specific point – analysis of and response to the consultation responses -

- For seven of the consultations (digital survey for children and young people, Bagatelle Road safer routes to school, amendments under the proceeds of crime legislation, regulation of public appointments, proposed changes to the corporate income tax filing deadline, tree protection legislation, children's social work and mental health proposed fees) there is no analysis of or response to the responses that is easily findable on the government website.
- They were good responses to the responses on new rules for the provision of information by partnerships to Revenue Jersey and the right sizing survey.
- The response to the responses to the consultation on proposed new conservation areas in Jersey was very detailed but was undated,

provided no context and gave no indication of the number or characteristics of respondents.

- The revised code of practice on safe use of rider operated lift trucks simply stated that suggestions in the consultation had been taken into account.

28. So out of the 11 exercises considered there was an appropriate analysis of the consultations and a proper government response in only two of the cases and in another case the very detailed response was spoilt by the absence of basic information about who responded to the exercise. There is well founded scepticism about the consultation process in Jersey which both makes stakeholders less willing to put the work in to provide an authoritative response, and which contributes to poor quality policy making.

29. A good example of really poor consultation was the exercise on population policy started in July 2021. The consultation process was flawed in a number of respects -

- The questionnaire could be completed only by Jersey residents as a parish of residence had to be given and without this none of the questions could be answered. The introduction on the Government website stated that “this consultation is open to everyone living in Jersey”. It is difficult to understand why the many people with strong connections to the Island, some of whom regard Jersey as their home and plan to return to live in the Island, were barred from participating, while someone who had lived in Jersey for just a month and planned to leave shortly was able to participate. It needs to be borne in mind that currently there are some 20,000 people living outside the Island who would qualify as “entitled” if they returned.
- Virtually no factual information was given to help people reach a view on important issues. This is bad practice. It is even more so when States Assembly members were given an excellent paper with the convoluted title [Developing a common population policy: in committee debate](#) for their in-committee debate on 19 March 2021. This paper, with a few modifications (mainly to remove the points specific to the debate), should have been published and referred to in the consultation.
- In practice the consultation took the form of completing an online questionnaire and the only way that anyone could know the consultation questions was actually by completing the questionnaire.
- Many of the questions or options were poorly phrased or in some cases irrelevant (for example a question on whether there was too much traffic on the roads). It is unfortunate that the opportunity was not taken to ask people a very direct question about the trade-off

between maintaining the size of the working population and the financial implications of not doing so.

30. It is helpful that the deficiencies in the current process are recognised to a limited extent in the consultation document. Jersey needs a realistic code of practice for consultation documents, which should draw on best practice including -

- [OECD consultation principles](#)
- [Cabinet Office consultation principles](#)
- Papers published the [Consultation Institute](#)
- Codes of practice of local authorities, eg that of [Cambridge City Council](#).

31. The code of practice, which should be a public document, at a minimum should provide that –

- Consultations should be meaningful, not going through the motions of pretending to consult. If decisions have been made then these should be clearly stated with the consultation focusing on areas where views are genuinely sought.
- The body of the consultation document should include the purpose of the consultation, the deadline for responses, how responses should be made, a contact name and when and where an analysis of the responses will be published.
- Respondents should be asked to give basic information (eg, age, sex, employment status, income band) so that an assessment can be made of the representativeness of respondents, and also contact details for queries. There should also be a statement that responses will be deemed to be public unless the respondent requests otherwise and gives the reason for so doing.
- Consultation documents should always include sufficient facts and analysis, with links to relevant documents, to enable responders to make an informed response.
- Surveys should follow a standard format devised by the Chief Statistician and should always seek basic information about respondents. Surveys need to be well publicised, not relying simply on a government press release and a notice on Facebook. Where there is an online survey then all of the survey questions should be accessible before people begin responding and there should be the opportunity for respondents to review the whole of their responses before submitting the submit button.
- An analysis of the responses should be published within a reasonable time after the end of the consultation - two months at a maximum. If policy has not yet been decided then it is appropriate simply to publish an analysis of the responses with an indication that policy will follow subsequently.

- An analysis of responses should never be a matter of counting votes as this simply leads to campaigns. It is appropriate to mention, and to include extracts from, individual responses either where they have a particular interest or where they have made a particularly relevant point.

32. In order to ensure good quality consultation and that these principles are followed one person should act as a gatekeeper for all consultations, that person being a resource for those parts of government that need to consult and not simply a policeman. Standard templates for consultation documents, surveys and consultation responses would facilitate a significant improvement in quality at no cost.

Misuse of the term “proposition”

33. A proposition is defined on the States Assembly website –

A proposition is simply a debate topic. It should aim to encourage debate on an issue and also to present a potential solution, which will lead to a clear, definable decision that either requests a minister to take action or to authorise an action.

34. But the reality is that the term is constantly used to refer to an agreed policy, and even worse the reference is generally to a number preceded by P. An example usefully illustrates this. The current government plan includes the following -

The Council of Ministers’ policy on population will be published in June 2023, and will be included in future Government Plans in line with P.116/2021.

35. How is anyone outside the Assembly or Government supposed to know what P.116/2021 is? And if they do, a proposition is simply that, not a policy and the policy is still not on the Government website. As an aside the statement is wrong. What P.116/2021 says is – “To achieve this, the annual review of the population policy will be included within the overall Government Plan process from Government Plan 2023-26 onwards”. Was this deliberately done to avoid making a statement that would immediately be seen to be absurd -

The Council of Ministers’ policy on population will be published in June 2023, and will be included in future Government Plans in line with the decision that the annual review of the population policy will be included within the overall Government Plan process from Government Plan 2023-26 onwards.

Or, more charitably, was it simply careless, using shorthand which is familiar only to insiders and not realising the error.

36. The second example is in the consultation document itself –

The Policy Inclusion Framework addresses the States decision of 28 April 2022 to adopt paragraph (b) P.65/2022, as amended by the Council of Ministers, which provides...

37. The fact is that propositions are simply that - the clue is in the name and the Assembly website gives an accurate definition. It is a major failing of the Assembly and appalling governance that propositions, as amended, which are agreed are not published as definitive policy documents. This makes it difficult for outsiders (and clearly also for many insiders) to know what has been agreed. The population policy is a good example. Apparently, the proposition referred to earlier was agreed without amendment and is therefore policy. But how is anyone to know this? It is not on the government website. The reality is that to know what policy has been agreed it is necessary to find the proposition and then wade through States minutes to find what has been agreed. This is just unacceptable. As a matter of urgency all propositions as finally agreed by the Assembly should be labelled as such (that is not as propositions) and be easily accessible. If the Assembly and the government cannot do this the function should be outsourced to a third party such as the Jersey Legal Information Board, which does an excellent job in ensuring that up to date legislation is fully accessible.

The consultation process

38. This paper has been critical of aspects of consultation by the Jersey government and this is exemplified by this particular consultation exercise. The consultation document is very brief, just seven pages and lacks any of the detail which would enable an informed response to be made. However, there is a longer document [Proposals for the Jersey Policy Inclusion Framework](#) which is poorly presented on the website. A PDF was obtained but had to be requested. It is not clear whether the consultation is meant to be on the full report or the summary – this response is on the full report. Better presentation and labelling would be appropriate particularly for a document labelled “inclusion”. Neither paper indicates how or to whom people should respond, gives a deadline for responses or a contact point. These can be found only in the announcement of the consultation – although no contact point is given. Two consultation events were arranged – the day and two days after the announcement of the consultation. All this is not good practice.

39. The preferred method of response is a questionnaire, which is not replicated in the consultation document. The questionnaire (reproduced

in the appendix) does not ask for any details about the respondent, other than whether they work for the Government of Jersey, which again is not good practice. Also, it is not possible to see the whole of the questionnaire without answering each question in turn and respondents have no opportunity to review their whole response before submitting it. The only way a stakeholder has of knowing the consultation questions is to complete the questionnaire which automatically means that it is submitted. The consultation questions should also have been in the body of the consultation document. The results of this questionnaire may be easy to calculate but are probably near worthless in terms of usefulness to the exercise.

40. The key part of the document is Annex C – the Policy Engagement Good Practice Guide, but for some reason this is merely an internal document (although it is in the full public document). If it is meant to be an internal document then it is not good practice.

41. The online survey was poorly constructed and seemed to be more about asking how people wanted to be involved rather than on the merits of the framework. Question 3 was : “How would you like to take part in consultations in the future? Please choose any that apply”. A list of options was given which did not include the rather obvious one of submitting a detailed response. In answering the questions I referred to my detailed response – but after completing a particular question I was then told that the response had been submitted with no opportunity to say who I was or that I was willing to be contacted.

42. Paragraph 23 of the full document states “The Engagement Good Practice Guide and Engagement Design and Assessment Tools will be subject to a full public consultation from October 2022.” But the consultation document does not cover either of these.

44. Annex B is headed “How Other Jurisdictions Engage” but says nothing about other jurisdictions, merely listing four types of engagement. The Isle of Man [Public Engagement and Consultation principles](#) is surely worth a mention as is the Welsh Assembly [Public Engagement Toolkit](#) and the Local Government Association [Consulting Residents](#).

45. One bit of the [government website](#) states that the document was published on 19 October but it was actually published only on 16 November, However, it was presented to the States Assembly on 20 October. This is at best sloppy and reinforces the view that it is only the Assembly that matters. Paragraph 23 states that “A public consultation on the outline Framework will be launched, lasting for 12 weeks from 7 November to 6 February” and that the final Policy Inclusion Framework will be presented to Council of Ministers for approval in February. Thus only a brief time is allowed for consideration of responses – with the obvious implication.

Appendix – consultation questions

1. Do you currently work for the Government of Jersey?
2. Have you ever taken part in a consultation for Government of Jersey? If yes, how did you take part? (i.e did you complete a survey, attend a meeting, talk to a government representative, etc)
3. How would you like to take part in consultations in the future? Please choose any that apply.
 - I want to complete a survey
 - I want to respond to social media posts
 - I want to take part in meetings
 - I want to take part in citizen's assemblies
 - I want someone in Government to come talk to me
 - I don't want to take part in consultations
4. Do you think the Framework and guidance will improve how Government engages with the public?
5. Is there anything that could be better about the Framework?
6. Do you think the Government should regularly poll public opinion?
7. Do you think Citizen's Juries/Assemblies should be used more frequently for complex policy issues? For example assisted dying, climate change, etc.
8. Overall, do you think the Government engages effectively with the public? (i.e is it inclusive, accessible, transparent and consistent?)

Sir Mark Boleat has held a number of leading positions in the public, private and voluntary sectors. He was Chairman of the City of London Corporation's Policy and Resources Committee (effectively the political leader of the City) from 2012 to 2017. In this capacity he was also Deputy Chairman of TheCityUK and the International Regulatory Strategy Group, and a Vice Chair of London Councils. He had previously been Director General of the Building Societies Association, the Council of Mortgage Lenders and the Association of British Insurers, a director of a number of listed and private companies and a member of the Regulatory Policy Committee, the National Consumer Council and the Gibraltar Financial Services Commission. He is currently Chair of Link, which runs the UK's cash dispenser network, and of the International Business and Diplomatic Exchange. He was knighted in the 2017 Birthday Honours for services to the financial services industry and local government in London.

In Jersey he has been Chair of the Jersey Competition and Regulatory Authority, the Jersey Development Company and Andium Homes and has undertaken consultancy projects on population policy, housing policy, consumer policy, financial stability and Jersey Identity. He is a keen student of Jersey history and has recently published *Jersey's Population – a History*.

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