

# GUIDANCE NOTE

## Best practice consultation

This document is a companion to [The Queensland Government Guide to Better Regulation](#) (the guidelines). The guidelines state that the Office of Best Practice Regulation's (OBPR) responsibilities include promoting the government's consultation principles (Figure 1) and providing guidance on best practice consultation as part of policy development.

**Figure 1 Best practice consultation principles**



Regulatory development that is informed by consultation and stakeholder evidence is more likely to identify options that will deliver the greatest net benefit to the community. Government agencies developing policies that include potential regulatory amendments should apply best practice principles in developing their analysis and consultation.

### Why we consult

Consulting effectively with stakeholders is one of the best practice principles for regulation making which underpin the guidelines. Consultation allows all stakeholders to identify the likely impacts of regulatory options for improving outcomes. Testing options provides decision-makers with evidence of which is the

most effective and efficient for addressing the policy problem.

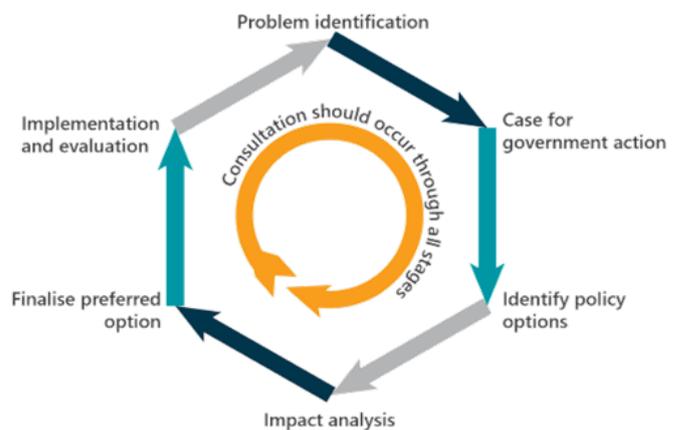
Where adverse impacts from regulatory change may be unavoidable, transparently demonstrating the impacts of feasible options fosters legitimacy and helps build acceptance of the change. This, in turn, raises voluntary compliance and smooths implementation, reducing the regulatory burden.

Investment in consultation is often more than offset by improved outcomes in the community and a greater ability to get a regulation right the first time.

### When to consult

Consultation should play a central role throughout all stages of Queensland Government agencies' regulatory policy development (Figure 2).

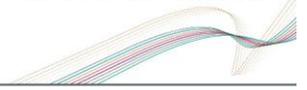
**Figure 2 The policy cycle and RIA**



Consultation does not achieve its purpose when approached as a 'tick a box' exercise or when it is used to advocate for pre-determined policies. Agencies should engage with a genuine intent for gathering stakeholder views and evidence when considering regulatory amendments.

### Planning consultation

Consultation should be proportionate. Where uncertainty, complexity, or potential adverse impacts



are apparent, agencies should engage stakeholders and report outcomes transparently. Where proposals are more straight forward and low impact, consultation can be less intensive.

The purpose and scope of consultation should be clear and reflect the stage of the policy cycle. For example, consultation to identify the policy problem may require a different approach to a consultation to assess regulatory impacts. A clear purpose also minimises feedback that is out of scope.

Agencies should dedicate enough resources to complete proportional consultation, though repeated consultation is time consuming and resource intensive. Where possible, agencies should minimise the burden on stakeholders by:

- reviewing previous engagement as to avoid requesting information already provided
- where suitable, consolidating consultations to minimise repetition
- adopting reasonable timeframes
- requesting stakeholder contribution where it is likely to be most impactful
- tailoring consultation methods to the stage of policy development and the relevant stakeholders
- using information technology where suitable.

How any information provided, including personal details, will be handled needs to be stated clearly. The [Office of the Information Commissioner](#) provides guidance regarding the Privacy Principles and other Queensland Government agencies' obligations. Agencies should also be aware of their internal requirements and any legislative requirements.

Further guidance on planning consultation and addressing regulatory analysis through consultation is provided in Appendices A and B.

## Effective consultation

Consultation is a key driver of regulatory quality. Public consultation increases the chance of identifying unintended outcomes and reduces the risk of legislation serving narrow interests.

## Making consultation inclusive

Queensland has a diverse population dispersed over a vast geographical area with varying capabilities and backgrounds. No single approach will cater to all preferences or capture all views.

Making consultation accessible often requires flexibility regarding timing, location, and methods of engagement. Government agencies should identify resources that may assist in reaching an audience. For example, the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships publishes [guidance](#) and provides advice for consulting with Aboriginal and Torres Strait Islander communities and people with disability. Service providers and community organisations with strong links to the community can also assist in improving the accessibility of consultation.

## Targeted consultation

Targeted consultation does not benefit from the same degree of transparency and accountability as public consultation. Generally, advisory bodies or expert groups are a component of, not a substitute for, public consultation. Only seeking some stakeholders' views through targeted consultation should be justified, for example:

- the aim is to inform early policy development
- the regulatory amendment being considered is clearly low risk and low impact
- the affected stakeholders are well-defined, such as in a geographical area or profession
- specialist knowledge is required to contribute
- the public disclosure of policies being considered may risk adverse outcomes.

Targeted consultation should focus on those most likely to be affected and those with the technical expertise or practical familiarity necessary to add to the rigour of analysis. It is critical to identify where views and the impacts of regulatory amendments may vary within and across stakeholder groups before consultation starts. For example, larger constituents can dominate peak bodies, obliging contact with small stakeholders to learn their views. Agencies should maintain stakeholder registers to aid the faster identification of relevant stakeholders.

## Consulting within government

Agencies, including the Department of the Premier and Cabinet and Queensland Treasury, can assist when defining a problem and a case for government action or exploring different policy options and identifying their likely impacts.

Implementation, administration, and enforcement actions determine a significant degree of the regulatory burden on both regulators and those regulated. Therefore, policy teams should routinely consult with regulators to ensure regulations can be effectively and efficiently put into practice.

To avoid creating overlapping or duplicative regulation, policymakers should engage their peers, including in other levels of government. Agencies should also routinely work with other jurisdictions to explore opportunities for harmonisation and the feasibility of applying their policies in Queensland.

## Providing an opportunity to participate

Information regarding consultations should be easy to access to reduce barriers to participation. The [Queensland Government online community engagement policy](#) states that all major public policy consultations must use the *Get involved* [online consultation toolkit](#).

Care should be taken to avoid assuming if or how stakeholders will respond or that their time is unlimited. Representative bodies may need to consult with members, or data may need to be collated and processed, with these tasks fitted around other commitments.

Agencies should endeavour to give advance notice of consultation activities, and response timeframes should be long enough to facilitate informed constructive contributions. Twenty-eight calendar days is the minimum consultation period for Regulatory Impact Statements (RIS) and Post Implementation Reviews (PIR). Where there are barriers to participation or where proposals are complex, contentious, or likely to impose significant impacts, periods of 60 days or more are recommended by the guidelines.

## Consultation papers

The Queensland Government Guide to Better Regulation sets out requirements for consultation papers, including Regulatory Impact Statements. This does not preclude the use of other formats like Discussion (Green), Policy (White) or options papers if they are consistent with the guidelines.

Longer consultation papers should include a summary to enable readers to rapidly assess if it is relevant to them, with plain language clarifying the key issues. The degree of detail and specificity provided to stakeholders should allow them to estimate the impacts with confidence. Gaps in knowledge or uncertainties regarding potential impacts should be addressed clearly, such as with direct requests for information regarding the magnitude, distribution, and breadth of impacts.

Consultation documents should not commit to a course of action as this can constrain the consideration of options and potentially cause stakeholders to try to pre-empt a potential regulation. The Office of Best Practice Regulation can advise on fulfilling the guidelines' requirements when preparing documents for consultation.

## Reporting outcomes back

Summarising the views of those consulted and how those views were taken into consideration aids transparency on how the government's regulatory decisions are made. For example, a summary of the key issues raised in submissions should feature in a Decision RIS, together with the agency's response. Agencies are encouraged to publicly release submissions made in response to consultations, particularly for RISs and PIRs.

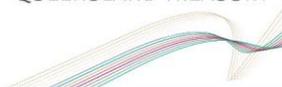
Completing the feedback loop demonstrates to stakeholders that their views were considered, encouraging their continued engagement. Specifics of when and where consultation outcomes will be available should be provided during consultation.



## Evaluating consultation

Candid evaluation ensures successes are built upon, and mistakes are not repeated. In detailing what works and what does not when consulting, internal or public evaluation reports are also valuable resources when planning future consultations.

Evaluating consultation processes includes determining whether some methods were more successful than others, finding out whether the chosen methods promoted accessibility and understanding how responses clarified the options and informed the final decision. Targets should be set in advance to inform an evaluation of the relative success of consultation, for example, a response rate enough to generate a representative sample.



## Appendix A Consultation planning guide

Table 1 provides non-exhaustive examples of questions that Queensland government agencies should seek to answer when planning consultation. It is intended as an indicative guide only—a tool to assist in framing such an undertaking. The OBPR can provide advice about the approach appropriate to particular proposals.

**Table 1 Example consultation planning questions and answers**

Example questions	Example answers
What is sought to be achieved through the consultation?	<p>Obtain evidence of the nature, magnitude and distribution of the problem.</p> <p>Detail feasible outcomes, goals or targets of government action and identify all the potential ways of achieving them.</p> <p>Specify—and quantify—the nature, magnitude, and distribution of all feasible options' costs and benefits. Identify unintended outcomes, including behavioural changes.</p> <p>Inform an implementation plan with milestones and a strategy to preserve the policy's effectiveness and efficiency, including performance measures linked to the objectives.</p>
Who should be consulted?	The general public, peak bodies, small business, community organisations, industry experts, regulated parties, academics, central agencies, other jurisdictions and levels of government.
Does the approach need to be tailored to certain stakeholders?	People from culturally and linguistically diverse backgrounds, regional and remote stakeholders, Aboriginal and Torres Strait Islanders, people with a disability, or those with low IT literacy levels.
How will people be notified?	<i>Get Involved</i> (all major public consultations), departmental website, email correspondence, public notices in media.
How long should the consultation be?	<p>14 calendar days (e.g. preliminary consultation)</p> <p>28 calendar days (minimum for RIS or PIR)</p> <p>60 calendar days (complex proposals or those likely to be contentious or impose significant adverse impacts).</p>
What method is most appropriate?	Teleconferences, surveys <sup>1</sup> , workshops, roundtables, public consultation documents (e.g. green papers or Consultation RIS).
How will we measure our effectiveness?	Target number/proportion of responses from stakeholders (potentially including subsidiary targets for specific stakeholder groups), a target for requests for extensions to the submission deadline, and submissions out of scope.

<sup>1</sup>Online surveys should be used with caution. While they are a relatively inexpensive way to reach a wide audience, the data generated is typically not considered robust. This is particularly the case when it is not possible to control for issues like multiple responses from single respondents, interstate/international respondents, and sampling biases.



## Appendix B Informing RIA through consultation

Feedback from stakeholders—both quantitative and qualitative—provides valuable evidence for regulatory impact analysis and informs robust advice to decision makers. The box below lists example questions that agencies may need to address in their regulatory impact analysis and associated consultation.

### Example questions for informing RIA

- What is the nature of the problem—is it a market failure or a regulatory failure?
- What is the size and scope of the problem—are adverse outcomes getting worse?
- Who is affected, how are they affected, by how much and how often?
- Is the problem already being addressed in part by legislation or other parties?
- What degree of change can feasibly be achieved in Queensland?
- Are other jurisdictions tackling the problem without regulatory measures?
- How much change could be achieved through non-regulatory measures?
- Will a large number or proportion of stakeholders be affected?
- How intense and frequent will the impacts be, and can they be reversed?
- Will the proposal restrict or reduce competition?
- How will compliance costs change, and will they be passed on?
- Will there be social or environmental impacts?
- How may those being regulated seek to evade adverse impacts?
- How will the regulatory changes be communicated to those regulated?
- How much time will stakeholders need to transition to the new regulation?
- Will those regulated need support in up-skilling or up-tooling?
- How will compliance be monitored and enforced?
- What data needs to be collected to tell if the regulation is working?
- When in the future will the regulation be evaluated against its objectives?