



Llywodraeth Cymru  
Welsh Government

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## Consultation Guidance for staff

(January 2013 version, updated April 2014)

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- Consultation and engagement are essential to effective policy-making and delivery: there should be no unpleasant surprises for our stakeholders when final proposals are published
- Engage early, regularly, and imaginatively: consult widely and openly
- Consultation documents must be concise and clear: the template **MUST** be used and the published document branded (section 10)
- Use the web-site: all consultations **MUST** be available on line, on the consultation pages (section 8)
- Report back on the outcome of the consultation - to Ministers, and to the public (section 11)

# Guidance for staff

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## 1. Why consult?

- 1.1 We often need to consult on decisions which the Welsh Government is proposing to take. Stakeholder involvement encourages greater understanding of, and confidence in, what we are trying to do and it provides people with an opportunity to influence the decisions which affect them.
- 1.2 It is important to distinguish between 'engagement' and 'consultation'. Engaging with organisations and individuals regularly should be an integral part of our awareness and delivery roles, and especially when new policy-making is in prospect. Consultation is a more formal process: and sometimes we have a legal duty to consult.
- 1.3 Stakeholders have told us that consultation can sometimes appear superficial. Consultation is an opportunity to listen to what people think. Be clear about the purpose of the consultation. If a final decision has already been made it might be appropriate to undertake an exercise to inform people about the decision.
- 1.4 The Welsh Government has made a commitment to consult prior to introducing legislation, whether it be at policy stage, White Paper stage, or by way of a Draft Bill.
- 1.5 This guidance covers formal consultation, although much of the guidance relates equally to other forms of stakeholder engagement.
- 1.6 The Engage Wales guide sets formal consultation in the wider context of engagement and can be accessed here:  
<http://intranet/English/DoingMyJob/Communicating/Engaging/Pages/Welcome.aspx>

## 2. Duties to consult

- 2.1 There are a number of reasons why we may have a legal duty to consult. These can include specific duties enshrined in legislation, or precedent established by past consultations, or meeting the needs of specific groups or individuals. The legal issues can be complicated and will depend on the context and the legal powers in question. An overview of the key issues is at Annex A, which you must read. You should always speak to your Legal Services adviser before embarking on a consultation exercise, or before deciding not to.

## 3. Policy Process

Key actions:

- Look at the Policy and Delivery Portal when you start your policy project
- Contact Policy Support if you need further advice

- 3.1 The Welsh Government's Policy Process is about making our policies joined up and sustainable. It tests that we are developing our policies in line with the strategic agenda set out in the Programme for Government, that they fit with our statutory duties for sustainable development, equality, the rights of the child and the Welsh language and that they are underpinned by our cross cutting themes.

- 3.2 All new or substantially refocused strategies and policies must go through our policy process. This includes engaging with key stakeholders. Information on the process can be found at the Policy and Delivery Portal.
- 3.3 Early stakeholder analysis will help you identify who you need to involve, the roles they should play and at which stage, who to build relationships with and who you should inform and consult. You will be able to pinpoint those who need to be involved in the development of your policy.
- 3.4 Policy Support may be able to help you to identify what other policy teams are planning. If you have similar issues you may be able to consult the same organisations together or run joint events and meetings to save time and resources.

## 4. Planning

### Key actions:

- Consider how you need to engage
- Plan your engagement work (see Engage Wales web pages)
- Consider whether you need to consult.

### If you do - inform:

- Your DG Communications & Marketing lead
- Your Departmental Web Manager
- Policy Support

- 4.1 It is important to give the design, planning and implementation of engagement and consultation exercises sufficient time, resources and preparation. Consultations require the approval of your Communications and Marketing lead through the new approvals system <http://assemblyapps/cmaprintunit/index.asp>. This will also generate a number for your consultation document which will be published on the document cover. (The same number can be used for your summary of responses later, though that will also need an ISBN.) Give as much notice as you can to those playing a part in delivering your consultation - for example your Departmental Web Manager who is responsible for ensuring your consultation goes online appropriately. Developing your policies using appropriate Project Management techniques will help you plan and manage a consultation and communications strategy.
- 4.2 Internally, you should talk to the specialists including:
  - Your Ministerial Communications team – to alert them to your plans
  - Your Departmental Web Manager – to alert them to a possible demand for their services
  - Policy Support – to inform of your plans to consult
  - Your Director General's Operations Team – including to identify resources to pay for your consultation exercise

- Your Legal Services Advisor
- Your Legislation Management team and the Legislation Programme Team – if your consultation is part of the legislative process
- Equality Unit – on accessing under-represented groups
- Children, Young People & Families Division – for considerations in respect of the United Nations Convention on the Rights of the Child (UNCRC)

## 5. Joint consultations

### Key actions:

- Establish who the Lead Department is and any other department that may have an interest
- If we are not leading, ensure a link to the consultation is published on our consultation web page
- Ensure a summary of responses is published – highlighting Wales-specific responses.

5.1 We frequently undertake consultations jointly with Whitehall Departments and sometimes with other devolved administrations who have their own codes or procedures for consultation.

5.2 In such cases establish who the lead Department is, and adopt their procedures for publication – or follow our procedures if we are the lead. If there is a conflict regarding the length of the consultation – seek advice from Legal Services. Joint consultations led by other departments should be referenced and linked to on our website, with details of start and end dates and details of how to respond.

5.3 If the lead Department has its own Welsh Language Scheme, proceed in accordance with that.

5.4 Even if we are not in the lead, if the consultation document is likely to be long you should raise with colleagues in other administrations the possibility of a short executive summary of the sort we would normally produce in such a case. In the (hopefully unlikely) event of them opposing that, you should produce a free-standing short summary using our template (see Section 10) in addition to the joint paper.

5.5 Post-consultation, we should seek a breakdown of in the published summary report of key issues raised by respondents from Wales (including those organisations that operate on an England and Wales basis) and we should publish the summary on our webpages together with a statement of what happens next.

5.6 Advice on relationships with other government departments and devolved administrations is available from the Constitutional Affairs and Inter-Governmental Relations (CAIGR) team.

## 6. Who are you going to consult?

- 6.1 Carefully select your target audience. Are there key stakeholders who need to be involved early in the process?
- Is there legislation or other legal duty which requires us to consult particular organisations or individuals? (See Annex A)
  - Who has been involved or consulted on this issue in the past – if we have a practice of always consulting certain people or organisations about particular things, we may be obliged to keep up that practice (See Annex A)
  - Who has not been involved, but should have been?
  - Who is influential in the area, specific communities and/ or organisations?
  - Who will be affected, directly or indirectly, by any decisions on the issue (individuals and organisations)?
  - Who will be involved in delivering and implementing the new policy?
- 6.2 Participants may include:
- The general public
  - Local Authorities
  - The NHS, other public bodies incl community and town councils (through One Voice Wales)
  - Regional groups of organisations, such as Local Service Boards or Spatial Plan Areas (see para 9.7)
  - The Police – our Police Liaison Office can co-ordinate responses
  - The Health and Safety Executive
  - Governmental organisations
  - Voluntary or Third Sector groups incl ‘umbrella’ organisations
  - Businesses – large, medium and small
  - Organisations that span the voluntary / business sector divide - trade associations, unions, social enterprises, co-operatives, etc.
  - Individuals with particular expertise (technical or personal)
  - Children and Young People
  - Older People
  - Disadvantaged and under-represented groups and those who are harder to engage.
- 6.3 Publish a list of all organisations being consulted so that stakeholders know who else is likely to participate in the dialogue. They might tell you about those you have forgotten to include.
- 6.4 The Local Government Partnership Scheme 2008 sets out a commitment to ensure frequent and timely liaison between all parts of the Welsh Government and local government at elected member and officer levels. There are formal arrangements through the Partnership Council for Wales (a statutory obligation under the 2006 Act) that comprises of members of local government in Wales and representatives from Welsh Ministers and Deputy Ministers. The Partnership Council provides an effective forum for discussion and joint working between the Welsh Government and local government.

In addition to this there is also a commitment under this scheme that:

- As soon as practicable and within the constraints of proper confidentiality the Welsh Government will consult the representative associations of Welsh local government (that is the Welsh Local Government Association, One Voice Wales - and bodies and representatives of the police, fire and rescue and national park authorities) on all matters of common concern affecting local government (with the exception of matters relating to national security and proposals which affect only particular authorities).
- On major issues of policy the Welsh Government will also consult individual authorities, including community councils, on matters relating to their functions with the prior agreement of the representative associations.

There should be consultation about:

- Financial issues relevant to local government, including the arrangements and guidelines for the distribution of grants to local authorities and other financial arrangements.
- Preparation and planning for the implementation of the new Welsh Government legislation, including legislation on local government functions;
- Westminster and European legislation and policy issues of direct relevance to local government, where the government is required to form a view in international forums; and
- Appointments of representatives of local government to other bodies, whether at the Wales, UK or international level.

## 7. Timing

Key actions:

- Normally allow a minimum of 12 weeks for your consultation
- If there are very strong reasons why you need to give less:
  - seek advice from Legal Services (and Legislation Programme Team if necessary)
  - seek the approval of your Minister
  - discuss with Policy Support
  - state clearly in your consultation document the reason for allowing less than 12 weeks

7.1 You must normally allow a minimum of twelve weeks to allow for people to respond to your consultation. In some cases, especially where many of the responses are likely to come from the Third Sector, it may be appropriate to allow longer, to give umbrella groups time to collate responses and formulate a single response.

7.2 In terms of community and town councils, the Protocol with One Voice Wales (the national representative organisation) states:

*“When the Welsh Government consults on policies relevant to local councils, copies of all consultation documents will be forwarded to One Voice Wales, together with executive summaries. Wherever possible, consultation periods will adhere to the 12 week standard set by the Local Government Partnership Scheme”.*



- 7.3 If the issue to which the consultation relates is very specialised and has a relatively small number of stakeholders, or if there is compelling public interest in a decision being made sooner, it may be reasonable to have a shorter consultation period. If you are considering having a shorter consultation period you must obtain advice from Legal Services, from the Legislation Programme Team if any legislation is being proposed and the Policy Support and agreement from the Minister and – you should also state the reason for the short consultation period up front in your consultation document.
- 7.4 Take into account the time of year you are undertaking the consultation exercise. Be conscious of the summer break or festive season and allow extra time if necessary.
- 7.5 The situation regarding consultations planned during a pre-election period differs depending on whether it is a Welsh Government election or a General (or other) election. In general, it is acceptable for a consultation that begins before the pre-election period to continue into it. However, you should not actively publicise the consultation or schedule public consultation events during the pre-election period. If in doubt, you should discuss your plans with Cabinet Secretariat. Guidance on handling of business in the pre-election period is published by Cabinet Secretariat.
- 7.6 The situation is different for the pre-election period before a General Election, a European Parliament election, or a local government election. In most ways, the Welsh Government's business can proceed as normal at such times if proper care is taken. In general, consultations can proceed, but those that are likely to be politically contentious should be drawn to Cabinet Secretariat's attention, and any guidance they have issued must be observed. Policy Support will be happy to discuss your proposals with you before you approach Cabinet Secretariat.
- 7.7 Joint consultations need a considered and agreed approach between the relevant partners. Policy Support will be happy to discuss any issues.

## 8. Publicising your consultation

### Key actions:

- Your consultation must be published on the consultation pages of the web

- 8.1 All consultations must be published on the Welsh Government Internet consultation webpage. The web pages drive the content of the weekly e-newsletter that many stakeholders subscribe to – so it is crucial that this reflects all our consultation activity.
- 8.2 Amongst your outputs, consider including an on-line response form – your Departmental Web Manager can advise – and invite responses by e-mail as well as in hard copy. You should also consider running a moderated online forum – you will need to consider the resources required to operate this. The Central Web Team can advise you on moderated forums. Advice on moderation policies is available here:  
[http://wales.gov.uk/terms\\_and\\_conditions/?lang=en](http://wales.gov.uk/terms_and_conditions/?lang=en)

- 8.3 In many cases, our consultations cut across more than one topic area – for example culture & sport and health. In such cases you (and the appropriate Departmental Web Managers) should consider including links to the consultation within both topic areas. Your Departmental Web Manager can advise on efficient presentation and placement of links.
- 8.4 Details of consultations may also be included in Ministers' speeches, answers to AOs and key addresses. Maximise the opportunities for people to tell us what they think. Events like the Royal Welsh (summer and winter) shows, the National and Urdd Eisteddfodau provide excellent opportunities to engage with stakeholders. Work with your Ministerial Communications Team to develop a strategic approach to communicating your consultation. The Corporate Communications Events Team can provide advice on centrally co-ordinated media and campaign schedules.
- 8.5 Ensure you send your PDF(s) and the link to your consultation on the web page to the Publications Team (mail: Library - Access to publications). As with other printed publications, 65 copies of your published consultation should be sent to the Publications Team (<http://intranet/English/DoingMyJob/Communicating/Pages/FirstPointofContactCentreServices.aspx>)

## 9. Consultation methods

### Key actions:

- Match your methods to your target audience
- Remember our obligations in terms of the Welsh language, equality and communications with young people, including obligations under the Children's Measure
- Find out if colleagues are planning similar or related consultations
- Think about how to make things easier for your consultees.

- 9.1 Think about the kind of engagement which best fits your policy area. Engagement events may be appropriate, especially when you need to hear the views of people who don't find it easy to engage with formal consultation procedures.
- 9.2 The engagement process should be made accessible by using the methods appropriate for the stakeholder groups that need to be contacted. In terms of a consultation document consider the possibility of producing a specific version of your consultation that is geared to young people (Children, Young People and Families Division can advise). When you are planning your consultation colleagues in Equality Unit will be able to advise on whether you should prepare to publish your document in any additional languages or format. To actually arrange a translation into an alternative language, either pro-actively or in response to a request, you would need to go through Print Procurement who have a translation framework in place. Guidance is available here: <http://intranet/English/CentralServices/Translation/General/Pages/Ethnic.aspx>
- 9.3 You must consider the requirements of the Welsh Language Scheme. The completed template (see Section 10) and any supporting documents placed online are subject to the usual scoring system. The Welsh Language Unit and the Translation Service can help you with this and guidance is available on the Intranet at: <http://intranet/English/DoingMyJob/Communicating/WelshLang/Pages/Scoring.aspx>

9.4 Consultation documents should encourage engagement. We should aim to write all of our communications in plain language. Below are some key points to consider:

- Use language that the reader will understand.
- Only use jargon if your consultation is confined solely to people who will understand the terms and phrases; it can be a useful form of shorthand but try to avoid using specialist jargon in wider public consultations. If you cannot avoid jargon, explain what it means.
- Keep your sentences concise.
- Use paragraphs and meaningful paragraph headings
- Vary your sentence length, using longer and shorter ones to make your writing more interesting.
- Always ensure that your writing is coherent and helpful.

9.5 There are many different methods and techniques available and your stakeholder analysis will provide the information you need to find the most appropriate approach to use. Be imaginative in choosing the best way to consult; consider appropriate methods each time you consult – and evaluate your consultation. Some examples are listed below and further information can be found on the Engage Wales intranet pages:

- Open Days / Road Shows
- Manned displays at conferences or events
- Deliberative research events
- Facilitated workshops
- Focus Groups, public meetings, user panels and stakeholder meetings
- Public surveys
- Questionnaires
- Targeted leaflet campaigns.

9.6 Allow sufficient notice of, and publicise widely, the dates of events like public meetings and workshops. Make sure that venues are accessible to disabled people and that there is appropriate communication support for those with hearing problems (e.g. British Sign Language). Also make arrangements to ensure Welsh language needs are met.

9.7 In order to make best use of people's time and resources, consider also making use of other, already planned events and meetings. For example, to get a joint view from the partners in a Spatial Plan Area, consider asking to have your consultation discussed at one of the regular Spatial Plan meetings in the area, either of the whole group or a relevant sub-group.

## 10. What the consultation document should look like and the information consultees need

Key actions:

- MANDATORY - you must use the consultation template to construct your published document
- MANDATORY - your published document must be branded using the Central Design Team's guidance

10.1 Your published consultation document must be modelled on the consultation template. The finished document can be either:

- A free-standing document (with necessary supporting documents online) or
- The executive summary to a longer document – and should concentrate on describing the key issues in clear language.

10.2 Your document should set out key messages clearly and briefly, using paragraph headings, for example:

- What is the background
- What is the evidence
- Where are we now
- What are we proposing
- What outcomes do we expect.

Though its use is mandatory in all consultations, the paragraph headings in the template are a guide. The desired outcome is a short, key point summary which sets out the key issues in plain language with clear paragraph headings. Note that there is fixed text on the issue of data protection. The template is accessed here: <http://assembly/consultation/>

10.3 Detailed or technical information can best be provided separately (linked from the summary document) on the web-site, or in hard copy upon request.

10.4 A new corporate brand and standard model for all published Welsh Government consultation documents is now available – based on the template - and must be used in all cases. You should send the Central Design Team a PDF of your document (Design@wales.gsi.gov.uk)

10.5 All consultation documents should include an ‘open’ question which invites more general comments including on issues which may not have been covered in the published proposals - for example “we have asked a number of questions, but are there any other issues you would like to raise in this area?”

10.6 You must provide your Departmental Web Manager with the following information that will be published on the Welsh Government Consultation pages:

- Consultation title
- A brief, plain language summary of what the consultation is aiming to achieve (you can see examples on the consultation web-pages)
- Start and end dates
- Contact details.

## 11. Dealing with the responses

### Key actions:

- You must publish a summary of the responses on the web and that summary must be branded
- You must send the published summary and all the responses to the Publications Centre
- You must publish a statement of the next steps together with appropriate links – alerting stakeholders to what will happen post-consultation.

11.1 It is good practice to send out a brief acknowledgement note or e-mail to each respondent to confirm receipt of their response. This can also be an opportunity to remind consultees of what you will be doing with the responses and the likely timescale for publication of a summary document. Have a standard acknowledgement prepared in advance.

11.2 Once the consultation has closed, you must read and analyse the responses and include a report on the responses in your advice to Ministers, so that comments made can be taken into account as final decisions are made on your proposals. Allow sufficient time to analyse the results of the consultation exercise.

11.3 Our stakeholders have told us (at workshops to develop this guidance and in the Stakeholder Survey) that they want to know when and how you will use the findings of a consultation exercise. Specifically they want to know how their responses have been used to inform decisions, and that their responses have been valued and considered even if they haven't always been acted upon. Your summary report can address this by i) highlighting those issues raised most frequently and ii) listing the respondents.

11.4 You need to publish (online) a summary report on the responses and outcomes of consultation, addressing the issues listed in para 11.3 above. This stage will help let people see that we take seriously what they tell us.

11.5 The summary document should be branded following the same branding used for the consultation document. (It will also have the same number but, in addition, it will need an ISBN: Central Design Team can arrange this for you.) It should include a name-only list of all respondents, except those who have requested anonymity. Significant responses, or direct quotes, however, should be attributed in the body of the text, unless the respondent has requested anonymity. A good summary should:

- State the number of responses
- Provide a brief profile of the type of organisations that responded
- List respondents (as far as you are able)
- Summarise the key issues up front then in detail, with responses where possible, noting whether different sectors raised different issues (if all sectors responded similarly, say so)
- Include a next steps statement (which should be repeated on the web page).

11.6 Wherever possible, the responses themselves should be published (see 11.7) in their original form, i.e. in the language in which they were received. There is no need to translate individual responses for publication. If these are scanned then you should remove any references that could identify the respondent if they have asked for ~~anonymity~~—this includes handwritten responses, which in such cases should be typed up.

If you consider that publication of the responses to a specific consultation is impractical (perhaps because of volume or format issues), you should seek the agreement of Policy Support. As a minimum, you must be prepared to make the responses available on request.

11.7 The summary report (with or without responses) requires a single ISBN, any translated version will need a separate ISBN. ~~Central Design Team can arrange this for you.~~ The summary report must be published online. You also need to provide a copy of the summary report and electronic copies of the full written publishable responses, except those where ~~anonymity~~ has been requested (ideally, all responses are to be held as a single Word or PDF document) to the Publications centre at:

<http://intranet/English/DoingMyJob/Communicating/Pages/FirstPointofContactCentreServices.aspx>

Please read the instructions on the above page carefully before submitting documents to the Publications Centre.

In your email to the Publications Centre - ensure you include the wording “Consultation response” and title of the consultation in the subject heading of the e-mail e.g. Consultation response – A Museums Strategy for Wales – Public Consultation.

Divisions should retain the originals of responses.

11.8 Once your consultation is closed – ensure you include a link on the web pages to the developed policy or strategy, or appropriate Ministerial statement. In all cases, we should seek to provide a statement on what happens as a result of the consultation.

## 12. Evaluate the process and your consultation

12.1 We will get better at consulting if we learn from what we do. Evaluation of the consultation experience should be built in from the beginning of your policy and consultation plan. It doesn't have to be a complicated exercise, but you need to reflect on how well the consultation was handled. Other issues you may wish to consider might include the number and quality of responses, whether all the stakeholders who were targeted responded (if not, why not), what impact the consultation had on the final decisions, what lessons were learned and how you can share these with other Departments.

12.2 You should also give your respondents the opportunity to evaluate the exercise. Consider seeking feedback. What are their perceptions?

12.3 Social Research Division can provide further advice on evaluation.

## Updating the guidance

This guidance will be periodically revised to take account of new good practice.

If you have any comments or ideas for inclusion in future revisions please contact:

Policy Support Unit

Cathays Park

CF10 3NQ

Telephone: 02920 82 3941 / 02920 80 1256

E-mail: [consultation@wales.gsi.gov.uk](mailto:consultation@wales.gsi.gov.uk)

## Annex A

Legal duties to Consult, and other legal issues.

1. This guidance gives only examples of consultation duties that can arise. If you are in any doubt whatsoever about whether the Welsh Government has a legal duty to consult, or about any legal requirements applying to the consultation exercise, you should speak to your Legal Services adviser. The consequences of failing to comply with legal duties and requirements can be serious, as decisions based on flawed consultations can be overturned by the Courts.
2. Legislation that gives the Welsh Government a power or duty to do something (e.g. to take a particular action, issue directions or guidance, make subordinate legislation) may impose a specific legal duty to consult before they do that thing.

Duties of this kind can, for example:

- Specify individuals or organisation who must be consulted
  - Specify a procedure which must be followed when consulting or giving others an opportunity to make representations
  - Specify timescales which must be followed
  - Specify periods which must be allowed to elapse before follow-up action can be taken.
3. In some cases there may be no statutory (i.e. set out in legislation) duty to consult but we may have made a commitment to consult the public, or particular organisations or people, before we do certain things. If we have made such a commitment we are generally obliged to fulfil it.
  4. The Welsh Government has made commitments about consulting the Lord Chief Justice of England and Wales. We have said that we will consult the Lord Chief Justice on any proposals which affect the administration of the courts, which are likely to bring changes to the criminal law, or which are to have any effect on the operation of the judicial system.

The usual way of doing this would be to write to:

The Lord Chief Justice of England and Wales  
Royal Courts of Justice  
The Strand  
London  
WC2A 2LL

enclosing a copy of any consultation document.

5. You should also watch out for situations where, although we have not expressly made a commitment to consult we have established a practice of doing so (for example, where we have always consulted a particular organisation when reviewing a particular policy). If we have established such a consultation practice, it is very possible that we have a legal duty to continue it.
6. It is not impossible to depart from a commitment to consult, or an established practice of consulting, if there is a compelling reason to do so (for example, a decision has to be made quickly to protect public health or safety, or to comply with some other legal requirement). However, you must always consult your Legal Services adviser, and seek agreement of the Minister and Policy Support if you think this type of situation has arisen.
7. Another situation to watch out for is where we have an established policy which significantly affects specific persons or groups, and where those persons or groups have reasonable grounds to expect the policy to continue for their benefit, not necessarily for ever, but at least for a reasonable period. In those circumstances we may have a legal duty to notify and consult the affected persons or groups before changing or withdrawing the policy, even though we have not made any promises about consultation. The courts have said that they would not expect situations like this to arise often, but it is important to bear in mind that they can arise.
8. The Welsh Ministers are under a duty to make a Regulatory Impact Assessment Code (Section 76 of GOWA 2006). This must set out the policy for assessing the likely costs and benefits of compliance with the Welsh Ministers' subordinate legislation (rules, regulations, orders etc made under Acts of Parliament or Bills), and the policy on consulting in connection with those assessments. The current Code says that the Welsh Government will carry out proper and appropriate consultation with those who are likely to be affected by the legislation, and those who have an interest in its overall impact. Please note that the Code applies to the preparation of Regulatory Impact Assessments for Welsh Government Bills as well as Welsh Ministers' subordinate legislation.
9. If you are in any doubt whatsoever about the need to consult, you should speak to your Legal Services adviser and general advice is also available from Policy Support.