

Response to the Cabinet Office Consultation on 'Effective Consultation'

Voice4Change England

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Voice4Change England Partnership Members:

Social Business Company, Ethnic Business Development Corporation, The Pillar Consortium, BTEG, Black Development Agency, Confederation of Indian Organisations, Connections for Development, CEMVO, NAVCA, Community Development Exchange, MENTER, Voice East Midlands, MiNET, York and Humber BME Regional Panel, Black South West Network (BSWM), Black and Ethnic Community Organisations' Network (BECON), One North West and FATIMA Women's Network.



A national partnership for the Black and Minority Ethnic Third Sector

Overview of the Response

Voice4Change England (V4CE) welcomes this opportunity to respond to the Cabinet Office consultation on 'Effective Consultation: asking the right questions; asking the right people; listening to the answers.' V4CE is a partnership of 18 national and regional Black and Minority Ethnic (BME) Third Sector organisations, which aims to provide a co-ordinated policy voice for the BME third sector in England.

We believe that there have been improvements in how the Government departments conduct consultations. However there are still examples of bad practice in consulting with BME groups where the principles of Compact Good Practice Codes on 'Consultation and Policy Appraisal' and 'BME Voluntary and Community Sector' are not being fully implemented.

The following is a summary of the key recommendations to the consultation from the V4CE Partnership:

1. We strongly support '12 weeks' duration as the minimum time that is required to engage the BME third sector. This would help BME umbrella organisations to reach parts of the BME third sector which often remain disengaged to be involved. The 12 week period has become accepted good practice in line with the Compact Good Practice Code on Consultation and Policy Appraisal and we want this to be retained and observed by all Government Departments.
2. We believe in 'informed consultations' whereas BME groups are sufficiently aware of the subject of consultation and the likely impact of proposed actions on their activities, before they are invited to respond.
3. We think it is fundamental to seek views of third sector organisations in most of the policy formulation stages. We support the proposal to appoint a special group; Committee of Inquiry, in matters where extensive analysis is required before a proposal for consultation can be drafted.¹
4. In consulting with the BME third sector, we strongly urge Government departments to adopt the Compact principles (5.2, 5.3, 5.4, 5.5 & 5.6; BME Code, along with 'consultation methods'; Consultation Code). Attention should be given to specific barriers that BME organisations face on being informed about consultations due to under-resourced capacity both human and financial, to get involved.
5. We propose that the Office of the Third Sector (OTS) website should be a single portal to Government consultations relevant for the third sector. Government departments should also aim for publicising notices of forthcoming consultations.
6. We believe that it is not 'consultation fatigue' which is being experienced by BME third sector organisations; it is the opposite. The BME third sector is not engaged enough in Government consultations, resulting in its absence and disengagement from policy development at all levels.
7. Government departments should explain the process through which they have collated, weighted and analysed responses.
8. Dialogue with stakeholders on proposed policy will both involve and engage participation with BME third sector organisations.
9. We recommend joining-up the two approaches of Options 1 and 3 in a revised Consultation Policy. In other words, consultation process should have a written consultation plus one other method. Departments should work better to develop consultation material that is relevant to most stakeholders.

A detailed response is submitted under each section of the consultation document.

¹ Approach adopted in Sweden, case study 2, p12 Effective Consultation document.

Methodology

Voice4Change England's response is informed by its Partnership of 18 national and regional BME third sector organisations, who provide a co-ordinated voice of the BME Third Sector in their respective regional and national domains. V4CE's origin is based on its Partnership forged from the BME sub-group on the Compact. This response is therefore informed by the practitioner understanding of the Compact Principles and its Codes of Good Practice. The response is also informed by the wealth of experience and representational strength of the V4CE Partners who between them represent over 5700 BME third sector organisations across England.

In addition, the analysis for the response is evidenced by background research and informal discussions with BME Third Sector professionals, mainly from the frontline local service delivery organisations, on their experience in policy engagement. In so doing, the Compact Advocacy Programme at NCVO was contacted to collect case study evidence and insight from their experience on breaches of Compact Codes on Policy Appraisal and Consultation and on BME Voluntary and Community Sector.

Voice4Change England's Response to the Cabinet Office Consultation on Effective Consultation

The consultation document is divided in to three sections. This response deals with each section separately and puts forward comments and recommendations to inform the review of the existing Code of Practice on Consultation.

As a national partnership of BME third sector organisations, Voice4Change England's response outlined below has given careful attention to the Compact Codes of Good Practice on 'Consultation and Policy Appraisal' and on 'Black and Minority Ethnic Voluntary and Community Organisations'. These two documents serve as the basis of most of the comments and recommendations.

Section I – Current Policy

Good and bad practice

- 1.1 We believe that there have been improvements in how the Government departments conduct consultations. Most recently, consultation processes adopted by Government departments seek to involve BME and other 'hard-to-reach' groups through various means, including involving BME umbrella networks and representative organisations. A good example is the HM Treasury and Cabinet Office's consultation on the Review of the Future Role of the Third Sector in Social and Economic Regeneration, in which regional and sub-regional infrastructure support BME third sector organisations were given an opportunity and support to roll out the consultation to frontline groups.
- 1.2 However there are still examples of poor practice. For example in consulting on 'Fairness for All' White Paper, the discussion paper was not available in accessible format and lacked a clear executive summary. It was expensive to purchase for a lot of BME groups who could not afford to pay £17.50 for one document and information about it was insufficiently advertised. Thus the consultation process was in breach of the criterion three and possibly two² of the existing Code on Consultation and also of Compact Codes on Consultation (7.1 and 10.1) and on BME (5.2).³
- 1.3 We believe that there must be a number of similar instances where the existing Code on Consultation and Compact Codes were breached by Government departments especially at local levels where local authorities and other statutory bodies such as PCTs often issue consultations in a manner that is not responsive and sensitive to the needs of small generic and BME groups. However, it is difficult to evidence these cases, firstly because most BME groups are not aware that the Codes exist and

² Criterion three of the existing Code: "Ensure that the consultation is clear, concise and widely accessible"; Criterion two of the existing Code: "Be clear about what the proposals are, who may be affected, what questions are being asked and the timescale for responses". See Cabinet Office's Code of Practice on Consultation (2004), Better Regulation Executive.

³ Information provided by the Compact Advocacy Team, NCVO.

secondly, even if some groups are aware, they do not voice their concerns because of their funding relationships with statutory bodies at local levels.⁴

Duration

- 1.4 We strongly believe that 12 weeks is the minimum time that is required to engage the BME third sector. As a national voice of the BME third sector, we take a participatory and inclusive approach to reach our Partners and their member organisations. However, engaging BME groups is a challenging task because unlike the mainstream, the BME third sector is comparatively under-resourced and although there have been efforts to build the capacity of the third sector to engage in local place shaping agenda, government funding programmes have failed to appropriately invest in the infrastructure of the BME third sector. With these challenges the 12 weeks duration should be retained as the 'industry standard' for best practice. This would help BME umbrella organisations to reach parts of the BME third sector which often remain disengaged to increase engagement.
- 1.5 Holiday periods which falls within the consultation period should be reflected in setting timelines for consultations.
- 1.6 We believe in 'informed consultations' where BME groups are sufficiently aware of the subject of consultation and the likely impact of proposed actions on their activities, before they are invited to respond. Inviting responses to consultations that BME third sector organisations are not familiar with or aware of the likely impacts, is in our opinion not an inclusive or empowering way of seeking responses. For these reasons, we welcome recognition of 'informed consultation' and want to see this advanced as good practice across all Government departments.
- 1.7 In following the 12 weeks criterion, along with the best practice of existing Code, Voice4Change England would urge the Government to respect the principles of Compact Good Practice Codes on Policy Appraisal and Consultation, and on BME voluntary and community sector.

Recommendation 1 – Increased Engagement: Voice4Change England recommends 12 weeks duration to be considered as minimum period required engaging both small and BME third sector organisations. This would help BME umbrella organisations to reach parts of the BME third sector which often remain disengaged. Furthermore, Government departments should avoid or compensate for holiday period within the consultation timescale.

Recommendation 2 – Informed Consultation: The consultation process should take into account steps and processes that inform, engage and empower the stakeholders on the issues and the likely impacts. We believe this approach provides a platform for informed consultation. In advancing this approach, Government departments should pay serious attention to the principles of the Compact Code of Good Practice on BME Voluntary and Community Sector.

Monitoring Observance and Impact Assessment

- 1.8 It seems appropriate to devolve responsibility and accountability to individual departments for monitoring their own performance in relation to the existing Code. This proposed approach outlined in the document urges departments to understand the Code better and work on their strategies before deciding whether or not they wish to depart from the Code and the consequences for this.
- 1.9 In their individual reports, Government departments will be expected to include information on their compliance with the Code in their annual reports. We commend this approach. However, the proposal for giving this responsibility to individual departments does not seem to suggest any processes, for either the Better Regulation Executive (BRE) or Consultation Coordinators, to monitor departments' adherence to this.
- 1.10 We welcome the Government's reforms in procedures for undertaking Impact Assessments. We believe the reforms (newly introduced template and guidance)⁵ will improve the quality of consultation

⁴ See 'Mapping the BME third Sector in England', Report by Voice4Change England (findings to be published in October 2007).

process. However, since most departments already work with key stakeholders in setting their policy agenda (especially with regards to the third sector), it seems more appropriate to invite views from wider audience on the scope and quality of the accompanying Impact Assessments.

It is vital, especially for the BME third sector, to engage and feed into these Assessments to reflect their experience of the likely impact of the proposed policies and strategies and adjacent resource implications on their work.

- 1.11 Once again, where possible, Government departments should follow the Compact Codes – set in 4.1, 4.2 and 4.3 of Consultation Code and in 5.4 of BME Code – in appraising the impact of proposals on the voluntary and community sector and on social enterprises.

Recommendation 3 – Appraising Impacts: Government departments should invite BME third sector organisations in developing accompanying Impact Assessment frameworks for proposed policies and subsequent consultations. This would improve the quality of consultation documents and procedures because of its targeted approach to the key stakeholders within the BME third sector.

When to consult

- 1.12 Often a ‘Stages’ policy development process is utilised in making Government policies in Britain. We believe that consultation on key public policy issues, especially on social policy issues, should seek views of third sector organisations in most of these ‘stages’. This includes informal and formal pre-consultations before the consultation documents are written; dialogue and focus group discussions during the length of the consultation; and post consultation feedback and involvement of key stakeholders in finalising policies. This is not to suggest that the Government adopts a way to consult in ‘bite-sized chunks’ for the reasons mentioned in the Effective Consultation document (p11), but to involve the sector from the start of shaping the policy agenda, and continue to do that until the finalisation of the proposed policy.
- 1.13 We are aware of the pressure this may bring to Government departments, especially when they are pressed for time. We therefore would favour the approach adopted in Sweden (case study 2, p12) to appoint a special group; Committee of Inquiry, in matters where extensive analysis is required before a proposal for consultation is drafted for consultation. Should this happen, principles of equalities in representation of this group should be given due respect.
- 1.14 Compact principles on ‘plan and consult early’ and ‘the value of ongoing dialogue’ should be respected by Government departments.

Recommendation 4 – Continuous Involvement: Government departments should ensure a continuous involvement of the BME third sector in most of the policy development stages. This includes informal and formal pre-consultations before the consultation documents are written; dialogue and focus group discussions during the length of the consultation; and post consultation feedback and involvement of key stakeholders in finalising policies. To accomplish this challenging task, we would support the idea of appointing a special group; a committee of inquiry, in matters where an extensive analysis is required before a proposal for consultation is drafted. This stakeholder link should be followed through the length of the consultation.

Section 2 – ‘Effective Consultation’: Proposed Directions

How to consult

- 2.1 Although many Government departments already supplement written consultations with one or more other approaches, it would still be useful to emphasise this in a revised consultation policy.

⁵which “stresses on the importance of conducting informal and formal pre-consultation and consultation as the Impact Assessment is being developed.” See Effective Consultation document, p11.

- 2.2 In consulting with the BME third sector, we strongly urge Government departments to adopt Compact principles (5.2, 5.3, 5.4, 5.5 & 5.6; BME Code, along with ‘consultation methods’; Consultation Code). Attention should be given to specific barriers that BME organisations face on being informed about consultations and their under-resourced capacity to effectively engage and participate. Initial findings of our mapping research on the size and scope of the BME third sector have shown significant gaps in engagement and involvement of BME groups in shaping local Government policy agendas such as LAAs and community strategies.⁶
- 2.3 A stakeholder dialogue on proposed policy would allow best participation with BME third sector organisations. For this however, Government departments should be willing to support BME infrastructure support organisations at national, regional, sub-regional and local levels to roll out consultations to generate dialogue and bridge the communication gap. Support for expertise and reach of BME generic and specialist national organisations delivering services to BME groups should be utilised in providing expert insight on policy issues.
- 2.4 Consultation documents should be simple, concise and should allow sufficient flexibility for stakeholders to add their own ideas relevant to the subject. Whilst it is important to put forward prompts and simple questions to direct the responses, these questions should be open-ended to be read and understood by all stakeholders for their own circumstances.

Recommendation 5 – Commitment to the Compact Codes: Voice4Change England strongly urges Government departments to adopt the Compact Codes of Good Practice on ‘BME VCS’ and ‘Consultation and Policy Appraisal’ in consulting with the BME third sector. Attention should be given to specific barriers that BME organisations face on being informed about consultations and for being under-resourced to get effectively involved.

Recommendation 6 – Stakeholder Dialogue: To better engage BME third sector organisations, conducting ‘stakeholder dialogue’ on proposed policies would allow best participation. In so doing, BME regional and national infrastructure support organisations should be supported to organise seminars and forums in their respective local areas.

Recommendation 7 – A Flexible Approach to Seek Responses: Consultation questions should be open-ended and there should be a sufficient scope to encourage diversity of responses. Use of prompts, examples and case studies would help small generic and BME groups to engage and understand the context of the consultation.

Awareness-raising

- 2.5 At V4CE, we become aware of open consultations through a regular scan of Government departments and other stakeholders’ websites, third sector magazines and news alerts and sometimes through invitations from different Government departments. However a central portal for all Government consultations that are relevant to third sector organisations would be of great help. We propose that the OTS website should provide a single portal to Government consultations relevant for the third sector. To some extent it is already happening but not all consultations relevant to the third sector are being posted on the OTS website.
- 2.6 Consultation meetings on matters that directly impact on specific communities should allow sufficient time for representative organisations to attend and they should be helped with resources – associated costs to include travel tickets, child care etc. BME third sector organisations rely mostly on volunteers’ rather than paid staff and therefore consideration should be given to these costs to ensure reach and engagement is extended to all stakeholders.
- 2.7 Government departments should aim for publicising notices of forthcoming consultations, something which is not being done at present. Some existing policies have calendared dates for their review. This should allow Government departments to inform the stakeholders in advance.

⁶ See ‘Mapping the BME third sector in England’, Report by Voice4Change England (Findings to be published in October 2007).

- 2.8 Local authorities and other statutory bodies should be regularly monitored by Government departments on their performance to involve local communities and their representative groups in deciding upon local governance and in shaping local policies. Without such a 'check', consultation becomes a 'tick-box' exercise.

Recommendation 8 – A Single Portal: Office of the Third Sector's website should be a single portal to all consultations relevant to the third sector. This portal should aim to publicise notices of forthcoming consultations, in advance of the 12 weeks required duration for rolling out consultations.

Recommendation 9 – Monitoring Compliance to the Consultation Code: During consultations, local authorities and other statutory bodies should be regularly monitored by Government departments on their performance to involve local communities and representative groups and compliance to the Consultation Code and the Compact Codes of Consultation and BME VCS.

Reporting back to stakeholders

- 2.9 Whilst it is important to receive feedback from Government departments on their consultations, it is equally important to know how the received responses were weighted and balanced against each other; was more importance given to the responses made by 'known organisations' or equally to those that do not usually respond but because of the relevance of subject decided to respond. Government departments in their feedback should explain the process through which they collated and analysed responses. Furthermore, Government departments should also make clear how they weight responses made by membership organisations (collective response) versus non-membership based organisations (single group response).

Consultation fatigue

- 2.10 We agree with the Government that consultation fatigue for the wider third sector might be avoided by better coordination between Government departments, adopting other procedures for listening to the views and by better design of consultation documents (p16). However, we believe that it is not the 'consultation fatigue' which is being experienced by BME third sector organisations; it is the opposite. The BME third sector is not engaged enough in Government consultations, resulting in its absenteeism and consequent disengagement from local and national policies. As explained above, one of the main reasons behind this disengagement is the failure on Government's part to better resource the BME third sector to enable it to get effectively involved and not respecting the Compact principles on consultation with the BME third sector. Specific needs such as language and cultural differences, lack of awareness about local governance structures and lack of financial resources are examples of other barriers. We would therefore recommend that Government departments place special attention to capacity barriers that small generic and BME groups face in responding to the consultations.

Recommendation 10 – Weighing Responses: In spirit of transparency to all stakeholders and respondent organisations, Government departments should report on how they collated, weighted and analysed responses.

Recommendation 11 – Addressing Absenteeism of the BME Third Sector: Voice4Change England Partners believe that to-date, the BME third sector has largely been absent in influencing government policies for reasons of poor efforts of Government departments to engage the sector. Only a small part of the BME third sector suffers from the concept called 'consultation fatigue'. The majority however have not been engaged. This practice should not continue and the disengagement should be urgently addressed. It is the responsibility of all Government departments to ensure proportionate engagement of small generic and BME groups. In so doing, barriers of under-resourced capacity should be addressed and specific needs such as plain language, travel and child care costs and sensitive approach to cultural differences should be fulfilled.

Section 3 – Options

- 3.1 Whilst option 1 proposes that Government departments continue to supplement written consultations with one other method such as stakeholder workshops, public meetings, citizens' juries etc. with the third sector, it is already largely applied in consulting with the third sector. We do not see any reasons for Government departments to depart from this practice. However, we would urge that they must also employ basic principles to consider their stakeholders in designing the consultation processes. Impact Assessments of proposed consultations should achieve this aim. We therefore do not see any major difference in the intent of the Options 1 and 3 (A Principles Based Approach).
- 4.2 In applying these options however, care should be taken by Government departments in developing processes which would ensure the maximum participation of BME groups. In so doing, the principles of Compact should guide their work.

Recommendation 12 –Maximum Participation: Voice4Change England recommends combining the proposed Options 1 and 3 of the Effective Consultation document. Government departments should aim to supplement written consultations with one other method such as stakeholder workshops/dialogues but must also ensure that in designing consultation material and processes, they have involved key stakeholders to improve the quality and reach of the proposed consultation.

Comments on the response

We would be happy to discuss our response further with the Cabinet Office for the benefit of the Third Sector in general and for the BME Third Sector in particular. Please contact Vandna Gohil, Director V4CE at vandna@voice4change-england.co.uk or on 0207 843 6132 to discuss the response in detail.

Likewise we would welcome comments and suggestions from third sector organisations on any part of this response. Organisations could email us at arjumand@voice4change-england.co.uk under the subject of 'Comments/Effective Consultation'.

For postal comments, our address is Voice4Change-England, c/o BTEG, 2nd Floor Lancaster House, 31-33 Islington High Street, London, N1 9LH.