Consultation Guidelines

For the Ministry of Health and
District Health Boards
relating to the provision of
health and disability services

August 2002

This document is intended as advice to assist the health sector. It is intended to be used as a guide only. Any interpretation contained in these guidelines of any of the provisions or obligations of any Act is opinion only and is not intended to be binding upon any party. The wording of the relevant Act should be considered directly to determine the appropriate and applicable interpretation in particular matters. The Courts will be the ultimate arbiter in the absence of any further specification by Parliament.

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MANATŪ HAUORA

Foreword

A new environment was created for health and disability support services on 1 January 2001. The New Zealand Health Strategy sets the platform under that environment for the Government's action on health. It highlights the Government's priority areas and aims to ensure that health services are directed where they will do the most good for the population, focusing in particular on tackling inequalities in health.

The New Zealand Disability Strategy also indicates the government's focus on developing an inclusive society. This includes ensuring that services are appropriate for people with disabilities, and that government agency processes and information (including consultation processes) are accessible to all.

One of the fundamental principles of the New Zealand Health Strategy is an acknowledgement of the special relationship between Māori and the Crown under the Treaty of Waitangi.

Another fundamental principle is the importance of community engagement and consultation on health services to ensure quality decision-making and policy development in health.

Consultation is a subset of community engagement that encompasses the seeking of views from the community on a specific proposal or issue and is more effective when built on relationships of trust.

A considerable body of knowledge and experience about public consultation has been developed over the last 10 years and over that time expectations on both sides of the consultation process have become more sophisticated.

Done properly, consultation can help create a greater understanding by the wider community of the role of District Health Boards (DHBs) and the Ministry of Health (the Ministry) and can strengthen external relationships, particularly with consumers and providers.

Consultation is common sense. We do it because it is pragmatic and good management practice. It leads to better decisions and therefore more appropriate services, which in turn contribute to improving the health and participation of all New Zealanders.

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Part One: Policy Framework

1 Introduction

The New Zealand Public Health and Disability Act 2000 (the Act) provides a framework for the health and disability support service environment from 1 January 2001. The purpose of the Act lays out a philosophy of increasing community voice and access to information.

The new Act sets out the roles and functions of District Health Boards (DHBs). It also sets out requirements with regard to consultation with communities on health services.

Under the Act, DHBs have specific consultation requirements (see Appendix 1). The Ministry is also obliged to consult under different pieces of legislation. These guidelines set out best practice for both DHBs and the Ministry for that consultation process.

Consultation must take place with the right people for the right purpose and in a way that is consistent with the principles of good consultation. Legal action may result if consultation is not undertaken when required or if it is undertaken in a manner contrary to good practice. However, consultation should not be seen as a burdensome obligation but as a positive process that can contribute significantly to decision-making. In turn, that should result in better or more appropriate services and better value for money.

Effective consultation can save time later by creating a sense of ownership of problems and solutions within the wider community. If people understand why and how decisions have been made, there is likely to be less antagonism – and less risk of litigation – between health organisations and the community. If health professionals and the community support an initiative, it will be much easier to implement.

These guidelines will help DHBs and Ministry staff:

- to plan and implement successful consultations
- to ensure they gather useful, relevant and meaningful information
- to promote a consistent standard of consultation in the health and disability sector.

They are not intended to specify a higher standard that results in additional costs. The guidelines are intended to assist DHBs and the Ministry undertake consultation by documenting statutory obligations, outlining good consultation practice and providing background information and useful resource tools.

This section sets out the policy framework, Part Two provides a practical guide on how to plan and implement a meaningful and effective consultation, and Part Three includes resources and 'tools' that should help with the process.

2 What is consultation?

'Consultation' has both a general meaning and a legal meaning. Both are used in the course of planning health and disability policies and services.

The Court of Appeal has identified certain elements of legal consultation,[1] which are summarised below.

- Consultation is not to be equated with 'negotiation'. The word 'negotiation' implies a process that has as its objective arrival at agreement. However, 'consultation' may occur without those consulted agreeing with the outcome.
- Consultation is the statement of a proposal *not yet fully decided on*.
- Consultation includes listening to what others have to say and considering the responses.
- The consultative process must be genuine and not a sham.
- Sufficient time for consultation must be allowed.
- The party obliged to consult must provide enough information to enable the person consulted to be adequately informed so as to be able to make intelligent and useful responses.
- The party obliged to consult must keep an open mind and be ready to change and even start afresh, although it is entitled to have a work plan already in mind.

After the consultation, the party obliged to consult will reach a decision that may or may not alter the original proposal.

The following principles should underpin meaningful consultation.

- The timing of consultation should be built into the planning process for a policy or service from the start so that it has the best prospect of improving the proposals concerned and so that sufficient time is left for consultation at each stage. Sometimes there will be pressure to do things quickly for the benefit of the population, and so sometimes the time scales need to be shortened. If so, clear reasons need to be given.
- It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
- A consultation document should be appropriate for the people it is intended to reach and be as simple and concise as possible. However, it must not leave out relevant information that has led to the decision to change or review policy. It should include a summary of the main questions it seeks views on. It should make it as easy as possible for readers to respond.

[1] *Wellington International Airport* v *Air New Zealand* [1993] 1 NZLR 671, 675.

- Consultation documents should be made widely available (with electronic means used as appropriate but recognising not everyone has access to these) and effectively drawn to the attention of all interested groups and individuals.
- Sufficient time should be allowed for considered responses from all groups with an interest. If a small-scale change that affects a few hundred people is planned, a simple plan can be designed that enables the affected people to have easy access to the information and an opportunity to respond. A few meetings or workshops may be sufficient. On other occasions a more formal process is essential. An extensive and comprehensive plan will be needed for changes that affect large groups of people. The timeframe will, of course, always depend on the complexity and volume of material and the number of people to be consulted. For a substantial consultation, 30 to 50 working days is generally considered adequate. The key issue is that there must be time to consult meaningfully.
- Responses should be analysed carefully and with an open mind. The results should be made widely available and should contain an account of the views expressed and reasons for decisions finally taken.
- The consultation process should be evaluated to ensure lessons are learned about what did and did not work.

3 Why do we consult?

Consultation contributes to the development of improved decision-making and good policy. Communicating with people affected by a decision is more likely to provide information and insight about a proposal. Decision-making can therefore proceed from a comprehensive pool of information that will increase the likelihood of the final decision being effective and successful.

Informed consultation therefore assists DHBs and the Ministry of Health to:

- provide opportunities (geographical, professional and communities with common interests) to participate in the development of policy, strategic decisions and to test new ideas
- enhance decision-making by receiving information, opinions, ideas and feedback from communities about their different needs and priorities, all of which helps to identify and avoid pitfalls.

At the same time, consultation usually:

- builds positive relationships with consumers, providers and the wider community
- encourages community ownership and support of decisions made.

Dialogue with affected parties and the use of a sound consultation process will minimise the potential for embarrassing and costly legal challenges to decisions that are made.

Treaty of Waitangi

One of the fundamental principles of the New Zealand Health Strategy is an acknowledgement of the special relationship between Māori and the Crown under the Treaty of Waitangi.

Central to the Treaty relationship and implementation of Treaty principles is a common understanding that Māori will have an important role in developing and implementing health strategies for Māori.

The principles of the Treaty of Waitangi must underpin and shape strategies for Māori health gain in the health sector (see Appendix 2).

Implicit in the Treaty principles is the requirement to consult on matters that affect Māori. The Act provides mechanisms to enable Māori to contribute to decision-making on, and to participate in the delivery of, health and disability services in line with Treaty principles.

Effective consultation with Māori is a vital part of this process, and is a requirement of the legislation.

Consultation with Māori is important to DHBs, both in respect of their duty under the Act to engage with Māori communities, and in ensuring DHB strategies for Māori health improvement are effective.

Consultation with Māori is related to, but separate from, the local partnership relationships DHBs are expected to establish at board level with local iwi and other significant groups representing Māori, and to Māori participation on DHB boards and committees.

Legal requirements

DHBs have wide-ranging legal obligations to consult under the Act. The Act specifically requires DHBs to consult on district strategic plans, after proposing significant changes to policies, outputs, or funding for outputs stated in their most recent Annual Plans, and on sales of land. But DHBs also have general obligations under the Act, which mean that consultation may be required in a variety of circumstances and on other issues.

The statute requirements and case law elaboration on these obligations are contained in Appendix 1.

> All steps in the consultation process should be carefully documented so that adequate and appropriate consultation can be proved if necessary. The decision-making and consultation requirements that apply on every occasion are to:
>
> - act in good faith
> - act with reasonable skill, care and diligence
> - act with honesty and integrity
> - act in accordance with the Code of Conduct
> - notify the public of meetings
> - recognise the Treaty of Waitangi

- follow the required consultation process.

Cabinet requirements

Cabinet has decided that the following requirements will be included in Crown Funding Agreements between the Minister of Health and DHBs.

Consultation should occur when DHBs are:

- initiating new policies, services or plans
- making significant changes to existing policies, services or plans
- establishing priorities
- making significant changes to the range and type of services or to access services
- proposing changes in methods of contracting.

NB: It is not possible to give a comprehensive list of every situation in which consultation should occur. DHB staff must examine each situation and issue, and decide whether consultation is necessary.

It is important to keep in mind that effective consultation early on should lead to better and more acceptable decisions on services and resource use.

If it is not clear whether consultation is required, see Resource Tools (1): Flow Chart Showing Consultation Requirements for DHBs, which outlines the issues that need to be considered before arriving at a decision about whether consultation should take place.

If there is still any doubt, the organisation's legal advisor should be consulted.

4 Consultation protocols between District Health Boards and the Ministry of Health

It is important to set up a regular channel of communication between the Ministry and each DHB to ensure co-ordination of consultation on matters of common interest.

If the Ministry plans to conduct consultation on services in a DHB area, Ministry staff must discuss the consultation process and the distribution of invitations and/or documents with the DHB consultation co-ordinator to ensure the best possible outcome.

To avoid duplication of consultation and to enable DHBs and the Ministry to share information in which they may have an interest, each organisation should make available information on all relevant consultations undertaken by its organisation. This will preferably be available using web-based technology and enable either DHB or Ministry to identify:

- the name of any consultation/discussion document(s) and where they may be located
- the topic(s) covered
- whether the proposal applies to the relevant district, region or to the nation

- the manager or section responsible for the consultation
- where the submission database and documentation on the consultation process may be found
- the dates of the consultation period (ie, from the release of the consultation or discussion document to the day when submissions closed)
- the summary of submissions and where it may be located
- the main decisions taken after the consultation (eg, any major changes to the proposals, date of implementation).

Each organisation (Ministry and DHB) should notify the other before distributing relevant consultation material to the people in a community. This is to ensure each organisation builds on the other's work; for instance, by alerting either organisation to a recent consultation covering the same or similar topic(s).

Any conflicts that arise should be discussed at the earliest opportunity; for instance, if the Ministry wishes to organise a consultation at the same time as a DHB consultation process. Where possible, consultations on related topics should be conducted at the same time or in an agreed sequence.

If either the Ministry or a DHB wants to use contact lists or other material held by the other, it should make the other organisation aware of this as early as possible, preferably at least one month beforehand.

If the Ministry conducts a consultation in an area of relevance to the DHB, appropriate representatives of the DHB should be invited to accompany Ministry staff to all consultation meetings. This invitation should go through the consultation co-ordinator or be copied to them. The DHB representative would then hear the presentation and the responses, and be present to answer questions about local issues. The invitation should be issued as early as possible in the process.

Each organisation should make available copies of the summary of submissions and any ensuing reports. This is particularly important in relation to any reports documenting decisions made following the consultation.

Nominated staff from the Ministry and DHBs should be allowed access on request to the electronic databases where submissions have been recorded and categorised to assist with their own planning.

DHBs and the Ministry should aim to share good consultation practice processes and research on a regular basis.

Part Two: Planning Consultation

Well-planned consultations can build on experience and knowledge to provide a balanced view, test assumptions and produce viable solutions. Many organisations today prefer to go beyond their statutory obligations and regard consultation more as an investment in good planning.

At the very least, if consultation is required, it must be done properly. It is not good enough to say there was insufficient time for consultation, and/or that the organisation has communicated its intentions or carried out a sampling exercise.

Planning is the key to effective consultation. This section moves through the steps required to plan and implement an effective consultation.

1 Establish ground rules for consultation

- Enter consultation with an open mind.
- Involve the group(s) to be consulted at the earliest possible stage, including the planning stage wherever possible.
- Provide all relevant information to enable people to make intelligent and informed decisions, let them know how to request further information and the timeframe in which to respond. This information should be distributed well in advance (see Resource Tools (3): *Checklist: Formal Consultation Timeline*).
- Follow up consultation with action; for example, acknowledging all submissions, providing summaries of overall discussion at meetings and hui.
- Use simple language and avoid jargon.
- Organise a communication strategy to ensure channels remain open and operating.
- Communicate well and often.

2 Set objectives for effective consultation

To establish the aim or purpose of the consultation, consider the following questions and describe the objectives of that consultation; for instance the scope of the consultation, what ideas and information need to be conveyed and to whom, the kind of feedback that will be useful, the level of participation that is desired, and the identification of risks, opportunities and support for future activities.

- Why is consultation taking place?
- What is the subject of the consultation?
- What information does the DHB/Ministry require?
- What work has already been done/is being done?
- Who is to be reached?
- What is the best method to reach these people?
- What specific information is required by these people to enable them to respond?

- How can this information best be provided?
- What is the timeline?
- How will the feedback be recorded?
- How will the responses be analysed?
- What are the possible limitations; that is, what can prevent or lessen the chances of a successful consultation?

3 Draw up a consultation plan

Include all the information outlined in No. 2 above in a consultation plan that should be written at the beginning of the exercise.

See Resource Tools (4): *Template for Consultation Plan*, for an outline of such a plan.

At this stage you should also identify any possible barriers to effective consultation; for instance, whether there are 'hidden communities' that may be difficult to reach but have much to offer. It may be possible to identify appropriate groups or individuals who can help to reach these groups.

Be specific in outlining consultation requirements. If consulting with a specific group, such as older people or teenagers, consultation requirements should be clearly specified to ensure wider input than those who simply claim to 'represent' the views of such groups. This information may be useful but may not meet requirements. However, within Māoridom, key individuals will often be chosen and given the mandate to represent the views of a number of people, especially those within iwi or hapū groups.

4 Decide who should be involved

- A project leader should take overall responsibility for bringing the elements of a good consultation process together.
- Once it is established what skills are needed, assess the skills and knowledge that are available internally and externally.
- The Māori health team (Te Kete Hauora (Maori Health Directorate) for the Ministry, Tumu Whakarae (Māori Managers) for DHBs) must be involved from the start.
- Talk to Pacific Island co-ordinators if you wish to reach Pacific people.
- Consult the legal advisor at an early stage if there is any doubt about your legal obligations.
- It is also important to include at an early stage the staff to be responsible for deciding and drafting the final policy.
- The person/analyst who is to code and write up responses should assist with the writing of the questions.

- It is important to include communications staff from the start. Most consultations attract media interest and the communications manager will assist in developing a media strategy. The aim of this is to make the people being consulted aware of what is happening and how they can take part and influence the outcome. The media also plays a significant role in how the DHB or Ministry is portrayed to the community.
- Secretarial support will be needed with preparation of the mail-out database and for advice about the most efficient ways of distributing information.
- Getting a database ready for mailing out consultation documents and invitations to meetings can be very time consuming. Discuss this at an early stage with the consultation team including the communications managers and community relations staff.
- There may be broad-based groups that will circulate documents at cost. Try to find out who holds the most up-to-date contact lists of providers. Beware of using a database that has not been recently checked. Bad publicity arises from mailing to defunct organisations or deceased individuals.
- Liaise with website staff to ensure all consultation documents go on the website.
- Staff within the organisation may not have the necessary skills. Consider other skills, knowledge or experience that could add value to consultation planning or management.
- Representatives from consumer, provider or other organisations can provide valuable ideas, perspectives and validity to decision-making. Their inclusion may also encourage ownership of the process and enhance and strengthen external relationships.
- Regularly brief all staff, in particular those in the front line, for instance receptionists/ telephonists and help-line desk staff.

5 Decide who should be consulted

Generally speaking, those who could be affected by the outcome of the consultation, now or in the future, need to be consulted. These people are often referred to as stakeholders.

Stakeholders include present, and possibly future, consumers and carers, providers, other health agencies (public, voluntary and private) and the wider community.

The consultation aims and the type of information to be gathered will determine whom to consult.

Treaty of Waitangi obligations require that Māori should always be consulted on significant issues.

In general, consultations on health and disability issues include:

- individuals and organisations from the communities served who receive or provide public health services, personal health services or disability support services
- voluntary agencies, private agencies, departments of state and territorial authorities

- the wider public.

6 Methods of consultation

The methods of consultation used will be influenced by whom you are trying to reach, the aims of the process and the resources at your disposal. A variety of common methods are listed below. A mix of methods is best. When choosing methods, ask which will deliver valid, representative information and ideas and ensure that key stakeholders have an appropriate medium in which to make known their views. Whatever other methods are chosen, always include the opportunity for people to make written submissions and to get information from the organisation's website.

Common methods of distributing information and/or consulting:

- discussion papers with submission forms
- website
- forums
- publications
- seminars
- promotions/campaigns
- surveys/polling
- public meetings
- freephone
- hui
- fono
- conference
- public hearings
- focus groups/consumer panels
- networking
- advisory/consultative/working committees
- community health groups
- research workshops
- advertising (eg, public notices)
- one-to-one interviews
- 'market' research.

Issues to consider when selecting consultation methods

What are the constraints (financial, personnel, and time) that may affect choice of methods of consultation? Different methods will require different amounts of resources and time. Consider the consequences of not using preferred methods because of these constraints. If necessary, extra resources may need to be negotiated.

If consulting with Māori and Pacific peoples or people with disabilities, is the process one that will work well for them?

What specific processes are required to reach special interest groups; for example, audiotapes of Braille documents for people who are visually impaired or interpreters for people whose first language is not English? Are venues likely to be foreign or intimidating to people? Are venues physically accessible?

Be realistic in balancing these concerns with the budget available. Consider having some meetings that cater for people with special needs and advertising these widely.

If the issues to be consulted on are complex, working with small groups can allow more time to explore issues in depth. Careful thought will need to be given to the amount and type of information given.

Public meetings can be a good vent for people who want to let off steam and raise issues of importance to them. Nevertheless, public meetings remain valuable, and the public should have at least one chance to hear directly from senior staff. These meetings should always be supplemented by other processes that give a wider, or specific, groups of people the opportunity to comment.

In group consultation, it is important that the facilitator is skilled at managing meetings in such a way that people can have their say. This may mean using outside facilitators where an issue is contentious and/or there is a level of mistrust about the process.

There should always be a note-taker, preferably someone familiar with the people and the issues. In addition to recording any decisions, motions or remits passed at the meeting, they should also note comments, and where possible, the speaker's affiliations or role. Note any undertakings given by the Ministry or DHB.

Consultation networks

Before beginning consultation, develop an inventory of consultative networks. Do not consult only people with a background in, or detailed knowledge of, the topic you are consulting on. Other people often have a valuable insight into the needs of a community or population-based group and must be given an opportunity to participate.

There may be opportunities for 'piggy-backing' on other established networks such as service provider organisations, non-governmental groups, the National Health Committee, and Māori and Pacific networks.

Consultation with Māori

Local and national government organisations often find consultation with Māori difficult because they do not know who to contact or listen to. It is important that Māori decide who are the appropriate people to be consulted.

It is also important to remember when consulting with Māori that different protocols and customs apply to different tribes in different rohe (areas) of the country. Do not assume that what is appropriate in one area is appropriate in other areas. Check the procedure for consultation with Māori before you begin.

The starting point will generally be the organisation's Māori health team (Te Kete Hauora (Maori Health Directorate) for the Ministry, Tumu Whakarae (Māori Managers) for DHBs), as well as appointed or elected Māori members of DHB Boards.

DHBs are expected to have established effective relationships at the board level with Māori in their region. This should include partnership relationships with iwi and other significant organisations representing Māori. While DHB partners should be consulted on ways to consult Māori communities, these relationships are not a substitute for proper consultation with Māori.

For DHBs that have not already established effective relationships and/or do not have Māori managers, Te Puni Kōkiri (Ministry of Māori Development) should be able to advise on appropriate contacts and also on the most appropriate process for national, regional or local consultations.

Other groups who may be able to help include the Māori Women's Welfare League, the New Zealand Māori Council and the Māori Congress. The first two are established under statute and can provide a useful perspective, though it will still generally be necessary to consult at a tribal level. In the case of DHB consultations, this will often be the main focus.

There are also Māori health groups such as Te Hotu Manawa Māori, Te Ora, Ngā Maia, Ngā Nehi Māori O Aotearoa, and Ngā Ngaru Hauora O Aotearoa with whom it may sometimes be appropriate to consult.

Māori generally prefer kanohi-ki-te-kanohi (face-to-face) communication, and while consultation with Māori may take many forms, it will involve regional, local, or even national hui. Māori health teams should be able to advise on local protocol.

The Ministry and DHBs need to consider carefully who they send to different hui. Māori are likely to be represented by kaumatua or people of high status and the absence of people of equal status and mandate on behalf of the Ministry or DHB can be insulting.

Ministry and DHB staff should also be aware that Māori are often swamped with requests for consultation, advice and knowledge from government agencies. Consultation with Māori should not become a substitute for using available information and research material.

Read the companion guidelines: *Establishing and Maintaining Relationships with Māori: Resource document for DHBs* (expected to be completed by December 2002).

For Ministry of Health staff - see *Te Rito* on the Portal.

See Resource Tools (5): *Guidelines for Marae Visit and Pōwhiri Process*.

Consultation with Pacific peoples

Talk to a Pacific DHB board member, local Pacific provider network groups or Pacific providers about how best to consult with groups and communities of Pacific peoples. (There are seven DHBs with significant populations of Pacific peoples in their health districts – Waitemata, Auckland, Counties Manukau, Waikato, Hutt, Capital and Coast and Canterbury.)

It is wrong to assume that Pacific peoples are a homogenous group and to treat a diverse range of people as a single culture with a common set of customs and traditions.

The Pacific population in New Zealand comprises at least 22 different cultures and a great number of dialects. The major population groups are from Samoa, Cook Islands, Tonga, Niue, Tokelau and Fiji.

DHBs and the Ministry need to recognise the ethnic diversity within different Pacific groups and develop strategies that are appropriate to the particular Pacific group with whom they are engaging. This sensitivity acknowledges that each of the Pacific groups has its own languages, protocols, customs and traditions.

The publication of consultation documents for the information of the six main Pacific population groups is encouraged but may not be cost-effective. Summary sheets that state the key points of a document or policy decision may be helpful. Once translated, the information needs to be made readily available and disseminated appropriately to Pacific communities.

Pacific peoples prefer consultation to occur by face-to-face discussions. Services of a respected member of the Pacific community who can speak English as well as the language of the group being consulted should be engaged to facilitate the discussion. Health officials must support the important principle of reciprocity by giving Pacific communities feedback on the results of any consultation.

See the website of the Ministry of Pacific Island Affairs for guidelines on how to consult with Pacific peoples.

Consulting people with disabilities

Consultation processes must allow people with disabilities the opportunity to be actively involved.

While the general principles outlined above apply, there are also some other factors that should be taken into account in consulting people with disabilities, whether on disability issues or on general health. People with disabilities also have personal health issues and have a right to be consulted on those issues.

It is often better to consult disability consumers separately from providers, as consumers may feel threatened by revealing concerns or complaints directly to providers. In

analysing submissions, it is essential to distinguish between provider and consumer views (and between carer and consumer views), which may conflict.

Privacy issues need to be respected when consulting directly with individuals using services. One way is to work through consumer support groups. Given that these groups often have limited resources and may meet infrequently, it may be necessary to provide extra time and financial resources to make submissions. Assistance with transport costs may also be necessary; for example, where people have been sent individual invitations to focus groups. (Focus groups can complement an inclusive approach, but the use of focus groups only is not acceptable as normal practice.)

However, these factors need to be balanced with the practical reality that budgets and resources for consultation are always limited. Good planning will provide opportunities to participate but not necessarily at every meeting. A more sensible approach is to ensure, first, that all consultation meetings are held in places that have physical access, carparking and toilet facilities suitable for people with disabilities.

If a series of meetings is being held, it makes sense to have a separate meeting to cater for people with particular needs and to advertise the meeting to people in that group.

See Resource Tools (6): *Guidelines for Consulting People with Disabilities*.

7 Timeframes

DHBs are required under the Act to consult on draft district strategic plans, or significant amendments to district strategic plans, to a standard not less than that set out in section 716A of the Local Government Act. That Act specifies a period of not less than a month and not more than three months for people to make submissions.

Many local authorities now use six weeks as a minimum submission period. However, the timeframe will always depend on the complexity and volume of material. The time given must always be reasonable in relation to the circumstances of the particular case being consulted. Allowance should be made for a further one-to-two week extension of time.

See Resource Tools (3): *Checklist: Formal Consultation Timeline*.

8 Providing and receiving the right information

Providing information

Consideration should be given to using different and accessible media for delivering information; for example, video/audio cassettes, verbal presentations, pamphlets in doctors' surgeries, and advertising or television. In general, the public reacts adversely to what they see as high-cost ventures, including the use of colour in documents.

It can be difficult to find the right amount of information to give to participants. Experience with written material shows that about 16–20 A4 pages are about right for most audiences.

In some instances you may have to target information to specific audiences. This could mean preparing different information for different events. For example, detailed and technical information may be appropriate for health professionals but not for the general community.

It is simplest and clearest to have one key discussion document and to point to extra information sources and specific individuals who can be asked for further information.

In all cases, though, language should be as jargon-free as possible. One of the repeated criticisms of public consultation processes is the use of jargon. Testing the document on people unfamiliar with the subject matter and jargon helps to show up the difficulties the public would have to understand it.

The language in consultation documents should be understood by as many people as possible, and if required, translated into Māori, Pacific or other languages.

See Resource Tools (7): *Checklist: Consultation Document*.

Receiving information

It is essential to determine, while still at the planning stage, the method for gathering and receiving information. This is important for collation and analysis purposes.

Once the type of information required for the consultation is known, it can then be decided what information needs to be produced for participants and how it should be presented.

Written submissions

People writing submissions are usually asked to answer specific questions, with room for additional comments at the end of the submission. Limit the number of questions so people are not discouraged from responding.

Deciding what to ask is surprisingly difficult. Questions need to be asked in a way that gives answers that can be meaningfully analysed. Therefore, once it is decided what information will be useful, the analyst who is to write the report on submissions should be asked to critique the questions and format.

It is a good idea to pre-test questions with lay people to ensure they are clear, jargon-free and will elicit the information being sought.

Leading questions may result in accusations of predetermining a particular response.

It is important to get people to identify their interest or for whom they speak.

People should be asked to specifically identify whether they want their submission to remain confidential but should be reminded that submissions may nevertheless be subject to requests under the Official Information Act 1982 (OIA). Confidentiality cannot

therefore be guaranteed because although OIA provisions for withholding information may apply, the public interest in disclosure may outweigh the withholding grounds. It may be that the DHB or the Ministry says all submissions will be publicly released after calling for them. This means people will only make statements they are prepared to back up. However, for privacy reasons, individuals could have their names removed from their submission when it is released and they could be asked to identify if they wish this to occur (subject to any outweighing public interest considerations under the OIA).

9 Monitoring the consultation process

Once the consultation has started, it is important to measure the aims against the methods used.

Are the right people being reached? Are they responding? Are there any problems?

Regular monitoring of the effectiveness of the consultation process by the project team will ensure the project stays 'on track' and that issues and problems can be quickly identified and remedial action taken.

The value of monitoring as the consultation proceeds is that improvements can be made to presentations. Answers to questions can be provided, and the consultation process modified accordingly. Monitoring will ensure adequate preparation for questions the audience might ask. For instance, communication tools such as charts can be requested that will help at later meetings.

10 Acknowledging and analysing information

It is important to acknowledge the contribution made by those who take part in consultations and to assure them that their views will be considered in the analysis process.

The procedures to be followed are outlined below.

- All submissions should be acknowledged on receipt.
- All input from the consultation should be reviewed and collated in a full internal report. This may be done by an internal or external analyst, but the analysis should be produced in a way that meets the needs of the project team. There may be a need for an initial early summary or a detailed analysis of specific issues. (See Resource Tools (8): *Guidelines for Analysis of Submissions*.)
- The report should be assessed by the project team and, where appropriate, circulated to other parts of the organisation for comment.

Once these steps have been taken, recommendations based on the external consultation and internal input can be made and the DHB or Ministry can make a decision.

It is important that decisions and the reasons for them are conveyed to those who have participated in the consultation.

A summary of submissions (which may be an abbreviated version of the internal report) and the decisions taken in relation to them, should then be sent to all who requested a copy, either at the consultation meeting or as part of their written submission.

A box that can be ticked should be included on the submission form to indicate whether or not people want a copy of the submissions analysis. That will save sending out unwanted copies.

In some cases, it may be most appropriate to deliver the results of consultation in person; for instance, to those most affected by the proposals, those who have made a major contribution to the project and those such as Pacific peoples who expect face-to-face contact.

11 Evaluation

The purpose of the evaluation is to provide an opportunity to reflect on the consultation plan and its implementation. It helps to build a body of knowledge and experience within the DHB or Ministry that will be useful in future consultation exercises.

Plan the evaluation at the same time as you plan the project. That will allow collection of useful information during the process and ensure there is an adequate basis on which to judge it. Gather feedback during and after the consultation and when the decisions have been made. The project co-ordinator, or his or her delegate, may manage this part of the process. All project team members should be encouraged to contribute.

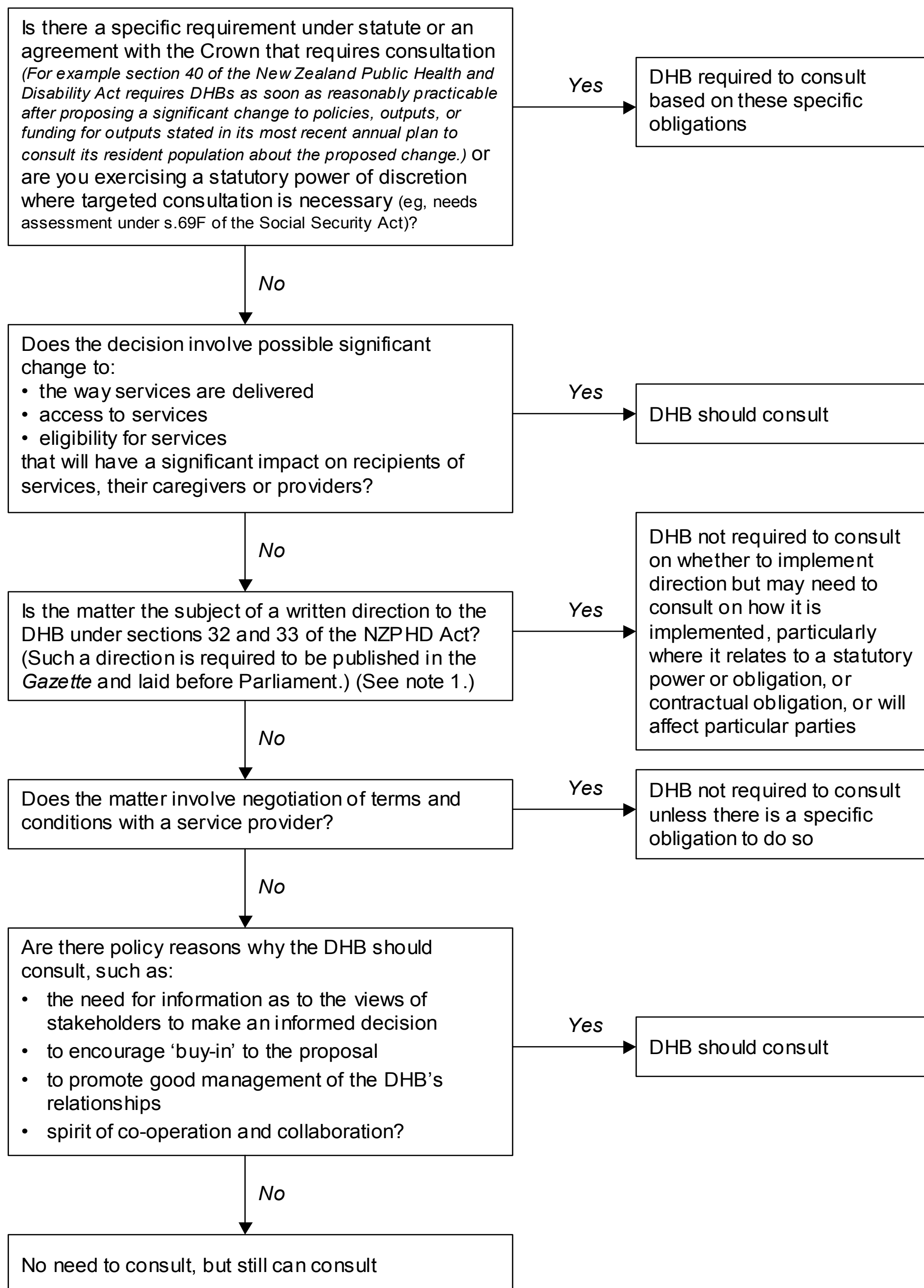
An evaluation report could include:

- an assessment of the aims of the consultation against the outcomes
- the methods used and how effective they were
- the communication plan and how effective it was
- the overall planning and implementation of the consultation
- evaluations by participants of any workshops, forums, etc
- the cost compared with budget
- how information and views gained in the process changed the DHB/Ministry's plans
- recommendations for future consultations
- what difference the consultation made to the ultimate decision(s) or how the policy changed from start to finish.

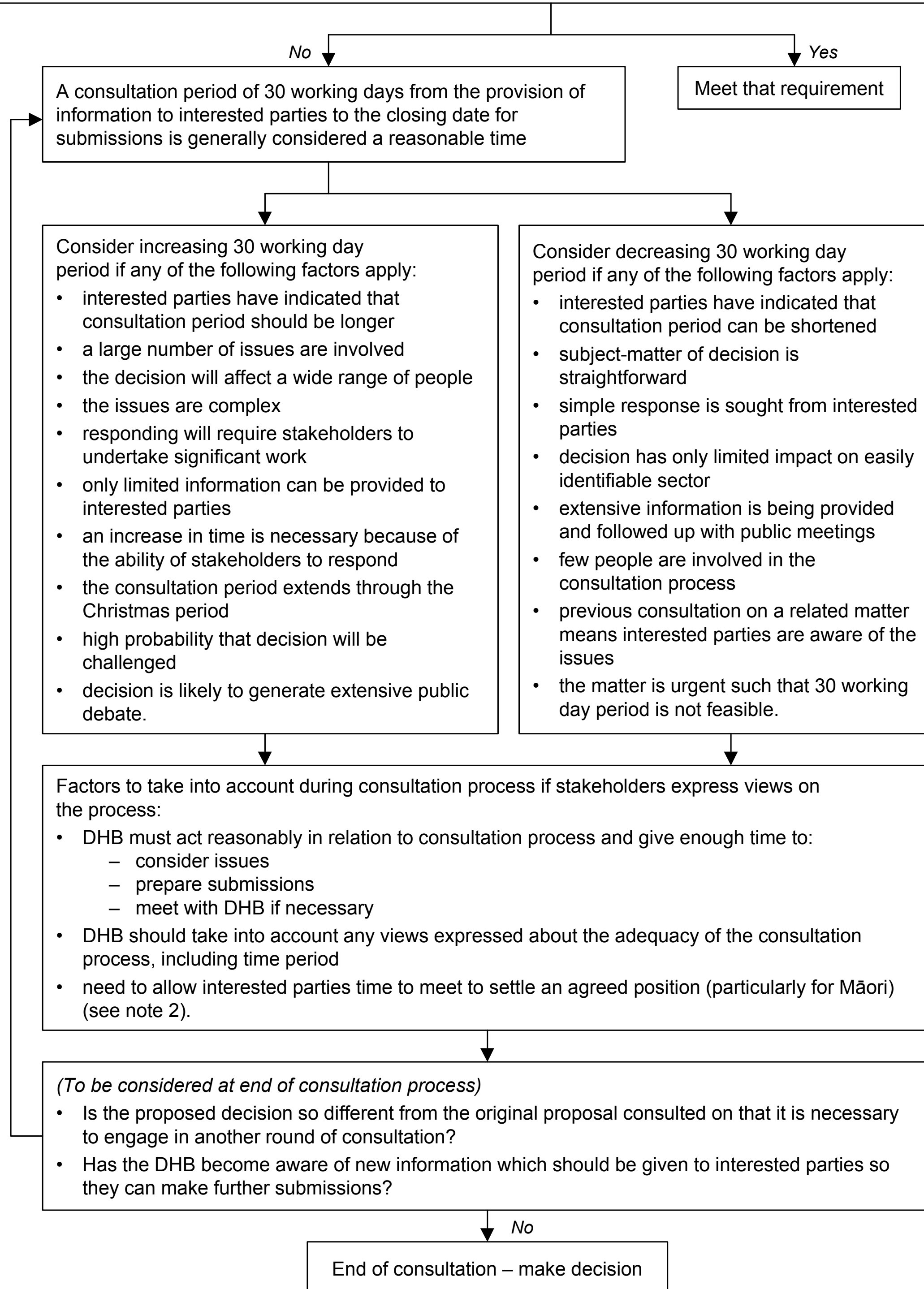
Resource Tools (9): *Templates for Evaluation of Consultation* provides examples of templates.

Part Three: Resource Tools

1 Consultation requirements for DHBs



2 Consultation period for DHBs



Notes:

1 Sections 32 and 33 of the New Zealand Public Health and Disability Act 2000 provide for the Minister of Health to give written directions to DHBs. If a direction is given the relevant DHB must comply with it. The Act is specific about the requirements for a direction and requires it to be published in the *Gazette* and laid before Parliament.

Because the DHB is required to comply with a direction under section 32 or 33 it does not have a discretion to exercise, and therefore it is unnecessary to consult as to whether or not to take the action required by the direction. However, it may well be necessary or desirable to consult stakeholders as to how the direction is to be implemented if there are a number of options and the choice between those options is left to the DHB.

If the Minister expresses a desire that the DHB do something, but does not issue a direction under section 32 or 33, the position is quite different. The DHB is not *legally* required to do what the Minister requires unless it becomes an obligation in the Crown Funding Agreement, Statement of Intent, District Annual Plan, by direction, or because the DHB has already committed to doing so. The DHB therefore has to make its own decision as to what it will do. That being the case, the decision as to whether or not to consult must be considered as if there was no direction from the Minister.

2 If, after commencing a consultation process, stakeholders express the view that a longer period of consultation than had been planned is necessary, the DHB may decide to extend the consultation period. If the period is extended, it is important to notify all stakeholders of the extension and allow the extended period for submissions from everyone. This is necessary to avoid a challenge because some people have been treated differently from others.

3 Checklist: formal consultation timeline

Key milestones before consultation can begin

- Proposals and research completed.
- Any legal points clarified.
- Internal consultations completed with other operating groups, Māori health team, localities, corporate etc.
- Consultation plan written up.
- Communications plan written by communications manager.
- Questions to be consulted on agreed.
- Questions to be consulted on reviewed and reformatted by analyst.
- Public document to be consulted on reviewed and revised by communications section.
- External focus group to trial document – good idea but not essential.
- Final consultation document to executive management team or board.

Timeline of actual consultation

The example given is for a large-scale national project. Savings in time allowed for actual meetings and analysis can be made if more speakers are available or if the project affects only people in a limited geographic region or with an uncommon condition. The following timetable allows for a consultation period of 50 working days from the date of mail-out until the day submissions close.

Week 1	Document to the printer, prepare mail-out labels.
Week 2	*Consultation period commences.* Mail out document with invitations to the main open meetings.
Weeks 2–4	Complete preparation for presentations: overheads, question and answer sheets, graphs, speakers' practice. Set up template for recording issues raised in meetings and responses etc.
Week 4	First meeting (allow three to four weeks from mail-out to the first event).
Weeks 4–9	Meetings/workshops/focus groups, hui etc in designated centres. Normally plan meetings Tuesday to Friday, occasionally Saturday.
Week 9	Last meeting.
Week 11	*Close of consultation period.* Close of submissions.
Weeks 8–13	Entry of submission points on database, acknowledgement of submissions, analysis of submissions and preparation of summary of responses, including views expressed at meetings.
Week 13	Report presented to team formulating the proposal(s) and decisions made.
Week 14	Public summary of feedback written with the assistance of communications section.
Week 16	Decision announced and summary of feedback sent out to submitters.

Staffing for the public and provider consultation

- One excellent speaker from the policy-making team per event.
- Another from either the policy team or the relevant locality team for backup on policy issues and answers to questions relating to the locality.
- A Māori speaker who has credibility with the groups of Māori being consulted.
- Kaumātua, kuia, whaea – particularly when hui are held on a marae.
- A recorder who knows the issues, and ideally, the people attending (sometimes the community relations manager).
- Communications staff for media briefings, publicity etc.
- Facilitators (eg, the community relations manager, external expert or local person with mana).
- Data entry person.
- Secretarial help (or external company) for mail-out, support services for booking venues, arranging travel and accommodation etc.

- Analyst/report writer either internal or external.
- Support people (eg, sign language interpreters, guide-helps, advocates/support workers).

4 Template for consultation plan

This template includes all matters that need to be addressed in planning a consultation. Use these headings for the written plan that will be sent to the DHB board. Do not include details, just the overview.

Purpose of the consultation

Explain the purpose of this consultation and how it fits into the overall plan.

Objectives of this consultation

Describe your objectives – for instance, the scope, what ideas and information are to be conveyed and to whom, the kind of feedback that will be useful, the level of participation that is desired, the identification of risks and opportunities and support for future activities.

Background

Problems that led to changes proposed, what work is already being done.

Risks/opportunities

Outline risks for the DHB proceeding or not proceeding with consultation, advantages and opportunities from consultation, and other organisations' issues/consultations that are relevant. Also consider the political environment.

Legal opinion

Has one been sought? What was it?

Documents

Attach the final discussion document, including the submission form and detail papers, pamphlets, question and answer pages or other resources that are to be prepared to publicise and explain the main document(s). Explain how information is being provided.

Timeframe

Include key dates from Resource Tools (3): *Checklist: Formal Consultation Timeline*.

External audiences

Describe main groups to be informed and consulted, and why.

Māori

Discuss with Māori Health Group (Te Kete Hauora (Maori Health Directorate) for the Ministry, Tumu Whakarae (Māori Managers) for DHBs) who to approach, accessibility requirements, number and locations of hui planned and how these can fit in with other meetings.

Methods

Describe the methods to be used to inform and consult.

Media

Arrange for the Communications Manager to prepare a communications plan.

Analysis of submissions

Explain what is being analysed, how and by whom, and when this will occur.

Budget

Estimate costs, including publication and distribution costs, meeting costs, any external facilitators, interpreters, analysts and data entry. Exclude staff time, travel and accommodation (a consultation exercise is often combined with other work). Estimate also any costs payable to people or groups to allow consultation to take place with them.

Process for incorporating consultation results into DHB decisions on policy

Name the DHB manager who will be responsible for doing this and the process by which information from the consultation will be incorporated into the decision-making process.

Feedback to interested parties

Say when and how this will take place.

Evaluation

Describe what is to be measured, whether it is to be an internal only, or internal plus external, evaluation and who will be responsible for managing the evaluation. (See Resource Tools (9): *Templates for Evaluation of Consultation*.)

5 Marae visit guidelines and pōwhiri process

The marae is used for numerous activities and occasions such as weddings, birthdays, general hui and tangi (funerals). It is a meeting place where people can discuss and debate various issues and is considered as a turangawaewae (a standing place) for Māori, a place of belonging.

The use of marae is an important aspect of consultation, as the marae for Māori is considered the physical centre for Māori society.

The following marae visit guidelines and description of the pōwhiri process will provide general information to assist with a visit.

> This is not an exhaustive guide and should not be seen as the only tool needed to conduct consultation with Māori. The most useful avenues for consultation are to engage with local iwi and hapū to provide face-to-face guidance on the local kawa (protocol and customs).

Preparing for a visit to a marae

Before going to a marae, it is important to understand the kawa (protocol and customs) as these vary from area to area and tribe to tribe.

When organising a marae visit, there are practicalities, which need to be addressed:

1. the speaker or speakers
2. the kaikaranga or the woman/women who make the call
3. the koha or donation
4. the waiata or song that support the speeches.

Pōwhiri

The purpose of a pōwhiri is to welcome manuhiri or visitors to the marae, especially if they are waewae tapu (first time visitors) to an area. The pōwhiri provides each group with the opportunity to meet each other and it also allows the manuhiri to explain why they are visiting the marae.

Gathering outside the marae

Before entering the marae, ensure that everyone involved in the pōwhiri from your ope (group) gathers outside the marae gates on time and is ready to go onto the marae. During this process, the speakers are identified and the koha is organised. The koha should be handed to the speaker for the group and placed into an envelope for presentation during the pōwhiri. Ensure that staff and colleagues who do not understand marae protocol are advised by local kaumātua or Māori staff.

Going onto the marae

There are a number of ways to go onto the marae, and this is dictated by local kawa. It is therefore important to take advice from local kaumātua as to the most appropriate way to manage this.

Irrespective of who leads the way onto the marae, the members of the group stand together and move slowly as a group onto the marae. The woman who is the kaiwhakautu/

kaikaranga generally stands at the front of the group when moving onto the marae to respond to the karanga from the tangata whenua.

The karanga

The kaikaranga (from the tangata whenua) will make the first call of welcome to the manuhiri. This is then responded to by the manuhiri kaikaranga. These exchanges are calls of recognition and respect from one group to another, and during the karanga the total group may also perform chants or other rituals, which assist in the welcoming of visitors onto the marae. The karanga is also used to tell the kaikorero what the kaupapa (reason) will be for the actual hui.

Once the kaikaranga starts, the group should move slowly onto the marae-atea or forecourt of the wharenui and take guidance from the kaikaranga.

Once the karanga is fully completed, the group should move towards the seats that face the tangata whenua. (**If the proceedings are inside the wharenui remember to remove your shoes**.) Do not sit down until the kaumātua accompanying you sits down or signals you to sit down. Male speakers sit in the front rows and everyone else sits at the back.

Nga whaikorero

Once everyone is seated the whaikorero/mihi start. Different tribal areas and marae have different protocols for how this works, but generally it revolves around the tangata whenua welcoming manuhiri to the marae and the manuhiri responding.

Traditionally, only the experts in the art of whaikorero (oratory) would stand to speak to manuhiri. The purpose of the whaikorero is to acknowledge and link the past, present and future, and laying down the kaupapa for the hui or event that will take place.

The order in which each speaker stands can change from area to area.

Once again, be guided by local kaumātua as to the correct kawa.

Nga waiata

To support the speaker, a waiata (song) is sung once the speech is made. The waiata should be appropriate for the occasion and should be learnt by all that will attend the hui.

Generally, one person, either a woman or man, will start the song and the rest of the group will join in. When standing to sing the waiata, the group moves to stand beside or behind the speaker, if appropriate.

Koha

Koha is given by the manuhiri to the tangata whenua. The last or only speaker for the manuhiri will lay down the koha after his whaikorero and accompanying waiata. This shows that the manuhiri have finished or the first group of speakers has finished.

At pōwhiri you may find that there are two or three groups going onto the marae. Each group presents their whaikorero and koha, which will be passed on by the kaumātua.

Traditionally, koha were in the form of precious materials (pounamu, whalebone or food). In today's society money is the normal form of koha. The purpose of the koha is in recognition of the costs associated with pōwhiri/visit. The size of the koha may differ according to the size of the group going on to the marae, the purpose of the visit, and whether arrangements have been made to invoice costs associated with visit. Advice should be sought on the size of koha.

Hongi/hariru

At the completion of the whaikorero/mihi, the tangata whenua will beckon all manuhiri to come forward for the hariru (which includes the hongi). The hongi is where people press (not rub) noses and is the first physical contact between the two groups. This part of the pōwhiri is important, as it symbolises a meeting of minds between two people.

This process completes the formal welcoming ceremony. Once this is over the tangata whenua generally invite the manuhiri to join them for kai.

Rules on a marae

These rules are intended as a guide only, as each area and each marae has its own rules. Further points to remember are:

- keep the area immediately in front of the meeting house clear at all times
- alcohol is not permitted on or near the marae. Some marae apply this rule to all functions, including weddings etc. Others are open to a request for permission to provide alcohol at social events
- the tangata whenua occupy the right-hand side of the meeting house (the ancestors' right hand), while the manuhiri occupy the left-hand side, including the rear and then positions left vacant by the tangata whenua. Sleeping positions are also reserved for leading chiefs or kaumātua.

Rules for the whare hui

Do not:

- wear shoes in the whare hui
- smoke in the whare hui
- eat kai (food) in the whare hui
- jump on mattresses in the whare hui
- hang clothes on the pictures in the whare hui
- hang clothes on the poupou (carvings) in the whare hui
- drink in the whare hui
- run around inside the whare hui
- walk over peoples' legs – ask them to move them

- walk in front of a speaker
- throw blankets over others
- chew gum
- sit on pillows *anywhere*
- walk over peoples heads or bodies.

Rules for the whare kai

Do not:

- sit on the tables *anywhere*
- smoke in the whare kai
- throw food at all
- pass food over anyone's head.

Rules for the marae atea

Do not:

- smoke on the atea
- play sports or games on the atea during a pōwhiri
- cross the atea – walk around the sides during a pōwhiri.

Rules during pōwhiri

Do not:

- talk while a speaker is talking
- sit on the paepae, unless you are willing to speak or get directed by kaumatua
- walk out during pōwhiri
- move around while a speaker is talking
- smoke during pōwhiri
- eat during pōwhiri
- drink during pōwhiri
- chew gum during pōwhiri.

Note: Children are always welcome on a marae. Please ensure they are comfortable, fed, and understand what they may and may not do.

Terms used in marae protocol

Māori	**English**
Aotearoa	New Zealand
Aroha	Love
Ātea	Courtyard
Hapū	Subtribe

Hongi	Pressing noses
Hui	Meeting
Inoi	Prayer
Kai	Food
Karakia	Church service
Karanga	Call
Kaumātua	Elder
Kāuta/Kihini	Kitchen
Koha	Gift
Korowai	Cloak
Mahau	Veranda
Manuwhiri/manuhiri	Visitors
Māoritanga	Māori culture
Marae	Physical structure
Mātātahi/rangatahi	Young people
Mauri	Life principle
Mere	Greenstone weapon
Mihi	Speech
Oriori	Chant
Pakeke	Adults
Pohiri/pōwhiri	Welcome ceremony
Poroporoaki	Farewell ceremony
Ringawera	Cook
Tamariki	Children
Tāne	Man
Tangata whenua	Host people
Tangihanga	Funeral
Taonga	Treasure
Tapu	Sacred
Tikanga	Customs
Tohu	Sign
Turangawaewae	Standing place
Wahine	Woman
Waka	Canoe
Wero	Challenge
Whaikorero	Oratory
Whare hui	Meeting house
Whare kai	Dining room
Whare paku	Toilet

6 Guidelines for consulting people with disabilities

Check the following list to ensure consultations are fully inclusive of people with disabilities.

Physical access

- Consider the venue's friendliness to disabled people.
- Access, for instance, ramps, self-opening doors, lifts.
- Accessible car parking close to the venue.
- Access to public transport.
- Accommodation (if applicable).
- The building has clear signage.
- Meeting area and break-out spaces are suitable and accessible for people with a disability.
- Where possible choose a meeting room with a hearing loop installed.
- Disability toilets on the same level (or on another level accessible by lift).
- Telephones accessible to a person in a wheelchair.
- Good lighting.
- A sound system sufficient for the venue.

Meeting environment

- Ensure the venue is acoustically suitable and free from traffic and building noise and other distractions.
- Ensure the agenda is easy to understand and that there is adequate room for breaks. A 10–15 minute break every 60–90 minutes is recommended. (Sign language interpreters require more regular breaks if they are working by themselves. If the meeting is complex or over two hours, two sign language interpreters are needed).
- Set clear guidelines, such as staying focused on the issue and not talking over other people, at the beginning of the meeting.
- Try to use concrete examples wherever possible.
- Write down points as well as reading them out so people can read as well as hear what is being said.
- For people with visual impairments, read in full any overheads or other visual displays and explain diagrams.
- Do not go too fast or cram too much into a session.
- Allow time for people with speech impairments to say what they want.
- Send background information out beforehand or give people a handout at the meeting to take away to assist with triggering memory.
- Provide written feedback.
- Be aware that personal questioning may be viewed as threatening.
- Be prepared to repeat or rephrase information.

Communication

Face-to-face

- Keep questions simple and explanations easy to understand – use plain language and not technical terms or acronyms.
- If not understood the first time you may need to rephrase points.
- Body language is crucial as people with an intellectual disability can rely on non-verbal clues.
- Accept/use information by other means (gesture, electronic voice devices).
- If someone is with a companion, put the question to the person attending the meeting, not the companion.

For those with a hearing impairment

- Get the person's attention.
- Face the person, and keep your head straight.
- Speak clearly.
- You may need to repeat or rephrase.
- Do not speak with your back to a light source such as a window.
- Back up with written communication wherever possible.

Telephone

- Use plain language and speak clearly.
- Use a telephone typewriter (TTY) or fax as an alternative when communicating with deaf or hearing impaired people.
- Have accessible written material that can be sent out if requested.

Consultation material

All public documents should be available in standard, easy-to-read format with other accessible options available (as described below) on request. Remember to keep documents free from jargon and acronyms and use concrete examples to illustrate points.

Written

- Make a larger-than-usual font (eg, 12 pt) as your standard font size for printed public documents.
- In addition, produce a large print version – any material being released for consultation, comment or distribution should be available in large print.
- Use capitals plus lower case.
- Have an identical margin width on either side of the text.

- Set margins justified to the left, with the right margin unjustified.
- Use non-reflective paper in white or pale colours and one-block colours.
- Use the plainest typeface without serifs, such as Arial.
- Print in a dark colour (preferably black).

Avoid

- Typeface with extra projections on the letters.
- Italics.
- Blocks of text in capitals.
- Typing over the top of graphics or using background patterns.
- Blocks of colour or dark shading behind text.
- Colour combinations with low contrast (blue with green).
- Thin paper that allows the print from the other side to show.

Disk/electronic formats

People with visual impairment may require information in text format on disk so computer readers can read it. Where public documents are available in text format on disk or by email, note that diagrams and other visual formats will need to be explained in text. Do not use columns, as computer readers read across the page.

Italics

All websites should conform to the World Wide Web Consortium's double A standard or be 'Bobby approved' to ensure accessibility for people with disabilities (no frames; tags should always be used for photos or other graphics). Downloadable files on the Internet or attachments to emails should be displayed in standard and text formats where possible. Some people with disabilities may not be able to access pdf files so they should also be made available in text format. (These standards are always being upgraded with advances in technology and need to be updated on a frequent basis.)

Braille

The Royal New Zealand Foundation for the Blind can convert documents to Braille through its national library in Auckland. Arrange for Braille conversion in advance to determine costs and time frames. Normally provide Braille documents on request only.

Sign language

Where deaf people are likely to be present, ensure a sign language interpreter has been contracted to interpret at the meeting. If a meeting is complex, or over two hours long, two sign language interpreters will need to be present. In addition, it is useful to provide the interpreter with all background information before the meeting. Contact your local Deaf Association for advice. It is recommended that at least two weeks are needed for advance bookings.

Audio tapes

Audiotape production for people with visual impairments can be arranged via the Royal New Zealand Foundation for the Blind through its national library in Auckland. It is recommended that a professional audio-production agency be used, rather than in-house production, to ensure clarity and quality. Plan ahead, but normally, provide audiotape only on request.

Video tapes

Although expensive, videotaped production of documents or issues is very useful where many of the target audience are deaf, people with head injuries or people with intellectual disabilities. Tapes should ideally have open subtitles plus a sign language interpreter on screen.

Cutdown versions of documents

Some people with intellectual disabilities or head injuries, or deaf people who have had limited educational opportunities, may require a simplified and smaller version of the issues. Where you are unsure, talk with the Assembly of People with Disabilities (DPA) – they will be able to advise on best practice for consultation with people with disabilities.

7 Checklist: consultation document

Information

- Is the name of the consultation document simple and understandable?
- Are the logo, address and the date of publication of the document clearly in evidence?
- Is there a Māori mihi for the publication?
- Is there a brief summary of the issues in the document as a separate item?
- Have you provided some background to the discussion (eg, what is the history to the issue, what decisions have been made in the past, what happens now)?
- Have you stated what the document is for (eg, what you will do with the responses and how that will influence funding decisions)?
- Have you stated:
  1. date consultation document released?
  2. when submissions are to be returned by?
  3. to whom submissions are to be returned?
  4. a contact person for further information or extra copies?
- Have you identified the target audience in the document (eg, what sort of groups/ individuals should read and comment on the document)?
- Have you checked with the Māori health team (Te Kete Hauora (Maori Health Directorate) for the Ministry, Tumu Whakarae (Māori Managers) for DHBs) if any of the information should be also in Māori and if the information and illustrations are culturally appropriate?
- Is the document printed on non-glossy paper?
- Is the information available in alternative forms if requested (eg, large print or computer disk/audio-tape/Braille)?
- Is the document written in simple jargon-free language, and has the document been read by several disinterested parties and checked for ease of reading, format, understandability etc?
- Have you included a visible footer on each page stating page number and the title of the discussion document?
- Is there a glossary of terms in the appendices to the document?
- Will the document be loaded onto to the website for access?
- Have diagrams/visual and graphic representation been used as well?

Response booklet

- Will you have a separate submission booklet with a submission form to be filled in, or will you have a tear-off submission form at the end of the discussion document?
- Are questions in the booklet cross-referenced with the main document?
- What information do you request about the person/organisation submitting a response? For instance:
  - name/address
  - are you a provider/consumer organisation etc?
  - how many people have contributed to this response?
  - ethnicity
  - other identifiers.
- Will you include the statement that their names will be included in the summary of responses unless they indicate otherwise? Note this will be subject to the Official Information Act 1982 and confidentiality cannot be guaranteed. (See also Resource Tools (8): *Guidelines for Analysis of Submissions*, 'Process for analysis', paragraph 18.)
- Will you include a box to tick if they wish to receive the summary of responses?
- Will you receive responses in other formats (eg, audiotape or videotape)?

Cover letter

- Will you identify in the cover letter the groups to whom the document has been distributed?
- Will you have different letters for different groups of people such as MPs, TLAs?
- Will you have a Māori mihi and greeting?
- Will you suggest that the document be copied and passed on to others?
- Will you state when the document was publicly released?
- Has the cover letter been signed?
- Have you said where further copies are available?
- Have you identified whom people can contact for further information?
- Will you state in the cover letter when the summary of responses will be available?
- Will you say when and how people will be informed about changes to services following the consultation?

8 Guidelines for analysis of submissions

Submissions need to be skilfully analysed in an appropriate way to provide useful and meaningful data. They are not research exercises or referenda per se. Analysis of submissions needs to take this into account to ensure that all significant responses are

reported, but that not too much weight is given to a 'vocal majority' or well-organised factional groups.

Principles

1. Submissions from communities do not usually give statistically significant data. Analysis of submissions is issue-based not vote-counting. Analyses are therefore almost always qualitative rather than quantitative exercises and analysts with appropriate skills should be sought.
2. It is important to identify the nature of the particular 'sample' of submissions and, as far as possible (which it often is not), how representative the responses are of the general population that the DHB wished to consult. This is not so much a numbers exercise attempting to prove representativeness, but more an attempt to show, for example, how many GPs in a region responded. This is important if the analysis is to be treated as a significant input into policy making.
3. All submissions, in any form (written, verbal, focus group, public meeting) should be recorded as fully as is practical and necessary to retain the 'flavour' of the content. Coding or data entry should include the original wording where relevant.
4. Data analysis should include reference to the type of community group and the sort of views put forward. For example 'GPs considered the main issues to be X and Y, whereas consumers felt it was Z'. However, it is unusual if all members of a group (eg, nurses) hold the same perspective, and this should also be noted.
5. Each submission should have a cover sheet on which the submitter is asked to note groupings with which they identify. This will make it easier to identify the types of issues raised by different types of groups during coding and analysis of submissions. Planners need to carefully identify the groupings that will provide the most information from the submissions; for example, identifying GPs rather than primary care providers.
6. For easing the administrative and bureaucratic burdens associated with managing Official Information requests for very large amounts of document like this, consider stating that all submissions will be made publicly available (except for defamatory statements) but submissions state whether identifying details should be withheld (but noting that it is still possible that under the OIA they may have to be made available because the public interest in disclosure outweighs any applicable withholding grounds such as privacy).
7. Each consultation document should be accompanied by a set of questions on the key issues to be decided. This makes it easier to analyse the responses and it provides a guide to important issues for those making submissions. However, it should be clearly stated that submissions on other topics are welcome and will be analysed.

Points for analysis

1. Each analysis will involve at least one analyst and one or more coders. If there are few submissions, the coders and analysts can, and preferably should, be the same

people. However, in that case it will be necessary to ensure that the analysis is proofread by a separate person. The analysts are responsible for preparing the report on the consultation.

2 In general, smaller volumes of submissions may be analysed manually. However, once submission volumes reach substantial numbers (which may be determined as much by the size of individual submissions as much as by numbers), consider a computer database system. Note that such an exercise can have high resource costs, and the analysts should consider carefully whether this is necessary to do justice to reporting back on the submissions.

3 Using a submissions database can make it easier to search submissions later on for further detail or issues, and to transfer data between health agencies where appropriate. (Privacy and confidentiality issues of individual submitters need to be respected.)

4 Generally, it is best to note the source of submissions (eg, public meetings, workshops, focus group discussions, submissions on behalf of an individual or an organisation) in the feedback document, as the opportunity for input for those attending or making a written submission can vary.

5 Computer-based qualitative databases include the Ministry Access submission database and Nudist. The Ministry is currently considering alternative software options for analysing submissions.

6 Where a computer database has been used, ensure that this is retained and is accessible.

Process for analysis

1 Acknowledge all submissions by letter.

2 Collect all written submissions and records of meetings in one place. At this point, remove all duplications (eg, fax copies) and number the submissions consecutively. Make copies of submissions and store them separately.

3 Ideally, the coder/analyst should be involved in the development of the questions for discussion. However, this may be difficult to achieve if the analyst has been engaged on contract for that specific task. The analyst may have to train a coding team on the rationale for the database and what is being looked for.

4 An effective communication link between the analyst in charge of the report back on the submissions and the policy team is essential to ensure problems and issues can be clarified as they arise. It is useful to have one key contact for the analyst who has an understanding of consultation processes, research and analysis.

5 Ideally, there should be only one coder, but this may not be feasible if timeframes are tight and the volume and size of submissions are large. Having several coders with varying opinions of the issues creates variation in the final analysis. It is important that the analyst checks the interpretations of different coders in this situation.

6 The coder/analyst should read a reasonable number of submissions before developing the coding plan. The timeframe for the analysis of submissions will partly determine the practicality of this.

7 While it is always possible to add new codes during the process of coding, this must be done carefully. Coders should note any new issues not addressed by the existing codes as they appear, in order to simplify the addition of these points to codes if it is decided to do so.

8 The coder will identify the key aspects of any submission according to the coding plan. This provides a form of accountability where people challenge whether their views have been taken into account. The coder should clearly identify which piece of the submission is to be entered.

9 Coding is usually a mixture of recording that a submission believed a certain thing (this applies to all submissions), and highlighting any verbatim comments that are particularly important or which represent a widely held perspective.

10 Submissions should be carefully analysed for:
- possible new approaches to the question consulted on
- further evidence of the impact of the proposals
- levels of support among particular groups.

11 Where possible, service/strategy developers and board members should read full submissions of key submitters.

12 The analyst provides ongoing reports to service/strategy developers over the consultation period. The project team should also collectively go through the consultation analysis data and determine where resulting changes to the final policy or service need to be made.

13 The analyst prepares a summary and interpretation of the submissions received. Where more than one person is involved in this stage of the process the (chief) analyst should check other interpretations and the coded data they used for this analysis.

14 One final summary report should be prepared. A copy of this should be provided to service/strategy developers, and one summary of submissions sent to all those who made submissions and other interested parties. This can be accompanied by a media release, posting the document on a website etc.

15 The consultation co-ordinator should record and note separately all submissions that refer to the consultation process.

16 The database of entered submissions should be stored for future search reference by policy analysts and hard copy submissions filed for reference.

17 If significant new options emerge from consultation, it is a matter of judgement as to how to respond. One option may be to discuss the new option with relevant experts, including the respondent(s).

18 Individual responses are subject to the Official Information Act 1982 (OIA). Where respondents have sought confidentiality, it should generally be respected to the

extent possible under the OIA. Consultation project managers should be familiar with OIA and Privacy Act provisions (including withholding grounds and where charges are permissible).

19 If deadlines for submissions are extended, public notification of this extension must occur, so that submitters have an equal opportunity to respond. In addition, this deadline should be negotiated with the coder/analyst to ensure analysis timeframes are still manageable.

9 Templates for evaluation of consultation

Part 1: Facts

To be completed by the Project Manager.

Name of policy/project/plan: ____________________

No. of meetings with:	Residents/ Consumer Organisations	Provider/ Professionals	Mixed
National	☐	☐	☐
Metropolitan	☐	☐	☐
Smaller cities and rural towns	☐	☐	☐
Hui	☐	☐	☐
Fono	☐	☐	☐

Total no. of meetings: ____________________

Total no. of people attending meetings: ____________________

Methods

Attach any summaries of participants' evaluations.

	Number
Presentation and discussion	☐
Seminar/workshop (presentation and group work)	☐
Facilitated focus group of 8–12 people with similar concerns	☐
Website/email discussion	☐
Other	☐

Comment: ____________________

Budget

Attach budget as approved

Attach report on actual expenditure by project code

Comment: ____________________

Communications

	Number of items published
Discussion/consultation documents	
Press releases	
Reports in daily newspapers	
Reports in daily community newspapers	
Radio interviews	
TV reports	
Brochures	
Posters	
Other	

Additional coverage/comments: ____

Timeframe

Date discussion document first distributed ____________________________

Date submissions closed ____________________________

Total working days for feedback ____________________________

Date summary to submitters released ____________________________

Time taken

Total number of hours by team (from finalising draft document to distribution of summary of submissions and DHB/MoH response).

Working days: ____

Any advice on the organisation of future consultations?____________________________

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____

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Date:____

Name:____

Position: ____

Organisation: ____

Part 2: Analysis of responses

To be completed by person writing the summary of submissions.

Name of the policy/project/plan: ______________________________

Number of submissions received: ______________________________

Administration (recording, filing, thanking etc) was:

- Difficult ☐
- Satisfactory ☐
- Straightforward ☐
- Fast and easy ☐

Comment/recommendation: ______________________________

Meeting/hui/fono reports

Number received: ______________________________

Meetings were adequately and accurately recorded:

- Rarely ☐
- Sometimes ☐
- Mostly ☐
- Almost always ☐

Comment/recommendation: ______________________________

____

____

____

Coverage

We heard from the following:	Yes	No	Not able to identify
Representatives of most affected parties			
• providers	☐	☐	☐
• service users/consumer groups	☐	☐	☐
• families or carers	☐	☐	☐
Māori	☐	☐	☐
The wider community	☐	☐	☐
Identified minorities and disadvantaged groups			
• people with disabilities	☐	☐	☐
• Pacific peoples	☐	☐	☐
• other ethnic groups	☐	☐	☐
• people of low socioeconomic status	☐	☐	☐
• other	☐	☐	☐

Comment/recommendation:____

Discussion/consultation document

From your reading and analysis:

- how many people commenting understood the issues?

  Very few ☐
  Some ☐
  Most ☐
  Almost all ☐

- in relation to the information they needed the document was:

  Too short/condensed ☐
  Barely full enough ☐
  Exactly right length ☐
  Too long/complex ☐

Analysis

We were able to group the submitters along useful lines (eg, providers, profession):

Rarely ☐
Sometimes ☐
Mostly ☐
Almost always ☐

Comment/recommendation: ____

____

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____

Number of questions asked in the discussion document:

- Too few ☐
- Okay ☐
- Right number ☐
- Too many ☐

Comment/recommendation: ____

____

____

____

The responses in the written submissions related to the questions:

- Rarely ☐
- Sometimes ☐
- Mostly ☐
- Almost always ☐

Comment/recommendation: ____

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Inputting data/collation was:

- Difficult ☐
- Satisfactory ☐
- Straightforward ☐
- Fast and easy ☐

Comment/recommendation: ____

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Other comment/recommendations: ______________________________________

Date: ____

Name: ____

Position: ____

Organisation: ____

Part 3: Personal ratings by team members

To be completed by Project Manager in charge of the consultation, presenters, Communication Manager(s), Community Relations Manager(s), Reference or Advisory Group members and other staff involved in the process.

Name of policy/project/plan: ____

Discussion/consultation document

From formal and informal feedback you have received:

- after reading the text, how many people understood the issues?

Very few	☐
Some	☐
Most	☐
Almost all	☐

- in relation to the information people needed, the document was:

Too short/condensed	☐
Barely full enough	☐
Exactly right length	☐
Too long/complex	☐

Overall

Indicate the degree that you consider this consultation exercise:

	Not at all			Very well
• Met the goals set	1	2	3	4
• Improved our understanding of the policy's impact	1	2	3	4
• Increased the level of understanding amongst key stakeholders/affected people	1	2	3	4
• Identified concerns of providers/community	1	2	3	4
• Allowed sufficient time for participants to respond	1	2	3	4
• Identified some solutions	1	2	3	4
• Clarified funding priorities	1	2	3	4
• Caused the policy team to rethink some of the policy or proposal	1	2	3	4
• Was the right plan for complexity of the issue and numbers of people affected: – budget – methods – staffing	1	2	3	4
• Adequately involved Māori and Pacific peoples	1	2	3	4

Overall rating:

Not okay	1
Satisfactory	2
Very good	3
Excellent	4

What improvements would you recommend for future exercises? ____________________

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What worked well? ____

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List the three most significant changes made to the team's thinking, and/or to the plan/ policy, as a result of submissions made and your discussions with others.______________

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Date:____

Name:____

Position: ____

Organisation: ____

Part 4: External evaluation

To be completed by members of any other organisation who co-sponsored the exercise or persons who took an active interest in the consultation.

Name of policy/project/plan: ____

Policy document

From formal and informal feedback you have received:

- after reading the text, how many people understood the issues?

  Very few ☐
  Some ☐
  Most ☐
  Almost all ☐

- in relation to the information people needed, the document was:

  Too short/condensed ☐
  Barely full enough ☐
  Exactly right length ☐
  Too long/complex ☐

Methods

Select and rate any events in your district from your own experience and from feedback you have received.

Open meeting (presentation primarily to provide information, and discussion):

Poor ☐
Satisfactory ☐
Very good ☐
Excellent ☐

Seminar/workshop (presentation and group work)

Poor ☐
Satisfactory ☐
Very good ☐
Excellent ☐

Facilitated focus group of 8–12 with similar concerns:

Poor	☐
Satisfactory	☐
Very good	☐
Excellent	☐

Audio conference(s):

Poor	☐
Satisfactory	☐
Very good	☐
Excellent	☐

Comment:____

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____

Communications

Did you note any of the following media items? Please comment on how effective you think they were in transmitting the issues outlined in the discussion document and contributing to the goals of the consultation.

	Number of items published	Comment on their effectiveness
Press release	☐	________________
Reports in daily newspapers	☐	________________
Radio interviews	☐	________________
Reports in daily community newspapers	☐	________________
Television	☐	________________
Brochures	☐	________________
Posters	☐	________________
Other	☐	________________

Additional coverage/comment: ____

Overall

Indicate the degree that you consider this consultation exercise:

	Not at all			Very well
• Met the objectives outlined in the consultation plan	1	2	3	4
• Improved the DHB/MoH's understanding of how the policy would affect consumers/services	1	2	3	4
• Increased the level of understanding amongst key stakeholders/affected people	1	2	3	4
• Identified concerns of providers/consumers	1	2	3	4
• Allowed sufficient time for participants to respond	1	2	3	4
• Identified some solutions	1	2	3	4
• Was the right plan for complexity of the issue and numbers of people affected	1	2	3	4
• Reached the individuals and groups in our area who needed to know	1	2	3	4
• Was worth the time and effort we put into it	1	2	3	4

What improvements would you recommend for future exercises? ______________________

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What was done well? ____

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What do you think was the most significant change in people's thinking during the process? ____

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Date: ____

Name: ____

Position: ____

Organisation: ____

Appendix 1: Legal Requirements

DHBs have wide-ranging legal obligations to consult under the New Zealand Public Health and Disability Act 2000 (the Act). The Act specifically requires DHBs to consult on district strategic plans, on proposals for a significant change to policies, outputs, or funding for outputs stated in their most recent annual plan and on sales of land. But DHBs also have general obligations under the Act, which mean that consultation may be required in a variety of circumstances and on other issues. The parts of the Act that may have consultation implications, and related legal obligations, follow.

DHB objectives under the Act

DHBs must promote the inclusion and participation in society, and the independence of, people with disabilities (section 22(1)(d)).

A key objective for DHBs is to reduce (with a view to eliminating) health outcome disparities between various population groups within New Zealand by developing and implementing, in consultation with the groups concerned, services and programmes designed to raise their health outcomes to those of other New Zealanders (section 22(1)(f)).

DHBs must exhibit a sense of social responsibility by having regard to the interests of the people to whom it provides, or for whom it arranges the provision of, services (section 22(1)(g).

DHBs must foster community participation in health improvement and in planning for the provision of services and for significant changes to such services (section 22(1)(h)).

DHB functions under the Act

In pursuing its objectives, each DHB has a number of functions. DHBs must actively investigate, facilitate, sponsor and develop cooperative arrangements with persons in the health and disability sector or in any other sector to improve, promote, and protect the health of the people, and to promote the inclusion and participation in society and independence of people with disabilities (section 23(1)(b)).

DHBs must issue relevant information to the resident population, persons in the health and disability sector, and persons in any other sector working to improve, promote, and protect the health of the people for the purposes of the function in the paragraph above (section 23(1)(c)).

DHBs must establish and maintain processes to enable Māori to participate in, and contribute to, strategies for Māori health improvement (section 23(1)(d)) and provide relevant information to Māori for this purpose (section 23(1)(f)).

DHBs must collaborate with pre-schools and schools within its geographic area on the fostering of health promotion and on disease prevention programmes (section 23(1)(m)).

DHB geographic area under the Act

After 31 December 2001 the Minister, DHBs, or any other person proposing to alter the geographic area of any DHB, must consult with the public in the affected area (section 20).

The consultation must include production of a discussion document explaining the proposed change and discussing any advantages or disadvantages that may flow from implementing the proposal. It must also include giving the public in the affected area, and in other parts of New Zealand that may be affected, an opportunity to make submissions on the proposal.

As section 20(3) sets out, before the proposal is finalised, the person who issued the discussion document must fully consider any submissions received in response to it, and publish in any affected area, an analysis of the submissions and the person's conclusions and recommendations on the proposal.

An additional requirement under section 20(4) is that a person (other than the Minister) who prepares a discussion document or publishes a report of the kind referred to in subsection (3) must deliver a copy of the discussion document or the report to the Minister as soon as practicable after the preparation of the document or report. Also, under section 20(5), as soon as practicable after issuing or receiving a copy of a discussion document or report under this section, the Minister must present to the House of Representatives a copy of the document or report.

DHB plans under the Act

DHBs are required to prepare a draft strategic plan or amendment and consult its resident population on that draft (section 38). Section 38(4) stipulates that the standard for consultation must not be lower than that required under section 716A of the Local Government Act 1974. This does not necessarily mean that the same procedures must be followed but that any consultation must be at least equal to or better than the standard. That procedure is as follows.

- Put notice of the proposal before a meeting of the DHB.
- Give public notice of the proposal as the DHB considers appropriate.
- Specify a period (from one to three months) in which interested persons may make submissions to the DHB, a community board or a committee of the DHB or community board (as appropriate).
- Give a reasonable opportunity for those making written submissions to be heard by the body to which the submissions are made.
- The meeting must be public unless clause 32 of Schedule 3 indicates that the public may be excluded. Clause 33 outlines the requirements related to any such resolution.
- Make all submissions publicly available (unless there is some good reason in law not to do so).
- Make the final decision at the meeting of the DHB (subject to the Minister's consent as set out in section 38(3)(c)).

As soon as reasonably practicable after proposing a significant change to policies, outputs, or funding for outputs stated in its most recent annual plan, a DHB must consult its resident population about the proposed change (section 40).

Sale of land

Before approving the sale or exchange of any land under subclause (1), the Minister must be satisfied that the DHB concerned is, as a result of consultations with its resident population, aware of the views within the population about the proposed sale or exchange (Schedule 3, clause 43(4)).

Collective agreement

The individual for the time being acting in the position of chief executive of a DHB may enter into a collective agreement on behalf of the DHB with any or all of its employees, except that that individual must not finalise any such collective agreement without first consulting the Director-General on the terms and conditions of any such collective agreement (Schedule 3, clause 44(2)). However, under clause 44(3) of Schedule 3 the Governor-General may, by Order in Council, exempt any DHB, or any DHB specified in the order, from the requirement to consult in clause 44(2) of Schedule 3.

Legal requirements under the Act relating to consultation with Māori

The Act links the role of DHBs to Treaty principles. It specifies DHB objectives with respect to Māori and requires that those objectives be implemented through processes that are anchored against Treaty principles.

Section 3 states that the objectives of DHBs should include:

- reducing health disparities by improving the health outcomes for Māori and other population groups (section 3(1)(b))
- providing a community voice in matters relating to personal health services, public health services and disability support services (section 3(1)(c)).

Section 4 states that:

> *'In order to recognise and respect the principles of the Treaty of Waitangi and with a view to improving health outcomes for Māori, Part 3 of this Act provides for mechanisms to enable Māori to contribute to decision-making on, and to participate in the delivery of, health and disability services.'*

Section 22 reiterates the objective of improving health outcomes for Māori (section 22(1)(e)) and states DHBs must exhibit a sense of social responsibility by having regard to the interests of the people to whom they provide, or for whom they arrange the provision of, services (section 22(1)(g)).

Section 23 sets out the functions of DHBs to achieve these objectives.

It provides for DHBs to:

- establish and maintain processes to enable Māori to participate in, and contribute to, strategies for Māori health improvement in New Zealand (section 23(1)(d))
- continue to foster the development of Māori capacity for participating in the health and disability sector and for providing for the needs of Māori (section 23(1)(e))
- provide relevant information to Māori for the purposes of sections 23(1)(d), 23(1)(e) and 23(1)(f).

In summary, DHBs need to be aware of the many Treaty and related policy principles either directly underpinning their various functions and responsibilities or forming a backdrop against which broad Crown- Māori relationships are assessed.

It is recommended that DHB and Ministry staff read the companion volume to these guidelines prepared by the Ministry's Māori Health Directorate: *Establishing and Maintaining Relationships with Māori: Resource Documents for DHBs* (expected to be completed by December 2002).

Regulations

Section 92(1)(e) of the Act makes provision to make regulations in relation to any consultation required under the Act.

Case law

In addition to what is set out in statute, case law also further elaborates on what proper consultation involves.

In the case *Wellington International Airport v Air New Zealand*,[2] the Court of Appeal defined 'consultation' to be a process that is more than notification but something less than negotiation and agreement:

> *'Consultation must be allowed sufficient time, and genuine effort must be made. It is to be a reality, not a charade. The concept is grasped most clearly by an approach in principle. To 'consult' is not merely to tell or present. Nor, at the other extreme, is it to agree. Consultation does not necessarily involve negotiation toward an agreement, although the latter, not uncommonly, can follow, as the tendency in consultation is to at least seek consensus ...*
>
> *... Consulting involves the statement of a proposal not yet finally decided upon, listening to what others have to say, considering their responses and then deciding what will be done.*
>
> *Implicit in the concept is a requirement that the party consulted will be (or will be made) adequately informed so as to be able to make intelligent and useful responses. It is also implicit that the party obliged to consult, while quite entitled to have a working plan already in mind, must keep an open mind and*

2 As above.

be ready to change and even start afresh. Beyond that there are no universal requirements as to form. Any manner of oral or written interchange that allows adequate expression and consideration of views will suffice. Nor is there any universal requirement as to duration. In some situations adequate consultation could take place in one telephone call. In other contexts it might take years of formal meetings.'

In *Napier City Council v Health Care Hawkes Bay*,[3] the High Court made it clear that it was not up to the CHE to decide subjectively whether it had released enough information about its regional hospital proposal. In particular, the CHE was required to 'communicate' adequately with the plaintiff, this being a two-way process. The CHE was required to give the plaintiff information to which it was entitled and a reasonable time to consult and make decisions. The CHE was also subject to the Official Information Act 1982 and was bound to comply with that Act in the course of its consultation exercise.

In *New Zealand Private Hospitals Association v Northern Regional Health Authority*,[4] the High Court considered that if the method of contracting with private hospitals was to change to an elaborate tendering procedure, this had to be preceded by appropriate consultation.

In *Bishop and Others v Central Regional Health Authority*,[5] a case about payment for services for the RHA, the Court emphasised that the RHA's consultation obligation was 'in regard to its intentions *relating* to the purchase of services' and stated:

'The statutory direction is not restricted to 'policy' as opposed to 'procedure'. It does not mention the word 'policy'. The only requirement is that the matter be one "relating to" purchase of services. While Parliament would not have intended to include trivia, significant changes in practice as to payment, eligibility, and availability – and pre-eminently, whether a payment in fact made in the past will continue – fall within that category.'

Other issues to be considered

The Courts will, if necessary, ensure the discretion to consult with appropriate persons or organisations is exercised correctly. For instance, if persons clearly affected by a proposal are not consulted, they may have good grounds for legal complaint.

Legitimate expectations also need to be borne in mind. For example, an established practice about consultation, or specific promises about who will be consulted, or about what will be the subject of consultation, may create 'legitimate expectations' that are enforceable.[6]

---

3 *Napier City Council v Health Care Hawkes Bay* (judgement of Ellis J, 15 December 1994).

4 *New Zealand Private Hospitals Association v Northern Regional Health Authority* (judgement of Blanchard J, 7 December 1994).

5 *Bishop and Others v Central Regional Health Authority* (judgement of McGechan J, 11 July 1997).

6 The doctrine of legitimate expectation was considered in *Te Heu Heu v Attorney-General* [1998] NZAR 337. Robertson J stated that the test was: 'whether objectively the Council by conduct or assurance had created a situation

All steps in the consultation process should be carefully documented so that adequate, appropriate consultation can be proved if necessary. Decision-making and consultation requirements that apply on every occasion are to:

- act in good faith
- act with reasonable skill, care and diligence
- act with honestly and integrity
- act in accordance with the Code of Conduct
- notify the public of meetings
- recognise the Treaty of Waitangi
- follow the required consultation process.

which gave rise to a legitimate expectation as to consultation about matter affecting the mutual interests of the two groups'.

Appendix 2: Treaty of Waitangi Principles

The principles of the Treaty of Waitangi must underpin and shape strategies for Māori health gain in the health sector. Principles of the Treaty as applied to the health sector are:

- **Partnership –** working together with iwi, hapu, whānau and Māori communities to develop strategies for Māori health gain and appropriate health and disability services
- **Participation –** involving Māori at all levels of the sector in planning, development and delivery of health and disability services
- **Protection –** ensuring Māori enjoy at least the same level of health as non-Māori and safeguarding Māori cultural concepts, values and practices.

Principles such as the list below have also assisted the health sector to achieve Māori health gain:

- **Kawanatanga –** the government has the right to govern and make laws
- **Rangatiratanga –** Māori have the right to control their own resources
- **Equity –** all New Zealanders are equal before the law
- **Reasonable co-operation –** between government and Māori
- **Redress –** the government shall provide effective processes for resolving grievances in the expectation that reconciliation can occur.

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