

Comment on the new Consultation Principles by the Society of Biology

22 October 2013

The Society of Biology is a single unified voice, representing a diverse membership of individuals, learned societies and other organisations. We are committed to ensuring that we provide Government and other policy makers - including funders of biological education and research – with a distinct point of access to authoritative, independent, and evidence-based opinion, representative of the widest range of bioscience disciplines.

Summary

Since the introduction of the new consultation principles in July 2012, the Society of Biology has found that the length of the consultation periods is decreasing.

- **The percentage of consultations lasting at least 12 weeks has fallen from 59% to 35%.**
- **The number of consultations lasting less than 6 weeks has increased from 4.5% to 18.9%.**
- **The mean duration of consultations has fallen from 10.8 weeks to 9.2 weeks.**

The trend towards shorter length consultations has had a negative impact on the ability of the Society and some of its member organisations to effectively engage in the consultation process. This trend is also likely to have a similar impact on other disciplines and the general public, unless the implementation of certain aspects of the Consultation Principles are more closely considered to better meet the needs of stakeholders. This risks a transparent and democratic policy-making process.

Background

- In July 2012 the Cabinet Office published new Consultation Principles¹, which outlined changes in the way Government departments would be expected to consult stakeholders. A key change was that departments would no longer be expected to adhere to the 12-week consultation period set out in the previous Code of Practice on Consultation².
- The Society of Biology, in correspondence with the Rt Hon Oliver Letwin MP, and in written evidence³ presented to the Secondary Legislation Scrutiny Committee's inquiry⁴, outlined a number of concerns regarding the likely impact of the new Consultation Principles. A key concern was that a routine shift towards consultations of duration shorter than 12 weeks could prevent important stakeholders from proper engagement.

¹ Consultation Principles <https://www.gov.uk/government/publications/consultation-principles-guidance>

² Code of Practice on Consultations <http://goo.gl/WzakbA>

³ The Government's new Approach to Consultation Written Evidence <http://www.parliament.uk/documents/lords-committees/Secondary-Legislation-Scrutiny-Committee/Consultation-inquiry-written-evidence.pdf>

⁴ The Government's new approach to consultation <http://www.parliament.uk/business/committees/committees-a-z/lords-select/secondary-legislation-scrutiny-committee/inquiries/parliament-2010/consultations/>

- In response to the report⁵ presented by the Secondary Legislation Scrutiny Committee following their inquiry, the Society welcomed the recommendations for the Cabinet Office, particularly that they should carry out a review of the operation of the new principles. This was felt to be especially relevant given the absence of specific consultation prior to their introduction.
- In anticipation of the Cabinet Office review, and as set out in our original letter, the Society has been closely monitoring the format of new consultations that fall within its area of interest and responsibility, including conducting an analysis comparing the durations of consultations published over the past year with those published before the Consultation Principles were introduced. The aims of this analysis were to assess whether the time available for the Society and its member organisations to respond to consultations has reduced, and if so, whether this has had an impact on our interaction with these consultations.

Analysis methods

- We attempted to identify all Government department consultations that commenced between 01/01/2011 and 17/07/2013 that were of relevance to the Society and its member organisations. The duration and frequency of consultations were then compared with those that commenced in the period before the Consultation Principles were introduced (18.5 months) and those that commenced in the period after the principles were published (12 months).
- We presented our preliminary findings to our member organisations and sought their views and experience, including recent positive or negative experiences in responding to consultations and, in particular, asking where timescales had been an important factor.
- The Cabinet Office had previously presented an analysis of the duration of consultations across all Government departments between January and December 2012⁶. Importantly, our assessment covers a longer period after the Consultation Principles and provides a case study of the changes affecting a specific group of stakeholders.
- Consultations by the devolved Governments, parliamentary committees and public bodies were not considered in the main analysis; however, it should be noted that these do account for a significant proportion of the Society's policy output.

Results/Conclusions

A trend towards shorter consultations

- A total of 59 consultations that commenced between 01/01/2011 and 17/07/2013 were identified as of relevance to the Society of Biology (Appendix 1). Twenty two commenced before the new Consultation Principles were introduced and 37 commenced afterwards. The Society has published responses to 21 of these 59 consultations, either independently or jointly with other organisations.
- The Society's analysis showed that the average duration of consultations has fallen from 10.8 weeks (75.8 days) to 9.2 weeks (64.4 days) since the introduction of the Consultation Principles. Median duration has fallen from 12.1 weeks (85 days) to 9.7 weeks (68 days).

⁵ The Government's new approach to consultation – "Work in progress"

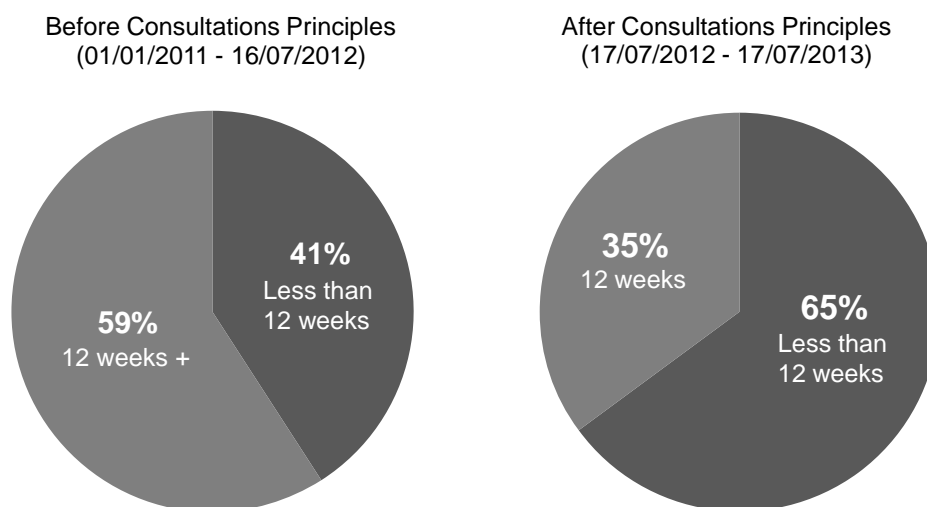
<http://www.publications.parliament.uk/pa/ld201213/ldselect/ldsecleg/100/100.pdf>

⁶ The Government's new approach to consultation – "Work in progress" Appendix 2

<http://www.publications.parliament.uk/pa/ld201213/ldselect/ldsecleg/100/100.pdf>

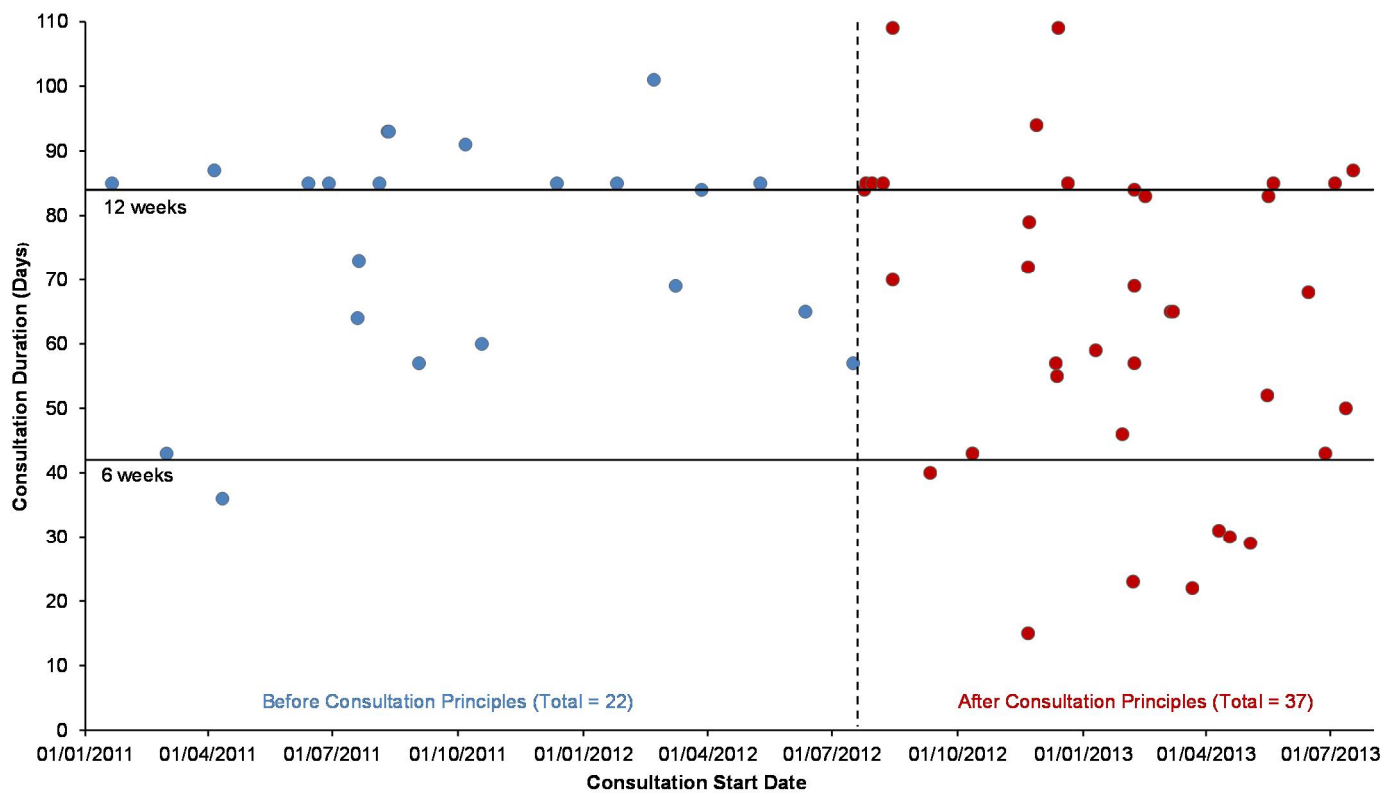
- The average duration of consultations has fallen from 53.3 to 44.8 working days. The median duration has fallen from 58 to 47 working days.
- Figure 1 shows that the percentage of consultations lasting for at least 12 weeks has fallen from 59% to 35% since the introduction of the Consultation Principles.
- Figure 2 shows the temporal distribution of consultations and their duration over the entire 30.5 month period, revealing the rapid trend towards shorter consultations after the Consultation Principles were introduced. Figure 2 also shows an increase in consultations lasting less than six weeks.
- Prior to the Consultation Principles only one consultation within our analysis (4.5%) lasted less than six weeks, but since the introduction of the principles there have been 7 such consultations (19.4%).
- The Society is concerned about the substantial reduction in the time available to it and its members to respond to consultations. Reasons for this concern were given in our written evidence submitted to the Secondary Scrutiny Committee last year: *“The length of consultations should be proportionate to their scope and topic, and must take into account both the ability of the respondents to reply and the implications for stakeholders. Short timeframes are likely to deter engagement, result in less considered responses, or most worryingly both.”* We now have specific examples of this becoming a reality.

Figure 1: Percentage of Society of Biology relevant consultations lasting 12 weeks* before and after the Consultation Principles were introduced:



*Two 83 day consultations were also classified as 12 weeks (84 days). All other consultations lasted less than 80 days, or more than 84 days.

Figure 2: Duration and frequency of Society of Biology-relevant Government department consultations that commenced between 01/01/2011 and 17/07/2013



- Whilst we understand the Government’s argument that less substantial consultations may not always require 12 weeks, shorter durations need to be proportionate and realistic. Despite the Secondary Scrutiny Committee urging the Government to “*recognise that six weeks is regarded as the minimum feasible consultation period save in circumstances which would be generally recognised as exceptional (and not defined as such by Government alone)*”, we found that nearly 20% of consultations from the past 12 months have lasted less than six weeks. Recent consultations on substantial topics to which the Society responded (for example the BIS call for views on science funding priorities and the DfE review of efficiency in the schools system) lasted just over 4 weeks (or about 20 working days).
- Furthermore, in the past six months the Society felt the need to request an extension past the deadline for one consultation and expressed concerns, along with other organisations including the Laboratory Animal Science Association (LASA), about two concurrent, short-duration Home Office consultations on related topics (therefore requiring the attention of a similar set of experts). The deadlines were eventually extended, reflecting Department recognition that the situation was problematic.

Concurrent, short consultations create difficulties for respondents

- Over the past 12 months, the Society has responded to 12 Government department consultations, 16 consultations by other UK public bodies (parliamentary committees; the Scottish and Welsh Governments; public organisations, including OFQUAL and RCUK), 1 EU consultation and 1 consultation run by the Institute for Public Policy Research. These responses are in addition to our wider work with policy committees and engagement activities.
- As a sector body the Society of Biology, like others, must engage with non-Government bodies (including Parliamentary Committees, EU and international organisations, national regulators, and

research and oversight bodies). Wide engagement inevitably involves a proportionately larger workload and typically the Society and others will be responding concurrently to Government and non-Government consultations. Until now only the latter occasionally operated very short timetables. Whilst we appreciate that it is not reasonable to request accommodation or co-ordination, we do feel it is important to point out the circumstances in which respondents operate, and occasionally struggle to operate.

- Our analysis also shows that the Society has experienced a substantial increase in the number of Government consultations to which it could consider responding, at the same time as the shift towards shorter consultations (37 over the past 12 months, compared to 22 over the 18 months prior to the Consultation Principles).
- Whilst an increased level of consultation is undoubtedly welcome, responding effectively, if at all, becomes challenging when multiple short consultations are running concurrently. Both the Physiological Society and the Laboratory Animal Science Association (LASA) commented that this has had a direct impact on their ability to respond effectively.

Respondents need time to collate their own evidence and views

- Umbrella bodies with member organisations, such as the Society of Biology, typically must allow time to consult members and analyse their responses before agreeing and submitting a collective response; shorter duration consultations make this process challenging, can have practical implications and occasionally, can influence the level of detail included in evidence.
- Non-umbrella bodies can be complex in structure and membership. The LASA highlighted that they have a broad membership with diverse professional interests, which makes reaching a consensus a complex process; the LASA stated however that "*our experience confirms that we usually reach a consensus when given sufficient time to negotiate the wording [of a consultation response]. Consultations with a short duration impose the risk of not being able to do so unless we submit bland, non-controversial text that reflects the views of our members only superficially and does not take advantage of the expert advice or comment we could otherwise offer. Furthermore, the short duration of the consultations and difficulty in responding in a considered and balanced fashion has resulted in our members being less inclined to respond at all. As a consequence, many people who contributed their expert views to the consultation in 2011, failed to contribute to any of LASA's response to the three consultations released in 2013.*"
- The nature of the views and evidence required of respondents also needs to be considered carefully when setting the duration of consultations. The Bioindustry Association (BIA) noted that whilst they are generally happy with the duration of the formal consultations with which they engage, their engagement with 'informal' consultations, such as reviewing or endorsing template agreements, is often very time constrained, despite the templates often being of a "*very detailed and legal nature*".

Important views and evidence are being missed

- One of the most telling examples of the negative impact of short consultations was reported by one of our member organisations, the British Ecological Society (BES), who were unable to respond to DEFRA's recent 'Triennial Review of the Joint Nature Conservation Committee'. Respondents were given only 22 days to reply, including the Easter public holiday, which gave a maximum of 14 working days to draft a response.
- Both the BES and LASA examples, where expert views were missed from consultation responses, clearly highlight that overly short consultations *have* adversely affected the consultation process. Larger

organisations such as the Society of Biology cannot ameliorate all such gaps although we are endeavouring to provide networking and other services to begin to address identified needs.

- Another relevant example in terms of stakeholder exclusion due to workload pressures was the 'Government proposals to reform vocational qualifications for 16- to 19-year-olds' consultation. The Society of Biology and the Royal Society of Chemistry wished to develop a joint response to this, but were unable to do so due to their existing commitment to concurrent education consultations (e.g. the National Curriculum review) and Government policy work (e.g. working with GCSE science drafters and finalising SCORE reports on practical science resourcing).

The impact of public holidays on timescales should be considered carefully

- The Secondary Legislation Scrutiny Committee³ urged the Government “*to ensure that consultation periods do not clash with holidays or peak periods of activity for the target group*”.
- We found 37.8% of consultations from the past 12 months fell over the Christmas or Easter periods; these consultations were on average 71.1 days duration in length (but only 48.2 working days); there were only three cases where these consultations exceed 12 weeks, or 84 days (85, 94 and 109 days respectively).

Effective engagement

- The consultation principles state that ‘*engagement should begin early in policy development when the policy is still under consideration and views can genuinely be taken into account*’. Our capacity to respond to consultations and the depth of expertise is improved where government departments and others actively engage the sector in early discussions, through roundtable meetings, informal fact-finding and pre-consultation requests.
- It is also vital that stakeholders are alerted to a new consultation early on in the consultation response period. The centralised publications list on the new government website⁷ is a welcome resource, as is the ability to receive alerts of inquiry announcements, and we hope that all government departments are able to utilise this system.

Summary

- Since the introduction of the Consultation Principles we have found a clear trend towards shorter consultation lengths, which is beginning to have a negative impact on the ability of the Society of Biology and its member organisations to engage with the consultation process. These observations run counter to the aim of the Consultation Principles to enhance engagement with stakeholders.
- We are unconvinced that the proposed substantive early engagement with stakeholders before formal consultation is being widely implemented. While we can see the overall merits of this new consultation process, we believe that they are not being achieved.
- We welcome the new centralised publications list on the gov.uk website and the ability to receive alerts of newly published consultations and consultation outcomes; this is all the more important when shorter response periods are allowed. The website is currently in a period of transition, but we hope that in the near future all recent Government consultations will be available through this portal and flagged as 'consultations' to further aid stakeholders.

⁷ https://www.gov.uk/government/publications?publication_filter_option=consultations

- The Society of Biology urges the Cabinet Office and other Government departments to consider more closely the implementation of certain aspects of the Consultation Principles including timing and early engagement, so that they better provide for the needs of stakeholders.

The Society of Biology is pleased for this report to be publically available. For any queries, please contact The Society of Biology Policy Team at Society of Biology, Charles Darwin House, 12 Roger Street, London, WC1N 2JU. Email: policy@societyofbiology.org Many thanks to BBSRC Policy Fellow Paul Richards for his work on this report.

Member Organisations of the Society of Biology

Full Members

Agriculture and Horticulture Development Board
Anatomical Society
Association for the Study of Animal Behaviour
Association of Applied Biologists
Biochemical Society
Biosciences KTN
Breakspear Hospital
British Andrology Society
British Association for Lung Research
British Association for Psychopharmacology
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British Lichen Society
British Microcirculation Society
British Mycological Society
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British Pharmacological Society
British Phycological Society
British Society for Gene and Cell Therapy
British Society for Immunology
British Society for Matrix Biology
British Society for Medical Mycology
British Society for Nanomedicine
British Society for Neuroendocrinology
British Society for Parasitology
British Society for Plant Pathology
British Society for Proteome Research
British Society for Research on Ageing
British Society for Soil Science
British Society of Animal Science
British Society of Plant Breeders
British Toxicology Society
Experimental Psychology Society
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Gatsby Plants
Genetics Society
Heads of University Centres of Biomedical Science
Institute of Animal Technology
International Biometric Society
Laboratory Animal Science Association
Linnean Society of London
Marine Biological Association
MONOGRAM – Cereal and Grasses Research
Community
Nutrition Society
The Rosaceae Network
Royal Entomological Society
Royal Microscopical Society

Science and Plants for Schools
Scottish Association for Marine Science
Society for Applied Microbiology
Society for Endocrinology
Society for Experimental Biology
Society for General Microbiology
Society for Reproduction and Fertility
Society for the Study of Human Biology
SCI Horticulture Group
The Physiological Society
Tropical Agriculture Association
UK Environmental Mutagen Society
UK-BRC – Brassica Research Community
UK-SOL – Solanacea Research Community
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Vegetable Genetic Improvement Network
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The British Library
UCB Celltech
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Wellcome Trust
Wiley Blackwell

APPENDIX 1: Government department consultations included in the Society of Biology analysis

Lists of consultations were compiled from the new GOV.UK website and the remaining separate government department websites. At the time the data was being compiled departmental websites were still in the process of being transferring across to GOV.UK; also not all consultations are labelled as such on the GOV.UK website (e.g. 'Policy Papers'), or appear on the GOV.UK publications search page, therefore some oversights are possible. The full dataset is available on request.

Government department consultations commencing before the publication of the Consultation Principles (01/11/2011 – 16/07/2012)

Consultation	Department	Start Date	End Date	Duration (days)
National curriculum review: call for evidence	DfE	20/01/2011	14/04/2011	85
The plant protection products regulations 2011	Defra	01/03/2011	12/04/2011	43
Reform of Domestic Fisheries Management Arrangements in England	Defra	05/04/2011	30/06/2011	87
Non-formal consultation on proposed changes to BSE testing of cattle slaughtered for human consumption	Defra	11/04/2011	06/05/2011	36
Consultation On Options For Transposition Of European Directive 2010/63/Eu On The Protection Of Animals Used For Scientific Purposes Summary Report And Government Response	Home Office	13/06/2011	05/09/2011	85
Higher Education White Paper - Students at the Heart of the System	BIS	28/06/2011	20/09/2011	85
Guidance to Natural England on the implementation and enforcement of a badger control policy	Defra	19/07/2011	20/09/2011	64
Qualifications for 14-16 year olds and Performance Tables	DfE	20/07/2011	30/09/2011	73
BIS technical consultation - a new, fit-for-purpose regulatory framework for the higher education sector	BIS	04/08/2011	27/10/2011	85
Proposals relating to the common fisheries policy and the common organisation of the markets in fishery and aquaculture products	Defra	10/08/2011	10/11/2011	93
Biodiversity 2020: Developing indicators for measuring success	Defra	11/08/2011	11/11/2011	93
Simplifying our Climate Change Agreements	DECC	02/09/2011	28/10/2011	57
16 -19 Funding Formula Review	DfE	06/10/2011	04/01/2012	91
Rabies control strategy	Defra	18/10/2011	16/12/2011	60
Common Agricultural Policy reform post 2013	Defra	12/12/2011	05/03/2012	85
European Marine and Fisheries Fund (EMFF)	Defra	25/01/2012	18/04/2012	85
Green Food Project	Defra	21/02/2012	31/05/2012	101
The future of the Advisory Committee on Pesticides	Defra	08/03/2012	15/05/2012	69
Marine Strategy Framework Directive Consultation: UK Initial Assessment and proposals for Good Environmental Status	Defra	27/03/2012	18/06/2012	84
Careers Guidance	DfE	09/05/2012	01/08/2012	85
Draft National Curriculum for science Key Stage 1-2 informal consultations with stakeholders	DfE	11/06/2012	14/08/2012	65
Proposed revision of fees for statutory services delivered by the Animal Health and Veterinary Laboratories Agency (AHVLA)	Defra	16/07/2012	10/09/2012	57

Government department consultations commencing after the publication of the Consultation Principles (17/07/2012 – 17/07/2013)

Consultation	Department	Start Date	End Date	Duration (days)
Consultation on new Sustainable Development Indicators	Defra	24/07/2012	15/10/2012	84
Guidance for business on environmental key performance indicators	Defra	25/07/2012	17/10/2012	85
UK national action plan for the sustainable use of pesticides (plant protection products)	Defra	30/07/2012	22/10/2012	85
Habitats Directive: consultation on draft guidance on the application of article 6(4)	Defra	07/08/2012	30/10/2012	85
Wildlife law	Defra	14/08/2012	30/11/2012	109
Marine Licensing: Navigational dredging and other exemptions	Defra	14/08/2012	22/10/2012	70
Call for views on future bovine TB strategy and how to meet the challenges ahead	Defra	10/09/2012	19/10/2012	40
Shaping a UK agri-tech strategy: call for evidence	BIS	11/10/2012	22/11/2012	43
Proposals to stop BSE testing of healthy slaughtered cattle in England and Wales	Defra	21/11/2012	05/12/2012	15
Feeding the Future – Innovation Requirements for Primary Food Production in the UK to 2030	Defra	21/11/2012	31/01/2013	72
Tackling water pollution from the urban environment	Defra	22/11/2012	08/02/2013	79
Call for evidence: Animal Health, Welfare and Food Safety Review	Defra	27/11/2012	28/02/2013	94
Habitats and Wild Birds Directives: Simplification of guidance in England	Defra	11/12/2012	05/02/2013	57
Triennial Review of the Environment Agency and Natural England	Defra	12/12/2012	04/02/2013	55
Marine Conservation Zones: Consultation on proposals for designation in 2013	Defra	13/12/2012	31/03/2013	109
Consultation on the withdrawal of the VAT exemption for research	HMRC	20/12/2012	14/03/2013	85
Improving Honey Bee Health	Defra	10/01/2013	09/03/2013	59
Draft guidance on the Operation of the Animals (Scientific Procedures) Act 1986 (as amended)	Home Office	29/01/2013	15/03/2013	46
Triennial review of the Research Councils: call for evidence	BIS	06/02/2013	28/02/2013	23
Secondary school accountability consultation	DfE	07/02/2013	01/05/2013	84
Reform of the National Curriculum in England (draft programmes of study)	DfE	07/02/2013	16/04/2013	69
Draft Environmental Permitting (England and Wales) (Amendment) Regulations 2013	Defra	07/02/2013	04/04/2013	57
Draft code of practice for the care and accommodation of animals	Home Office	15/02/2013	08/05/2013	83
Annual statistics on the use of animals for scientific purposes	Home Office	05/03/2013	08/05/2013	65
Government proposals to reform vocational qualifications for 16- to 19-year-olds	DfE	07/03/2013	10/05/2013	65
Triennial Review of the Joint Nature Conservation Committee	Defra	21/03/2013	11/04/2013	22
Review of efficiency in the schools system	DfE	10/04/2013	10/05/2013	31
Science, research and innovation funding priorities: request for views	BIS	18/04/2013	17/05/2013	30
Universities and growth: the Witty review - call for evidence	BIS	03/05/2013	31/05/2013	29
Reforming environmental guidance and information obligations [initial feedback]	Defra	15/05/2013	05/07/2013	52

Review of UK and EU balance of competences: call for evidence on research and development	BIS	16/05/2013	06/08/2013	83
Environment and climate change: balance of competences review	Defra + DECC	20/05/2013	12/08/2013	85
GCSE subject content and assessment objectives	DoE + OFQUAL	14/06/2013	20/08/2013	68
Farm animal welfare codes reform	Defra	27/06/2013	08/08/2013	43
Strategy for achieving 'officially bovine tuberculosis-free' status for England	Defra	04/07/2013	26/09/2013	85
Triennial Review of the National Forest Company	Defra	12/07/2013	30/08/2013	50
Primary assessment and accountability under the new national curriculum	DoE	17/07/2013	11/10/2013	87