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The Best-Laid Schemes: the Provision and Accessibility of Government Consultation Information in the UK

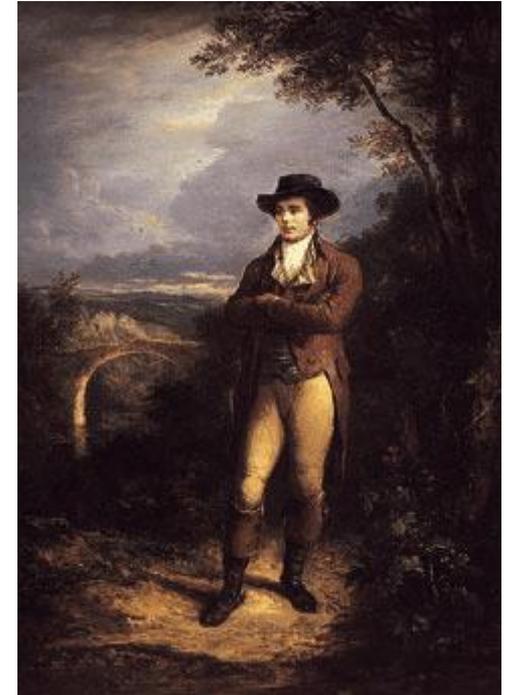## Graeme Baxter

Department of Information Management

'To a Mouse'
On turning her up in her nest with the plough, November 1785

But Mousie, thou art no thy lane,

In proving foresight may be vain:

The best-laid schemes o' mice an' men

   Gang aft agley,

An' lea'e us nought but grief an' pain,

   For promis'd joy!

Robert Burns (1759-1796)

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Consultation: a Definition

'A time limited exercise, when we provide specific opportunities for all those who wish to express their opinions on a proposed area of our work (such as identifying issues, developing or changing policies, testing proposals or evaluating provision) to do so in ways which will inform and enhance that work.'

(Scottish Government, 2008)

Drivers of Increased Consultation Include:-

- Labour Government's *Modernising Government* agenda.

    - Five key principles, including 'Consult'.

- Devolution: Scottish Parliament and Scottish Government

    '...should be accessible, open, responsive and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation.'
    (Consultative Steering Group on the Scottish Parliament, 1998)
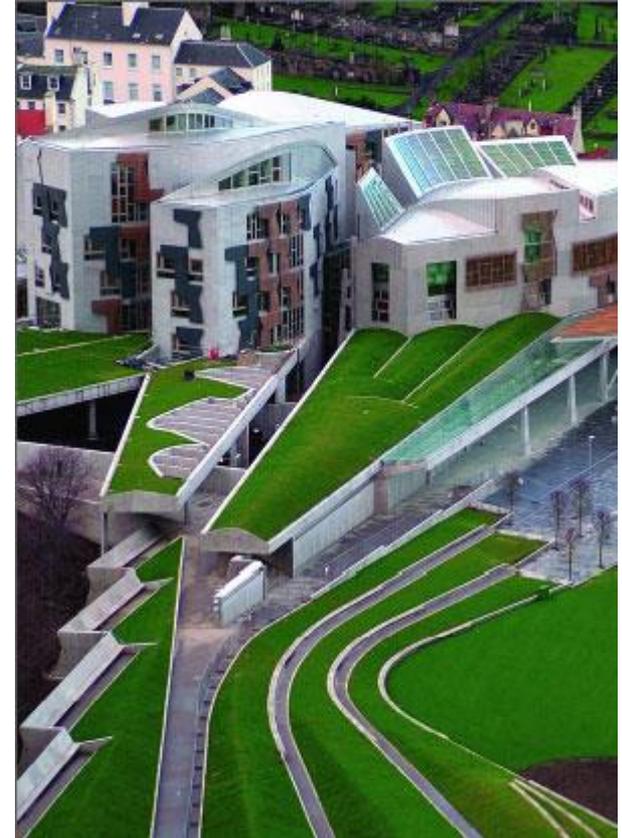
Consultation: Good Practice Guidelines

UK Government

- **Cabinet Office (1998).** *How to conduct written consultation exercises*

- **Cabinet Office/Better Regulation Executive (2000).** *Code of practice on consultation* **(revised 2004 & 2008)**

Scottish Executive/Government

- *Consultation: good practice guidance* **(2002 ; revised 2004 & 2008)**

- *Good Practice Guidance: Consultation with equalities groups* **(2002)**

Consultation Methods

- **Traditionally :-**

  - **Written consultation**

- **Increasingly supplemented with additional methods, such as:-**

  - **Public meetings;**

  - **Workshops;**

  - **Seminars;**

  - **Focus groups;**

  - **Citizens' panels, etc.**
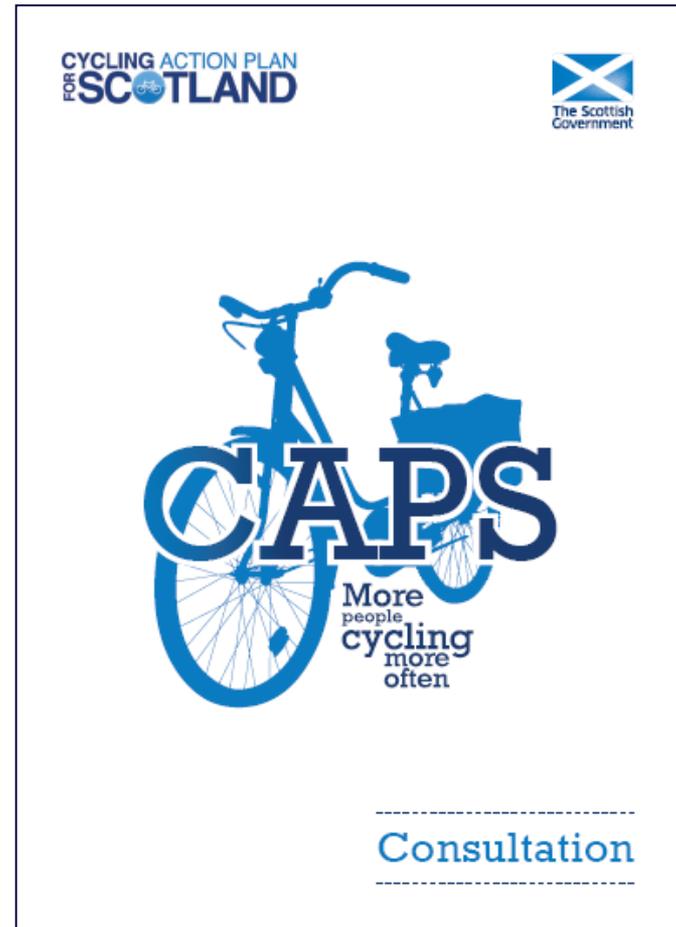
ESRC Project: 'The Mobilisation of Organised Interests in Policy Making'

- Conducted October 2006 – January 2009

- Recorded over 185,000 written responses, from over 19,000 groups and organisations (and thousands of individual citizens), to almost 1,700 Scottish Government consultation exercises, from 1982 to May 2007.

- Compiled largely using paper-based records held by the Scottish Government Library; plus the Scottish Government website for more recent material.

- Questionnaire survey of 469 non-governmental organisations, identified as responding to at least one consultation in the post-devolution period.

Consultations Identified (1982 to May 2007)
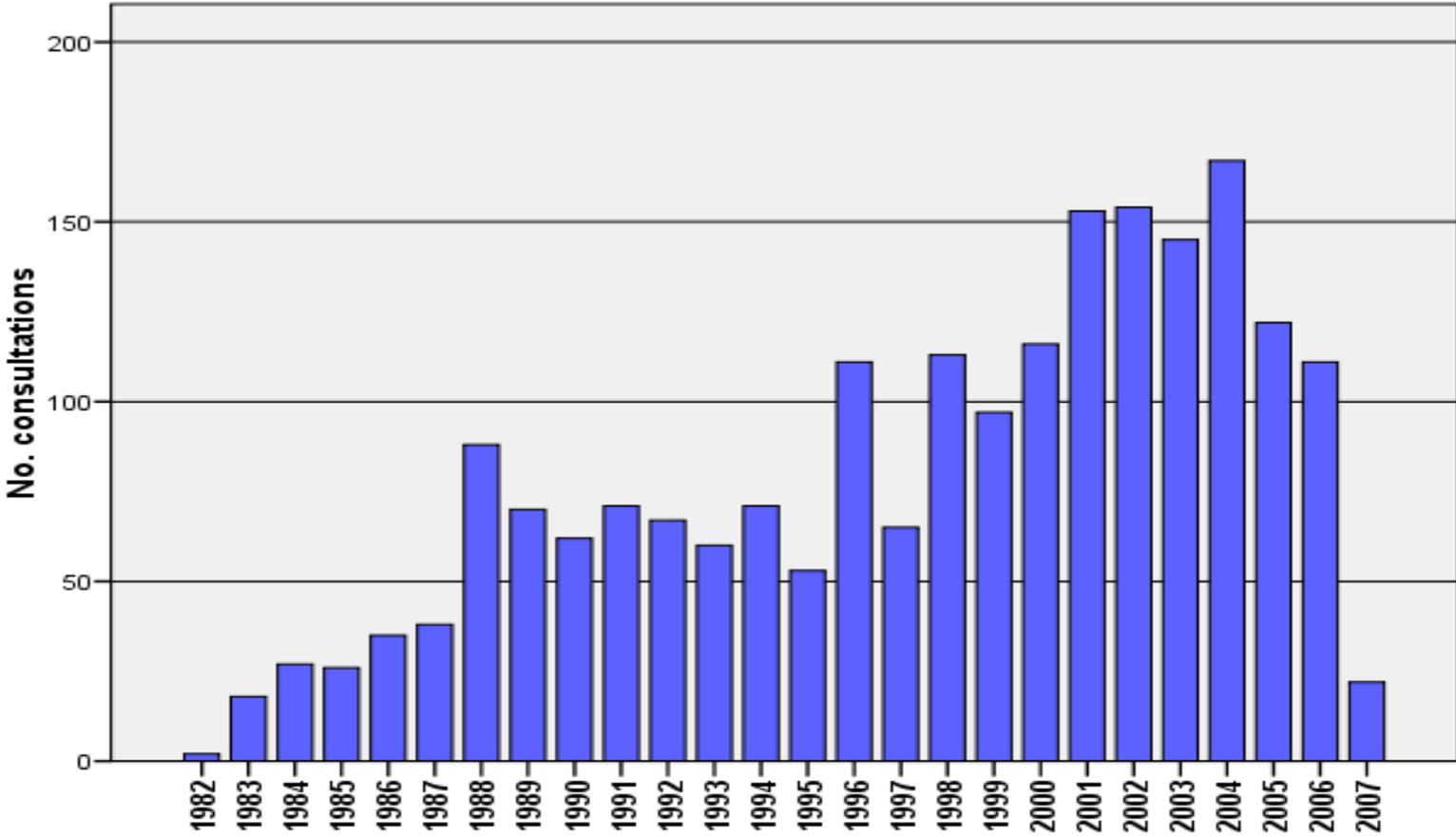
Average Number of Organisational Responses per Consultation (1982 to May 2007)
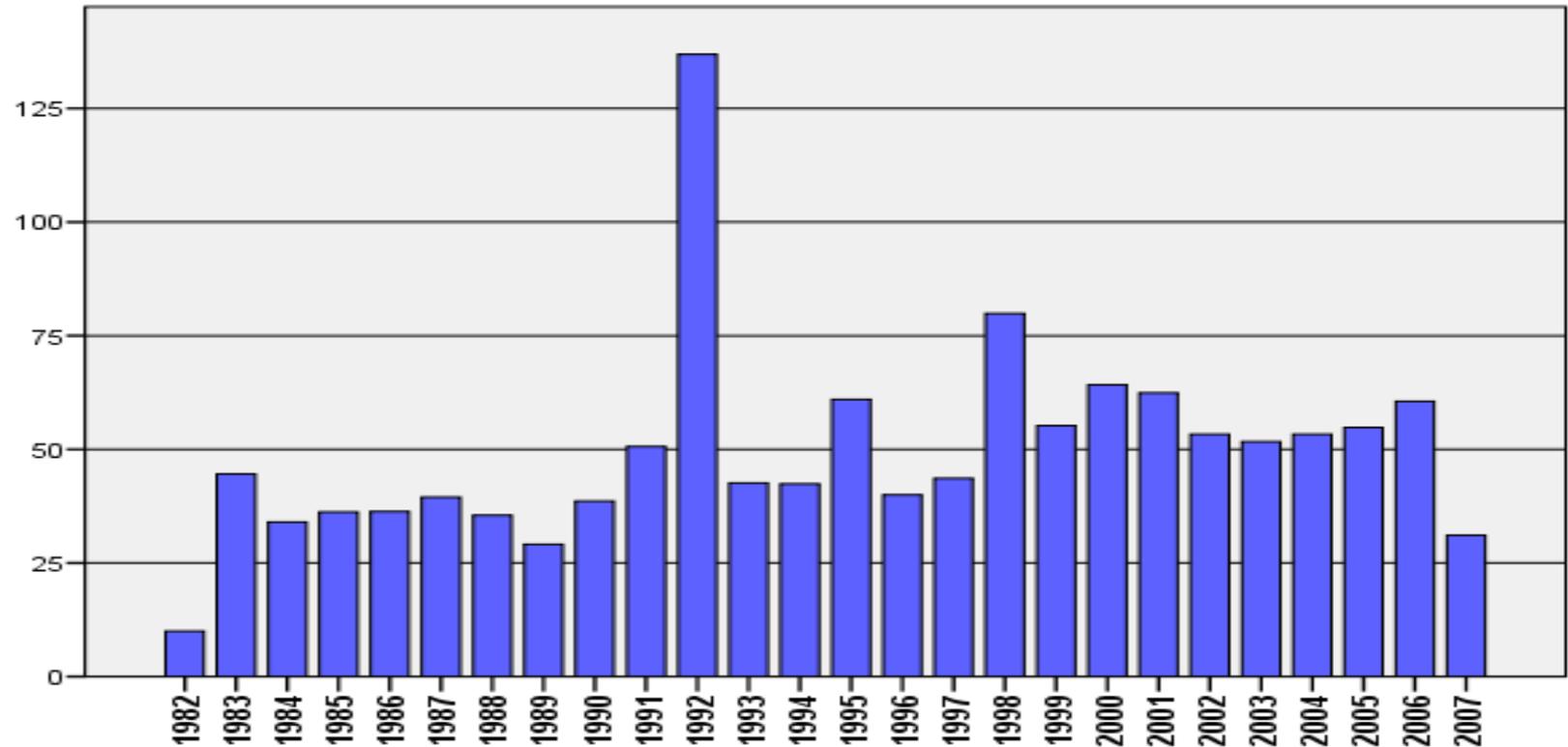
'Top Ten' Written Consultations
(1982 to May 2007)

Subject of Consultation	Year	No. responses
1. Smoking in Public Places	2004	53,474
2. Water and Sewerage Restructuring	1992	4,715
3. Land Reform Bill	2001	3,624
4. Local Government Restructuring	1992	3,242
5. Draft Gaelic Language Bill	2004	2,952
6. Glasgow & Clyde Valley Joint Structure Plan	2006	2,051
7. Standards in Public Life	1999	2,003
8. National Education Debate	2002	1,356
9. Religious Observance in Schools	2002	1,344
10. Children's Oral Health	2002	1,289

'Actors' and Responses (1982 to May 2007)

Type of Actor	No. Actors	No. Resps.	%. Resps.
Individual Citizens	Not recorded	92,467	49.9
Government/Public Bodies	8,204	51,591	27.8
Groups/Collective Actors	6,284	29,290	15.8
Individual Businesses	3,918	7,032	3.8
Political Parties & Politicians	503	1,216	0.7
Religious Organisations	85	807	0.4
Unknown/Anonymous	127	2,951	1.6
Totals	19,121	185,354	100

57% of organisational actors responded just a single time over the 25-year period

Scottish Government Consultations:
Most Frequent Respondents (1982- May 2007)

Name	No. Resps.	Name	No. Resps.
1. COSLA	679	14. Scottish Natural Heritage	461
2. Glasgow City Council	633	20. RICS in Scotland	407
3. Edinburgh City Council	625	21. NFU Scotland	406
4. Highland Council	592	25. SRPBA	397
5. Aberdeen City Council	569	28. Law Society of Scotland	374
6. N. Lanarkshire Council	552	29. Church of Scotland	355
7. Fife Council	548	31. Scottish Consumer Council	325
8. S. Lanarkshire Council	539	33. ACPOS	322
9. Aberdeenshire Council	524	34. University of Edinburgh	322
10. Angus Council	504	39. SEPA	300

Consultation Information: Themes from Literature

- Lack of awareness of consultation exercises;

- Failure to reach marginal and minority groups;

- 'Consultation fatigue' amongst regular respondents;

- Lengthy, complex consultation documents;

- Timescales for responding too short;

- Scepticism that consultation is a tokenistic gesture – that decisions have already been made;

- Suspicion that the responses of more influential respondents are weighted in some way;

- Lack of feedback, particularly on how responses have influenced final policy decisions.

Learning About Consultations
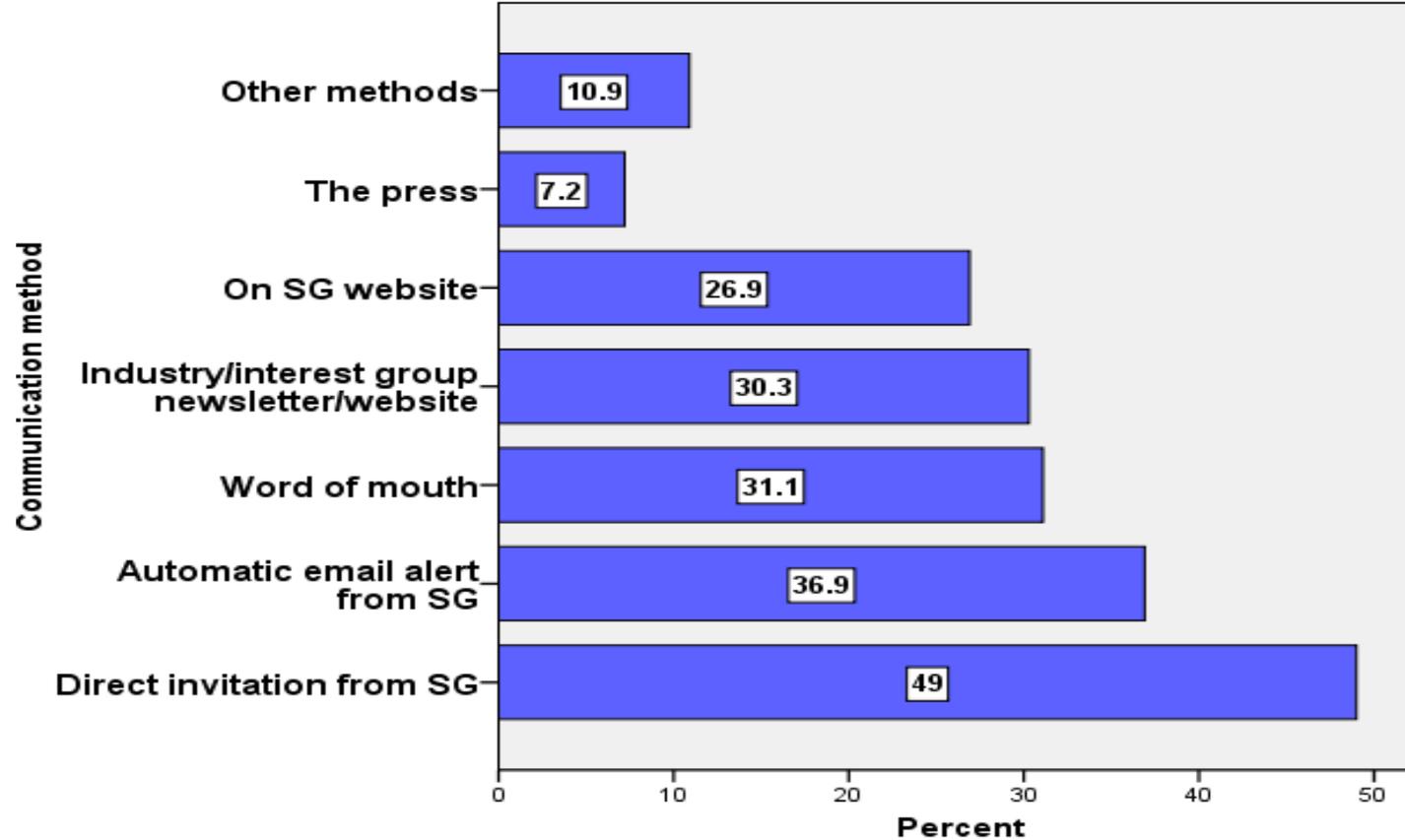
(Halpin & Baxter, 2008)

Finding Out About Consultations: Distribution Lists

- **'Mandatory' recipients:-**
- COSLA and all 32 local authorities;
- Clerk of relevant Scottish Parliament Committee;
- All Scottish MEPs;
- Equal Opportunities Commission;
- Commission for Racial Equality;
- Disability Rights Commission;
- Scottish Government Library;
- SPICe Library;
- The six Legal Deposit Libraries.

Finding Out About Consultations: *seConsult*
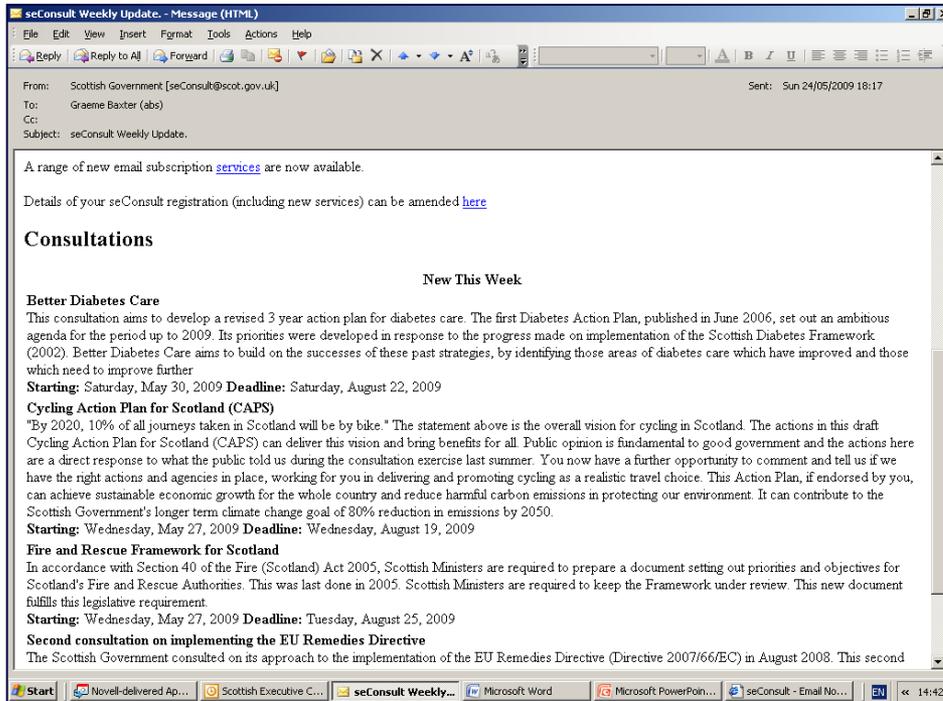
- Launched in March 2004.

- Weekly email updates on new consultations.

- Aimed at complementing, not replacing, distribution lists.

- Currently has over 8,000 subscribers.

Distribution Lists: Response Rates
(from a sample of 173 consultations)

	Pre-devolution	Post-devolution	2004-2007 only
Average number invited to respond per consultation	126	217	269
Average response rate per consultation	37%	22%	21%
Average number of organisational responses per consultation	52	56	55
Average percentage of organisational respondents who had been invited, per consultation	77%	77%	76%

Finding Out About Consultations: Scottish Government Website – Current Consultations

Closely linked to the Consultation Registration & Evaluation System (CRES)

Consultation Papers: Alternative Formats

Finding Out About Consultations: The Press
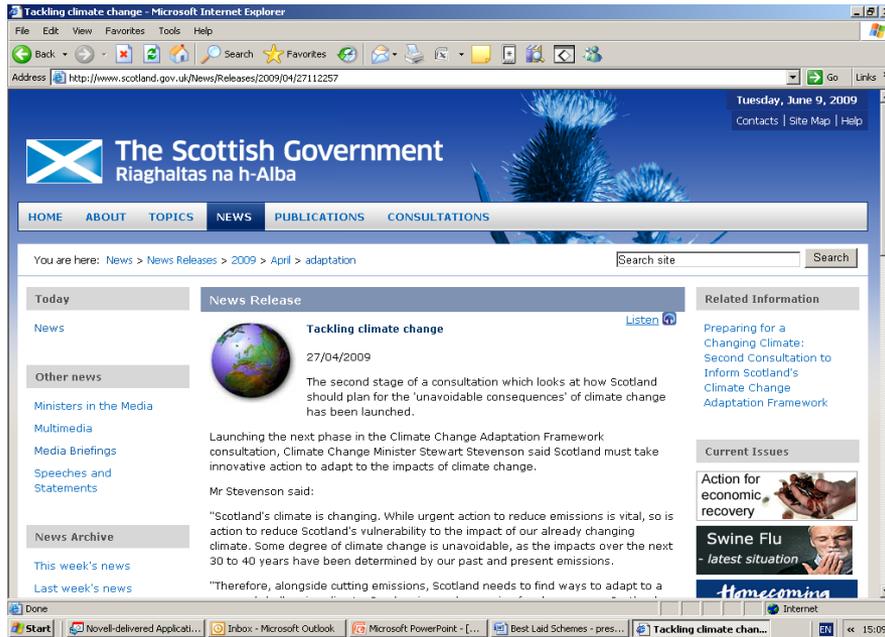
Press Releases Oct 1997 – June 2009

Pre-consultation announcements	**7**
Launch of consultation	**347**
'Progress reports'	**17**
Publication of Analysis Reports	**24**
Publication of Scottish Govt. response to consultation	**10**

Just 18% of the most recent consultations (i.e. June 2007 to June 2009) have associated press releases.

Methods of Responding to Consultations:
by Post, e-mail or Online Response Form

- ▪ **All consultations now provide postal and email return addresses;**
- ▪ **Around 10-15% provide an online response form;**
- ▪ **Around 30% provide a pre-prepared blank response form, in Word or PDF;**
- ▪ **Standard response period is 12 weeks.**

The Respondent Information Form

- **Individuals can choose to:-**

- Make their response, name and address publicly available;

- Make their response available, but not their name and address;

- Make their response and name available, but not their address; OR

- Make neither their response or their name and address publicly available.

- **Groups and Organisations can choose to:-**

- Make their *response* publicly available (i.e. their name and address will *always* be made publicly available)

Scottish Government Website : 'Closed' and 'Archive' Sections

- **Covers May 2002 to date (but no duplication of Archive content)**
- **Many 'duplicate' entries (CRES ID number)**
- **'Idiosyncratic' search engine**
- **Just 8% have links to analysis/feedback**

- **Covers Oct 1998 to Sep 2004**
- **20% of links are broken**
- **Search engine does not search these pages**
- **Less than 5% have links to analysis/feedback**

Scottish Government Website: Publications Pages

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Consultation Feedback

'When done badly or not at all it undermines the whole process and risks losing goodwill that might be required in future consultation exercises.' **(Better Regulation Executive, 2008)**
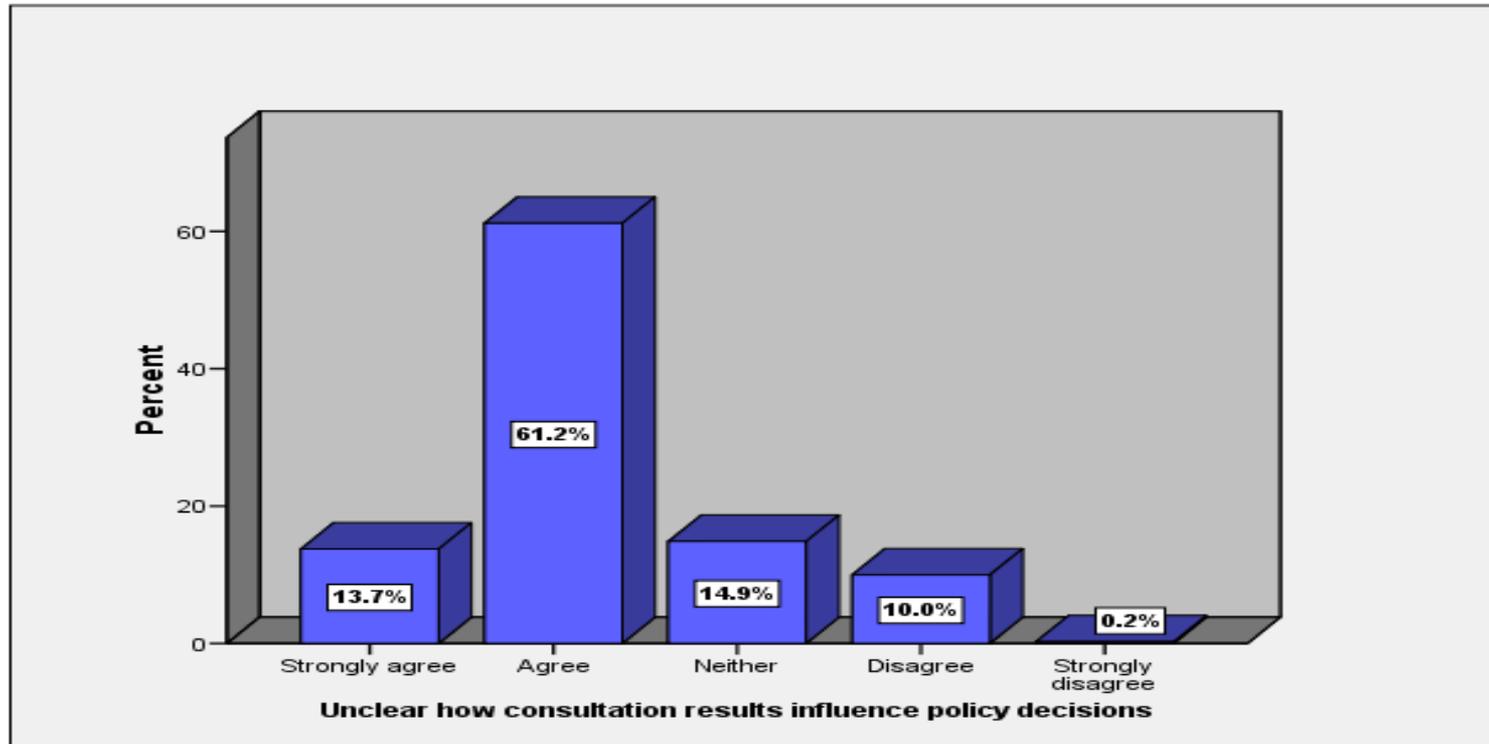
(Halpin & Baxter, 2008)

Feedback: Responses Only

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Feedback: 'Digests'

Feedback: 'Analysis Reports'

Feedback: 'Analysis Reports – Research Findings'

Feedback: 'Consultation Reports'

Feedback: 'Letters'

Proportions of Consultations with Some Form of Feedback on Scottish Government Website
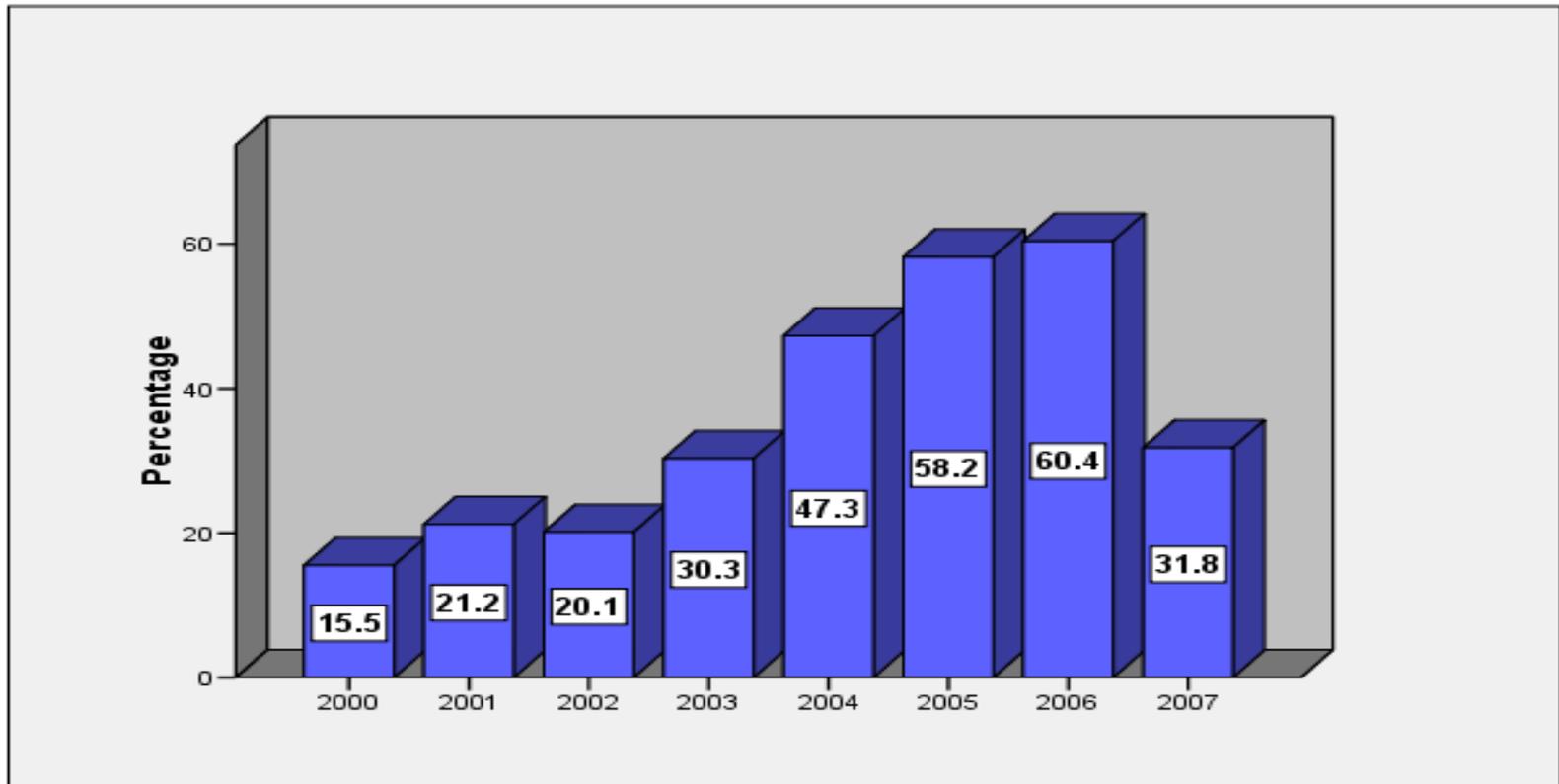
Types of Consultation Feedback
(*n*=447 documents, covering 363 consultations)
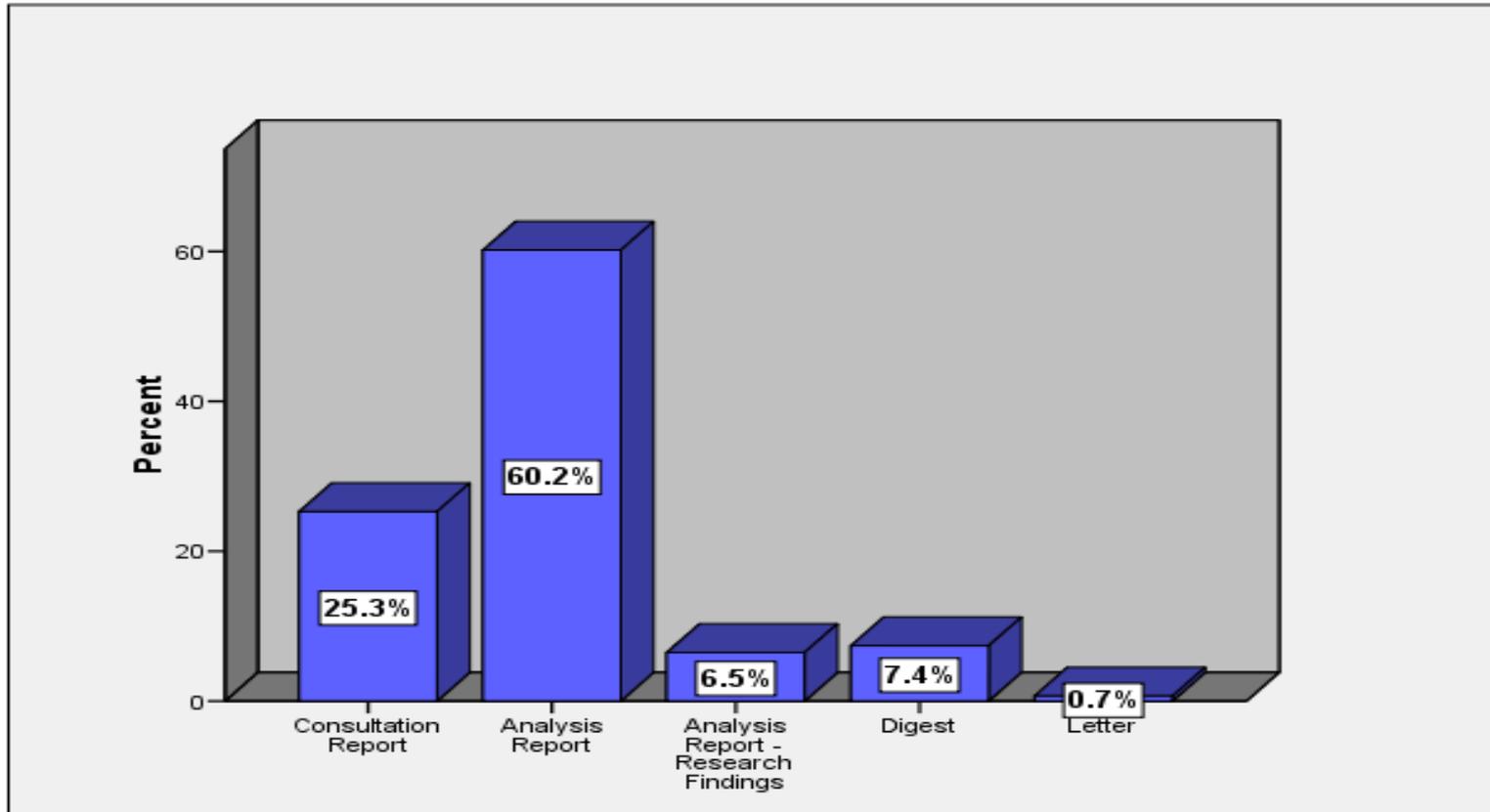
Feedback: Weighted Towards 'More Influential' Respondents?

guiding principles or objectives set out in Recommendation 1 above.

2.2   There was widespread support for this idea: around 70 respondents, of all types, broadly welcomed the adoption of these principles.

> *"The five 'guiding principles and objectives' upon which licensing boards should base their decisions demonstrates the intent of the committee to make licensing law an effective tool in combating alcohol misuse."*
> *(Church/religious organisation)*

> *"We welcome the introduction of the Guiding Principles as tools which Licensing Boards can use as an aid to decision making. They set out clearly the factors to be taken into consideration by Boards when granting licences."*
> *(Licensing board)*

There were few specific comments about the guiding principles.

2.3   Although the principles were generally approved, there were concerns about how they would be translated into legislation, as they were seen as being open to interpretation in their current form. It was believed that this would lead to the making of arbitrary decisions. This view was held by just 6 respondents, from licensing boards, community groups, and those

Recommendations 25 and 26, is that either Companies House may be seen as a principal regulator:

> *procedures should be devised, in conjunction with the Department of Trade and Industry and in the spirit of Recommendation 28 to avoid any need for duplicate reporting and accounting. (Scottish Mining Museums Trust)*

or that the regulation in the Companies Act may be considered sufficient to exempt charities from further requirements.

> *We are pleased to note ... that it is the Commission's view that charities should not have to report formally to more than one external body. In the case of charities incorporated as companies we would suggest that it might be appropriate for their Annual Return etc to be copied to CharityScotland. (St Columba's Hospice)*

2.9   The second, given in response to Recommendation 11, is that charities which have previously been registered as companies should take the form of a Charitable Incorporated Organisation (CIO), removing them from the remit of Companies House and placing them instead under the regulation of CharityScotland.

- Just 33% of feedback includes attributable quotes or opinions.

- Two cases where responses of 'Key Stakeholders' were highlighted.

- Further content analysis and research required.

Directgov Website Links

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UK Central Government Consultation Information

- No central register or depository, although a centralised website is currently being considered;

- No email alerting service, but also currently being considered (see also *Info4local*);

- Structure, content and time period covered varies widely between departments and agencies;

- Extent and quality of feedback also varies widely;

- In those departments and agencies where feedback is more forthcoming, a significant proportion of the feedback does contain *decisions*;

- The responses themselves are rarely made available online.

Conclusions

- **Increasingly, government is giving thought to improving its consultation *'schemes'*;**

- **Things *'gang'* a wee bit *'agley'* in terms of accessing consultation information, particularly after consultations have closed;**

- **A lack of feedback, particularly government decisions, is likely to cause some *'grief an' pain'* amongst consultation respondents.**