

# Consultation & People with a disability

Issues for public sector managers in NSW

Consultant's Report

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## Executive Summary

### *Overview of introduction*

Many people with a disability are becoming disillusioned by the consultation process. The views of people with a disability are presented in this report, and a number of recommendations are made. The recommendations are aimed at managers of NSW Government departments, utilities and government businesses.

The concern of the Disability Council of NSW arises from its commitment to improving the lives of people with a disability and their families.

The NSW Government has a commitment to social justice that includes the principle that all people should be consulted on decisions that affect their lives. NSW Government agencies also have an obligation under the NSW Disability Services Act (1993) to provide people with disabilities with opportunities for consultation in relation to the development of major policy and program changes.

The Disability Council argues in this report that successful consultation springs from the treatment of people with disabilities as active citizens. As citizens, people must have some equity in the decisions made by government that affect their lives.

The idea of equity means that decision makers must have regard for the views of people with disabilities when making decisions. Having regard means the genuine consideration of the views put forward during consultation. In Australia the prevailing ideas about government mean that this will stop short of power-sharing, however.

The recommendations that the Disability Council makes in this report refer to concrete means by which the consultation process can be made more participatory, and concrete means by which the process of consultation can be made accountable.

The accountability measures are twofold. One set of measures is designed to provide people with a disability opportunity to evaluate the extent to which a government agency genuinely considers the views expressed by people with a disability during a consultation. The other accountability process is based on the auditing of consultations to compare actual performance with benchmarks for quality of the consultation process.

### *Overview of the research process*

Six focus group interviews were held with people with a disability. The focus groups were made up of eight to ten people. Each focus group was composed of a particular disability type. The focus group discussions encouraged a free flow of conversation around the following questions:

- What does consultation mean to you?

- What do you think is the purpose of consultation?
- What do you think consultation achieves?
- How are you normally consulted?
- In your experience, how have most consultations left you feeling?
- What outcomes have you seen come from consultations you have been involved in?
- How might the consultation process be improved?
- Can you suggest a more effective means by which people with a disability can have their say in the decisions which affect their lives?

The focus group technique was used to discover the ways in which people thought about these issues and the depth of feeling about the issues that were raised. The notes and recordings made of the focus group discussions were sorted into the main issues raised, and these are presented as the findings of the research.

### *Overview of the findings*

The issues raised during the focus group discussions have been divided firstly into issues about consultation in an overall sense, reflecting general feelings and basic problems, and secondly into issues about particular stages of the consultation process. A distinction has been made between the following processes:

- preparation                      notification; distribution of information; gathering people to consult with.
- consultation forum              the time when ideas are exchanged, e.g. the time the parties meet face-to-face.
- post consultation                consideration by decision-makers; feedback.

It was found that, regarding experiences of consultation in general,

- disillusionment is common
- consultation is seen as a one-sided process
- consultations are often seen as a whitewash
- certain outcomes are manufactured
- there is a lack of accumulated knowledge in government departments
- there were some ideas for improving the definition of consultation

Regarding details of the consultation process, it was found that:

*Pre-consultation processes*

- unsuitable media are often used for preparatory material
- there is a lack of recognition of the preparatory resources that are needed
- there were ideas for improving preparation for consultations

*Consultation forum*

- consultation times are often inflexible
- consultations are rushed
- agenda-setting is common
- inappropriate people are often used to run the consultations
- consultations are not sufficiently inclusive or representative
- problems occur during large group consultations
- problems exist with communication and language
- discrimination sometimes occurs during consultations
- forums are not always physically accessible
- costs incurred need recompense
- there were ideas for improving support

*Post-consultation processes*

- there is a lack of feedback
- outcomes from consultation are often disappointing

*Overview of the discussion*

The discussion provides background material that may be of use to both government officers and people with a disability engaged in the implementation of the recommendations of this report.

In agreement with a number of previously published views about consultation, there is a strong sense of dissatisfaction with consultation among people with a disability. There are two general themes. One is that the outcomes of consultation, in terms of influence over decisions, are very poor. The second theme is that there are a range of procedural shortcomings during consultations, for example lack of support needs for people with a disability.

The discussion explores a number of contextual issues that affect consultation. It becomes clear that there are a number of challenges for both government agencies and people with a disability in working toward consultations that satisfy everyone. There are many pressures in the political background that act to limit the influence that is to be had from consultations. It may be that adhering to a better procedure or 'recipe' for consultation may not cure all ills. In short, consultation may be a participatory technique that suits some circumstances more than others.

Despite these pressures, there are some procedural shortcomings that need to be addressed. Many of the details that make for a satisfactory consultation have been covered thoroughly in previous manuals and protocols issued by various arms of both State and Federal Governments. Reference is made to these in the body of the report. Some extra considerations specific to consulting with people with a disability are discussed. However, it seems that the existence of good consultation protocols is not solving all problems.

The discussion turns to considerations of accountability for consultations. A distinction is made between the need for both routine audits of consultations, where the procedural quality is compared to benchmarks, and for stakeholder evaluation of consultations. In the latter, the participants are given the information to judge if their contribution was treated fairly and reasonably.

The requirement for audits and participant evaluations is then linked to various government policies and procedures that support a case for closer scrutiny of management performance of consultations. This discussion makes many points to support the recommendations, which are aimed at improved accountability mechanisms.

### *Overview of the recommendations*

#### *Recommendation 1. Agencies to adopt a consultation protocol.*

That all NSW Government agencies adopt and use a consultation protocol that provides for consultations with people with a disability. The protocol should be drafted in consultation with people with a disability. This initial consultation should be guided by the DOCS (1994) consultation protocol.

#### *Recommendation 2. Agencies to audit the quality of consultation process.*

That all NSW Government agencies develop and use an auditing process to assess quality of process of consultation with people with a disability. The audit is to be used to assess all consultations with people with a disability. The performance indicators and benchmarks to be used for the audit should be drafted in consultation with people with a disability.

#### *Recommendation 3. Consultation protocol to be covered in Section 9 plans.*

That NSW Government agencies include in their NSW Disability Services Act (1993) Section 9 plan reference to the consultation protocol, and a plan for implementation of the protocol.

#### *Recommendation 4. Premier to issue memo to Ministers on CEO performance agreements.*

That the Premier sign a Memorandum to Ministers to inform Chief Executives that the status of the obligations under Section 9 of the NSW Disability Services Act (1993) will be a subject of review of the Chief Executive performance agreement with their Ministers. The memorandum is to be issued through the Ageing and Disability Department [is this the appropriate issuing body?].

*Recommendation 5. Consultation quality to be tied to management performance.*

That NSW Government agencies include in the duty specifications for an officer responsible for a consultation with people with a disability that the tasks and standards of a consultation with people with a disability shall conform to the agency's consultation protocol.

*Recommendation 6. Premier to issue memo to Ministers regarding DSA Section 9 plans.*

That the Premier sign a Memorandum to Ministers to inform Chief Executives that failure to complete implementation of Section 9 of the Disability Services Act (1993) leaves them open to vicarious liability. The memorandum is to be issued through the Ageing and Disability Department [is this the appropriate issuing body?].

*Recommendation 7. Compliance with Section 9 of DSA to be monitored.*

That compliance with Section 9 of the NSW Disability Services Act (1993) be a condition of Cabinet funding of NSW public authorities. Compliance with Section 9 should be monitored through the Cabinet Committee on Social Justice.

*Recommendation 8. Cabinet Committee on Social Justice to publish its powers of sanction.*

That the mechanism to be used by the Cabinet Committee on Social Justice for linking adherence to the social justice principles to budget allocation, referred to in the Social Justice Directions Statement (NSW 1996), be made public.

*Recommendation 9. Monitoring and review of the recommendations.*

That implementation of these recommendations be monitored and reviewed by the Disability Council of NSW one year after launch of this report.

# 1 Introduction

**consult**, *v.t.* 1. to seek counsel from; ask advice of. 2. to refer to for information. 3. to have regard for (a person's interest, convenience, etc.) in making plans ...

**consultation**, *n.* 1. the act of consulting; conference ...<sup>1</sup>

Many people with a disability have had experience of consultation by government and service organisations over the last ten years. Concern has arisen that many of these people are becoming disillusioned with the consultation process. The Disability Council of NSW presents in this report the views of people with a disability on the issue of consultation, and recommends means by which the process may be improved. The recommendations are aimed at managers in the New South Wales public sector.

The Council is keen to overcome the problems associated with the consultation process, because it is committed to the view that the voices of people with a disability must be heard, and their interests fairly and accurately represented. The Council's commitment to this issue stems from its community focus and its constitution as a body made up of people with disabilities and people who demonstrate a knowledge of issues which affect people with disabilities.

In its role as official advisor to the Minister for Disability Services on issues affecting people with a disability, the Council is committed to improving the process by which the New South Wales State Government fulfils its obligations under the NSW Disability Services Act (1993). In relation to consultation, the Act states the principle that:

*Services and programs of services must be designed and administered so as to ... provide persons with disabilities with ... opportunities for consultation in relation to the development of major policy and program changes.*<sup>2</sup>

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1. Adapted from *The Macquarie Concise Dictionary*, 1988.

2. New South Wales. *Disability Services Act 1993 No. 3*. Schedule 1 - Principles and Applications of Principles: Applications of principles, 2(o).

This Act supports aspects of the four social justice principles of the NSW Government. The four principles are: equity, rights, participation and access. On participation, the principles state that

*'... all people should have the fullest opportunity to genuinely participate in the community and be consulted on decisions which affect their lives'.<sup>3</sup>*

Together these statements form a basis for public accountability of the way consultations are used by government and a goal for public sector managers to aim toward in improving consultation processes.

## 1.1 Basic dimensions of consultation

This report is concerned with public consultations by government for purposes of policy development or service planning that involve disability groups or individual people with a disability<sup>4</sup>.

A dictionary definition of consultation was given at the beginning of this section. Of note is the idea of 'having regard for a person's interest, convenience, etc., in making plans'. While many other definitions are available<sup>5</sup>, the DOCS Consultation Protocol (DOCS 1994) formulated the most recent definition of consultation appearing in NSW Government publications:

*'... consultation is defined as those structures and processes, through which views are sought with the objective of informed decision-making. Information giving or seeking is not in itself consultation, but is a pre-requisite for consultation. Consultation is not shared decision-making.'<sup>6</sup>*

This is not regarded as a totally adequate definition, because it does not capture the concept of regard noted above. It is also one-sided in that it does not mention the public motive to influence decision making. Further, it could more clearly emphasise the role of discussion and negotiation in consultation. These issues will be returned to in section 4.

Consultation can be conceived of as a cycle. The cycle begins at the point at which a decision is made to consult. It moves through a preparation stage, the consultation itself, and a subsequent feedback and utilisation process.

There are various methods used for consulting, which vary in appropriateness depending on the purpose of the consultation. Methods that encourage discussion and negotiation are public meetings, focus groups and workshops. Methods that allow for information gathering only are polling and quantitative surveys, phone-ins, and written submissions.

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3. NSW, 1995. *Social Justice Budget Statement*. Cabinet Office, NSW.

4. Please note that in this report 'consultation' refers to public consultation, and that the term policy development is often intended as shorthand to include service planning.

5. A number of definitions were listed in *How will we consult* (CPWP 1993:42-44).

6. DOCS 1994. *NSW Department of Community Services Consultation Protocol*.

A distinction can be made between universal consultations and representative consultations. The former type attempts to consult with everyone likely to be affected by the issue in question. The latter type attempts to contact legitimate representatives of individuals or groups likely to be affected. Consultations also vary in the amount of time allocated to the process and in the level of formality and resources devoted to them. Expansion on the practical aspects of consultation can be found in *Resourcing Consultation* (Social Policy Directorate 1993b) and *Consulting the Multicultural Way* (Office of Multicultural Affairs 1994).

Of greatest importance however is the extent to which consultations offer a genuine opportunity for influencing policy development and service planning. It is necessary for the new public management model of governance introduced into NSW over the last decade to accommodate consultation as a central tool for social justice. Consultation must both publicly accountable for its outcomes and accountable to management for the quality of its conduct.

## 1.2 Policy context of this report

This report on consultation is relevant at the present time for three main reasons. Firstly, *Council is acting on concerns of people in the community who have a disability*. Many such people have expressed the view that consultations are failing to serve them as a means by which they can contribute to the development of policy and program changes which affect their lives.

Secondly, this report functions as *policy advice*. Both for reasons of good government as an overarching ideal, and the specific requirement that all public authorities in NSW must conform to Section 9 of the Disability Services Act (1993)<sup>7</sup>, the report makes specific recommendations to public managers that can be incorporated into their 'Section 9' plans, and makes recommendations for high quality consultation processes which further the ideals of good government.

Thirdly, this report *contributes to inter-departmental policy formulation*. The findings and recommendation of the report will form part of the submissions to the Green Paper on the Whole-of-Government disability policy framework and the review of the Department of Community Services Consultation Protocol by the Community Welfare Advisory Council. It is hoped that the Cabinet Office will include the recommendations made in this report in its own proposed recommendations for enhancing community participation in decision making, due in June 1997<sup>8</sup>.

## 1.3 Framing of Council's policy concerns

The NSW Government has a strong commitment to consulting with various policy communities, including people with a disability and their families. This commitment is

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7. Section 9 of the Disability Services Act (NSW 1993) in part states that:  
'A public authority is to prepare, and make provision for the implementation of, a plan to encourage the provision of services by that authority in a manner that furthers the principles and applications of principles as set out in Schedule 1 [of the Act].'

8. This proposal is mooted in 'Fair Go, Fair Share, Fair Say' (NSW 1996:28).

expressed in a number of documents aimed at assisting government and non-government agencies in conducting consultations.<sup>9</sup>

There are many reasons why the NSW Government consults with people with a disability and their families. The most notable reasons recognised by the Government are that it informs and adds value to the decision making processes of government, and ensures that policy reflects the needs and concerns of people likely to be affected by any action.

The Disability Council has itself consulted widely with the disability community throughout the State on a number of occasions. These consultations have been successful in terms of the high level of participation by consumers and the quality of information that has been gathered. The results have been used to inform policy advice presented to the Government.<sup>10</sup>

However, the Council is becoming more conscious of the concerns expressed informally by people who have been called upon to participate in consultations held by governments and others. One such concern is that participants are disillusioned with the process because the issues or concerns they present are very rarely represented in policy or improved outcomes for people with a disability and their families. Consultation has often been a process of 'doing' simply for its own sake. There is also a fatigue factor involved in that people are constantly asked to participate in consultations without payment or stipends.

The concerns raised about consultation are indicative of wider concerns about the extent to which people with disabilities are regarded as citizens. As was noted earlier, and will be expanded on later in this report, this is a much different concept from that of people with disabilities as 'consumers'. It connotes a much more active role for people, and it raises issues about the extent and quality of democratic process in the government of NSW.

## 1.4 Prior research

Work on improving Government consultation processes for people with a disability has already been performed in NSW. In particular, the NSW Department of Community Services set up a joint working party called the Consultation Protocol Working Party (CPWP) for the development of a consultation protocol. This involved a number of peak community services bodies, including some committed to people with a disability. CPWP issued an interim report in 1993 (CPWP 1993) and a final report in 1994 (DOCS 1994).

The protocol includes guidelines for consultation with people with disabilities (DOCS 1994:21-3). The guidelines were developed from research done using a variety of methods for collecting people's views<sup>11</sup>. Among the information gathered through

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9. The most salient of these are from the aforementioned publication from the Social Policy Directorate (1993b) and the Department of Community Affairs (1994).

10. In addition to responses to consultations held by other Government agencies, the Council has produced its *Orthotics Report* (1995) and is currently engaged in consultative work on a consumer network, housing policy, women with psychiatric disabilities in NSW prisons, disability services for Aborigines in rural areas and education services for children with disabilities.

11. *How will we consult* (CPWP 1993: 168-73).

consultation by the CPWP were questionnaire results. These results can be used to compare with the Council's research results presented in this report. The main questionnaire received 1583 responses, an estimated 43 responses of which were from people with a disability. However, their views were not separated from the views of other stakeholders<sup>12</sup>.

A further 'plain English' questionnaire was deployed by the CPWP project. The 124 survey respondents were all people with an intellectual disability<sup>13</sup>. These results were presented as an appendix to the CPWP report, but were not discussed in the body of the report. The results are important for the current report, because a number of the issues covered by the CPWP questionnaire were reiterated in the Council's own research. In cases where they are directly relevant to the issues raised in the Disability Council's research, some of these CPWP questionnaire results are noted along with the Disability Council's research results in section 3 of this report.

There have been a number of other broad inquiries into consultation processes and outcomes in Australia. These include semi-empirical studies by the Task Force on Co-ordination in Welfare and Health (1977), VCOSS (1981) and Krestensen (1990). These will be discussed in section 4.

## 1.5 Research focus

The Disability Council has researched the experiences of people with a disability in the consultation process, and the issues that arise from those experiences. This research is used to inform the discussion and recommendations of this report. The Council was aware that while many experiences and issues would be commonly expressed, aspects of issues and experiences would vary across particular impairment types.

The Disability Council embarked on a consultative process with people with disabilities to illuminate three aspects of experiences and issues: the 'ideal' of consultation, lived experiences of consultation, and strategies for achieving desired goals. Specifically related to these three aspects, and from their perspective as consumers, the participants were asked:

- What 'consultation' meant to them,

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12. Cross-tabulations, a statistical technique that would separate out the views of people with a disability from other stakeholders in the survey results, were not presented in the report. Hence it was unknown from the report how many people with disabilities responded. The figure of 43 was arrived at by multiplying the number of 'consumer/users' who responded to the survey (106) by the percentage of respondents reporting being most involved in 'services for people with disabilities' (41%).

Lyn Gain, the former Chair of the CPWP, pointed out that most of the results were presented as aggregates in the report because when the cross-tabulations were inspected, there was little variation found between sub-populations of the survey. Therefore it should be possible to draw conclusions about the views of people with a disability by assuming the aggregate results reflect approximately the results for people with a disability who responded. (Lyn Gain, pers. comm.)

13. Lyn Gain, personal communication, 17/7/96. Unfortunately, the characteristics of the survey respondents and the population they represented were not at all clear from the CPWP full report, although it transpired that the questionnaire was obliquely referred to on p.172 of the full report. The questionnaire, originally developed for people with intellectual disabilities, was administered through the NSW Council for Intellectual Disability to their members (Lyn Gain, pers. comm.).

- What they thought the purpose of consultation is,
- What they thought consultation achieves,
- How they are normally consulted,
- In their experience, how most consultations have left them feeling,
- What outcomes they have seen come from consultations they have been involved in,
- How might the consultation process be improved, and
- Could they suggest a more effective means by which people with a disability have their say into the decisions which affect their lives.

The focus group technique, as used in this research, was intended to discover how people thought about these issues in general, and to explore the depth of feeling about these issues.

# 2

## Research process

Six focus group discussions were held with people with a disability within the Sydney metropolitan area during May 1996. There were 7-10 participants in each focus group interview. All were volunteers who responded to requests made through disability organisations. The focus groups were made up of people grouped by impairment type:

- acquired brain injury
- blind and/or visually impaired
- deaf and/or hearing impaired
- intellectual impairment
- physical impairment
- psychiatric impairment

A facilitator and a note-taker attended each of the meetings, which lasted for about two hours. A set of eight standard questions were asked at each meeting to focus the discussions. Notes were taken and audio recordings of the discussion were also made.

### 2.1 Focus group methodology

The focus group interview is a 'device for eliciting information ... limited to a small number of issues', among a group of 'a number of interacting individuals having a community of interest' (Stewart and Shamdasani 1990:10).

Small group interviews are one of the best ways to explore people's own ways of thinking about something and to generate 'new' ideas, or at least ideas not necessarily known by the researchers and their auspicing organisations (see Glaszer and Strauss 1967 and Merton 1987). Ideas are generated through the interaction of group members, and the ideas are couched in '*their* language and concepts, *their* frameworks for understanding the world' (Kitzinger, 1994:108).

The focus group technique is distinct from quantitative survey research in that it cannot be used to gauge the distributions of response (Merton 1987:557), but is better at providing more in-depth insights into how people feel about the subject under discussion. Also unlike questionnaire research, group interviews are not wholly limited to the preconceived ideas of the researcher.

## 2.2 Particular considerations for Council's research

The focus group technique, as used in this research, was intended to discover how people thought about major issues about consultation in general, and the depth of feeling about those issues. The standard question set (included as Appendix 1) was intended only as a guide to the overall agenda of discussion, and the group facilitators were careful to allow the conversation to flow naturally, in accordance with the focus group methodology outlined by Stewart and Shamdasani (1990).

As a function of the wish to allow a 'free flow' of discussion without too much prescriptive focus placed upon the group by the facilitator, not every issue relevant to consultations with people with a disability was covered in great depth in each focus group. In evaluating the results of the research, it must be kept in mind that the intention was quite different from, say, eliciting comments on all aspects of a current or proposed consultation protocol, which would have delivered many more detailed suggestions for improving consultation practice.

There were two main reasons for grouping people by impairment type. The first was that this would encourage discussion of issues relating to particular impairment types and support needs. The second reason was that each group could be catered to more effectively in terms of individual specific support needs. In line with the Council's own commitments<sup>14</sup>, and in line with the DOCS Consultation Protocol, the research addressed the support needs of people with particular disabilities during the consultation process, as well as addressing general needs. The special considerations the Council employed for each impairment type are listed in Appendix 2.

All participants were informed of the questions in advance. Samples of the materials sent to participants are provided in Appendix 3. The materials were presented in plain English and were issued in alternative formats for some groups (refer to Appendix 1 for details). Permission to record the discussions was sought from the group participants before taping, and was given by all groups on the proviso that the tapes remain confidential. Participants were told that a draft form of the ensuing report would be sent out to them for comment.

A reference groups for the project was made up of Council members and experienced social science practitioners. The facilitators were all experienced practitioners in the disability area, and had met prior to running the focus groups in order to plan and discuss their roles. A third-year student in the School of Social Work at the University of New South Wales, under supervision of the Council secretariat, organised and participated in the focus groups, acted as reporter (note-taker) and helped to process and analyse the resulting data.

## 2.3 Data processing and analysis

As noted above, the focus group sessions were recorded simultaneously by tape recorder and by a reporter who took notes during the discussion. The procedure used to produce records of the discussions onto paper was to expand the reporter's notes by using the tapes. Bertrand et. al. (1992:201-2) provide an extended discussion

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14. Outlined in regard to consultation in '*Consultation: Background and proposal*', Disability Council of NSW, February 1994.

of this method. For each meeting, the reporter listened to the tapes in conjunction with the notes. In this way the discussions were paraphrased and transcription was made only of 'quotable' passages of the discussion. The advantage of this approach is that it is quicker and less costly than full transcription. Although there is potential for a bias from the reporter to enter the data processing, it was considered that the reporter's accuracy would be tested when the participants read the draft report.

As it turned out, the data processing took such a long time that the reporter was forced to return to his university studies and was not able to complete the data processing. The focus group facilitators were then enlisted to provide similar sets of expanded notes with transcribed quotations, to supplement the reporter's notes where necessary. This unplanned modification to the process had two outcomes. One was a possible negative consequence, in that uniform interpretation by the reporter of all discussions was made impossible. The second consequence was a possible advantage, in that a number of people participating in data processing would bring many interpretations to the discussions, potentially recognising value in comments made that one person alone may have missed.

The material gathered was synthesised using a word-processor and a variation of the 'cut and paste' technique (Stewart and Shamdasani 1990:104-5). In this technique, the notes were read and a classification system for the major topics and issues was developed. The notes were then sorted under these classificatory headings. In practice, it was difficult to decide on an appropriate classificatory scheme. The first attempt tried to classify the themes and issues within each focus group separately from the others, so that six data sets were presented as analysed results. In addition, the themes were separated into 'ideals', 'complaints' and 'suggestions for improvement'. While this scheme can be said to have interfered minimally with the data, the many dozens of headings that ensued, most with only a single sentence underneath, made the results indigestible.

It was then decided to consolidate the results by combining results from all focus groups under major themes and issues. Each quote used was tagged according to which group it had originated from<sup>15</sup>, and given an index number. The tags have been preserved in the results as presented. Where issues or comments are specific to particular disability groups, this is made clear in the text. This second attempt at analysis was performed by the consultant. As with the data processing method used, there is potential for bias from the analyst in classification and synthesis of the data. However, it is considered that the validity of the analysis will be tested when the focus group participants read the draft report and give their comments back to the Council.

Some of the results of the survey of 124 people with an intellectual disability by CPWP (1993) have been included in the findings section, where they are relevant to the issues

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15. The tags used are: Bin - people with an acquired brain injury; BVI - blind or vision-impaired people; DHI - deaf or hearing impaired people; ID - people with an intellectual disability; PhD - people with a physical disability; PsyD - people with a psychiatric disability.

being discussed. This has the advantage of illustrating the approximate distribution of opinion on some of the issues raised.

# 3 Findings

## — what people with a disability say about consultation

Comments made during the focus group discussions have been organised under a series of headings that reflect the issues raised. The issues have been divided into two basic categories. The first is the issues to do with consultation in an overall sense, and reflects general feelings and basic problems with the process. The second group are comments made about particular stages of the consultation process.

The stages of the consultation process have been grouped around the central performative event, the consultation forum. The forum is the place where the two parties, the consulters and the people being consulted, meet. The classic forum is a face-to-face meeting, and it seems this is often assumed to be the usual form of consultation. Less dramatic are consultations by correspondence or telephone, etc., although these too are essentially a kind of forum. Comments about face-to-face meetings are much more common than comments about the less dramatic forms of consultation.

Prior to the forum are the preparation processes, involving notification, distribution of information and gathering people to attend the forum. It is a period for resourcing the forum, and most comments relate to the adequacy of the resources provided. After the forum the parties separate. The consulters take the comments away with them, and the people consulted hope that their comments are regarded seriously. Many comments made about what happens after the consultation forum relate to lack of feedback or the apparent lack of impact made by the consultation.

### 3.1 Experiences of consultation in general

#### *Disillusionment is common*

The focus group participants often commented that their advice was seldom listened to, the people doing the consultations did what they wanted anyway, and constructive outcomes from consultation were rare. The holding of a consultation was even used as a justification for decisions which people with a disability disagreed with. The following comments illustrate the general discontent.

"Our voices can't be heard" [ID]

"9 times out 10 nothing constructive comes out of it" [Bin]

"I've been formally involved in this area for five years. I have never yet struck a good consultation" [Bin]

"They asked for our opinion but I get the impression that it was just falling on deaf ears" (regarding ADD consultation) [Bin] [LE:X]

"It's not even token, it's a cynical exercise to give credibility to a flawed process" [PhD]

"Sometimes they do [a consultation] from a political point of view to see if what they are going to tell you is acceptable".. [DHI] [LJ:3]

"It should be giving the Government feed back from grass roots, I wonder how intently they listen, they are obsessed with budgets, outcomes and the personalities of the people in the jobs. They have problems opening their minds and hearts to the input from other people." [DHI] [LJ:17]

"... the fact is that if you pay a millions dollars to a consultant, then change had better ensue, you would never have one [consultant] come in and say leave it, so you will have change for change's sake and all that changes is the department name, the stationery and maybe the person holding the post and everything else remains the same". [DHI] [LJ:18]

"Consultation is not achieving real rapport with people with a psychiatric disability". [PsyD] [LE:5]

"Consultations usually achieve very little" [PsyD] [LE:6]

"The die was cast" [LE:1]

"I believe the government's got the disability, we haven't" [ID] [LE:2]

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☞ The CPWP survey in 1994 of 124 people with an intellectual disability asked:

*"Do you think the Department [DOCS] will really listen to your views?"*

The respondents were not confident of the Department's ability to listen.

(Yes = 33.9%, No = 20.5%, Not sure = 40.3%, No response = 0.8% )

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### ***Consultation is seen as a one-sided process***

A lot of the issues are at some level to do with the imbalance of power between the two parties in the consultation. Some focus group participants said there was a tendency for service providers and government departments to bend the purpose of consultation to suit their own ends, rather than those of the people with a disability.

"You can't work from the basis of saying 'well look, this is what we want to do, how are you going to best cooperate in achieving what the government wants to do'. You have to find out what it is that the clients themselves actually need and what *they* want to do. Otherwise it is something of a waste of time."

“More often than not it was a forum for professionals to discuss their issues.” [LE:27]

"Consultations are more an information session, yet the Department ticks it off as having consulted with the wider community and that's happened on a number of occasions" [PhD] [LE:1]

“People with the power have absolutely no comprehension of consumer issues” [PsyD] [LE:4]

Many thought the attitude of the government was that the consultations are a favour to the people being consulted. This attitude is referred to in some of the comments that follow further on.

### *Consultations are often seen as a whitewash*

Rather than consulting with the “idea of being able to ultimately improve services to a best practice model” [PsyD] it was felt that what consultation really achieved was to enable government departments and service providers to look good despite the decisions they made.

“Although things may or may not be improving, the system is improving in its ability to sell itself” [PsyD] .

Many thought that the consultation process is failing to serve people with disabilities as a means by which they can have input into decision making. Rather, the process serves the decision makers to justify their own decisions without losing credibility. A common belief is that consultations are often about decisions which have already been made - a whitewash, done to look participatory or to comply with a requirement to consult. People are aware that if decisions have been made before a consultation, alterations suggested during the consultation can hardly be adopted.

“I think sometimes when you're asked to go to consultation meetings, not always but a lot of the time, I think that the decision has already been made.” [BVI]

“They'd already made up their mind, but they went through the motions so they could sit back and say ‘oh well we consulted with groups with disabilities’ ” [Bin (re: consultations held prior to the merging of Ageing and Disability Departments.)]

“Hopefully [consultation] will be a dialogue, but I don't think it is, the people behind the desk have made up their minds already ... it is difficult some months later to discern where your particular ideas fitted in.” [DHI]

“While they were going through the motions of consultation, they weren't really interested in what we thought about the issue. They basically came and presented us with a set case” [Bin (referring to ADD consultation)]

“I think that there is a certain amount of cynicism about consultation... people tend to think not just ‘what's in it for me’ but ‘what's in it for blind people in general?’ Are we just wasting our time? Are we participating in a token activity?” [BVI] [LE:9]

“The real point is that they have made the decision anyway, they were just consulting to look good” [BVI (Consultation with Commonwealth Bank on the use of ATM's)] [LE3]

“In reality it [the consultation process] is mostly: run it past them and they will do what they want anyway” [BVI] [LE:5]

### *Certain outcomes are manufactured*

Some people thought that some consultations were about manufacturing a certain outcome. Outcomes had been manufactured by the use of biased surveys, by the way in which consultations were structured and by the ‘amount which was taken on board’ during the consultation.

In one account, participants in one consultation were 'coached' on their responses to a survey, so as to maintain the *status quo* of current service. The results were then misleadingly represented:

“... everything was given in percentages, so that even when one person of the four said something, it was 25% of the group.”

The appointment of particular consultants was seen to be a strategy in consultation.

“the consultant was appointed to find a particular outcome, regardless of what's really going on” .

Some people thought that often the purpose of a consultation was to justify current ideas, rather than working towards better ideas. In one account, quotes from a consultation were thought to have been taken out of context so as to justify current service provision.

“A lot of people tend to manipulate the information they get by quoting out of context”.

### *Lack of accumulated knowledge within government departments*

Government departments were said to have a problem retaining knowledge obtained from consultations due to staff turnover and changes in office. As a consequence the bureaucracy maintained little insight into issues about disability.

“I think one of the major problems, particularly where people with disability are concerned, is that governments have no real insight because their staff turnover's too quick. So they have a consultation and then five years later they've got to have another one because the staff have changed”

The results of consultations are almost wasted because of high levels of staff turnover. The learning from a consultation has to be repeated, often after a very short time, because there is no memory of the original learning after staff have left the organisation.

“The questions I've been asked years ago, I got asked last year. This year I get asked again - the same question!” [ID]

### *Ideas for benchmark definitions*

Some of the focus groups were asked for comments on a definition of consultation produced by the Consultation Protocol Working Party. This definition was:

“Consultation is finding out what other people think about something before you make a final decision”<sup>16</sup>

While there was agreement that this is an accurate definition of consultation in theory, people were concerned that this definition does not accurately reflect the realities of the consultation process in practice. The CPWP definition needed to address the following issues:

“You can't have an informed discussion unless you hear other people's points of view – that's essential.” [PhD]

“[Consultation should be] a form of communication, not one way but two ways” [PsyD]

“[Consultation should be about] bringing in ideas to enhance other ideas” [PsyD].

“ It [the definition] doesn't say anything about whether you take any of that [what other people think] on board” [BVI]

“ It [the definition] doesn't say anything about whether strategies have been put in place already and that the consultation is just lip service” [BVI]

“Perhaps what is needed is a true definition of what consultation is, how much consumer involvement is required, how empowering it should be and its purpose” [PsyD] As a final thought to the general comments, there is this cautionary note from one of the focus groups:

“We're expecting people with a disability to be superhuman, not your average population, and to want to contribute to every consultation that could possibly be relevant to them. In reality it's not going to happen.” [PhD]

## **3.2 Issues regarding stages of the consultation process**

As already mentioned, the consultation process has been divided into three stages:

- Preparation processes, involving notification, distribution of information and gathering people to attend the forum;
- The consultation forum, where people meet face-to-face or otherwise exchange information;
- Post consultation processes, involving feedback and outcomes after the forum.

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16. CPWP 1993. *How will we consult: Issues paper*, section 1.1.

### 3.2.1 Preparation for consultation

#### ***Unsuitable formats are often used for preparatory material***

Many people commented that the material used to prepare for consultations were often inaccessible. Sending printed material rather than material in accessible formats to people who are blind was experienced "very often" [BVI]. A number of people talked of the need for documents to be written in plain English. This applied to all groups, but was a particular issue for deaf people and for people with an intellectual disability. Aspects of this issue are taken up further on.

"I find plain English almost impossible to [obtain]. The papers are incomprehensible. It is part of the culture of government". [DHI]

"The document you had to be in government to understand. Because most people couldn't understand the jargon, you have to become an expert at this to tease out frightening ideas." [DHI]

"A lot of deaf people don't understand hard words, only basic words" [DHI]

#### ***Lack of recognition of the preparatory resources that are needed***

Key people in disability organisations are frequently requested to find members to participate in consultation - quite a heavy burden on them, with no recompense, and often little explanation of who is consulting, about what, and for what purposes.

Sometimes participants are expected to read material in advance, often at short notice, and sometimes the materials are not even made available in accessible formats.

When disability groups and people with a disability are asked to respond to a document, the task of doing this is relegated to a select few individuals. These are the people who know how to read government documents. This system of consultation places a burden on those who undertake the work, usually unpaid. It also excludes those who do not have the skills and background knowledge to participate confidently in the consultation process (a point returned to further on).

#### ***Ideas for improving preparation for consultations***

In general, information needs to be provided before a consultation. The material given out should be in appropriate formats. For example, plain English, Braille, large print, audio cassette and computer disk formats.

##### *Face-to-face consultations:*

Appropriate preparation material needs to be distributed prior to the consultation.

"Unless you prepare people for consultation, this becomes another part which makes consultation useless"

People thought that having a discussion document (given prior to consultation and used in the consultation) was a good idea. People can then make notes and refer to the document, thus maintaining focus and train of thought. Without these devices, one person with an acquired brain injury said that sometimes:

"... I find that I know it's there but I just can't find the words, and that makes it very difficult when you're in consultation and they're putting things on you" [Bin]

"Getting the information to be discussed beforehand would be invaluable" [Bin]

Information given prior to consultation, e.g. a document on which advice is being sought, needs to be user friendly. Information needs to be in plain English and not too long.

"[Consultation] information needs to be accessible, not in bureaucratic language because the average consumer turns right off when they see that. It needs to be in a concise and easy to read simple language format, and the peak [organisations] need to be resourced to get it out to the consumers." [PhD]

"With a large amount of information, you don't have enough time to go through it" [PhD]

"They affect the outcome of the consultation either by a lack of information, or by providing so much information that the important issues get lost in the deluge." [PhD]

"There are very few people who will read a thick document"

The concept of an orientation session prior to the actual consultation was recommended as a way in which people with a disability could obtain information, discuss issues, familiarise themselves with the subject area, etc. Implementation of these ideas was thought to improve the extent of participation by people with a disability.

"It often requires, if people did it properly, a training day to give consumers the background on the information before you actually discuss the document."

One person suggested that the agenda for a consultation needs to be given in advance.

#### *Consultations done by correspondence:*

If the consultation requires a response to a written document then it must be in the appropriate format according to the disability group it is aimed at.

Adequate time must be given for the response. Time allocated for a response must be adjusted according to whether a voluntary consumer group or a funded organisation is being consulted. A voluntary consumer group should be permitted longer time as it cannot necessarily dedicate time to a response during normal working hours, nor does it have dedicated resources for mobilising a response. The information provided needs to compensate for the lack of debate that a forum provides:

If people are not going to be in a forum situation, then the information needs to include arguments for and against the issue in question, so people have got some arguments to throw around in their mind. [PhD]

### **3.2.2 The consultation forum**

As previously explained, the consultation forum is the event when those consulting and those being consulted communicate. The forum may be a face-to-face event, such as a focus group or large public meeting. A forum may also mean the time when ideas are communicated in writing, or by telephone. It seems however that most people think of the actual consultation as a face-to-face meeting, and that is why it is called a forum in this report.

#### *Consultation times are often inflexible*

Consultations are usually on the consulter's terms, not planned to suit those being consulted. Consultations tend to be conducted at times that suit those doing the consultations rather than the people with disabilities. People remarked on a lack of negotiation between consulters and the people with a disability about a suitable time. At one state-level consultation the issue was raised about the inconvenient time of the consultation. The response was "it's in your own best interests to attend" .

People felt that they should attend consultations, even at times not convenient for them, but this increased the frustration experienced when a consultation proved to be 'just going through the motions'. There was a feeling that one is damned either way: either go to an inconvenient consultation where their 'best interests' may be ignored, or don't go to the consultation but then their views may not be heard at all.

People are often unable to attend consultations because they are during work hours, a time which generally suits the people conducting the consultation but not those who wish to participate. Greater flexibility was needed in this area to maximise participation in consultation, and to be fairer to those who work and/or have family responsibilities.

“When I was interviewed by Coopers and Lybrand ... I found the interview had to be between 9-5. They were inflexible and that limited the respite carers from getting a complete range of people to interview.” [DHI]

“I think that the value of forums for consultation if they are at times when people can get to them and there is a genuine commitment for taking on board the things that are discussed, is hearing other people's arguments as well as your own rather than just responding in writing in isolation.” [PhD]

#### *Consultations are rushed*

“The time frames of every consultation seem to me to be just obscene”

The time frames of consultation did not give the time needed for a satisfactory response to the issues being addressed. Many thought that when time is too restricted,

the quality of information given in a consultation is reduced. Some people suspected that when consulters gave too little time to respond, it was a strategy for 'fixing' an outcome.

"You have a huge document and you are asked to respond two weeks before you received it." [DHI]

"All those people are on a time basis and they have a schedule, they've printed the document and you have a week." [DHI]

"I have had experience in responding to discussion papers. They were usually given to us with the minimum amount of notice and we were expected to get stuck into them ASAP and the reason we were given on a couple of occasions was that the Minister wants it done and he hasn't given us very much time. I quite sympathise with those bureaucrats but at least they're getting paid for it, we weren't." [BVI]

"They really don't want to consult — the best way to consult is to consult in a hurry so you can write your report prior to the consultation and then just add those pieces in. I am very cynical, I believe that's what happens most of the time."

"With an organisation that relies on voluntary committee people, where they haven't got somebody on staff to do it [handle consultation information], you meet monthly and you've got to go through this process of going back to your membership and get some feedback. It just can't happen in a week or a fortnight and that makes it really difficult." [PhD]

"When a really short time-frame is given, you're forced to respond without getting the feeling of other people in the organisation." [PhD]

Suggestions for improvement included negotiating suitable meeting times and allowing enough time for preparation (reading of materials, etc.). On this last point, there is a need to allow sufficient time for vision impaired people, for whom reading is more time consuming, and also ensuring that material in accessible formats is available at the same time as print material.

"The process may be improved by allowing more time for the process to occur." [PsyD]

One person with an intellectual disability complained of being put under time pressure, explaining that people with an intellectual disability find it hard to fill in forms, but had been told to hurry up, which "...makes me feel what's the point?" [ID].

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☞ The CPWP survey in 1994 of 124 people with an intellectual disability asked:

*"is it important to get enough time to think about the issue/get help with understanding the issue if you need it and work out your ideas?"*

The majority of respondents believe it is important to have enough time.

(Yes = 86.6%, No = 7.1%, Not sure = 5.5%; No response 0.8%).

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### *Agenda-setting is common*

Another common experience was that consultations have, in the main, agendas that are closed and participants have little opportunity to direct the way the consultation goes. Some consultative processes work to a formula; people come to the consultation willing to participate, and experience great frustration because they are not able to raise the issues which are significant to them.

“They’ve got to be seen to be consulting, but often there’s a hidden agenda.” [PhD]

“If government were to really adopt a consultative model [of policy development], they wouldn’t come up with a draft policy first and then ask if you agree with it, they would start by going out and asking people what their needs are, on a particular issue. Then the technocrats would take those ideas away, come up with something and come back and say ‘here’s a range of solutions, what do you think will solve your particular problems?’.” [PhD]

“Typically I find a project officer is employed and he/she sits down with peers and dreams up a lot of questions sent out to hundreds of people, and I find those questions seem mainly to be inappropriate to the view point I’m representing. I find myself writing additional notes and responses to the questionnaire and I wonder if my responses ever get back into the system ... the main idea of consultation is to extract ideas from other people ... so perhaps the process should be to stimulate ideas rather than responses to set questions.” [DHI]

Inflexible agendas can also be an indication of what many people described as pre-set agendas. In these instances people described experiences where

“...the parameters are set by the questions that are asked, this is the first way the department keeps the focus where they want it, the second way is that they have a structure already in mind and you can rail against it, they always say we’ll take that on board. Whenever they say that, I know it will be ignored because that was not what they wanted to hear. I often [think] that consultation is a sham and that it’s set up to hear what they want”. [DHI]

Among people with an intellectual disability there was anger towards the government for having the attitude that “it had all the answers” [ID]. Rather than being listened to it was often felt by people with an intellectual disability that they were being spoken at during consultations.

A general feeling was that the agenda of consultations should be flexible enough to accommodate other relevant issues. Questionnaires were seen as a method by which agendas were constrained:

“Sometimes you can see the agenda is pre-set with questionnaires, by the way the questions are phrased. I also don’t think I’ve filled out a questionnaire yet where I don’t find a grey area, and I can’t just tick box A or B” [PhD]

### *Inappropriate people are often used to run the consultations*

There were a number of issues about the people employed to run the consultations. These issues included the level of background in disability held by those people, their ability to listen and to later report the consultation accurately, their ability to manage and focus the discussion, and an ability to know what they can and can't say on behalf of their employer, and their general empathy.

“I remember being at a meeting that was being run by consultants, researching transport problems for people with disabilities, a big 3-month project. Yet the consultant admitted straight up that she knew nothing about disability at all ... I find it unbelievable they would employ consultants who have no real knowledge of the subject matter on which they are working.” [PhD]

“A lot of people running these consultations are bean counters from the big accountancy firms. They haven't got a clue about what people with disabilities even look like, let alone what their needs are.” [PhD]

“Rather than people with disabilities participating in or running the consultations, they use these remote people, and that causes a whole stack of problems.” [PhD]

“You end up getting something that doesn't reflect community views, mainly because they [the consultants] don't understand what the community views are, even though they listen to it, they don't really understand what the language is saying.” [PhD]

“During a consultation I tried to explain that a deaf person's needs for education were very different from other disabilities, and we spent about twenty minutes just arguing about the one question. We wanted to walk out, then the consultant said 'o.k. I'll write it down' and we ensured it was written. It was written in the paper the way he wanted it written, not the way we wanted it written ... We even asked for a change of person. They said 'no'. It was awful.” [DHI]

Entering into the spirit of consultation was seen as an important part of the process. This means that people doing consultations were prepared to take the views of people with a disability on board and make the process meaningful by translating those views into appropriate changes.

“If the facilitator were skilled enough, they could pick up on the different points of view that would lead the meeting to some sort of consensus.” [PhD]

“If the government is serious about consultation, a skilled facilitator will ensure the different points of view are recorded, and then the job of policy is to find a way that all of those concerns can be addressed, beyond simply accepting the majority view and accommodates the various needs.” [PhD]

In terms of maintaining quality information from people with an acquired brain injury it was identified that people doing consultations must not only be willing to listen but capable of maintaining the focus of discussion. This latter aspect would require a facilitator who is skilled enough, and has enough knowledge of issues relating to people with an acquired brain injury, to do this. [Bin]

### *Consultations are not sufficiently inclusive or representative*

A number of issues were raised in regard to inclusiveness and the degree to which some views could be taken as representative. These were the lack of consultation with cross-cutting minority groups or sub-populations of the disability group in question; the tendency to generalise from a very limited sample of views; the tendency for the most active people in disability organisations to be over-represented; and a tendency for service providers views to be taken as representative of the views of people with a disability. Because the different issues had been emphasised differently in the different focus groups, they are dealt with by group.

#### *Comments from blind or vision-impaired people*

It was suggested that people who get consulted are not representative of the whole group. Elderly people who lose their sight later in life, although the majority of the blind and vision impaired population, are not often part of the consultative process. This is because the process is often organised through disability groups, which tend to be composed of the most active members of the population in question. The same issue of unequal representation in consultations can occur between people who are blind and people who are vision impaired. Unless all groups are included, there is a risk that their views will not be represented.

Because people who participate in consultations are nearly always from the same small group, there is also a certain amount of consultation weariness from over-consultation.

#### *Comments from people with an acquired brain injury*

Obtaining a diverse range of views from people with an acquired brain injury is necessary to be able to generalise those views. This was specifically important as people with an acquired brain injury sometimes have an:

“...inconsistent ability to concentrate and take in all the details that they're being given, so that they can sometimes give skewed answers”. [Bin]

#### *Comments from people with a psychiatric disability*

Members of this group thought that many consultations focus too much on service providers and people with a disability who use those services. The consequences of such consultations are that decisions and/or documents based on the consultation tend to be biased. These consultations were described by one person as “damaging the cause” of people with a psychiatric disability. [PsyD]

“There seems to be certain pockets that get consulted, and then the results are biased because they don't consult a range of groups.” [PsyD] [LE:11]

“More consumers need to attend” [PsyD] [LE:14]

“A lot of consumers don't know about the meetings at all” [PsyD] [LE:9]

*Comments from people with an intellectual disability*

This group thought that while it may be reasonable to ask individuals what they think about specific issues, when responding to broader issues individuals cannot be expected to represent the views of all people with an intellectual disability. Members of the intellectual disability focus group thought that only the loudest voices get heard. People with high support needs, for example, are often left out of consultation. They thought advice should be sought from those who's "voice is not that loud. Not just those who do have a loud voice" [ID].

"They feel that one person represents all people with an intellectual disability" [ID]

Generally people with an intellectual disability are not consulted as a disability type although various individuals in the focus group had participated in consultations before. These consultations were related to service-delivery issues rather than broader policy issues.

Concern was also raised over the common practice of asking service providers what their client's needs are, rather than asking people concerned.

"They think that people with an intellectual disability can't have a say. They think, oh well, we'll go to that service [provider] because they know what people with an intellectual disability want" [ID]

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☞ The CPWP survey in 1994 of 124 people with an intellectual disability asked:

*"would you be happy for a quick decision to be made without people directly asking you?"*

More than half said they would not be happy if they were not asked.

(Yes = 28.5%, No = 58.5%, Not sure = 13.0%).

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One focus group also raised the lack of representation brought about by restricted geographical coverage of the consultation forums set up:

"The classic is the Commonwealth State Disability Agreement evaluation report ... 'Getting Real', it's called. They had one consultation planned for the whole of New South Wales in Sydney one morning. ... It's absolutely insulting really and yet they call it consulting with the Australian community." [PhD]

*Problems occur during large group discussions*

Some people found it difficult to express their thoughts and opinions in a large group forum. 'One to one' or small group consultations were thought to be better. The reasons for this are, firstly, it means that most people get a say not just "the person with the loudest voice" [ID]. Secondly, it creates an environment where people who are shy are more inclined to talk. Thirdly, there is generally greater opportunity to ask questions and discuss concepts which may not be understood.

The way in which consultations are structured can often be alienating and oppressive for people with a psychiatric disability. Consultations, such as those with the Area Health Service, are often organised in a way that exerts an implicit sense of authority over people with a disability. The size of these, and other, consultations can also create further barriers to consumer participation.

“Consultations are not geared towards consumers” [PsyD]

“For a consumer to overcome their own issues whether it be anxiety or anger, or whatever that person goes into that room with on the day, to overcome that in order to speak out in a large forum, you’ve got this weight of a system just sitting on you” [PsyD]

*Consultations with a range of disability groups at the same time:*

It was recognised that consulting with a range of disability groups at the same time can lead to competition between groups to have their interests heard. Although, in terms of time and resources, this type of consultation may be necessary, it was thought that particular groups are disadvantaged by this process. Bringing different disability groups together was also not always appropriate because each disability group can have such different needs.

“When people want to consult the signing deaf, they should do so in isolation, not mixing that group with other disability groups or with hearing impaired because we have different needs.” [DHI]

### *Problems exist with communication and language*

Problems with communication and language during consultation are common among people with an intellectual disability and deaf people.

*Issues for people with an intellectual disability*

Consultation itself is an abstract concept, and is difficult for people with intellectual disabilities to understand. They think it is important to participate, although often they have trouble understanding what the process means and where they fit into it.

“People who can’t read and write, how are they going to understand that word ‘consultation?’”. [ID]

Often consultation with people with an intellectual disability is not in plain English. Instead, people with an intellectual disability are expected to understand various complex terms and jargon.

Consultations in which people with an intellectual disability were expected to do a fair degree of reading and/or writing, e.g. surveys, are generally inappropriate forms of consultation. If a response to a government document is required, then either the document must be made accessible by translating it into plain English or assistance with going through the document should be provided.

It was suggested that consultations which are more verbal, e.g. focus groups, should involve images and descriptive examples (e.g. video tapes, slides, photos, etc.) to

ensure that there is an understanding of the concepts involved in discussion. [ID] [LE]. Some innovative techniques have been tried over time. One group of people with intellectual disabilities recorded on video tape a role play to show to government representatives how to make it easier for people with an intellectual disability to understand.

"If you can't read or write how can you express what you feel" [ID]

### *Issues for deaf people*

The signing deaf did not wish to be consulted with hearing impaired or disability groups because their consultations go on longer, as one person explained:

"Deaf people have their own culture and language ... our consultations go on longer ... because of the language; what is written is often very difficult to translate, and the deaf ask more questions on the language in relation to the question. Sometimes it can drag on until people really fully understand what is happening." [DHI]

In the past, hearing people have always spoken for the deaf:

"The hearing people will do most of the talking and appear shocked that I will actually say something." [DHI]

Other comments underlined problems with language and the need for plain English.

"I have a real worry with consultation with deaf and hearing impaired people because language is power and the way the deaf express themselves is not understood by outside groups ... With written submissions the language level is so high that it needs people who can understand that language and give it back in the same language." [DHI]

"I've been in consultations about plain English and they looked worried and you have to educate them as to why it is necessary, and you think they are coming from so far back, how are they ever going to deal with the real issues you need to talk about." [DHI]

### *Discrimination sometimes occurs during consultations*

People with an acquired brain injury also described experiences in which the stigma of having an acquired brain injury affected the way people listened to them. One person described an experience met in many meetings:

"Up until the time that I had mentioned that I had an acquired brain injury everybody listened. The moment I mentioned I had a brain injury everything I said became misconstrued. I may as well have said nothing" [Bin]

Another point raised was that consultations are conducted in a way that gives little credit to the intelligence and expertise of people with a brain injury. It was felt that this was due to other people's perception of people with an acquired brain injury.

"One of the only ways in which the consultation process is going to be improved would be to remove the myth about brain injury, because the general myth is that anyone who's got brain injury is stupid" [Bin]

### *Forums are not always physically accessible*

The accessibility of meetings was an issue for people with physical disabilities and for people who are blind or vision impaired. People with a physical disability remembered many times when consultations have been held at venues which are not physically accessible to them. . The issue of accessibility was also seen in terms of time constraints and travelling distances.

“The location has to be accessible - and I know that sometimes that can be hard to find. Secondly, they have to conduct day and evening sessions.” [PhD]

“In a place like Sydney, there needs to be more than one venue. How people from Campbelltown, Cronulla or the central Coast can get to a venue in the city - it's just impossible, especially if they work. If its going to be meaningful, consultation there needs to be several venues in a place like Sydney, both in the day time and in the evening, perhaps at weekends.” [PhD]

Many blind or vision impaired people have very limited mobility skills. There is a great deal of stress in travel for most blind or vision impaired people, even those with good mobility skills - this is a real disincentive for many people to attend consultations. This is particularly the case if no travel allowance is given and people must then choose public transport.

### *Costs incurred need recompense*

It was stressed by participants that people's time, and the knowledge they share, is valuable. Consultations requiring that people give up time and travel to particular destination should be prepared to cover any costs incurred in doing this. There was also a need for the consulter to consider whether those being consulted are volunteers or a funded organisation in making a contribution.

“... [people with a disability] should also be paid for their input just like a consultant is paid; consumer's time is also valuable.” [PsyD]

Payment for time and expenses creates goodwill and increases motivation to participate.

There was one occasion where everybody had a real sense of dedication. Nobody had something else on that I contacted. They were all willing to come on the night. And the reason for that was that they were being paid eighty bucks each.” [BVI]

People who are blind or vision impaired often incur extra stress in travelling to consultations, which can represent a barrier to people's participation in consultations. Cover the cost of a taxi can be one way of alleviating some of the travel stress for people who are blind or vision impaired.

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☞ The CPWP survey in 1994 of 124 people with an intellectual disability asked:

*"Should you be refunded for any money you need to spend, so you can be involved in a consultation, e.g. train/taxi fare?"*

Most people thought they should be reimbursed.

(Yes = 78.1%, No = 10.2%, Not sure = 11.7%)

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Too often it is taken for granted that disability organisations can be relied on to contribute resources:

"When a request arrives for the organisation to get feedback from the members, I don't think they [the consultation organisers] realise the sheer logistics of doing this outside of the quarterly newsletter or whatever of advising members there's this issue on, without going to some huge expense for a mail-out, when you've got thousands of members."  
[PhD]

"If government wants good consultation they've got to be prepared to fund it like they'd fund anything else, not just fund the consultants and expect us to do the rest on a very limited budget." [PhD]

### *Ideas for improving support*

People with high support needs may require an advocate to assist them with a consultation. This was an issue for people with an intellectual disability and for people with an acquired brain injury.

"Generally consultation imposes a great deal of stress on the participants, particularly people with a brain injury". [Bin:LE:11]

The advocate would initially be able to go through people's responses so as to later assist in people's expression of thoughts, as sometimes main points get

"...focused upon so intensely it's imprisoned". [Bin:LE:12]

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☞ The CPWP survey in 1994 of 124 people with an intellectual disability asked:

*"When people ask for your ideas about something, do you usually need/like help or support before you give your ideas?"*

About half the respondents thought they did need help or support.

(Yes = 52.8%, No = 36.0%, Not sure = 10.4%, No response = 0.8%)

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### 3.3.3 Processes after the consultation

#### *Lack of feedback*

It was generally agreed that there was very little feedback from consultation. Because of the almost total absence of feedback following consultations, people never learn anything about outcomes. This was seen as another factor contributing to people generally feeling cynical and 'fed up' with consultations.

Further points made were that:

- lack of feedback made it difficult to respond to the decisions that have been made.
- Not getting feedback gives people the feeling that there is very little progress made, because even if progress is made people are not usually aware of it.
- the absence of feedback means that not only are people remain unaware of outcomes but are unable to analyse why there was no outcome.

"Nine times out of ten there is no feedback."

"We need to have the feedback so we can know what is actually going ahead."

"If there hasn't been a change then maybe they haven't acted on what you've spoken about."

"We never seem to hear any feed back after the consultation, sometime later something is handed down and you wonder what connection this had with what you said." [DHI]

"...there is almost a complete absence of feedback ... and I get the impression that people are getting a bit weary of it [consultation] because of lack of feedback and other reasons " [BVI]

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☞ The CPWP survey in 1994 of 124 people with an intellectual disability asked:

*"Is it important to know what happens with your ideas after you have given them?"*

Most respondents thought feedback was important.

(Yes = 91.1%, No = 1.6%, Not sure = 6.5%, No response = 0.8%).

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There was mention in one focus group that the quality of the feedback was variable:

"I've found on a number of consultations I've participated in that the feedback hasn't reflected what I think was actually discussed during the consultation - it's been watered down, its been skewed by the people running the consultation. It's not that often that you find your views reflected." [PhD]

*Ways to improve feedback processes*

Adding emphasis to the post consultation process was seen as a vital means of improving the overall process.

It was discussed that the consultation process could be improved if the people doing the consultation were held accountable.

"One of the attempts that's been made was when they (the people doing the consultation) had to demonstrate that consumers were involved in the decision making."

"It's one thing to enact the policy, it's another thing to get the goodwill to make it happen."

As an important step towards ensuring good consultation, one recommendation was to have the results of a consultation, e.g. a draft report, given back to the people with a disability for comment before final decisions are made. After a report, for example, was commented on, it was felt that "it may even be necessary to have some sort of a vote" addressing the main issues.

*Outcomes from consultation are often disappointing*

There is a lack of confidence in the ability of consultations to translate the views of people with a disability into outcomes they want to see. People thought that either the decisions that were made did not include their views, or that the reports given to government were simply shelved and little was done.

"We are asked in a consultative process, whether that be a questionnaire or small focus group, about certain areas. But when the decision is made the consultation that has taken place doesn't seem to be relevant to what the outcome is."

"The community goes through and does a lot of work [for the consultation] and then they take no notice of what you've done." [PhD]

"I am still waiting to witness any improved outcomes"

People's experiences indicate that the information fed into a consultation by people with a disability usually doesn't flow through to decisions which reflect that consultation's content.

"If you wrote down all the things that we didn't want, that was what we got ... what we finally got was determined by the demands of commerce and the banking industry" [BVI (Consultation with officers of the Reserve Bank about design of coinage and notes)]

**Concluding remarks**

It is likely that the range of points raised during the focus groups were not exhaustive. Overall there seems to be much room for improvement. Perhaps the following two quotes provide a keynote for that improvement:

Ideally the people doing the consultation would set out with a genuine desire to learn, rather than to get confirmation of what they thought in the first place. [PhD]

Those initiating the consultation need to be doing so ethically, to genuinely inform the policy development process. [PhD]

The next section of the report discusses the broader picture of consultation and the possibilities for improving the process.

# 4

## Discussion

The aim of the discussion is to form a link between the results of the Disability Council's research presented in section 3 and the recommendations made in section 5. The discussion seeks to understand how consultation works in different policy and organisational environments and how it is perceived from different perspectives. The discussion contextualises the shortcomings identified by people with a disability in section 3 within these general features of consultation. It then goes on to argue for public evaluation and managerial auditing as primary methods for improvement.

The discussion is in essentially two parts: the setting of consultation in the context of processes of governance and society, and suggestions for improving the consultation process and outcomes for people with a disability. The latter part, suggestions for improvement, has been divided into two main sections. These are a discussion of what is required in the way of substantive improvements to consultation processes, and a discussion of accountability techniques to encourage improvement to consultation processes and outcomes. This material will be of use to people with a disability who participate in implementation of the recommendations made in section 5.

The discussion is not able to consider all aspects of consultation. Reference is made to other publications which deal with many of these aspects, while the discussion here concentrates on salient aspects of consultation that have not been discussed at length elsewhere.

### 4.1 Consultation and the policy process

Some ways of thinking about public consultation in context of other aspects of the policy process are presented here in section 4.1. The main purpose of presenting these ways of thinking is to show that consultation is more than a process that can be conducted according to a kind of 'recipe' regardless of the situation. Rather, consultation is subject to a variety of contextual pressures and purposes that affect outcomes. Although consultation can be valuable and recommendations can be made as to how to improve consultation, in some situations it is a compromised form of public participation from the very outset. In such situations it may be that aspects of the political environment that detract from consultation outcomes may outweigh or compete heavily with attempts to improve consultation process. Section 4.1 can only review very briefly some major bodies of thought. It is not exhaustive and more could be said to clarify the issues. Despite the shortcomings, these theoretical vignettes will give some idea of the potential complexity of consultation, and the background reasons for some of the shortcomings.

#### 4.1.1 Consultation as a form of participation

The literature on consultation places consultation within a framework of public participation in Government. It is usual to see consultation as residing somewhere in the middle of a continuum of participation types. The boundaries set between the various activities change with the authors, but usually consultation is thought of as more than giving out information to the public and less than shared decision making between the government and the public. Figure 1 is a sketch of the 'participation continuum', showing the approximate range of what is usually considered as consultation within the broader domain of participation.

Although the different authors would agree or disagree to varying extents, it is possible to sum up various previous definitions to say that, approximately, public consultation by government is an institutionalised forum for participation that provides an opportunity for discussion, deliberative opinion formation, negotiation and advice-giving. A consultation is usually initiated by a government agency and invites views from the public about a particular policy proposal or service delivery issue, with the intention that the views expressed will be considered by the agency and may influence decisions made by the agency. 1. Some of the Australian literature that discusses a framework for consultation includes the Task Force on Co-ordination in Welfare and Health (1977), VCOSS (1981), Munro-Clark (1992), NSW Social Policy Directorate (1993a), NSW CPWP (1993), and Office of Multicultural Affairs (1994).

Consultation is different from other forms of participation such as lobbying, power sharing, and information gathering. Views are divided as to the merit of consultation (and participation generally) as a method by which better public policies and services can be developed. In defence of consultation, the Task Force on Co-ordination in Welfare and Health (1978:11) argues for its usefulness: 'Through consultation important information can be shared; needs can be pinpointed; the range of options to meet any particular purpose can be narrowed; the need for evaluation or review of policies or programs can be assessed; and there can be identification of requirements for action.' This generally upbeat view is reflected in official literature on consultation (e.g. NSW Social Policy Directorate, 1993a, Office of Multicultural Affairs, 1994).

Less favourable are the views of Pateman (1970), Sandercock (1978) and Everingham (1996), among others. These authors are inclined to think consultation favours conservatism. Generally they think that through co-optation and mis-direction of energy, consultation can exhaust the radicalism of community politics that they see as necessary. A number of authors claim that it is a technique biased toward the more privileged and the 'loudest shouters' rather than the most enlightened. A review of criticisms is given by Chesterman and Stone (1992). The attitudes toward, and understanding of, participation both by governments and the public seems to have changed since the inception of public participatory techniques in Australia during the early 1970's. Emphasis has shifted from earlier experimentation such as the power-sharing tried under the Australian Assistance Plan from 1973 to 1975 (Stuart 1981:47), to the current emphasis on information exchange. Everingham (1996:12) notes that the 'efforts of government are now directed at streamlining consultation processes through clarifying its meaning and setting out guidelines'. The trend may be toward a greater use of quantitative 'market research' approaches in tune with the shift from a concept of 'citizen' to that of 'consumer' in government discourse.

#### 4.1.2 Policy context of consultations

The degree to which consultations are used and might be improved depends to a great extent on contextual issues. Five important aspects of context are discussed; 'top-down' and 'bottom-up' approaches to policy development or service planning; the effect of recent public sector reforms; the relationship between civil society and the state; policy communities; and decision making in government. There are many more potential ways to contextually understand consultation, but these cannot be explored here.

#### *4.1.2.1 Top-down and bottom-up in policy development*

The extent to which government agencies use consultation in policy and service delivery depends on the extent to which a government agency employs 'top-down' or 'bottom-up' decision making processes (see Hogwood and Gunn 1991). Top-down methods might be used when management is influenced by traditional concepts of policy making. This might be understood to mean that it is a rational process that implements parliamentary decisions, or considers that policy decisions require specialist knowledge which the public is unqualified to assess, or considers that greater efficiencies arise from top-down decision making. This approach will therefore limit the use of consultation. A bottom-up approach may predominate where past policy failures have convinced managers that policy making or service planning is complex and should involve stakeholder influence, as much as it should consider efficient allocation of resources between competing purposes or rational choice of means to achieve desired ends. Consultation is central to a bottom-up process of policy development or service planning because of its emphasis on stakeholder influence.

#### *4.1.2.2 Public sector reforms*

Over the last decade or so, there has been a 'revolution' in the public sector in New South Wales, as elsewhere in Australia and overseas. This reform goes by many names, but is here called the 'new public management' (NPM). The main features of the NPM model are concisely described by Self (1995:339): 'The current administrative philosophy seeks to reorganise (and restrict) the operations of government according to market theories of economic rationalism and the practices (or supposed practices) of large business corporations. Key concepts are corporatisation of actual or potential trading functions; privatisation; separation of policy from management and delegation of management to the lowest practicable level; separation of the providing (financing) function from service delivery; competition over service delivery and contracting out where cheaper; contract appointments for top posts and contractual relations within government; financial incentives and penalties for bureaucrats related to performance targets and appraisal; and open competition for key positions together with a reduction (or removal) of job security within the public service.'

The changes in the public sector have had some effects on the use of consultation. Two ways of looking at the effect of the reforms on consultation are considered here. In the first view, there has been a shift in the public sector away from a focus on organisational process 'for its own sake' and a new emphasis on outcomes for consumers under the new public management. This has increased the need for consultation. It is recognised that consumer preferences are important, particularly if there is competition between service providers, but also because government agencies are now expected to provide a guarantee of service quality (NSW Premier's

Department 1992). It appears that consultation is proliferating as a result of the public sector reforms. However, in the second view, the public sector reforms will lead to a decrease in the overall scope of participation. There are 'mild' and 'strong' versions of this argument. Both views take as a starting point the argument that the 'new public management' (NPM) reduces scope for initiative in policy making by 'lower echelon professionals in the bureaucracies and from citizens outside government' (Considine 1988:19) <sup>2</sup>.

The reasons for this view stem from the distinction between policy-making and management made under the NPM paradigm. Programme budgeting requires comprehensive top-down integration of all organisational activities. Policy is linked to budgeting and is developed in central policy agencies close to Cabinet. At the same time, authority and responsibility for management of government operations has been devolved. NPM is all for 'letting the managers manage' and in this way increases the scope for initiative in service delivery of line managers and 'lower echelon professionals in the bureaucracies' (see Sturgess 1991). So in the move to integrate government objectives, policy making has been concentrated back into core agencies and a funder/provider split established that mirrors the policy/management split. Under the funder/provider split, responsibility for service delivery has been moved out from central agency control to the provider agency managements. In the 'mild view' it is thought that the retraction of policy-making to central policy departments means that the bulk of decisions in government are now clearly management decisions related to service delivery and implementation of centrally developed programme objectives. As a result, unless the public is able to participate in central policy development, influencing entire programme objectives, they will be able to participate only in decisions about service delivery and policy implementation. Managers will often consult on service delivery issues, for which they are responsible, and these make up the bulk of decision making in government. At the same time there is a need for tightly integrated and highly structured central policy, requiring careful design by senior policy advisors close to the ministers.

Scope for public consultation at a central policy level is often quite narrow as a result. In other words, while the use of consultation may have expanded under the public sector reforms, it is possible that the terms of reference of the bulk of consultations have shifted away from broader policy issues and narrowed toward service provision issues. There may be an increase in the number but a decrease in the overall scope of consultations as a result of public sector reforms. The strong view takes it that managerialism will be interpreted by public managers as licence for a 'tighter grip on the reins', to which managers are inclined unless there are checks and balances. This is the view taken by Considine (1988). Paterson (1988), as a proponent of the managerialist approach, counters that managerialism could never become 'totalitarian' because enough residual chaos will always remain in the system for more pluralist influences to <sup>2</sup>. In fact Considine is not clear as to whether this exclusion related to policy making or management, because he is unclear on the distinction between policy-making and management made under the NPM paradigm. Liberty has been taken to clarify his argument

According to Paterson, the managerial model offers a good mix of managerial rationality and democratic pluralism. As it is, there is recognition by the New South Wales Government that checks and balances are required. These are variously

discussed in the Social Justice Directions Statement (NSW 1996a) within the framework of equity, access, participation and rights; in the customer satisfaction orientation of the Quality Performance Assessment Matrix (NSW Premier's Department 1995a); and in the public interest and consumer protection principles of competition policy and microeconomic reform (NSW 1996b). All these documents mention the need for public consultation in one form or another. The remaining question is which tendency will prevail - more meaningful or less meaningful consultation - under the public sector reforms.

#### 4.1.2.3 *Civil society and the State*

The extent to which consultation is used as a mechanism in policy development will depend on contemporary views about the desirability of greater or lesser public involvement in policy making. The extent of public involvement is influenced by the position taken between what can be schematically called 'liberal' and 'republican' models of the state. The liberal model sees the state as a pure representative democracy, where the elected parliament has the mandate to formulate policy, which is then executed by its administration without intervention from outside the government. The republican model of the state sees it as desirable that an informed citizenry take an active and ongoing role in the policy process. Consultation as a form of participation is partly an effect of a compromise between the two opposing views noted above. From a republican perspective consultation is a particularly weak and limited form of public participation while from a liberal perspective it corruptly allows interest groups to interfere with government<sup>3</sup>.

#### 4.1.2.4 *Policy communities*

The concept of policy community is used to illustrate the *ad hoc* activity between a loose aggregate of actors inside and outside of government. 'Policy communities are constellations of actors who share clusters of interests in a broad policy domain' (Lindquist 1992:133). In addition to the lead government agency, actors may include representatives from business, professional and interest associations and to a lesser extent the 'attentive public'. Forming a kind of unofficial 'sub-government', representatives from these groups 'effectively make most of the routine decisions in a given substantive area of policy' (Ripley and Franklin cited by Jordan 1990:319). There is nothing formal or rigid (or scandalous) about 'membership' to these groups, and the basis 'is not consensus [about policy solutions] but agreement about the rules of the game' (Jordan 1990:328). These 'rules' include a common jargon and a predisposition to negotiate<sup>4</sup>. Importantly, not all interested parties gain membership.<sup>3</sup> See Lederman (1995) for an example of a liberal view of the dangers of consultation.<sup>4</sup> More abstractly but much more potently, the criteria of membership can be analysed in terms of Pierre Bourdieu's (1984) sociology of distinction: it will depend on a kind.

Historically in Australia, policy has been made through a complex interaction of politicians, departmental personnel and interests outside government. The characteristic extent and type of involvement of outside interests has depended on which particular sector of government is being considered. A distinction is sometimes made between 'production' sectors (agriculture, manufacturing, finance, etc.) and 'consumption' sectors (health, education, welfare, etc.). The policy communities are characteristically different between these sectors (See Lindquist 1992 for a similar

discussion). For example, welfare departments are dependent on a 'sub-government' of diverse citizen-based interests for their operation, whereas finance departments are characterised by interaction with a small number of professionally or commercially-based interest groups and sparse representation by the 'attentive public'. These differences in the 'ecology' of policy communities can be expected to affect attitudes by particular government sectors to consultation. There is another point relevant to consultation to be made. While we lack empirical studies of Australian policy-making under the new public management, it is likely that the policy community model is still a valid representation of how policy is made<sup>5</sup>. If policy communities are alive and well, then a good question is why are formal consultations more popular than ever? The answer may be in part that formal consultations are a kind of ritual, helping all stakeholders to believe that governance is rational and open. Such a ritual may be required if in fact there is an increasing imbalance in the composition and influence of the behind-the-scenes 'sub-government' of policy communities.

#### *4.1.2.5 Decision-making in government*

Consultation is used to directly inform decisions. In the traditional model of policy development there is a clear activity sequence. Policies are planned and delivered as a packet to implementers. After implementation, outcomes are evaluated. The focus is on outcomes and the process attempts to find a rational strategy. In this scheme, consultation fits somewhere into the initial decision-making stage. In a review of consultative mechanisms, Power (1981:20-23) identified four phases of policy development – canvassing policy options, focusing on preferred options, making of policy commitments and giving statutory and/or financial expression to commitments. Power concluded that consultations were most effective from a department or 'habitus' of the players and what cultural capital they have to enter an exclusive cultural field. Bourdieu found social class to be a fundamental predictor of membership of cultural networks in France. Ethnicity, gender and disability status might be additional strong predictors in Australian policy communities because this type of organisation is not subject to EEO legislation. 5. One hypothesis is that with the concentration of policy making in core agencies under NPM, the nature of policy communities has changed such that they are now more elitist. This is because there is a need to construct a difference between the core policy agencies and the community (in order to be seen to concentrate policy development) that excludes many groups from all but official forms of participation. Higher echelon 'policy advisers' and consultants are not excluded however. Hence the concentration of the policy community into an elite community group perspective if they were held during the first stage - canvassing policy options. Consultation later in the process tended to be accompanied by successively greater constraints. However, concentration on stages of policy development might sometimes be misleading. Another way of understanding policy decisions has it that 'public policy making has to be understood essentially as a political process, rather than an analytical, problem-solving one.' (Gregory 1993: 225). Under the real conditions of imperfect knowledge, competing interests, ancillary political objectives and so on, decisions are usually made incrementally, with 'a bit of policy and a bit of practice' rather than as a packet of rational policy delivered down the line to implementers. This alternative viewpoint and a number of others (see Smith and May 1993) question the notion that there is a discrete 'point of decision' in policy making. 'Decisive events and contributions might come at any point apart from some formal decision-making occasion; policies tend to emerge out of commitments and

resolutions among a variety of official and non-official participants.’ (Painter 1992:24) Painter argues that judging consultation to be less participatory than sharing in a ‘decision-making’ stage ignores the potential effect of consultation on agenda-setting. Sometimes agenda setting may be more effective than sharing in a staged decision-making event. More generally, the relationship between consultation and decision-making is bound up in a political process more complex than the idea that consultation is an input to a rational and discrete decision-making event can admit.

### 4.1.3 Role and purpose of consultations

Four of the reasons often cited for using consultations are considered. Two of these are purposes: the ‘positive’ motive to improve policy and service outcomes, and the ‘ignoble’ motive to win a political victory. Two more reasons cited are the roles of maintaining a social justice commitment, and as a way to build citizenship. Other ways of seeing the reasons for consultation have been suggested by other authors, but these will not be pursued here.

#### 4.1.3.1 Consultation used to improve policy and service outcomes

Consultation is used to directly inform decisions that aim to improve policy and service outcomes. Conversely, without appropriate public consultation there is a risk that policy implementation or service delivery will not achieve desired outcomes. Consultation as a technique for establishing customer needs and expectations is an idea that is strongly present in both the *Quality Performance Assessment Matrix* (NSW Premier’s Department 1995a) and the more detailed *Customer Service Performance Measurement Guidelines* (NSW Premier’s Department 1995b). In the latter document the beginning and the end of the ‘quality customer service measurement cycle’ are based on customer opinions. The uses (and varieties) of consultation are broader still if considered not from the specific point of view of customer service but in general terms of policy implementation. The conditions of effective policy implementation have been distilled into five principles by Sabatier and Mazmanian (1979). Three of these depend on some form of consultation. To paraphrase, the three relevant principles are: · The policy is based on a sound theory relating changes in the target group to the desired outcomes. · The policy optimises the implementation process for the desired outcomes. ·

The policy is supported by the stakeholders throughout the implementation process. The only way to discover if a policy proposal meets these three criteria is to begin consultation with the stakeholders from the early planning stage onwards. To work effectively, consultations must elicit the tacit knowledge of the stakeholders. This is particularly true of the first two principles above. Policy is driven by conceptual frameworks, often fashionable or arising from particular organisational cultures. These are policy frames, which on the one hand ‘an institutional actor uses to construct the problem of a specific policy situation’ (Schön and Rein 1994:33). On the other hand, policy frames can act such that, in a consultation, important but tacit knowledge that does not fit the frame may not occur to the knower during the consultation or is not well heard by others (see Yanow 1995). Without the effort to work against this tendency during consultation, the first two of the above principles are not likely to be met. The third principle is related here to the need for NSW Government agencies to measure implementation success in terms of target group perceptions 6. Success

depends on recognition that 'the political processes by which policy is mediated, negotiated and modified during its formulation does not stop when initial policy decisions have been made but continue to influence policy through the behaviour of those responsible for its implementation and those affected by policy acting to protect or enhance their own interests' (Barrett and Hill 1984:220). Herein lies the second major reason to consult in order to improve implementation. If it is accepted that decisions are spread throughout the policy process, including implementation, then the need for ongoing consultation during implementation, not only for evaluative purposes but to directly inform policy decisions, will be clear.

#### *4.1.3.2 Consultation used as a political strategy*

Consultation implies the possibility of conflict between the government agency advancing a proposal and the public being consulted. Consultation can be used to avoid conflict through negotiation, by securing support for the proposal or at 6. For example, the *Customer Service Performance Measurement Guidelines* (NSW Premier's Department 1995b) make it clear that program effectiveness must be measured from the customer's point of view least by leading to a diplomatic settlement of differences between the agency and the citizen groups (Power 1981:17). The political strategies involved in consultation can be seen from 'top down' and 'bottom up' perspectives. The first is the set of opportunities seen by a government agency when seeking to manage community reaction. The second is the set of opportunities seen by a citizen group when seeking tactics in community action. The following three paragraphs set out some main points about consultation as a political strategy. Painter (1992) provides a more thorough discussion of this aspect of consultation. Although consultation is uncontrollable to some extent, governments may have more opportunities for manipulating a consultation than the public, particularly if relatively disadvantaged citizen groups are involved. People with a disability have historically been a disadvantaged group, with less in the way of material resources and political knowledge than government. With such a difference in advantage, there is potential for unfair politics in consultation. This is aided by the ability of a government agency to dissimulate unfair politicking as 'consultation'. Less sinister but also perhaps unsatisfactory from a citizen-group perspective is the use of perfunctory consultations as a method of diplomacy. From the 'top-down' viewpoint, the public response to a policy or service planning decision can be managed through consultation in a variety of ways, mostly by diffusing forceful opposition through negotiation, compromise, co-optation or time-wasting. Where opposition is anticipated to be less forceful, the devices of consulting late in the policy development or service planning process, narrowing the terms of reference or passing off information provision by the agency or tick-box questionnaires as consultation can weaken opposition and still give adequate legitimacy to decisions. From the 'bottom up' viewpoint consultation is a conciliatory tactic to influence policy or service planning. The other broad option is to use disruptive tactics to influence decisions. A decision to use consultation will be based on the likelihood of success. This will be assessed according factors such as the stage of policy development or service planning reached, prior attitude of the government agency toward the citizen group and likelihood of success of alternative strategies. Citizen group strategies may be complex and involve assessment of many factors. Disadvantaged groups however must usually rely on consultations and therefore on the agency's commitment to good and fair process and outcomes.

#### 4.1.3.3 Consultation used to maintain a social justice commitment

The NSW State Government's *Social Justice Directions Statement* (NSW 1996a) frames social justice in terms of four aspects, paraphrased here: · **equity** - ensure fairness in the distribution of resources, · **access** - ensure access to resources essential for basic needs and quality of life, · **participation** - ensure opportunities for participation in decisions that affect them., *Consultation 40* · **rights** - ensure rights are recognised and promoted. While all of these bear on consultation in some way, the most salient obligation of NSW government departments under the *Social Justice Directions Statement* is to promote participation. About this, the *Statement* says: ... the Government is committed to ensuring that ... people have better opportunities for genuine participation and consultation about decisions that affect their lives. (NSW 1996a: 2) and that It is the Government's responsibility to create an environment which encourages public debate, dialogue and meaningful consultation. This means taking active steps to increase public participation to improve decisions, providing effective and accessible complaint, consumer protection and regulatory systems and reinforcing lines of accountability. (NSW 1996a:27) To implement the social justice objectives, the *Statement* says that Chief Executive Officers and Managers will be required to ensure that relevant program objectives, outcomes and outputs are consistent with the Government's social justice principles, and that performance indicators are developed to measure the appropriateness, effectiveness and efficiency of programs in these terms. (NSW 1996a:29) and proposes that the Cabinet Committee on Social Justice will ... play an important role in ensuring that the budgetary process is linked to the achievement of the Government's social justice priorities. (NSW 1996a:29) This will mean that the performance assessment techniques proposed in this report should be of interest to both the Cabinet Committee on Social Policy and also the various Government agencies, because they provide a way of evaluating the extent to which the participation objective of the Government's social justice strategy is being upheld with regard to consultations. Another form of social justice commitment is the community service obligations required of government trading enterprises. These obligations are maintained under the National Competition Policy, itself part of the Competition Principles Agreement between the State and Commonwealth Governments. The Agreement is prefaced by a condition that governments take account of 'social welfare and equity considerations, including community service obligations' (NSW CPA 1994: 1.(3)(e)). In NSW this is further interpreted under the public interest and consumer protection principles of NSW competition policy (NSW 1996b), and in the green paper on consumer protection principles (NSW Department of Fair Trading 1996). What is most noticeable about these forms of commitment or obligation is that they are framed as a 'check' on the possibility of autocratic tendencies within government agencies, or of the more banal possibility that managers will scrimp their budget on consultation. That is, social justice (or community service) is not seen as a reason in itself to consult, but is the handle for a set of sanctions against agencies or managers who do not demonstrate enough participation.. *Consultation 41*

#### 4.1.3.4 Consultation used to build citizenship

Consultation is one possible mechanism by which to expand active citizenship for people with a disability. While the motives for consultation may be to improve policy or service outcomes, or to politically negotiate a decision, either way consultations

affect citizenship. As a 'side-effect' or externality of their direct purpose, consultations will help to build or erode connections between the state and the civil society. The concept of citizenship referred to here is not the narrow legal sense but rather a broadened socially oriented concept. Citizenship has recently been summarised by the Senate Legal and Constitutional References Committee (1995: 20) as comprising four linked elements: · the quality of full membership and active participation; · in a just, democratic and mutually supportive political community; · including the individual and collective rights and responsibilities - legal, social, economic, cultural and environmental - that go with such membership; and · the public and private policies and resources needed to sustain it. For current purposes the most relevant concept from the definition of citizenship above is that of 'active participation in a just, democratic and mutually supportive community.', and in particular, what constitutes *active* participation. Recent thinking about citizenship has distinguished between 'active' and 'passive' notions of citizenship, with passive citizenship being understood as a narrowly defined legal entitlements and active citizenship being understood as the capacity of citizens to participate in aspects of society that impact upon them. Implicated in this distinction has been the shift resulting from the new public sector paradigm from the older concept of a citizen/government relationship to a newer concept of a *consumer*/government relationship. The consumer/government idea is evident in literature such as the *Customer Service Performance Measurement Guidelines* referred to above, where performance assessment is based on outcomes for customers. The notion of consumer is essentially a passive one emphasising individual choice and competition to achieve quality outcomes, argue Barnes and Prior (1995:53-58). In relation to consultation, the concern is that seeing people as customers offering opinions is a rather limited idea of consultation. This concern is particularly relevant to people with a disability. This is because many people with a disability are unhappy with the passive, dependent role and 'second-class citizen status' assumed for them by many of society's practices. They have reason to be concerned with consultations that emphasise passive, individual roles (such as responding to questionnaires) rather than consultations that require active discussion and negotiation with other citizens and the government. This latter idea, of active discussion and negotiation, is captured in the concept of the public sphere, 'the sphere of private people come together as a public'. (Habermas 1989:27). Brief definitions cannot convey the strength of the concept, but in one definition the public sphere 'designates a theater in modern societies in which political participation is enacted through the medium of talk. It is the space in which citizens deliberate about their common affairs, and hence an institutionalized arena of discursive action. This arena is conceptually distinct from the state; it is a site for the production and circulation of discourses that can in principle be critical of the state.' (Fraser 1992:110). Ultimately the reason to think about a public sphere is to work toward basing social integration on communication rather than domination (Calhoun 1992: 29). Pertinently, 'communication' in this context 'means not merely sharing what people already think or know but also a process of potential transformation in which reason is advanced by debate itself.' (Calhoun 1992:29). People with a disability require support to join debates in the public sphere. People with disabilities may not have the same level of access to, for example, mass media to express their interests in a way that others do. In that sense they suffer disadvantage. The effect of that disadvantage is that without government support, at least initially, for their involvement in the public sphere, people with a disability are less able to be citizens with opportunities equal to other people's. Consultations can be a means of providing that support. This claim is for the government resources required to ensure consultations are not simply

opinion-gathering exercises but forums for discussion and negotiation. The claim cannot be regarded as a stemming from a sectional or private interest. It is a claim based on the democratic need for universal franchise and the principle liberal contention that equality of opportunity is a central plank of democratic practices. Recent development of the public sphere concept recognises the plurality of actually existing identities within citizenship (Fraser 1992). This argument for the value of a plurality of identities, which are subject to on-going contestation, provides a possibility for inclusion and incorporation of the views of people with disabilities into the public sphere by simultaneously valuing diversity and equality (Fraser 1995). This has important implications for public policy and governance. These are arguments for the recognition of the particular circumstances of the lives of people with disabilities, while at the same time promoting their active engagement in democratic practices which advance the interests of all (Ryan 1996).

## 4.2 Improving consultations for people with a disability

Three themes are discussed here relating to the main aspects of consultation that people with a disability have found disappointing. These are (1) the purpose, scope and outcomes of the consultation, (2) choice of government representatives and (3) consultation process faults. The aim of this section is not to repeat the comments made in section 3 but to discuss the focus group findings in the light of *Consultation* 43 discussion of the context of consultation in the policy process and in the light of previous studies about consultation. In comparing the Australian literature on consultation between 1977 and 1994, the most striking aspect is that the same problems with consultations, and many of the same suggestions for improvements, have been repeated in every report 7. As in this present report, it is possible to divide the problems into 'general' or 'overall' problems (such as perceived fraudulence) and 'process' or 'technique' problems (such as poor information provision). The Disability Council's research in this report reiterates many of the same problems, although the suggestions for improvements made in the report have been extended. The repeated discovery of the same problems suggests either that Australian governments are not serious about improving consultation, or that consultation has inherent shortcomings, or that the shortcomings are symptomatic of a 'structural tension' in Australian governance. The first explanation is unlikely to offer any constructive insights. The second explanation would examine the limits to consultation in terms of both the extent to which consultations can offer participation, and the costs of conducting them. The third explanation would concentrate on general problems and say there is a tension between a tendency toward policy centralism in government and the increasing demands by stakeholders to have their voices heard, and that this is played out in consultations 8. While the pursuit of explanations is not taken further here, the last of the explanations above is likely to yield the greatest insights. On the assumption that it does indeed hold, the approach toward improvement outlined below is to formalise a set of ground rules and explore sanctions that make for a fairer 'game' between the opposing tendencies of policy centralism and stakeholder inclusion.

### 4.2.1 Clarifying purposes, scope and outcomes of consultation

The purposes, scope and outcomes of consultation are discussed together because they are closely related topics: outcomes are to a large extent functions of the

purpose and scope. These are the aspects of consultation that are most connected to the general criticisms of consultation as fraudulent and one-sided, and as requiring a great deal of energy from public participants for little return. In dealing with the persistent criticisms that consultations are fraudulent, previous studies are consistent in pointing out that there may be *differing* 7. The literature referred to is: Task Force on Co-ordination in Welfare and Health (1977), VCOSS (1981), Krestensen 1990, Painter (1992), Syme (1992), NSW Social Policy Directorate (1993b), NSW CPWP (1993), and Office of Multicultural Affairs (1994). Note that another report, Benson (1995), was discovered only late in the production of the current report and has not been considered. 8. This kind of argument might take its lead from Jonathan Friedman (1989) whose discussion of divergent expressions of post-modernism in society could be extended to a consideration of contemporary governance..*Consultation 44 expectations of consultation.* Some people might expect that consultation means power sharing with government. On the other hand, governments usually view consultation as a process that is at most intended to allow citizens to exert influence (rather than power) over decisions, and often is intended only to gather information. If differing expectations are the problem, it is up to the consulters to be very clear beforehand what the participants can reasonably expect and then people can make their own judgements on whether the level of participation offered is worth their while. Another reason why consultation might be seen as fraudulent or one-sided is if the consulters design a consultation that is too restrictive in its scope to deal with the issues that the proposal raises. The agenda will be perceived to have been set and cries of 'whitewash' may ensue. This outcome might be avoided if a quality assurance procedure for consultation is used that specifies the need for representatives from the stakeholder groups to sit on a steering committee during preparation of the consultation. A third reason that consultation is branded as fraudulent may be that the consulters do not in fact allow the level of participation that they expressed or implied could reasonably be expected. This appears to be an issue for many people. For example, if a consultation was advertised as 'having your say' in a decision, but there is no evidence in the outcome that the consulters listened, then loss of trust and anger at wasted effort might be the outcome. This problem is pursued in the discussion on public accountability in section 4.3 below.

#### **4.2.2 Improving selection of government representatives**

Consultations cannot be expected to work if they are thought of as simple activities that can be conducted with a minimum of skills. The process faults referred to in the focus groups (insufficient preparation, communication problems, poor access, discrimination, lack of feedback and so on) can be seen as the result of poor performance by consulters. Successful consultations with people with a disability require certain professional qualities of the consulters: · good organising ability, including provision of support and feedback · ability to listen and report accurately · ability to facilitate the articulation of opinions · sensitivity to group dynamics and associated equal opportunity issues · involvement with issues related to people with a disability · experience of appropriate consultation processes for people with a disability · observance of appropriate ethical standards Delegation of responsibility for consultations to either staff or consultants who lack these qualities is likely to result in dissatisfaction with the consultation among people with a disability.

Three further points are relevant to the use of consultants. First, the selection criteria for consultants given in the *Guidelines for the Engagement and Use of Consultants* (NSW Office of Public Employment 1996) is based mainly on 'value for money' considerations. Consultants are not expected to observe the ethical standards and values of the public service, although from a public point of view these might be expected. Agencies wanting to use consultants for consultations therefore need to develop a line of accountability for the quality of the consultation process as well as its outcomes. The second point in relation to the use of consultants is that of community group perceptions when a public consultation in social policy or service delivery is performed by a large commercial firm, such as one of the big accountancy firms. In these circumstances disability groups may '... suspect a drive for cost-effectiveness will dominate [the consultant's] evaluation and that the happiness of a service's clients will be secondary.' (Horin 1994). That is, the choice of consultant has to be considered from the point of view of building trust between the agency and the public. The final point concerns not only the use of consultants but also the use of junior agency staff to run the consultations. One of the potential attractions of consultations for citizens is contact with senior government officials. If senior officials are not present then direct appeal is made difficult. Without the presence of senior officials, there may also be perceptions that the consultation is not important to the agency, and that people's views will not be heard by the officials who count.

#### **4.2.3 Improving consultation process by using a quality assurance procedure for consultation**

Improvements to consultation process should remedy the causes of dissatisfaction with the process that are covered in the findings in section 3.2 of this report, and also the sorts of process faults discussed by Krestensen (1990). Many of the details that make for a satisfactory consultation have been covered thoroughly in previous manuals and protocols issued by various arms of both State and Federal Governments (in particular NSW Social Policy Directorate 1993b, Office of Multicultural Affairs 1994, and NSW DOCS 1994). The consultation protocol developed by the NSW Department of Community Services (NSW DOCS 1994) is particularly useful because of its level of detail and because it specifically covers support needs for people with a disability. This protocol is currently under review and an improved, perhaps simplified, protocol can be expected during 1998. Further considerations specific to consulting with people with a disability should be added to the DOCS consultation protocol. There are three aspects to improvements that can be made to the DOCS protocol. Firstly there are the considerations of purpose, scope and outcomes (section 4.2.1 of this report) and choice of government representatives (section 4.2.2 of this report) that need to be elaborated. Secondly, there are some support needs of people with a disability that are not covered by the protocol. Thirdly, there needs to be an incorporation into the protocol of criteria by which success in following procedures can be evaluated and standards with which success can be compared. It is considered that considerations for the first of the aspects to improvement of consultation process can be adequately inferred from sections 4.2.1 and 4.2.2 above. The second aspect is dealt with directly below. The third aspect will be considered under section 4.3, and comprises a main thrust of this report. In calling for extended quality assurance procedures, it needs to be kept in mind that the problem with such procedures from the point of view of public managers is that they set a plethora of demands that may not be appropriate to what has been budgeted as a small-scale consultation. There is a

temptation to disregard cumbersome procedures when planning a small consultation. The need is to develop a more sophisticated set of procedures that match the amount of effort demanded of the agency to the scale of the consultation. *Additional considerations on procedures for support needs of people with a disability* The focus group results in section 3 pointed to a few areas where the DOCS Consultation Protocol (1994) was inadequate. A couple of modifications are suggested here in response to the comments made in section 3. However, the full process of modification must be done in consultation with people with a disability. The modifications suggested here are considered in terms of the guideline found in the DOCS protocol that is closest to what is required:

- DOCS guideline 3.2.2 calls for consultation strategies that are specific to impairment types. Reference is made to the needs of deaf people, but this ought to be expanded on. Deaf people should be consulted separately from people with a hearing impairment. This is because deaf people operate from a different cultural base and use a different language.
- DOCS guideline 3.2.6 calls for specific strategies to make consultations accessible. Reference needs to be made to the needs of people with an intellectual disability for an orientation session prior to a consultation. This session has the objective of clarifying the terms of reference of the consultation and their significance, in order that the concepts are accessible. The educative role is in this case specialised and needs appropriately trained staff. Some additional considerations can be gleaned from Appendix 2 of this report, 'Arrangements adopted in focus groups for different impairment types'.

## 4.3 Performance auditing and accountability

As a means to improve consultations held with people with a disability, there is a need for greater stress to be placed on accountability for both the quality of process and the outcomes of consultation. As with public sector reforms to service delivery, the emphasis should be on 'client' satisfaction. The discussion in this section first makes the point that consultations have immediate outcomes, quite apart from the eventual policy or service improvements they might be intended to serve. Discussion then moves to discussion of general considerations of accountability for these outcomes, distinguishing between managerial and political accountability. Following from this, two different assessment processes that are required are discussed. These are public evaluation of the effectiveness of the consultation, and performance auditing by management of the quality of the consultation process. The discussion ends with details of these processes in relation to people with a disability.

### 4.3.1 *The immediate outcomes of consultation*

Consultation is usually thought of as a means toward an eventual outcome, that outcome being better policies and services. Such a concept of outcome has already been discussed in section 4.1.3. In this view, consultation is an activity 'module' that can be slotted into almost any policy development or service planning process. However consultation is not typical of most other information gathering or negotiation activities that government agencies use for developing policies or services (such as statistical research or departmental conferences), in that it directly interfaces with the public in a way that prompts people to express disappointments and hopes. Interaction with the public under the rubric of 'consultation' at least implies public influence on policy development or service planning. Expectations are set up among the public participants as a result of calling an activity a 'consultation'. The extent to which those

expectations are satisfied becomes an outcome in itself, quite apart from the eventual outcomes of the policy development or service planning that consultation is intended to aid. To put it another way, public perceptions of a government agency are formed from experiences of consultation as well from policy outcomes or service delivery. As has already been mentioned, these public perceptions are formed about both the quality of the process used for consultation, and the effect made by the public as a result of consultation on the policy or service being considered. The agency needs to be made accountable for both of these aspects of consultation. The discussion below sets out a framework and method by which this can be achieved.

### **4.3.2 Managerial and political accountability**

There are two orientations of accountability relevant to consultations. These are *managerial accountability* and *political accountability*. It is these concepts that are explored in this section. These two accountability concepts provide the overall framework for the techniques of (1) process accountability through managerial auditing of performance and (2) effectiveness accountability through public evaluation of the results. These last two are practical methods for improvement of public consultations, which are discussed in section 4.3.3. *Consultation* 48

#### **4.3.2.1 Managerial accountability**

Managerial accountability is about 'making those with delegated authority answerable for carrying out agreed tasks according to agreed criteria of performance.' (Day and Klein in Rist 1989:356). Among the Australian public management literature, managerial accountability considerations have been most fully developed by the Management Advisory Board (MAB-MIAC 1993b). It saw two main benefits of managerial accountability. Firstly, '... public acceptance of government and the roles of officials depends upon trust and confidence founded upon the administration being held accountable for its actions.' (MAB-MIAC 1993b:3) and secondly as 'a major management tool for ministers and the public service.' (MAB-MIAC 1993b:3). Managerial accountability involves 'setting goals, providing and reporting on results and the visible consequences for getting things right or wrong, including rewards or sanctions as appropriate'. (MAB-MIAC 1993b:13). To provide accountability under the NPM system of devolved authority, 'management information systems are used to monitor and report on program performance (including client feedback) up the accountability chain'. (MAB-MIAC 1993b:15).

#### **4.3.2.2 Political accountability**

Political accountability has been defined as focussing on 'those with delegated authority being answerable for their actions to the people.' (Day and Klein in Rist 1989:356). Political accountability is traditionally supposed to proceed via the public election of representatives to parliament. There are however two much more immediate means of political accountability. These have been labelled *exit* and *voice* (Hirschman 1970). Exit is the use of competing sources of supply of a service, and voice is participation or protest to induce service providers to improve a service (Paul 1992:1048). These forms of public accountability are not sufficient in themselves to improve the responsiveness of service providers, but must be accompanied by managerial accountability mechanisms (Paul 1992). Applied to the area of public consultation, the notion of *exit* is not that there can be exit to another supplier, as

with conventional services. Rather the exit takes the form of a decision to stop attending public consultations. The potential consequence of exit from consultation is disenfranchisement. On the other hand, the notion of *voice*, applied to the area of public consultation, takes the form of publicly expressed protest at poor quality consultation. Unlike an exit from participation, public protest has a useful role to play by forming the basis of political accountability for consultations.

### 4.3.3 Process and effectiveness accountability

Having now discussed the general orientations of managerial and political accountability, there are two further terms to discuss with regard to accountability for consultation. These are the two substantive forms of accountability, labelled *process accountability* and *effectiveness accountability*. Consultation 49 They have different purposes, audiences and methods. These are now described briefly. Figure 2 clarifies the relationships between the terms used. *Figure 2. Relationship between the terms used to describe accountability*

#### 4.3.3.1 Process accountability via managerial auditing of performance

Process accountability has been defined as ‘making sure that a given course of action has been carried out, and that value for money has been achieved in the use of resources.’ (Day and Klein in Rist 1989:364). The purpose of process accountability in the case of public consultation is to monitor the procedural aspects of a consultation, such as whether the agency’s quality assurance procedure for consultation (if there is one) has been followed. Consistent with its managerial orientation, the audience of process accountability is a delegate of the minister responsible for the agency, within the conventional public service accountability framework. The method is in the manner of an audit, i.e. to assess actual performance against an established standard. Of significance for consultations, the NPM reforms in the public sector have placed authority and responsibility with line managers. This has the effect of clarifying understanding of who is accountable for what 9. While more is said about the methods for process accountability in section 4.3.4 below, what is now considered is where the line of accountability is directed. This is important because it involves the possibility of sanctions in the case that assessment indicates poor quality of consultation process. There are four identified 9. However, according to Council on the Cost of Government, the link between devolved authority and matched accountability arrangements has not actually been fully achieved in the NSW Government (NSW Council on the Cost of Government 1996:21).. Consultation 50 mechanisms, involving the Cabinet Committee on Social Justice; the Disability Services Act (1993); the Chief Executive Performance Agreements; and the performance of line managers. *Cabinet Committee on Social Justice* As noted in section 4.1.3.3, the New South Wales *Social Justice Directions Statement* (1996) notes that It is the Government’s responsibility to create an environment which encourages public debate, dialogue and meaningful consultation. This means taking active steps to increase public participation to improve decisions, providing effective and accessible complaint, consumer protection and regulatory systems and reinforcing lines of accountability. (NSW 1996a:27). To implement the social justice objectives, the *Statement* says that Chief Executive Officers and Managers will be required to ensure that relevant program objectives, outcomes and outputs are consistent with the Government’s social justice principles, and that performance indicators are developed to measure the appropriateness, effectiveness

and efficiency of programs in these terms. (NSW 1996a:29) and proposes that the Cabinet Committee on Social Justice will ... play an important role in ensuring that the budgetary process is linked to the achievement of the Government's social justice priorities (NSW 1996a:29). This establishes a line of accountability through to the Cabinet Committee on Social Justice, with budgetary consequences to the responsible manager for non-compliance. However, the mechanism by which the Committee might enforce compliance with the social justice priorities comes under Cabinet confidentiality<sup>10</sup>, and so is not transparent. This is unfortunate, since in light of the findings of the Council on the Cost of Government that in respect of accountability 'the vital process that links management, high level policy decisions, financial responsibility and performance monitoring do not appear to have been addressed in a cohesive, comprehensive manner.' (NSW Council on the Cost of Government 1996:21) it is not certain that the Committee has an effective mechanism to enforce the social justice principles, or even to track their implementation. *NSW Disability Services Act (1993)* The New South Wales *Disability Services Act (1993)* primarily functions to direct the administrative actions of New South Wales Government agencies. As noted in section 1 of this report, the Act stipulates that 10. Personal comment from staff of the NSW Cabinet Branch, November 1996..*Consultation 51* Services and programs of services must be designed and administered so as to ... provide persons with disabilities with ... opportunities for consultation in relation to the development of major policy and program changes. 11 The implementation of this requirement is through the further stipulation in the Act that A public authority is to prepare, and make provision for the implementation of, a plan to encourage the provision of services by that authority in a manner that furthers the principles and applications of principles as set out in Schedule 1 [of the Act]. This plan is commonly known as a Section 9 plan. The suggested format and content of a Section 9 plan is covered in the *Disability Strategic Plan* (NSW Social Policy Directorate 1993c). It is desirable that the Section 9 plan is incorporated into the agency's corporate planning processes and cycles. Best practice for devising a section 9 plan might make use of guidelines for the Commonwealth Disability Discrimination Act (1992) action plans (HREOC 1995). These discuss six components that must be included in a DDA action plan, and which provide a useful framework for considering consultation practice with a DSA section 9 plan. The problem with the Disability Services Act is its lack of legislative sanctions for non-compliance. It is also difficult to use as a vehicle by the public to litigate against the Government. However a case can be made that the Cabinet Committee on Social Justice should consider non-compliance with the Act, in particular Section 9, as grounds for administrative sanctions. It is also the responsibility of an agency's Chief Executive to ensure that the agencies in their portfolio operate within the law, and ultimately the responsibility lies with the Minister. *Chief Executive performance agreements* A performance agreement between a Ministers and a Chief Executive Officer allows monitoring and review of Chief Executive performance against expectations. The *Chief Executive Performance Agreement Guidelines* (NSW Premier 1995) describe the performance agreement as 'a key accountability tool to ensure there is agreement on the critical aspects of the Chief Executive Officer role. Moreover it provides a basis for specification and review of performance.' There are three generic responsibilities of Chief Executives in the NSW public sector that are particularly relevant to consultation (see NSW Premier 1995:2). These are the responsibilities to · manage key interfaces affecting the agency (including stakeholders and clients), · ensure legislative and statutory compliance within the agency, · ensure satisfactory introduction and operation of internal controls and reporting systems

including internal audit. which can translate to mean the need to manage consultation, to ensure compliance with the NSW Disability Services Act (1993) and to ensure auditing of I I. New South Wales. *Disability Services Act 1993 No. 3. Schedule 1 - Principles and Applications of Principles: Applications of principles, 2(o)..Consultation 52* consultation procedures. Auditing of consultation is not automatically a responsibility of a Chief Executive Officer (CEO) unless it is either specifically part of the performance agreement, or more feasibly, unless auditing of consultations becomes part of the monitoring strategy of the agency's Section 9 plan. One of the recommendations in Section 5 refers to the inclusion of Section 9 compliance in the performance agreement. *Performance of line managers* The line of accountability within an agency can be tied to the individual performance goals of managers under an effective human resource management framework (see MAB-MIAC 1992). In the NSW public sector, the framework is the performance management system, described as 'the linking of budget and management planning to the development of individual performance agreements and personnel appraisal processes' (NSW Office of Public Management 1990). Design and implementation of the performance management system is detailed in the *Performance Management Policy and Guidelines* (NSW Public Employment Office 1991) <sup>12</sup>. Under this system, the officer responsible for implementing the consultation procedure does so with a specification of the tasks and standards expected. The extent to which an audit of a consultation demonstrates that the responsible officer achieved satisfactory, outstanding and unsatisfactory performance is linked to the agency's established personnel performance procedures. Performance is unsatisfactory when a consultation does not meet benchmark standards. There are a variety of causes and solutions for underperformance which agencies are expected to follow under the *Management of Unsatisfactory Performance Policy and Guidelines* (NSW Public Employment Office 1993).

#### **4.3.3.2 Effectiveness accountability via public evaluation**

Effectiveness accountability has been defined as 'making sure that a given course of action or investment of resources has achieved its intended result.' (Day and Klein in Rist 1989:365). Effectiveness accountability is an accountability for outcomes. In the case of public consultation, the purpose of effectiveness accountability is to monitor the extent to which reasonable expectations of the consultation, from the public's perspective, were realised. Consistent with its political orientation, the audience is the attentive public, including the consultation participants. The method is an evaluation of the fairness and reasoning of the decision makers in judging and deciding between conflicting stakeholder views raised during the consultation. It is the public who evaluates the consultation in these terms, and who holds the agency accountable. The idea of providing public accountability via a record of the views raised during the consultation and a report of how those views were subsequently considered is not new: 'Summaries of discussions, conclusions and recommendations must be made available to the parties involved. Submissions and advice given must be <sup>12</sup>. This document is currently under review..*Consultation 53* public except where there are exceptional circumstances requiring confidentiality. The government must respond in detail to the advice, giving reasons for its agreement or disagreement.' (VCOSS guidelines, in Power 1981:28). This is essentially the same form of public accountability recommended in section 5, where it is suggested that a consultation outcomes report be issued by the government agency. The outcomes report is used to document the views discussed during the consultation and the way those views relate to the

decisions made, or the direction of policy development or service planning determined, in light of the consultation. Effectiveness accountability becomes more important as the level of participation increases. This is because as the investment made by the public in the participation process increases, there is a greater need to assess the effect, or how much the participation 'counted' in the policy or service planning process. The relationship between effectiveness accountability requirements and participation is represented in figure 3. *Figure 3. Relationship between participation level and required public accountability.* The need for greater effectiveness accountability to the public raises the question of how the public will interpret an outcomes report issued by an agency. Two criteria could be used. The first criterion might be a 'ratio of influence' evident in the consultation outcome, counting up decisions in favour of the public participants versus decisions in favour of competing influences (including the agency's own predisposition). This is likely to be an inevitable method of assessment used by public participants, who want a ready assessment of their return for the effort they put into participation. This however is not necessarily an assessment method that can lead to successful public pressure on the agency, because the agency is not obliged to apportion. *Consultation* 54 decisions in favour of particular interests for the sake of an even tally of 'points scored' during consultation. On the other hand, keeping in mind the need of stakeholder support for the success of policy and service delivery outcomes, an agency confronted with evidence of claimed neglect of a particular set of interests might need to reconsider some of its decisions. The second criterion for assessment of effectiveness is to look to the legitimacy of the decisions made by the agency in the light of the consultation. This assessment is made in the light of a record of the views raised during the consultation and a report of how those views were subsequently considered, as discussed above. The test in this case is whether the reasons given for the decisions are 'fair enough' or indicate a lack of attention to the views put forward during the consultation, or indicate unreasonable or unfair decisions that might have stemmed from a prior agenda. Lack of attention to the views put forward during the consultation or evidence that decisions were made regardless of sound arguments put forward during the consultation might be grounds for complaint against the agency. That complaint might be made to the responsible minister or to the Cabinet Committee on Social Justice. An effective complaint would invoke the train of administrative accountability discussed in section 4.3.3.1.

#### **4.3.4 Performance auditing of consultation processes**

This section discusses in more detail the means by which process accountability can be achieved by management, an idea which was introduced in section 4.3.3.1 above. The central idea is that the processes used to implement a consultation are amenable to auditing. The aim of this performance auditing is to determine the quality of the consultation process. In performance auditing, 'judgements on performance are made given a criterion based on a normative position' (Rist 1989:357). That is, performance can be measured against benchmark standards. In order to do this, information about performance needs to be expressed as a set of indicators which allow comparison with the benchmarks. The idea of indicators is discussed first, before moving on to discuss benchmarks. The section ends with a discussion of the requirements of a quality assurance procedure for consultation in relation to performance auditing.

##### ***4.3.4.1 Performance indicators and benchmarks***

Performance indicators are based on the broader category of performance information. This has been defined as 'any information (both quantitative and qualitative) which allows judgements to be made about program performance and is, at its simplest, feedback on the results of actions.' (MAB-MIAC 1993a: 4). Performance information is efficiently handled by expressing the information in terms of a set of performance indicators. While performance information can be expressed in other ways, performance indicators comprise a set of agreed criteria for which information must be collected. The indicators are constructed with a view to their use, in conjunction with benchmarks, for auditing the agency's performance in conducting the consultation process. Details are discussed below. A benchmark is an established 'best practice' norm that corresponds to a set of performance information. Performance is assessed by measuring the achievement that is indicated by the information against the corresponding benchmark. Details of benchmarking procedure have been covered by MAB-MIAC (1996). Benchmarking is a form of evaluation best able to focus on processes. It is less able to assess the extent to which an activity such as consultation has been designed to suit the needs of the agency and the public, or show the extent to which the outcome objectives are met (Sedgwick 1995:402). In regard to consultation, these last two aspects have to be assessed via political accountability mechanisms, as has been discussed in section 4.3.3. *Auditing, interpretation and the choice of indicators* Indicators are a proxy used to measure what is essentially unmeasurable, which in this case is the quality of the consultation process. Therefore performance auditing involves interpretation of the performance information. Because the information is interpreted, auditing is not an 'objective' process, but rather is an *efficient tool* used to support management functions. To expand slightly, this means that in assessing consultation process, no 'perfect' or certain measures are available. There is always some room for personal or organisational values to enter into interpretation of what the measure has to say about quality of the consultation process. However, this is not a good reason to argue against the attempt to measure quality of the consultation process. Pollitt (1988:82) argues 'If there is a refusal to work, provisionally at least, with partial and sometimes inaccurate data large areas of the status quo will be effectively sealed off from scrutiny and debate.', or as Stewart and Walsh (1994:48) write 'If perfect performance measures are not available, then the alternative is not to abandon performance measures, but to use imperfect or uncertain performance measures in full awareness of their limitation. That means using the measures but not placing total reliance on them or on one set of measures, but rather as seeing them as a means of supporting judgement'. Keeping in mind that the interpretation of quality should be based on 'client' perceptions, a further important aspect of choice of indicators is that the indicators need to 'capture the evaluations service consumers make in the course of ordinary, everyday life.' (Pollitt 1988:85), or in the case of consultations, in terms of criteria important to the participants. Ultimately, 'Performance assessment is ... a matter of judgement which can be informed by performance measures but which can never be determined by them.' '... the weight to be attached to any factor and the form given to it can be and, *Consultation 56* indeed, should be the subject of public discourse and political differences.' (Stewart and Walsh 1994:46, 47-8) This last comment highlights a practical implication of the feedback between consultation processes and outcomes. This is that management assessment of the quality of consultation process must remain attuned to the public discourse centred around evaluation of consultation outcomes. In concrete terms this means that management assessment procedures of consultation

need to be developed and reviewed in the light of 'public discourse and political differences'.

#### 4.3.4.2 Performance auditing, consultation and people with a disability

Performance information needs to indicate the achievement of a variety of aspects of the consultation process in order to assess the overall quality of the consultation. There are a number of important aspects of the consultation process for which information collection should be emphasised. These are listed in Table I. Some of this information gives an idea of the agency's overall commitment to consultation ('Type I' indicators in Table I). Other information gives an idea of the quality of the consultation for any individual consultation ('Type II' indicators in Table I). *Table 1. Types of performance assessment information required.*

**Information required for a performance audit of the consultation process.**

**Type I. Indicators of consultation usage within the agency's organisational framework**

- **What consultations are addressing** To what extent is the organisation consulting on 'big picture' policy issues as opposed to consultation on details of service delivery.
- **How often are consultations being held** How often a government agency consults with the public is useful information if interpreted in the light of other indicators.

**Type II. Indicators of consultation quality for any particular consultation**

- **Representation and participation** The extent to which disability service providers, disability peak groups and individuals with a disability have been consulted. This might be an indication of the extent to which each is consulted as a proportion of the overall number of public contacts or total time spent in consultation.
- **Quality of process** The extent to which procedures specified by the consultation procedure are realised in practice. This in particular is an area where some indicators need to be selected as diagnostic of the whole process. The comprehensiveness of the indicator set should increase with the scale of the consultation..*Consultation 57*
- **Satisfaction with the process** Level of participant satisfaction with the actual running of the consultation can be assessed by using satisfaction surveys completed by the consultation participants. Collection of this information is particularly important in the case of consultations that demand a lot from public participants. The information required to indicate overall usage of consultation can be relatively succinctly expressed. In contrast, most of the effort of performance auditing deals with assessment of particular consultations. The bulk of this work is the assessment of consultation process quality, mostly based on a consultation protocol or quality assurance procedure for consultation such as that developed by DOCS (NSW DOCS 1994), or other of the various guidelines and protocols listed in appendix 3. The quality assurance procedure for consultation provides a normative framework for consultations. That is, it provides the norms which can be used as benchmark criteria. In theory, all of the guidelines found in a quality assurance procedure for consultation could be converted to a performance indicator and supplied with a benchmark. In a simple instance, a specification such as 'The full final report of the findings and recommendations of the consultation to be publicly available on request.' is also adequate as a benchmark. It can be re-phrased as a performance indicator to form part of the audit checklist: 'Is the full final report of the findings and recommendations of the consultation publicly available on request?' (Yes/No). In any particular consultation, this aspect of the process must be measured (in terms of yes/no in this particular example) and compared to the benchmark. Since consultation protocols can be quite extensive, it may well be inefficient to conduct an audit where all the

guidelines are attended by their own performance indicator and benchmark. Cost-effectiveness might require that performance indicators are selectively chosen. Depending on the construction of the quality assurance procedure, a 'diagnostic' selection of indicators might need to be made. Thought has to be given as to what information is most necessary, and an efficient way of collecting that information. A minor consultation might be expected to have a more abbreviated set of indicators compared to a major consultation. The criteria for selecting which set of indicators to use in a particular case needs to be part of the quality assurance procedure for consultation itself. Both the indicators and the benchmarks should reflect the reasonable expectations of people with a disability. The reasons behind this were discussed in section 4.3.4.1. If this is done, then the matching of actual achievement with the targets specified by the benchmarks should indicate good quality consultation from the participants' point of view. However, a quality assurance procedure for consultation should also specify a mechanism by which public participants can comment on the quality of the process from their point of view..*Consultation* 58 A relatively simple procedure for such comment is to provide an evaluation questionnaire at the conclusion of a consultation meeting. This questionnaire can be completed by participants and the aggregate data processed and included as performance information during the consultation audit. A suitable questionnaire might be organised as a Likert scale, which facilitates collapse of the data into an 'index of participant satisfaction' (see e.g. de Vaus 1991: 252-7). The possibility of unexpected comments should also be provided for by inviting open-ended comments to be returned on the questionnaire form. This discussion of accountability procedures brings to an end section 4 of this report. The next section, recommendations, uses concepts that have been introduced in this section to implement practical reforms to consultations by government agencies with people with a disability. T

# 5

## Recommendations

The recommendations made in this report are aimed at improving the accountability process for consultations with people with a disability. This thrust is taken both because role of the Disability Council of NSW is to provide policy advice to the NSW Government, and because many recommendations for improving the quality of consultations by improving the 'recipe' of the consultation process have been made in the past. The recommendations made here progress from establishing the need for such a recipe and basing an audit procedure upon it, through successive accountability requirements and requirements for consultation performance to be linked to methods that the Government has available for sanction of non-complying agencies.

### Recommendation 1

#### ***Agencies to adopt a consultation protocol***

That all NSW Government agencies adopt and use a consultation protocol that provides for consultations with people with a disability. The protocol should be drafted in consultation with people with a disability. This initial consultation should be guided by the DOCS (1994) consultation protocol. Interpretation The foundation for achieving quality in consultation procedures and outcomes is a well designed consultation protocol. This should provide *guidelines* for consultation with people with a disability, *criteria for performance assessment* that address significant aspects of the guidelines, and *benchmarks for achievement* of the procedures that have been formulated. The specification in the protocol of performance indicators and benchmarks is in line with the importance of the protocol as the basis for accountability. To be useful for accountability processes, the protocol must identify performance indicators that allow determination of how well the consultation is performed when compared to the benchmarks. This process accountability is discussed in section 4.3 of this report. A sophisticated protocol would accommodate differing procedures for conducting and auditing consultations, depending on the scale and type of consultation. This is needed so that minor consultations do not become an onerous and costly process. This is referred to in section 4.2.2 of this report. In considering the content of the protocol guidelines, both the agency staff and the public stakeholders (people with a disability) might consider the *Consultation Protocol* produced by DOCS (1994) and the additional criteria noted in section 4.2 of this report. As important as the production of a protocol is its effective use by the agency. Many of the recommendations that follow are concerned with implementation.

### Recommendation 2

#### ***Agencies to audit the quality of consultation process***

That all NSW Government agencies develop and use an auditing process to assess quality of process of consultation with people with a disability. The audit is to be used to assess all consultations with people with a disability. The performance indicators and benchmarks to be used for the audit should be drafted in consultation with people with a disability. Interpretation Building on the production of a consultation protocol that includes performance indicators and benchmarks, agencies need to audit all their

consultations with people with a disability with the aid of the protocol. The audit will show the quality of the procedure used to conduct the consultation. Refer to section 4.3 of this report.

### **Recommendation 3**

#### ***Consultation protocol to be covered in Section 9 plans***

That NSW Government agencies include in their NSW Disability Services Act (1993) Section 9 plan reference to the consultation protocol, and a plan for implementation of the protocol. Interpretation The section 9 plan of all agencies needs to identify quality consultation procedures as an unmet need, and identify consultation as a priority for improvement. The development and implementation of a consultation protocol is a strategy for change. Details of implementation of the strategy and inclusion of the strategy in the monitoring and review stages of the Section 9 plan also need to be included in the Section 9 plan. The use of the Section 9 plan in relation to consultation is discussed in section 4.3.1.1 of this report. The purpose of linking the consultation protocol to the Section 9 plan is that it links the consultation protocol to a legislative framework. The attendant legislative responsibility therefore makes it easier to refer to consultation quality as a criterion in Chief Executive performance agreements.

### **Recommendation 4**

#### ***Premier to issue memo to Ministers on CEO performance agreements***

That the Premier sign a Memorandum to Ministers to inform Chief Executives that the status of the obligations under Section 9 of the NSW Disability Services Act (1993) will be a subject of review of the Chief Executive performance agreement with their Ministers. The memorandum is to be issued through the Ageing and Disability Department [is this the appropriate issuing body?]. Interpretation The Chief Executive performance agreement is an important accountability mechanism that in this case can be used to ensure improvement of consultation quality (see section 4.3.1.1 of this report). The purpose of this memorandum is to remind CEO's of their obligations to implement a Section 9 plan under the Disability Services Act (1993). If the Section 9 plan includes reference to consultation procedures in accordance with recommendation 3, then this becomes part of the CEO's responsibility under the DSA.

### **Recommendation 5**

#### ***Consultation quality to be tied to management performance***

That NSW Government agencies include in the duty specifications for an officer responsible for a consultation with people with a disability that the tasks and standards of a consultation with people with a disability shall conform to the agency's consultation protocol. Interpretation An important aspect of implementing the consultation protocol is the need to explicitly refer to it in task specification for any consultation with people with a disability. The Section 9 plan should refer to this as part of its implementation plan. The point of this recommendation is that it is an accountability mechanism whereby line managers responsible for consultation are

assessed by their performance in terms of the protocol, and so the protocol is linked to procedures in place to manage underperformance within the agency.

## **Recommendation 6**

### ***Premier to issue memo to Ministers regarding DSA Section 9 plans***

That the Premier sign a Memorandum to Ministers to inform Chief Executives that failure to complete implementation of Section 9 of the Disability Services Act (1993) leaves them open to vicarious liability. The memorandum is to be issued through the Ageing and Disability Department [is this the appropriate issuing body?]. Interpretation As with recommendation 4, this recommendation is designed to call attention to the legal requirement to implement Section 9 of the DSA.

## **Recommendation 7**

### ***Compliance with Section 9 of DSA to be monitored***

That compliance with Section 9 of the NSW Disability Services Act (1993) be a condition of Cabinet funding of NSW public authorities. Compliance with Section 9 should be monitored through the Cabinet Committee on Social Justice. Interpretation Independent monitoring and review of agencies' compliance with section 9 of the DSA is required to check on the verity of agency's own reporting of acquittal of this obligation. Because the Cabinet Committee on Social Justice appears to be the only authority in the NSW Government that deals with participation at a whole of Government level with a power of sanction through budgetary mechanisms, it is the appropriate body to be responsible for this monitoring and review process. The Cabinet Committee on Social Justice is also in a position to apply pressure to agencies that do not include consultation in their Section 9 plan as suggested in recommendation 3. A discussion of the relationship between the purview of the Cabinet Committee on Social Justice and the content of Section 9 of the DSA can be found in Section 4.3.1.1 of this report.

## **Recommendation 8**

### ***Cabinet Committee on Social Justice to publish its powers of sanction***

That the mechanism to be used by the Cabinet Committee on Social Justice for linking adherence to the social justice principles to budget allocation, referred to in the Social Justice Directions Statement (NSW 1996), be made public. Interpretation Currently it is unclear how the Government intends to use the Cabinet Committee on Social Justice as a body to ensure agencies are held to account of their implementation of the Government's social justice principles. That is, it is not a transparent accountability process. It is however important as the Government's only authority capable of applying effective pressure on agencies to respond to the social justice principles. Section 4.3.1.1 further discusses the role of the Cabinet Committee on Social Justice in relation to consultation.

## **Recommendation 9**

### ***Monitoring and review of the recommendations***

That implementation of these recommendations be monitored and reviewed by the Disability Council of NSW one year after launch of this report. Interpretation The recommendations made here need to be evaluated in the light of their outcomes. The Disability Council may need to revise the recommendations as a result of the policy learning process involved in monitoring.

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Appendix I Focus Group Questions What does consultation mean to you? What do you think is the purpose of consultation? What do you think consultation achieves? How are you normally consulted? In your experience, how have most consultations left you feeling? What outcomes have you seen come from the consultations you have been involved in? How might the consultation process be improved? Can you suggest a more effective means by which people with a disability have their say into the decisions which affect their lives?

Appendix 2 Arrangements adopted in focus groups for different impairment types

Blind and visual impairment potential participants were contacted by telephone. if the potential participants wanted further information, this was supplied either on a floppy disk or in Braille. when a participant confirmed they would attend the focus group, the organiser gave information about the physical environment of the building. at the appointed time for the focus group, made sure someone was at the entrance of the building to greet the participants. during the focus group, made sure that food and drink were within hands reach. Deaf and hearing impairment all information was provided in writing and by TTY hearing loop used during the focus group Auslan interpreter was present at the focus group Intellectual disability all information was provided in plain spoken English visual prompts were used where possible issues were dealt with at a concrete level during the focus group, the first part of the meeting was a prolonged period of clarifying what consultation is and what the focus group is about. These concepts were related to personal issues. Acquired brain injury the facilitator had to make sure the discussion kept remained focussed Physical disabilities the venue had to be physically accessible aides were employed to assist people to eat, etc. the food provided was easy to handle (e.g. not sloppy, crumbly, etc.) Psychiatric disabilities transport of people to the venue by taxi was necessary (public transport is often unsuitable) details were provided about the use of the audio recording of the focus groups

**Appendix 3 Materials provided to the participants prior to the consultation**