



Investigatory Powers
Commissioner's Office

Policy Name: IPCO consultation process

Version: 1.0

Date: August 2018

1. Context

- i. IPCO will always seek to engage with stakeholders where such engagement is consistent with our statutory obligations and legal responsibilities.
- ii. This policy covers the circumstances in which consultations will be conducted by IPCO and the operation of such consultations.
- iii. This policy is subject to annual review and updates will be published on the [IPCO website](#).

2. Definition

- i. 'Consultation' involves IPCO seeking the views of some or all stakeholders on matters relevant to the activities or powers of IPCO.
- ii. Stakeholders may include (but are not limited to) the general public, Civil Society Organisations (CSOs), academia, members of professional bodies and other non-state persons with an interest in the matter being consulted upon. They may also include the Government, members of the UK Intelligence Community (UKIC), Law Enforcement Agencies (LEAs) and those exercising powers under the Investigatory Powers Act 2016 (the Act).
- iii. The Investigatory Powers Commissioner (IPC) will determine who should be consulted on any particular matter, taking account of the issue under discussion. IPCO retains the right to decide whether a consultation should take the form of a:

- general consultation – with stakeholders but not expressly limited to invited persons or bodies; or a
- limited consultation – with identified and specified stakeholders.

3. **Purpose**

- i. The purpose of this policy is to explain:
 - when consultations will be carried out by IPCO; and,
 - how such consultation exercises will be conducted.

4. **Scope**

- i. This policy applies in any situation where IPCO decides to consult.

5. **Policy**

Decision to consult

- i. The decision to consult and the exact manner of consultation on any matter is solely for the IPC in consultation with the CEO.
- ii. Where IPCO has consulted on a matter previously this shall not be treated as an indication that IPCO will consult on similar matters nor as evidence that a practice to consult more generally is developing.
- iii. For the avoidance of doubt and save where obliged by law, there is no obligation on the IPC to consult any specified group and this policy creates no right to be consulted.

Conduct of Consultations

- i. Legal advice will be sought before contemplating an external consultation.
- ii. IPCO may conduct general or limited consultations where necessary.
- iii. General consultations will be announced on the [IPCO website](#) and via the [IPCO Twitter](#) feed.
- iv. Timescales for the consultation will be decided on by the IPC. That decision will take into account the complexity of the consultation. The minimum amount of time for a consultation shall be two weeks (14 calendar days) with the maximum being 12 weeks (84 calendar days).

To facilitate effective access to the consultation and, at the discretion of the IPC, later responses may be permitted on request.

- v. Responses to a consultation will be required in written format. IPCO will seek to facilitate reasonable access to the consultation process for any external stakeholder unable to respond in this manner.
- vi. Wherever possible, all responses to an external consultation will be published on the [IPCO website](#) within 12 weeks of the end of the consultation.
- vii. Circumstances may arise where closed responses to external consultations may be permitted. Closed responses will not be published.
- viii. Where appropriate, the IPC may consider convening a suitably qualified panel to examine the responses and to assist in the formulation of practice and procedure, including any recommendations.
- ix. The IPC will determine whether the findings from the external consultation should be published taking into account the statutory obligations under the Act, that such publication would be contrary to the public interest or prejudicial to –
 - national security,
 - the prevention or detection for serious crime,
 - the economic well-being of the United Kingdom, or
 - the continued discharge of the functions of any public authority whose activities include activities that are subject to review by the Investigatory Powers Commissioner.
- x. Where necessary or required by the Act the IPC will consult with the Prime Minister on the appropriateness or otherwise of publication.

Consultation principles

- i. Taking account of the guidelines set out by the Cabinet Office [Consultation Principles 2018](#), IPCO will adhere to the following when conducting consultations:
 - a) *Consultations should be clear and concise*
 - IPCO will use plain English, avoid acronyms and make clear what questions are being asked.
 - b) *Consultations should have a purpose*

- IPCO will not consult for the sake of it and will only do so when requested to or when the IPC has decided it is appropriate to do so. IPCO will take consultation responses into account when making recommendations.
- c) *Consultations should be informative*
- IPCO will provide sufficient information to ensure that those consulted understand the issues and can give informed responses.
- d) *Consultations are only part of a process of engagement*
- Where appropriate, IPCO will consider the use of new digital tools and open, collaborative approaches.
- e) *Consultations should last for a proportionate amount of time*
- The length of the consultation will be determined by the IPC taking into account the nature and impact of the subject matter.
- f) *Consultations should be targeted*
- IPCO will consider the full range of people, business and voluntary bodies with an interest in the subject matter, and whether representative groups exist. Where appropriate, IPCO will consider targeting specific groups.
- g) *Consultations should take account of the groups being consulted*
- IPCO will consult relevant stakeholders to ensure that they are afforded sufficient opportunity to respond.
- h) *Consultations should be agreed before publication*
- IPCO will seek agreement from the Prime Minister prior to the results of any consultation being published – see ‘Conduct of Consultations’ on page 2.
- i) *Consultation should facilitate scrutiny*
- IPCO will publish responses and provide an explanation as to how these may have informed the findings.
- j) *Government responses to consultations should be published in a timely fashion*

- IPCO is committed to publishing responses within 12 weeks of the end of the consultation or providing an explanation why this is not possible.