

## GUIDELINE 02: Consultation

### 1. Introduction

There are various legislative requirements that NAWAC must fulfil in the development of a draft Code of Welfare (s71). These include:

- a) Prior to public notification, the obligation to consult with stakeholders, or their representatives, likely to be affected by the draft.
- b) Public notification, including a submission process.

NAWAC may also further consult with any person or stakeholder who has made a submission under point b) above (s72(1)). This however does not prevent NAWAC from further consulting with any person or stakeholder it deems appropriate prior to recommending that the Minister issue the Code.

### 2. Consultation

There is no one 'template' for how consultation should occur, e.g., face-to-face meetings, written submissions, or some other process. There is case law however which describes consultation:

"Consultation involves the statement of a proposal not yet fully decided upon, listening to what other have to say, considering their responses and then deciding what will be done." (Court of Appeal decision, Wellington Airport, 1992.) Consultation is not negotiation or consensus-seeking. The decision-maker is entitled to have a preferred option (and should say so) and is free to make the ultimate decision as they see fit.

The consultation however must be allowed sufficient time, and a genuine effort must be made according to the principles of natural justice. Consultation must involve meaningful discussion prior to any decision being made.

### 3. Process

In considering the process, i.e., the type and scale, for consultation, NAWAC will be guided by the potential impacts of the proposed changes being recommended. The design of the consultation will be proportional to the significance of the impacts. Noting that NAWAC's understanding of the impacts may develop and/or change during the process, and hence lead to amendments to the design.

When planning for the development of a Code of Welfare, NAWAC will:

- a) Identify the key stakeholders to be consulted prior to public notification and determine how consultation with them will occur.

- b) Consider any other interested parties that should be 'targeted' for consultation, and at what stage.
- c) Determine when, how, and the duration<sup>1</sup> of the submission process post-public notification.

Notwithstanding the above, NAWAC reserves the right to amend the consultation process should circumstances change; to improve the process; or if new information comes to hand. If changes are made, NAWAC will be open and transparent and will advise stakeholders of the reasons for the change.

NAWAC may choose to nominate a subgroup or individual of the Committee to undertake consultation and then report back to the whole committee.

#### **4. Principles**

- a) Proper consideration will be given to all submissions made.
- b) Those consulted have adequate time to provide their views.
- c) Any provisional view or recommendation is clearly communicated for comment.
- d) Enough information is provided for those consulted to make an informed decision.<sup>2</sup>
- e) If requested, further information will be provided if it is available.
- f) Stakeholders who are most impacted by the draft Code will, whenever possible, be given the opportunity for an oral hearing.
- g) Where the proposed decision changes after consultation, those stakeholders impacted will be advised of the change, and the rationale for change.
- h) Additional consultation with any stakeholders impacted by any revised decision will be considered.

This guideline was approved by NAWAC on 4 July 2024. This guideline is not a legal interpretation of the Animal Welfare Act 1999. It is anticipated that this guideline will be updated from time to time in light of experience gained by NAWAC during its deliberations.

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<sup>1</sup> The statutory minimum period for submission on the draft is 30 working days after public notification (s71(4)).

<sup>2</sup> This could include: the reasons for the proposed decision, the factors considered, and any material relied on.