

worksheets on participation 4

strategiegruppe
partizipation

dealing with statements in
public participation processes

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lebensministerium.at

The Strategic Group on Participation was set up in 2002 by ÖGUT on the initiative of the Austrian Ministry of the Environment; ÖGUT coordinates the Group.



Recommendations for statements in public participation processes

This worksheet is concerned with one way of taking part in public participation processes – the statement. It contains recommendations about when and how statements should be obtained and how they should be handled so as to make the greatest possible contribution to the success of the process. Obtaining statements is also known as consultation (from the Latin *consultatio* inquiry, asking for advice).

What is a statement and what is it for?

A statement is an expression of opinion by a person or a (special-interest) group on suggestions or results at various stages of a process.

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Function of
the statement

Citizens, interest groups and administrative entities affected can table their opinions, wishes and ideas by way of statements. From the statements submitted administrators, planners and applicants for project approval obtain feedback about blueprints or proposals. In this way statements make an important contribution to understanding differing interests and needs, and are an essential factor in reaching a balanced decision.

Formal processes are prescribed by statute; examples are

- > processes to approve projects or to prepare bills
- > regional planning processes to draw up land use plans
- > processes to draft regional development strategies or sectoral programs (e.g. transport plans)
- > strategic environmental assessment of plans and programs.

Informal processes are any not prescribed by statute, such as:

- > participation processes to develop policies, strategies or plans of action
- > local/regional development processes (e.g. Local Agenda 21 processes) or
- > processes to resolve conflicts, such as mediation processes or round tables.

Statements in formal and informal processes

Public participation via statements is possible both in formal and in informal processes.

In the case of **formal processes** the order of events and the right to make statements are governed by statutes which specify who has this right¹, deadlines and (as a rule) the form statements are to take.

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Formal participation
processes

But even in formal processes there is often a certain amount of leeway in structuring public participation, and this should be exploited as suggested below.

Informal processes can be structured freely, so the form of statement, the sequence of events in consultation and the range of potential participants can be chosen without restriction.

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Informal participation
processes

In the case of informal participation processes a wide variety of methods are commonly employed – depending on the type of process (e.g. open space conference, worldcafé, future conference, workshop etc. – cf. www.partizipation.at as regards methods). The participants can present their statements in many different ways, e.g. orally or in writing (on small cards, a flipchart etc.). As a rule statements play a different part in informal processes than they do in formal processes, since in many cases no particular point of view has been put down on paper for participants to comment on – instead, ideas are developed jointly. So in informal processes a statement is often an idea or suggestion, an opinion or point of view that can be tabled in a very straightforward way.

The following recommendations for dealing adequately with statements in public participation processes apply to consultation in both formal and informal processes. They cover the various aspects of a process involving statements, and are meant to help in making proper preparations and thus in carrying consultation to a successful conclusion.

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Recommendations for formal
and informal processes

A number of recommendations apply equally to formal and informal processes – the only difference is in the extent to which free structuring is possible. Regardless of the resulting overlap in content, the recommendations are listed separately for formal and informal processes, to allow for readers' specific interest in one or the other category and also to make the text easier to read.

¹ Both those directly involved in the process and persons with party status have this right, which brings further rights with it, e.g. the right to examine official files, to lodge a formal objection, to be heard and to appeal against decisions.

Consultation in formal processes

Formal processes are largely bound by administrative regulations. None the less they offer some scope for options to promote and assist public participation. In classical approval procedures such scope is relatively limited; at the level of strategic policy decisions and planning processes there is much greater scope.

Phase 1: preparing the consultation process

In advance of a consultation it is necessary to identify the legal requirements to be satisfied and to ascertain how much scope (if any) exists for structuring additional public participation.

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Preparing a consultation process

Aim of the consultation process

Before statements are requested, the administrative entity concerned should define the precise aim of the consultation, i.e. what it is meant to achieve. This aim should be communicated clearly to the participants: e.g. collecting suggestions to be taken into account in drafting a new land use plan.

Subject of the statement

Every statement needs a specific subject. The topics and issues on which a statement is requested should be clearly defined and intelligible.

It must be ensured that all the information and documents needed to base a statement on are available. If there are gaps in the documentation provided, it should be made clear to the recipients when and where the missing documents can be obtained or looked through (internet, department office etc.). It is a good idea to specify an information office for people with queries to contact.

Target group in consultation

In formal processes the target group is usually laid down by law (e.g. neighbours). Some of the participants may have party status (e.g. in approval procedures for certain projects). This status brings with it extensive rights of collaboration, including **the right to submit a formal statement**.

The invitation to submit a statement should include explanations of concepts with legal implications, such as “party status” and “formal objection”².

² In approval processes for projects or plans (e.g. in factory licensing and environmental audits) a neighbour forfeits his/her party status if he/she fails within the term specified to lodge a formal objection (a special form of statement in formal processes) to the project or plan awaiting approval. In this case making a statement is a precondition for enjoying extended rights of involvement in the process.

Apart from defining the target group, it is also important to consider how to reach the whole of this group. Provided that options are available, there is much to be said for combining several channels of information, e.g. announcements on an official notice-board and in newspapers, direct mailing, local TV and radio stations, the internet and posters.

Order of events, fixed dates and deadlines

The statute book provides for a variety of regulations concerning the order of events for consultations, for fixed dates and deadlines. In many cases nothing concrete is specified. A common general rule is simply that “adequate” time must be provided. In this case there are no restrictions on the deadline by which the statement must be submitted. Recipients of an invitation to submit a statement will take it more seriously if a sufficient length of time is available for participating. In the case of straightforward processes two to four weeks’ time may well be sufficient; in complicated processes six to twelve weeks are regarded as appropriate. In determining the fixed dates and deadlines due allowance should be made for holiday periods and public holidays³.

Form of statement

In formal processes both statements in writing (by letter, fax, e-mail etc.) and oral statements are normal. Oral statements should be taken down in writing.

Phase 2: carrying out the consultation process/invitation to submit a statement

The invitation to submit a statement should explain why statements are being requested, what rights persons submitting statements have and how the statements will be handled. This will make the consultation process much easier to understand, and people are thus more inclined to welcome it. In addition, this information improves the chance of people developing realistic expectations, and makes it easier for the participants to decide whether to submit a statement in the circumstances applying.

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Carrying out a
consultation process

³ In formal processes where more than 100 participants are expected (large-scale processes as per § 44a Abs. 3 AVG) giving notice is not permissible in the periods 15 July to 25 August and 24 December to 6 January.

What information should the invitation include?

- > Subject and aims of the consultation process
- > Background to and occasion for the consultation
- > List of all persons, entities and organizations invited to make a statement
- > Details of the available documents and of where further documents can be inspected or acquired
- > Deadline for submitting one's statement
- > Information on the form in which the statement is to be submitted, with what details and to which address
- > Name, phone number and E-Mail address of the person provided to deal with queries during the period for submitting statements
- > Details of when and where the statements made can be inspected
- > Details of the further procedure planned after the consultation phase

In formal processes the procedure for inviting statements is normally fixed by law (e.g. by public notice, by publication in a gazette / on the internet, by mail to households or to those with party status etc.). If the way to inform the target group that statements can be submitted is not expressly laid down by statute, or if the law permits alternatives (e.g. public notice or announcement in a newspaper), thought should be given beforehand to the question of how best to reach the respective target groups. The actual invitation should also make it clear which entities, organizations or persons are being invited to submit a statement.

Handling queries during the period for submitting statements

During this period a competent person should be available for people to address queries to.

Acknowledgement of receipt

Receipt of every single statement in writing should (as far as possible) be acknowledged within one week. Ideally an individual acknowledgement is sent to every single entity, organization and person that submits a statement, by the same method as employed for submission (electronically or on paper).

Statements in the course of oral proceedings

Where provision is made for oral proceedings, these serve to obtain statements and formal objections and to discuss these with the experts taking part. The practice of admitting interested persons lacking party status to oral proceedings, so that they can take part in the discussion (provided that the applicant agrees to this), has much to recommend it.

Dealing with and documenting the statements received

All statements received should be examined and checked, demonstrably and completely. In the case of suggestions that must be rejected, the reasons for rejection should be given objectively and comprehensibly, or discussed with those taking part.

To the extent that the legal provisions applying permit, the statements submitted should be made available to all participants (parties). In some cases this is standard practice (e.g. in land use planning).

It is a good idea to document the consultation process in the form of a summary; this makes it clear how the consultation process influenced the final decision.

Information about the final decision

Formal processes lead to a decision by an authority or a local council or provincial administration (e.g. decisions in approval procedures involving building regulations or laws concerning water and waterways; land use plan; waste management plan). Procedural rules lay down how the decision in question is to be communicated. If they leave any leeway, then all the participants should if possible be informed of the final decision – in the interest of transparency and service to the general public.

Consultation in informal processes

Informal processes can be structured freely, so statements in such processes vary considerably in form, tone and effect. They may be a reaction to a point of view expressed in writing or to a particular proposal, but are usually an idea, suggestion or opinion tabled orally or in writing in the course of a joint development process. The recommendations presented here for consultations in informal processes are thus general in nature and need to be made more specific in the context of the respective or methodological setting/process.

Phase 1: preparing the consultation process

Before consultation begins, matters of principle affecting the entire process should be resolved and basic rules laid down.

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Preparing a
consultation process

Aim of the consultation process

Within the organization requesting statements agreement should be reached on the actual aim of the process (e.g. gathering new ideas, achieving the necessary conditions for a new approach to be welcomed, boosting awareness of an issue, etc.) and on the consequences involved in obtaining statements.

Subject of the statement

Every statement must have to do with a specific issue or a clearly defined topic that statements are being requested for; the issue/topic should be clearly defined and intelligible. It must be ensured that all the information and documents needed to base a statement on are available. If there are gaps in the documentation provided, it should be made clear to the recipients when and where the missing documents can be obtained or looked through (internet, council offices etc.).

Target group in consultation

In delimiting the target groups care should be taken that as far as possible all stakeholders and interested citizens have the chance to make statements, and that the various different interests are represented in as balanced a way as possible.

Clear roles in process

Before consultation starts, the various roles in the process should be assigned. Who should the statements be addressed to, who deals with them, what responsibilities/obligations are involved, who takes which decisions?

Order of events, fixed dates and deadlines

The more opportunities there are to influence the course of events, the more seriously the recipients will take an invitation to submit a statement; so it makes sense to carry out consultation at the earliest possible stage in the process, before key strategic decisions are taken, and to open as many aspects of the subject as possible to consultation. The invitation to make a statement should therefore include a description of the entire process and identify the stage at which consultation takes place.

Obtaining, tabling and incorporating statements in the joint development process all take time. To ensure “fair play”, the deadline for submission must allow sufficient time, and enough time must be allowed for dealing with the statements received. How much time to provide for submission will depend on the scope and complexity of the suggestion, and may vary between a few days and several weeks. The order of events, the timeframe, key dates and deadlines in a participation process should be made known to all stakeholders and interested citizens right from the start.

Form of statement

In informal processes the choice of whether statements are to be made orally or in writing is open. Statements in informal processes are frequently made orally, for instance in a citizen panel, in a workshop or at a regular meeting (of the local council, a team etc.). To ensure transparency and avoid misunderstandings, oral statements should invariably be taken down in writing.

Phase 2: carrying out the consultation process

Giving notice of the consultation process

Any consultation process should be announced well in advance.

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Carrying out a
consultation process

Invitation to make statements

The invitation should make it clear why statements are being obtained and how they will be dealt with. This makes it much easier to understand the process, and thus helps in gaining support for it.

Statements can be invited in various different ways (e.g. by public notice, by publication in a gazette / on the internet, by placing on view, by mail to households or to stakeholders etc.). The best way of reaching the target

groups in question should be identified beforehand. It is also advisable to publish details of which organizations and/or persons are being invited to make statements.

Handling queries during the period for submitting statements

During this period a competent person should be available for people to address queries to.

Acknowledgement of receipt

Receipt of every single statement in writing should (as far as possible) be acknowledged within one week. Ideally an individual acknowledgement is sent to every single entity, organization and person that submits a statement, by the same method as employed for submission (electronically or on paper).

Transparency

To ensure a balanced flow of information and avoid misunderstandings and duplication of effort, it makes sense for all those interested to be able to inspect the statements made. Right from the start it should be made clear how the statements are to be documented and whether/how they will be made available. Where statements are made orally or by means of small cards, a flipchart etc. in the course of development processes, it is often impossible subsequently to identify the originator of whichever idea is then jointly pursued. One possible solution is to introduce “patent rights” in ideas, i.e. to note the originators of all statements made; persons whose ideas gain general acceptance are specially mentioned when the project is presented.

Dealing with and documenting the statements received

All the participants should be informed of who has made statements, how the statements read, which suggestions have been adopted in what way and which could not be adopted (with reasons). It is a good idea to document the consultation process in the form of a summary; this makes it clear how the consultation process influenced the final decision.

STRATEGIC GROUP ON PARTICIPATION

In 2002, on the initiative of the Ministry of the Environment, ÖGUT set up the Strategic Group on Participation, which is intended to

- > give the notion of „Participation“ clearer contours, develop it further and make it more widely known,
- > promote awareness of participation in the public eye and among decision-makers in politics, the administration and business,
- > work out participation strategies for policies relevant to the environment and sustainability,
- > contribute to sustainable development by promoting participation,
- > promote participation at communal, regional and national level,
- > make concrete “how to” guides available to people with practical interests.

The members of the Strategic Group on Participation are qualified experts on the subject with backgrounds in many different fields. The following experts were members of the group when this worksheet was drafted. For the status quo of membership please visit <http://www.partizipation.at/mitglieder.html>:

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The results of debate within the Strategic Group are summarized and published as “Worksheets on Participation” and aim at facilitating practitioners’ work.

- > The Worksheet No. 1 on Participation drawn up in the Strategic Group contains a checklist on preconditions for participation processes in the public sphere and a checklist on quality criteria for participation processes in the public sphere.
- > The Worksheet No. 2 on Participation presents an array of arguments in connexion with the question of what benefits participation provides for which groups of agents.
- > The Worksheet No. 3 on Participation deals with the limits of and possible obstacles to participation processes, and with the risk of such processes being misused.
- > No. 4 of the Worksheets on participation contains recommendations for dealing with statements in formal and informal participation processes.
- > Worksheet No. 5 is concerned with ways of reaching decisions in participation processes, and is meant to simplify the task of identifying the most suitable way in a particular case.

All products from the Strategic Group are available on the website www.partizipation.at.

Utilizing the worksheets is permitted and encouraged, provided that reference is made to the “authorship of the ÖGUT Strategic Group on Participation”. Responses and comments are welcome, and will be taken into account as revised versions are generated.

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