

4 protocols regarding consultation and negotiation

There are a lot of different views about what protocol is when dealing with Aboriginal peoples and communities. Protocol simply means following the customs and lores of the people or community you are working with and communicating in a way that is relevant to them.

Every community will have some common ground and similarities which needs to be acknowledged for future reference. However, the more important point is to remember to be aware of the differences and that each community has their own protocols that should be followed.

The impact of past government policies is vivid in the minds and lives of many Aboriginal people. Therefore, it is always important to remember that to a large proportion of Aboriginal people public servants are often perceived as representatives of a large, powerful, unfriendly and uncaring bureaucracy due to the historical factors discussed earlier and are often viewed negatively, no matter how informal or friendly they appear. The sooner this all too common perception by Aboriginal people can be countered the sounder the base will be to begin to build rapport and establish credibility.

In order for government programs to be tailored to meet community needs, there should be community ownership, and problems dealt with before they develop rather than putting out fires afterwards. Creative solutions can be developed with the government and community working in partnership.

• There may be legal, financial or policy restraints on government officers which will limit the range of what is negotiable and their own powers of delegation may be limited or a problem. If ministerial approval is required, for example, this needs to be made known to the Aboriginal people and community.
• Community representatives may also have limits on their negotiating power.

• Consultation and negotiation processes may proceed more smoothly with a facilitator or chairperson who is impartial and able to obtain the agreement of those participating in a meeting to some basic behavioural, procedural and substantive ground rules. Behavioural rules such as not interrupting, taking turns, not abusing other parties and respecting others views even if you disagree are basic but important rules to gain agreement on before starting.

• Procedural rules such as clarifying to the satisfaction of the meeting the roles of the facilitator or chairperson, the role of experts and sponsors, the presence and speaking rights of observers and the role of absent parties are important.

Substantive rules that need agreement before negotiations get underway relate to issues such as - what are *the givens, the non-negotiables*, what can the meeting discuss and decide, what is not negotiable, do all participants have the authority to negotiate, what use will be made of the outcomes, are discussions confidential, will participants agree not to withhold vital information, will participants commit to a mutually acceptable agreement they may make and will all agreements be seen as a package or can participants agree on certain points but have the right to hold back from a final agreement until all other matters are decided?

One crucial agreement partners need to agree on is who has permission to speak to any media organisations?

Where key groups have strongly held adversarial positions on a issue, mediation or facilitation will be useful. The Alternative Dispute Resolution Service of the Department of Attorney General and Justice provides either a direct service or training of staff from other government departments in negotiation, mediation, facilitation and general conflict resolution. This service has recruited and trained Aboriginal staff throughout the State.

It is also important, as part of the community profile, to be aware of community politics. That is, know or get to know through networking what issues are priorities and which people are the community power brokers associated with a particular issue.

The term “elders” does not always mean men or women over fifty or sixty years of age. A relatively young (30s to 40s) man or woman may be given the status of an elder because of their highly respected position in the community. They may possess specific skills and knowledge in an area which endorses their position of high esteem. The term “Community” applies to Deeds of Grant in Trust (DOGIT) Communities and small and large Aboriginal Communities in cities, suburbs of cities, country towns or on the fringes of cities and towns.

Confidentiality and privacy are major issues with Aboriginal communities. Use of information obtained should be negotiated. Information that is “women’s business” should be stored in such a way that only women have access to it and information that is “men’s business” stored in such a way that only men have access to it. Media releases or comments to media should only be made with the prior agreement of the community concerned.

Traditional decision making and discussion in Aboriginal societies involved maximum participation and representation because family responsibilities and authority go beyond the nuclear family unit. This may mean individuals (particularly elders), nuclear families, extended families, communities and community organisations may all need to be included in the processes of consultation and negotiation.

The need for maximum participation and representation is heightened by the diversity in lifestyles between Aboriginal groups, and between Aboriginal people and Torres Strait Islander peoples. In addition, consideration must be given to whether clients live in urban, rural or remote settings.

The practical steps to take in preparing for, and undertaking consultation and negotiation, will be discussed under the following headings for ease of discussion:

- Community visits: this covers talking with individual people, community groups, and formal community organisations.
- Community meetings: this covers formal meetings.

4.1 Community Visits

When planning a visit to a community or group consider the following points:

- Staff must have a clear understanding of their role and the purpose of the consultation.
- Who are the Aboriginal people you wish to consult?
- Whose business is it, according to local culture? Who are the appropriate people/ organisations to contact? What is the appropriate way to contact them?
- What positions do the people hold?
- Are they a part of the formal elected

representatives (Council), or another community group, or individual?

- What is the relationship between those you wish to consult and other members of the community (eg the Community Council, or community elders)?
- Are all the major leadership groups going to be represented or consulted (eg Councillor, Elders, or Church leaders).
- Do you know the nature and origin of the issue or problem - is there a history or background to why you need to consult/ negotiate?
- Try to second and third guess possible questions or contentious issues beforehand, and work through possible solutions or options for handling those issues;
- Does the topic cover one or more agencies' jurisdiction (eg is ATSIC Regional Council involved, or another government department)?
- If other agencies are involved ensure that they are aware of any visit and what you will be consulting on. Perhaps a representative from that agency might wish to attend the meeting as well;
- What information can you share as a part of the consultation process?
- Remember those being consulted may not

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have the same background information as you, so prepare beforehand the information needed to make the consultation valuable and productive to both sides.

- Be prepared to concede or give ground in the consultation/negotiation process. Think through, prior to the visit, what potential barriers to specific strategies might be, so that these can be shared in the negotiation process (eg fixed budgets, government policy, practical environmental matters, legislative constraints and potential areas of conflict with other groups).

Remember cultural responses to time concepts are different and sometimes more value is placed on other priorities. So an “in by 9 out by 5” process is rarely possible. Therefore, have a flexible timetable, because arrangements could be changed completely with little or no notice due to a range of community issues you may not be aware of and have no control over (e.g. “Sorry business” a death; a funeral; a mourning period).

When visiting a DOGIT or Shire community, prior to organising travel arrangements seek permission from the Council to visit the community. However, in urban situations the process is more likely to be:

- Inviting the President and/or Administrators of key organisations relevant to the consultation issues (eg Aboriginal & Islander Community Health Services - AICHS; Elders; Councils etc) to a central meeting place; and/or

- Requesting a meeting at their organisation to discuss the key issues relevant to specific organisations.

This should be done initially by telephone.

Explain the following when discussing the visits:

- Expected arrival date - for remote communities visits should be at the Council’s convenience. If meeting with the Council itself it would be preferable to arrange the visit to coincide with the Councils normal monthly meeting. Councils have considerable demands upon their time, particularly from outside agencies wanting time. Consideration of this fact will greatly enhance the relationship with Councillors;
- Expected departure date;
- How long you will be needing to talk; depending on the issues - it may require a series of visits over a period of time;
- Where you will be staying (finding accommodation is not always easy);
- Why you need to visit;
- Who else you might like to talk to while in the community, or at the organisation you are visiting;
- Who is travelling with you;
- Ask permission to advertise your visit (if appropriate);

- Advise any Department of Aboriginal and Torres Strait Islander Policy and Development and Aboriginal and Torres Strait Islander Commission or other relevant Regional or Area Office of your visit; and
- Confirm all of the above in writing.

Establishing a common purpose

There are powerful images of past paternalistic and harsh treatment and attitudes associated with the Department of Families, Youth and Community Care and the government generally. With this being the case, it is important for you to consider Aboriginal business as being the most important in any discussion. Important because of real and perceived “hurdles” coming out of past dealings.

You may need to emphasise the common purpose or interests between Aboriginal people and yourself and that you are not out to hinder or interfere, but to assist. It is important to emphasise this attitude and you can do this by:

- Respecting the ways the community has for organising discussions and formal meetings;
- Demonstrating to the community an interest in their way of seeing the world, and accepting their culture;
- Respecting the political structures in the community;
- Demonstrating that you understand and are sensitive to the different communication styles used, particularly the use of non-verbal communication;

- Show that you are patient, as consultation and negotiation in an Aboriginal manner takes much longer than in the non-Aboriginal world;
- Demonstrate that you have their interests at heart, by listening, and then repeating to them the outcomes of the consultation/ negotiation process for them to acknowledge that you got it right; and
- Ensure confidentiality if requested. Ensure it only if you have the delegation to do so. For example, some officers may work in a law enforcement/judicial capacity and it may be mandatory under an Act to disclose information to a relevant authority to investigate any serious allegations that may arise from consultation/negotiation meetings.

Overall, if a sense of identity, commitment and honesty is not achieved then the community may not continue discussions, or do so out of courtesy but with no real interest.

Language

Some important points to remember!

- Don’t assume that your meaning will be clear to everyone you talk to. People may not understand you because:
- They don’t understand the words you use. Ensure jargon or technical words are minimised and if used they should be fully explained;
- They have different meanings for the words

you use. Check that you understand their meaning and they understand what you are saying. Don't use common language words because they may not mean the same thing to the people you are talking to (e.g. bunji can mean friend or fiancée depending whether you are speaking to Murrie's or Nyoongah's);

- You may speak too quickly. For each community you visit and consult with, identify how to speak at a rate they can understand. The level of English understood will vary from community to community; individual to individual; and
- Use your own style of speech. Do not mimic Aboriginal patterns of talk, speech or accents.

If English is not their first language:

- When you facilitate meetings, workshops or training sessions, be aware that there may be a need for an interpreter which will assist the process; and
- Consult with the interpreter and the relevant community interest groups before devising the agenda;

If you are learning a local language remember:

- Aboriginal communities welcome attempts to understand their language. Even if you learn a few words you will get on better;

- Learning a language is a form of identification. However, ensure it doesn't identify you too closely with one community and exclude you from another; and
- Use any language you learn only where it belongs (e.g. the home community). External use could see the language misinterpreted and it may also be inappropriate.

Communication Generally

Try to be open, honest, and sincere. Always go into a community and a discussion with an open mind. Never be boastful about your ideas. In many situations Aboriginal people will use others to put their ideas forward. You may be expected to do the same.

Off - duty relaxation with Aboriginal people can help in the development of relationships which make work easier. Remote communities are likely to frown on mixing with the opposite gender outside work hours. Mixed groups are not a problem, but it is to be frowned on to join a group of the opposite gender rather than a group of your own gender.

Indirect Communication

In the exchange of information, a natural part of Aboriginal communication patterns is the less direct approach. Aboriginal people tend to find the direct non-Aboriginal style of communication confrontational and maybe even rude.

Leading Questions

Avoid leading questions. In many interactions Aboriginal people may not express a firm opinion, even though they may hold one. They may discuss a topic generally while gauging others views, before stating their own. If Aboriginal people find their views on a topic at odds with others they often will tend to understate their own. In minimising confrontation and argument, the speaker leaves open the possibility for further comfortable discussion.

Important aspects of Aboriginal communication relate to non-verbal exchange of information. Three key styles of non-verbal communication are:

- the positive, non-awkward use of silence which must not be interpreted as “they do not understand” (e.g People are remaining non-committal; waiting for consensus; community support; listening.)
- often considerable time delays (frequently several days) between the initiation of information and the imparting of such information; and
- use of indirect eye contact which implies respect in Aboriginal culture but disrespect and possibly a “shifty” type of person in non-Aboriginal cultures. However, the advisability of using direct eye contact differs from community to community and individual to individual. The applicability of this protocol will need to be determined in particular cases. For instance in some

communities, direct eye contact may be expected and accepted because you are government employees.

The Intrusive “why?”

One of the most striking features of language used by Aboriginal people is the virtual absence of the reason seeking question “why?”.

However, this may occur more in remote areas rather than in urban situations. Non-verbal actions, such as observation, are important for finding out reasons for the actions of others.

When communicating with Aboriginal people, ensure you as the listener infer links between statements.

Go-betweeners or Mediators

The consultative process chosen in any location will reflect the particular cultural context and will, itself, be decided upon in consultation with the Aboriginal community. The role of both formal and informal representatives of the Aboriginal communities must be recognised.

An option sometimes used by agencies is consultants and/or independent mediators. Normally, an Aboriginal individual or organisational consultancy may be available. However, this process, and more importantly, the successful consultant (whether Aboriginal or not) will be most effective if the endorsement of the community is obtained.

At some time you will have to use a go-between. This is if:

- You are relatively unknown by the community;
- You are unsure of the language; and
- You are unsure of the customs of the community.

Sometimes a client or community will send a go-between to see you on their behalf. This can be a very sensitive situation and can indicate a number of things - including:

- The person or community have sent someone to see you so that they can avoid embarrassment or disagreement or refusal; and
- The business that the go-between is sent to discuss is so sensitive that the Aboriginal client cannot discuss it.

Families who have suffered where a family member has died in custody will often use go-betweens to discuss matters relating to this situation.

When using a go-between with the client present, it is ideal if you can have at least a basic understanding of the conversation between the go-between and the client.

Where possible have a number of go-betweens you can use regularly. They will get a better understanding of you and what your words mean as they become familiar with you.

• When a client suggests a go-between they want to use then it is usually wise to stick with the client's choice.

• Regional staff of the Department of Aboriginal and Torres Strait Islander Policy and Development may be available to accompany you on a community visit.

Deciding who to speak to

• If you are new to a community, it will be vital that you approach the leaders of the community before seeking out anyone else.

• Leaders will give you authority in the community.

• You will need to avoid becoming dependent on those people who are easiest to communicate with.

• Avoid dependence on those who seem too ready to reject old ways and accept the new. These people are rarely the leaders.

• The powerful people in the community will generally:

- Not reveal their opinion until they have seen what the position of others are;
- Make a final speech stating what they are prepared to accept and when appropriate make a call for action;
- Remain silent if they think their views are unlikely to be accepted. Their silence will be noted by others in the community;

- Remain silent if they don't like an idea; and
- There are exceptions to every rule and you may find that in fact, some powerful people in the community will challenge you immediately and expect immediate responses to their requests.

Women in some communities have become vocal and visibly important people in the political structure of the community. They will tend to be open with either a male or a female.

However male staff will need to remember that it can be very embarrassing to ask questions that are strictly women's business (eg child birth and child rearing issues). He may need a go-between or have a female Departmental representative consult instead.

Female staff will need to be careful of the reverse situation and avoid embarrassing men in the community by asking questions on sensitive issues such as family violence.

Approaching people

If you are new, and therefore a stranger to the community, then you need to:

- Work towards building relationships and don't expect people to accept you straight away (if ever!);
- Be open minded and flexible in your practice; and

- Observe courtesies when visiting someone's house:

- Wait at the fence or front door; and
- The people inside will decide who should go and see you and whether to invite you in.

Be careful where you walk when you are on DOGIT communities. It is safer to stick to the roads. Community people may take shortcuts but people would be offended if you did unless you are with them and they take you.

Getting down to business

When visiting or talking to someone, you need to decide when it is appropriate to talk about the purpose of the visit or discussion.

Sometimes matters of importance cannot be approached too quickly or directly.

Proceed at the pace set by the client, and check that the message you wish to give or the one you receive is understood, both by yourself, and by the client. Try to relate the business to practical realities that the client can relate to, such as community landmarks, happenings, or people.

People will relate to what you do, more than what you say or who you are. Therefore be down-to-earth, honest (never promise something that you know might be difficult to deliver), and relate to actual, practical things.

Identifying needs in the community

Community profiles are one way of documenting the needs of a community. They should be dynamic, active documents, built over time. These profiles could be developed with the assistance of community members, but only after you have been accepted by that community, and only after getting the permission to do so by the leadership of the community. It is not good protocol to develop a profile of a community without involving them in it, for it may be open to dispute, and lose its credibility.

When identifying the needs of a community, you need to take a lot of care with the methods you use.

You need to:

- Pay attention to the needs that the community leaders identify as important;
- Accept the solutions that a group or community have in mind and not propose bigger, better and grander solutions; and
- Accept that there are biases in the way you carry out your enquiries, and also in the way that clients interpret information. These biases shape the value they put on things they are told and what they'll consider as reasonable.

You will need also to make sure that your attention is not given solely towards:

- A single issue/topic as often there are other related community concerns.
- Meeting people who are better off and more powerful;
- Meeting men, rather than a mixture of men and women (unless it's strictly men's business);
- Meeting women, rather than a mixture of men and women; (unless it's strictly women's business)
- Meeting only users of services rather than non-users as well; and
- Seeing exclusively whatever is modern as good, rather than taking account of and incorporating traditional values.

Leave taking

It is expected that you will excuse yourself from a group and let them know where you are going and why, rather than leaving without explanation.