



Swale Borough Council

Councillors' guide to consultations

Introduction:

This guidance is designed for Swale Borough Council (SBC) councillors to have an understanding of how and when consultations are carried out as part of developing Council services, activities, policies or strategies.

Reasons for carrying out Consultations

The Council has a statutory duty to consult the public on a range of issues. However, having a statutory duty to consult is not the only reason for doing so. The Local Government Association state that there are a range of other non-statutory reasons councils might want to run a consultation exercise which include:

- to improve planning, policy and decision making
- to make better use of resources
- to access new information, ideas and suggestions
- to encourage greater participation in the activities of the council
- to govern by consent (a full and fair consultation, with careful consideration of all views, can strengthen the legitimacy of the prevailing view among those people not in favour of the final decision)
- to measure residents' satisfaction with the council
- to shape council activities around residents' needs and aspirations

The Gunning principles

To be both lawful and worthwhile, consultations have to follow a number of principles set down in case law (known as the Gunning Principles):

1. Proposals are still at a formative stage

A final decision has not yet been made, or predetermined, by the decision makers.

2. There is sufficient information to give 'intelligent consideration'

The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.

3. There is adequate time for consideration and response

There must be sufficient opportunity for consultees to participate in the consultation. There is no set timeframe for consultation, despite the widely accepted twelve-week consultation period, as the length of time given for consultee to respond can vary depending on the subject and extent of impact of the consultation.

4. 'conscientious consideration' must be given to the consultation responses before a decision is made

Decision-makers should be able to provide evidence that they took consultation responses into account.

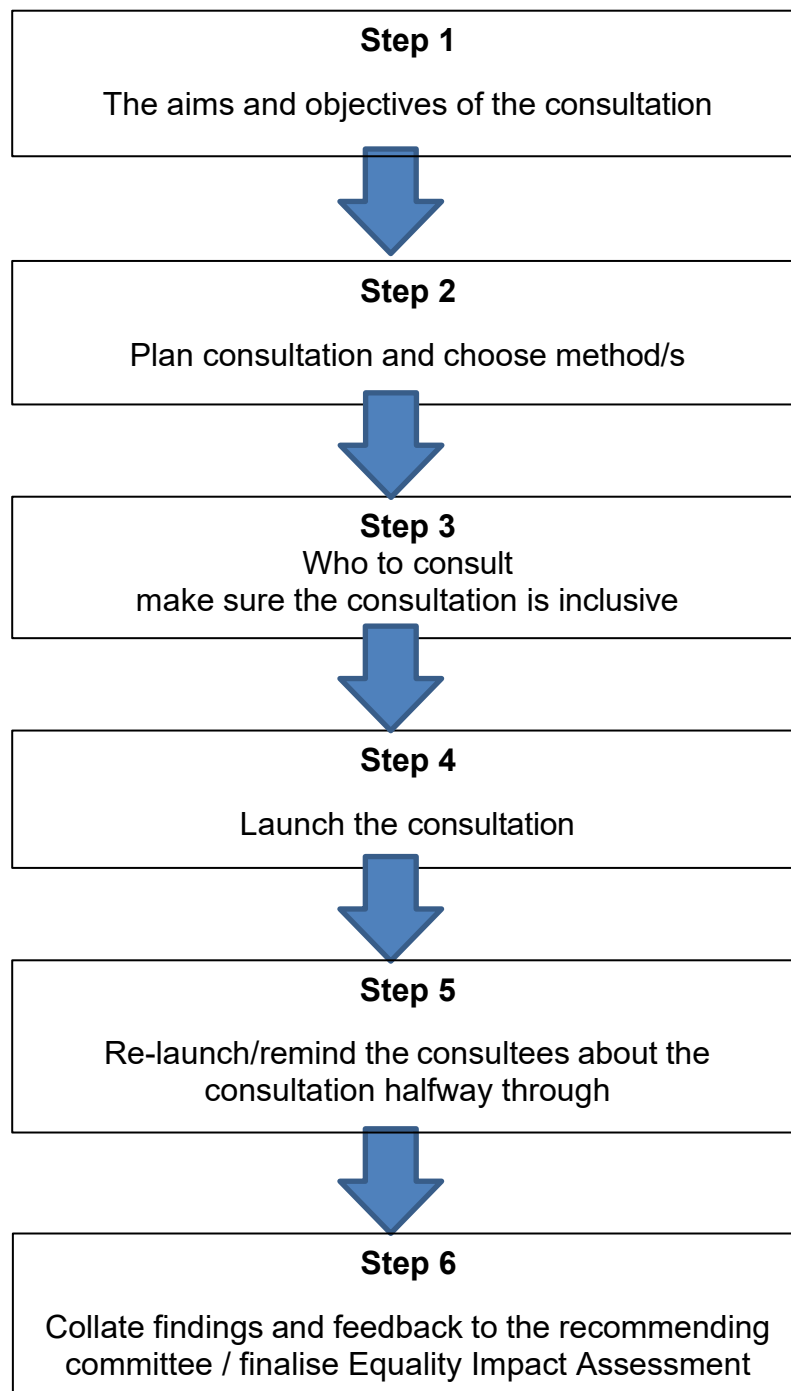
Failing to follow these principles can lead to challenge, including judicial review - which is costly, reputationally damaging and can significantly delay progress.

The SBC Public Consultation Policy Statement recommends that public consultations should take place for a minimum period of 6 weeks but preferably 8 weeks. Exceptions to this would be where there is specific legislation stating a different consultation period or where there are exceptional circumstances where this may not be practically possible.

For the annual budget consultation, SBC consult with the public on draft budget proposals at the earliest opportunity. Any changes to service delivery, as a result of budget proposals, are consulted on at a formative stage.

The consultation process

When carrying out a consultation, officers follow the following process:



Step 1 - The aims and objectives of your consultation

Before undertaking any consultation, officers/councillors need to establish why it is being undertaken and what information needs to be gathered. Also, thought should be given about what will be done with the outcomes and what decisions will be influenced. Consultation with the public raises expectations so the people participating need to understand how the results will be used.

Step 2 - Plan consultation and choose method/s

The next stage should be the writing of a plan to identify what methods will be used during the consultation. The following should be considered when planning a consultation:

- What the project proposals are, who may be affected, what questions are being asked and the timescale for responses;
- the timing of the consultation, avoiding the pre-election period, and taking into account the time of year for example public holidays and dates of area committees if they are to be used as one of the consultation methods;
- the UK GDPR and the Data Protection Act 2018 sets out how information must be processed if information collected for the consultation includes personal data;
- ensure the consultation is clear, concise and widely accessible using plain English; and
- the chosen method of consultation in comparison with the individuals being consulted with. This may include the provision of hard copies of the consultation documents for individuals who may not have internet access.

Step 3 - who to consult

the following categories should be considered when identifying which stakeholders should be consulted:

- Service users (*those who pay directly for a service or those who pay indirectly through Council Tax*);
- Specific non-users (*people who are unaware of the service or people who might need the service at a later date*);
- Other customers (*internal customers, eg staff, partner organisations or elected members*);
- Interested parties (*residents/local people, interested agencies – voluntary, private, public sector, Parish/Town Councils, MPs, local businesses, etc*); and
- Individuals with protected characteristics that must be consulted with under the Equality Act 2010.

Step 4 - launch consultation

Officers will make sure that the consultation webpage launch and any emails/letters are sent on the first day of the public consultation with the deadline clearly stated. This allows the longest time possible for responses and for officers to publicise the consultation. If the correct amount of time is not allowed, the final strategy or policy may be subject to a judicial review if an individual feels that they have been excluded from the process.

Step 5 - re-launch half-way through consultation

It is always useful to re-launch about half-way through the process so that partners and the community are encouraged to respond to the consultation as soon as possible. Statistically, it has been shown that most members of the public will complete a survey as soon as it arrives or not at all. Sending a gentle reminder ensures that at least some of those that put off responding to another time are prompted again.

Step 6 - collate findings and finalise Equality Impact Assessment (EqIA)

After the closing date of the consultation, the findings are collated decisions made whether the comments or points raised warrant changes to the strategy or policy. All decisions made should be backed up with sound evidence.

Officers will finalise the Equality Impact Assessment, it may at this point become apparent after the process that a significant group is seriously under-represented, in which case it may be worth re-launching the consultation with a more targeted approach towards individuals who possess these protected characteristics.

Conclusion of consultation process:

Councillors have a responsibility to take the results of a consultation into account when making a formal decision. It is not a referendum so councillors are not bound by the results but do need them to inform their decision.

Where a consultation has taken place, officers will include the full results in committee papers for councillors to consider.