

Swale Borough Council

Policy Statement for carrying out public consultations

Introduction:

The purpose of the Consultation Policy Statement is to provide corporate guidance about how and when consultations are carried out as part of developing Council services, activities, policies or strategies.

Engagement is a priority in the Corporate Plan 2023-2027 [Corporate Plan 2023 to 2027](#) under Communities: *“To ensure active and effective engagement mechanisms are in place so that all residents and communities have the opportunity to engage with the Council.”*

Both engagement and formal consultation are important mechanisms used by the Council, however, there is a difference between the two. The definitions are:

Public consultation is a focused, formal process of seeking public opinion on specific proposals or decisions to directly inform those decisions. It's a time-limited activity with defined rules and legal requirements.

Public engagement is a broader, ongoing process of building relationships and sharing information to foster understanding and collaboration. It's not always linked to a specific decision but aims to create a continuous dialogue and improve overall relationships.

This policy statement focuses on formal consultation.

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.

Timescales for formal public consultation:

Following the introduction of the Committee system in 2022, the Council reviewed the timescales for carrying out public consultations. It was felt that 8 to 12 weeks was no longer practical as it does not fit in with the service committee cycle.

Swale Borough Council, therefore, recommends that ***its 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, or where the relevant committee votes to extend it.***

Process for carrying out public consultations:

Council officers should refer to the Consultation Toolkit when carrying out public consultations to ensure they follow the process recommended by the Council.

There are guidance notes for councillors providing information on how and when consultations are carried out as part of developing council services, activities, policies or strategies.