

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	6 February 2015
Title:	Consultation Policy
Reference:	6094
Report From:	Chief Executive

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1. Executive Summary

- 1.1. This report recommends a new County Council policy to Cabinet which establishes the principles for carrying out consultations.
- 1.2. In October 2013, the Policy and Resources Select Committee established a Member Working Group on consultations, with a remit to develop and update a draft policy. The draft policy was discussed by the Select Committee in July 2014, where it was decided that the policy should be recommended to Cabinet. Should the draft consultation policy at *appendix one* be approved by Cabinet, it would enter onto the County Council's corporate governance framework.
- 1.3. A programme of support for staff has been agreed between officers and the Select Committee which includes guidance and internal communications. The Select Committee have also resolved that should the policy be approved by Cabinet, it will be reviewed by the Select Committee after one year of operation.

2. Contextual information

- 2.1. The Policy and Resources Select Committee has had a long-standing interest in how the County Council has consulted over the past few years, receiving

briefings throughout 2012-2013. The Select Committee is aware that it was becoming more common for local authorities to be challenged on the basis that the consultation activity related to that service was flawed. The Select Committee thought that it was therefore important that the existing good practice of the County Council in this area should be codified. In October 2013, Members decided to form a Working Group, for which Cllr McIntosh, Cllr Staplehurst and Cllr Wheale volunteered, to help develop a policy and update any existing consultation guidance for staff. Members of the Select Committee also requested that the Working Group explore whether basic principles or standards of consultation should become enshrined in corporate policy as part of the corporate governance framework.

- 2.2. The Member Working Group presented its draft policy to the Select Committee in July for consideration. Members agreed with the proposal to establish consultation as a key policy for the Council, and that timely and effective consultation are key to good decision-making within the Council. On this basis, the Select Committee decided to proceed to recommend the draft policy to Cabinet.

3. Governance considerations

- 3.1. The County Council has committed in its Code of Corporate Governance that it should: *“Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result.”* The Select Committee therefore supports the intention that the consultation policy should be adopted as part of the corporate governance framework in accordance with this commitment.
- 3.2. Recent case law has brought the need for consultation in to sharper focus. In October 2014, the Supreme Court made its first judgement on local authority consultation, ruling that the London Borough of Haringey’s consultation with residents on Council Tax Benefit was unlawful. The judgement confirmed four key principles of consultation, all of which Members had already reflected in the draft policy. The judgement also confirmed that how specific the nature of the consultation needs to be will depend on who is being consulted, and whether the proposal affects those in receipt of an existing benefit. Sometimes fairness requires that where there are other arguable yet disregarded options, these may need to be referred to.
- 3.3. Legal Services and the Governance Team have provided helpful input into the wording of the policy. During this time, the Government’s Cabinet Office has revised its approach to [consultations](#), producing new guidance for civil servants; this has been a useful reference during the preparation of this policy.

4. Consultation policy

- 4.1. The draft consultation policy at *appendix one* contains five principles for consultation which support the consistency of practice across the Council:
 - a) We will consult on key issues and proposals

- b) We will consult in good time
- c) We will be inclusive but within clear and appropriate limits
- d) We will consult using clear, simple information
- e) We will ensure responses are taken into account when decisions are made.

4.2. These five consultation principles are intentionally broad and cover a range of consultation scenarios. The standardisation of these principles and guidance across all departments offers benefits to both Members and officers, setting expectations about how the Council should manage consultation processes.

4.3. Members recognised that the need for greater awareness of the importance of consultation in decision-making needs to be balanced against the pace of change in the Council's transformation, necessitated by the challenging financial climate. The draft policy therefore retains sufficient flexibility, discretion and proportionality, allowing for large variances in consultations of different scales and purposes, and recognises the time constraints, urgent issues, and the reality of the financial context within which decision-makers make difficult decisions which by their nature can be both planned or unplanned.

4.4. Guidance for staff has also been developed so that officers may be clear about the necessary considerations when planning a consultation exercise. Should the draft policy be adopted by the Council, this guidance will be published and accompanied by a programme of support which includes: internal communications, a workshop, lunchtime learning opportunities and updated information published on Hantsnet (the Council's intranet). The Research and Intelligence Team in the Economy, Transport and Environment Department will continue to provide advice to officers undertaking consultations.

4.5. Should the draft policy be adopted, the Select Committee resolved that it should be reviewed after one year of operation in order to assess the impact of the policy, and to check for any amendments which may be required.

5. Consultation and equality considerations

5.1. As a prospective policy of the County Council, a designated Equality Impact Assessment or further community consultation about the policy itself is not considered to be required. However, the adoption of this policy should enhance the ways in which consultations are managed by the County Council. Equality considerations, in line with the County Council's corporate equality objectives and statutory obligations, are a key feature of both the draft consultation policy and staff guidance.

6. Recommendations

6.1. That Cabinet approve the consultation policy given at *appendix one*.

Appendix one

Hampshire County Council consultations policy

Our consultation principles

In Hampshire, residents' views on the services provided by the Council are represented through locally elected Councillors, and decisions are made by Executive (Cabinet) Members, in accordance with the Council's Constitution.

In the current public spending climate the Council faces extremely difficult decisions about the future of the services it provides, which must be taken with the widest public interest in mind. Before making these decisions it is important for the Council to seek information and views from the public.

The Council therefore undertakes consultations so that people who live and work in Hampshire have a say in the Council's decision-making processes and know that their views have been taken into account. Consultation is a process of dialogue with residents and stakeholders, which usually has a defined start and end date, and informs a decision about a proposal, policy, or service change.

The Council will give due consideration to the views expressed in responses to consultations, but these views must be weighed against other relevant considerations in order to reach a balanced decision. This means that the Council cannot necessarily commit to following the wishes expressed in response to a consultation.

While we do not undertake to hold a public consultation on all aspects of our work, we are committed to consulting on a proportionate and practical basis as appropriate for the potential impacts of proposed decisions. To help us get this right, we have adopted five consultation principles to inform when and how we will consult.

1. We will consult on key issues and proposals

Where it is proportionate to do so, we will consult on significant decisions, which meet one or more of the general criteria below (please note this list is not exhaustive):

- Decisions which are likely to have an impact of significance on a particular group of service users, residents or businesses, for example near a specific location
- There is or is likely to be widespread public interest
- We are required by law to conduct a prescribed form of public consultation or engagement.

2. We will consult in good time

In order to consult residents and interested parties in good time, we will:

- Consult (where practically possible) early in the policy development or decision-making process at a time when proposals are still at a formative stage
- Set a timeframe which is realistic and proportionate and allows enough time for consideration and response. This will be decided on a case-by-case basis, depending on the nature and impact of the proposal. Please note that in some cases consultation would not be appropriate or would have to be conducted in a

condensed timeframe, for example in an emergency, when we would need to act quickly to respond to circumstances outside of the Council's control

- Be clear about the overall timetable for the decision-making process
- Give sufficient notice by publishing information on our website when and by whom key decisions are being made (see our [Notice of Key Decisions](#) and our schedules for [shaping services for the future](#))
- Take into consideration any impact that holiday periods may have on the proposed consultation
- Take into consideration any impact that national and local election periods may have on the proposed consultation
- Be clear that only responses received within given timescales will be taken into consideration.

3. We will be inclusive but within clear and appropriate limits

Hampshire residents and communities have different needs and views. We aim to ensure that everyone who wishes to have a say can do so. The form of the consultation will be proportionate and will depend on the issues under consideration, the scale of change and any required legal processes. In order to provide as good a service as possible, we will:

- Use a range of channels or ways to enable residents and stakeholders to be involved and provide feedback during a consultation period, for example: through our website, online surveys, and paper formats which are made available through a range of public venues across the county, e.g. Libraries and Discovery Centres
- Invite interested stakeholders to take part. This may involve consultation with individuals, a group or groups, or the public as a whole, depending on the nature of the proposed decision
- Avoid potential discrimination, including providing information in alternative formats upon request
- Not publish any personal information without expressed consent.

4. We will consult using clear, simple information

We will seek to publicise information which is clear and simple. We will:

- Provide sufficient information about the proposals and where appropriate their alternatives to allow residents to make an informed response
- Communicate in plain English and avoid jargon and acronyms
- Be clear about the purpose of the consultation, including the aspects of the decision which are open to change, and the decisions which have already been taken
- Be clear about the questions being asked but leave an opportunity for further comment where appropriate.

5. We will ensure responses are taken into account when decisions are made

In making a decision we will take into account the views expressed as part of a consultation, weighing those views alongside other relevant considerations, including

operational, financial, policy and legal considerations. Where it is practical, we will publish information about the findings of consultations and how the decision was influenced by those findings. In these cases we will:

- Publish on our website, in good time after the consultation has closed, the number of responses received and summary information on the views collected. This may be as part of an Executive Member decision-making report
- Publish clear information about the decision once it has been made on our website www.hants.gov.uk/councilmeetings.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	Yes
Maximising well-being:	Yes
Enhancing our quality of place:	Yes

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Policy and Resources Select Committee: Consultation Working Group Outcome (http://www3.hants.gov.uk/councilmeetings/advse/archmeetings/meetingsitemsummary.htm?pref=Y&tab=1&item_ID=6009&cancel=n)	6009	24 July 2014
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	
None.		

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities statement:

As a prospective policy of the County Council, a designated Equality Impact Assessment or further community consultation about the policy is not required. However, the adoption of this policy should enhance the ways in which consultations are managed by the County Council. Equality considerations, in line with the County Council's corporate equality objectives and statutory obligations, are a key feature of both the consultation policy and staff guidance.

2. Impact on Crime and Disorder:

2.1. None.

3. Climate Change:

a) How does what is being proposed impact on our carbon footprint / energy consumption?

No impact.

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

No impact.