

# Southampton City Council Strategy and Performance Consultation Policy

# Southampton City Council

## Strategy and Performance Consultation Policy

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Consultation Policy			
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## Purpose

1. This policy aims to clearly set out Southampton City Council's (the Council's) key commitments and principles when undertaking public consultations.
2. The Council undertakes consultations:
  - 2.1. to ensure that people who live and work in Southampton and those affected by our decisions have the opportunity to influence and contribute to the Council's decision-making process;
  - 2.2. to gather new ideas, suggestions, and information;
  - 2.3. to make sure that our time, resources, and skills are shaped around addressing the needs and aspirations of our residents;
  - 2.4. to improve transparency and accountability for the decisions we make.

## Definitions

3. Consultation: The dynamic process of dialogue between individuals or groups, based upon a genuine exchange of views with the objective of influencing decisions, policies or programmes of action ([LGA guide to engagement](#)).
4. Engagement (insight, research, perceptions): A dialogue with an individual or group to help understand experiences behaviours, opinions and act on the needs or issues that the individual community experiences.
5. Judicial review: A judicial review enables the public to challenge a local council's use of its administrative powers. Where there is a claim against a decision in the public realm, a case may be heard by the courts. For judicial review challenges relating to consultation, the Gunning Principles, outlined below, are used as a guide to determine whether a public consultation has been carried out lawfully.

## Scope

6. This policy applies to all services within the Council and partners and commissioned services undertaking a public consultation on behalf of Southampton City Council.
7. Therefore, all staff, including partners' and commissioned services staff, must adhere to these commitments and principles and ensure that best practice is carried out.

## Legislative context and other related documents

8. [New Conversations LGA guide to engagement](#) emphasises that local authorities must consult when there is a legal requirement to do so, when the authority has promised to do so, and when the legal rights of particular groups are affected. The duty to consult may also arise on the basis of past practice or where failure to do so may be deemed to be ‘conspicuously unfair’.
9. Under the [Revised best value statutory guidance](#), local authorities have a Duty to Consult previously stated in [Section 3\(2\) of the Local Government Act 1999](#). In fulfilling its best value obligation, Local Authorities must consult representatives of a wide range of local persons. They must consult “representatives of council taxpayers, those who use or are likely to use services provided by the authority, and those appearing to the authority to have an interest in any area within which the authority carries out functions. Authorities should include local voluntary and community organisations and businesses in such consultation. This should apply at all stages of the commissioning cycle, including when considering the decommissioning of services. In the interests of economy and efficiency, it is not necessary for authorities to undertake lifestyle or diversity questionnaires of suppliers or residents.”
10. The [Gunning Principles](#) are four principles which form a strong legal foundation for which the legitimacy of public consultations are assessed. A consultation is only legitimate when these four principles are met. They are referred to as a legal basis for judicial review decisions. The Gunning Principles state that consultation must be:
  - 10.1. **When proposals are still at a formative stage.** A final decision has not yet been made, or predetermined, by the decision-makers.
  - 10.2. **Where 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.
  - 10.3. **When 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, as the length of time given for the consultee to respond can vary depending on the subject and extent of the impact of the consultation.
  - 10.4. **‘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.
11. Statutory consultation arises in certain instances and will dictate how consultation is conducted and for how long. For instance, under [Section 105 of the Housing Act 1985](#), the Local Housing Authority has legal obligations for consulting with secure tenants on “matters of housing management”. Secure tenants include flexible and demoted tenants. There are similar obligations under [Section 137 of the Housing Act 1996](#) for consulting with Introductory Tenants. The Council remains committed to its [Statement of Arrangements](#) for consulting with secure and introductory tenants pursuant to Section 105 of the Housing Act 1985 and Section 137 of the Housing Act 1996.
12. Under the [Equality Act 2010](#), the local authority has a duty to promote equality and protect people from discrimination. The Council has a duty to consider and listen to the needs of all sectors of the community when making decisions. The Council outlines the impact changes may

have on residents and how to mitigate negative impacts in the Equality and Social Impact Assessments (ESIA).

13. During the period before elections or referendums, specific restrictions on communications and publications are placed on local authorities. The Council must ensure that all publicity complies with the statutory provisions, including the [Code of Recommended Practice on Local Authority Publicity 2011](#). These restrictions prohibit local authorities from issuing publicity which may influence voters. The Council must comply with relevant laws such as [Section 2 Local Government Act 1986](#). This law states that local authority should not publish any material which appears to be designed to affect public support for a political party. The Council will make sure that consultations are launched in compliance with pre-election period laws.
14. [HM Government's Code of Practice](#) outlines the Government's general policy on how they will run a formal written and public consultation exercise. The Code does not have legal force and cannot prevail over statutory or mandatory requirements. However, the Code is a useful guide to ensuring best practices when undertaking public consultations.

## Policy Statement

### Whom we consult

15. We will consult people who live, visit or work in Southampton and those who may be affected by our decisions. This includes representatives of council service users or taxpayers.
16. Where appropriate, we will consult with representatives of those who are likely to use services provided by the Council, and those appearing to the Council to have an interest in Southampton.
17. We will ensure that individuals and groups who may be impacted by a certain decision will have the opportunity to share their views during the consultation.
18. We will target different audiences depending on the topic being consulted on. This will include people who will be significantly impacted by the decision being proposed.
19. We will consult with local voluntary and community organisations and businesses, where appropriate.

### How we consult

#### Governance process and launching the consultation

20. We will ensure the correct governance process is followed for each consultation.
  - 20.1. The relevant Executive Director and Cabinet Member will have oversight of the developments of the proposals, policies and service changes and the consultation plan.
  - 20.2. The Research, Insight and Consultation team will have oversight of proposed consultation activities to advise on best practice. Level of support may range from advice on consultation processes to leading on the development and analysis of a consultation exercise.
  - 20.3. We will make sure that the correct governance process is followed to launch the consultations.

21. The Council will consider each consultation to ensure that we meet our obligations, provide quality feedback and decide when the best time is to launch.
22. The Council reserves the right to seek an appropriate contribution to any necessary public consultation.

### Carrying out the consultation

23. We will ensure that the consultation is promoted effectively to the target audience and in the most appropriate way.
  - 23.1. Most consultations will be hosted on or signposted from the Southampton City Council website.
  - 23.2. The Council will use various measures to promote the consultation and will take into account the needs of the target audience.
  - 23.3. The Council will review the responses being submitted throughout the consultation period, including information on the total numbers and characteristics of the respondents. This will enable the Council to make decisions throughout the consultation period about the consultation engagement plan.
24. We will ensure that there is sufficient information put forward in the proposals to allow intelligent consideration.
  - 24.1. We will ensure that all public information for consideration on the proposals will be included in one place, such as a council webpage, to keep it as clear as possible.
  - 24.2. We may publicise various routes for consultees to provide feedback. For example, a questionnaire, because it provides a summary of key information and takes the respondent through structured feedback. Other routes may include emailing, posting or providing verbal feedback through meetings, calls, events, and focus groups.
25. We will ensure that there is adequate time for consultees to provide feedback. However, the length of each consultation will vary. The length of the consultation will depend on the consultation type.

Types of consultation	Definitions	Length of consultation	Examples
Statutory duty to consult	Statutory provisions are legal requirements which state that a consultation must occur. They exist in several key area, such as housing, highway infrastructure, health, equality and the environment.	Length of consultation dictated by law or guidance.	<ul style="list-style-type: none"> <li>• Under <a href="#">Section 105 of the Housing Act 1985</a>, the Local Housing Authority has legal obligations for consulting with secure tenants on “matters of housing management”. There are similar obligations under <b>Section 137 of the</b></li> </ul>

			<p><b>Housing Act 1996</b> for consulting with Introductory Tenants.</p> <ul style="list-style-type: none"> <li>• Town and Country Planning (Local Planning) Regulations 2012</li> <li>• Traffic regulation order</li> </ul>
<p>Duty created by legitimate expectation or where there would be 'conspicuous unfairness' should consultation not be undertaken</p>	<p>The legitimate expectation applies:</p> <ul style="list-style-type: none"> <li>• when there has been a clear promise of consultation;</li> <li>• where official guidance or policies imply a promise to act in a particular way;</li> <li>• where there has been past practice of consultation;</li> <li>• where there is a withdrawal of a benefit with significant impacts to be considered;</li> <li>• where the nature of the relationship would create unfairness if there were to be inadequate consultation.</li> </ul>	<p>Each proposal will be looked at individually and the length of appropriate consultation assessed. The length will be based on various factors, such as guidance, size, scope and impact.</p>	<ul style="list-style-type: none"> <li>• Budget consultation.</li> <li>• External strategies and policies.</li> <li>• Changes to a service.</li> <li>• Travel proposals.</li> <li>• Changes to public spaces.</li> </ul>

### Consideration of feedback

26. We will ensure that there is adequate conscientious consideration of the responses.

26.1. Feedback from the consultation will be analysed and all free text comments read. A summary of responses will be provided in a report to the service(s) involved.

26.2. The service(s) will consider this feedback in depth and may use these views to make amendments or subsequent recommendations to the specific proposals, policies, or service changes.

26.3. To assist with consideration, the service area will aim to complete a written response to the feedback. This may be a consideration table highlighting the actions proposed.

- 26.4. Conscientious consideration will be given to the consultation responses before a decision is made. However, it is important to be mindful that consultation is not a vote. Decisions makers will consider what has been said in a consultation period alongside other information when making a decision.
- 26.5. The relevant Head of Service, Executive Director and Cabinet Member will have oversight of the feedback and the decision of the service and partners on the response to the feedback.

### **Data Privacy**

27. We will ensure that any personal data we gather is handled in accordance with the data protection principles, such as the [Data Protection Act 2018](#), and meets our contractual, statutory, and administrative obligations.
28. The standard privacy statement for council consultations will be included in the consultation questionnaire. This statement outlines how the information collected about respondents during the consultation will be used.

### **Governance**

29. This Policy will be implemented by the Strategy and Performance Team at Southampton City Council.
30. This Policy will be monitored and updated by the Research, Insight and Consultation team at Southampton City Council.