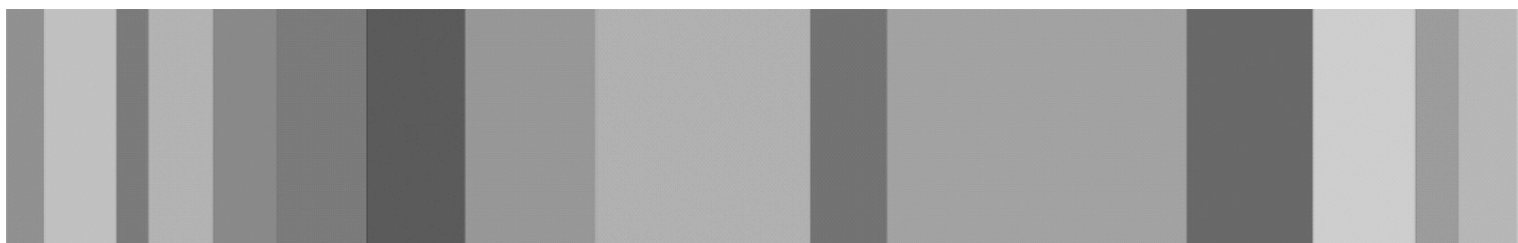


# **Bolton Council**

## **Consultation Policy**



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## 1. Introduction

Bolton Council is committed to listening to local people and enabling residents, partners, visitors and businesses to shape their neighbourhoods and the services they receive. This policy sets out the principles on which the council will consult with local people and groups about its policies and services.

Effective consultation can help us target services towards what people want and need, improve the delivery of services, test options for service change, prioritise services, and make better use of limited resources. The council will consider when it is appropriate to consult with different audiences and will use a range of techniques, including large-scale representative surveys and small-scale discussion groups.

The English courts have in recent decades recognised a common law duty to consult, as an aspect of the duty of fairness. This duty to consult applies to a number of specific roles across the council, including elected members, who are responsible for representing the interests of their ward constituents, and senior managers who must consider the needs of the various groups of people that might be affected by their policies and services. In particular, the council might conduct consultation as part of an impact assessment to see if certain groups might be negatively affected by its actions in a way that would be unfair.

This policy does not replace any procedures that are currently in place for statutory consultations e.g. planning applications. It should also be noted that consultation is only one element within a range of participatory activities. Consultation goes beyond information giving by actively seeking, listening to and taking account of people's views before making decisions or setting priorities, but it does not usually allow for people to be actively involved in the design process. Sometimes it will be more appropriate to use more informal iterative engagement or collaborative approaches like co-design.

## 2. Purpose

The overall aim of this policy is to improve the services of the council by understanding the needs of customers and others who are affected by its decisions. Within this overall aim there are four key objectives:

- To maximise resident / customer / stakeholder involvement.
- To co-ordinate consultation across council directorates and partners
- To develop the council's ability to make effective use of consultation techniques
- To ensure consultation is undertaken according to best practice guidelines

This policy will provide the guiding principles of how the council will consult. It is not meant to be an exhaustive document encompassing everything we do, rather it will concentrate on:

- Why we consult
- When we consult
- How we consult
- Who we consult

Cabinet Office Principles and recent case law have emphasised that consultation requirements will vary from one context to another and should be assessed on an individual basis. The burden is therefore on public authorities to decide how, when, with whom, and how widely to consult.

### **3. Principles**

#### **Why we consult**

There are good reasons why we should consult:

- The council is committed to seeking the views of local people, staff and partners to find out what they think about services, policies, developments and how public funds are spent;
- It can improve the quality of services and can help prioritise limited resources;
- It helps with openness and transparency; helping residents and other stakeholders understand better the decisions that are being undertaken and the reasoning behind them, whilst playing a role in evaluating the alternatives;
- Councils have a duty to consult on certain issues (e.g. planning decisions) and courts are becoming increasingly willing to strike down decisions where judges think that there has been unfairness in relation to consultation. Examples of some legal challenges are given at the end of this document.

#### **When we consult**

The Consultation Institute (a well-established, not for profit best practice institute) identifies two areas of focus which should be used to decide when consultation should occur:

- When statutory legislation imposes an express duty to consult (e.g. the closure of children's centres / planning decisions);
- Where consultees have a 'legitimate expectation.'

The Doctrine of Legitimate Expectation is now seen as common law, whereby courts recognise consultees' rights to a 'fair' process. This applies:

- When there has been a promise of consultation;
- Where official guidance or policies imply a promise to act in a particular way;
- Where there is a withdrawal of a 'benefit' with significant impacts to be considered;
- Where the nature of the relationship would create unfairness if there were to be inadequate consultation.

Consultation should avoid holiday periods and local or national election periods (purdah).

#### **How we consult**

There are no clear rules surrounding how local authorities should consult but it is possible to extract from case law key factors that should steer a public authority, and in turn the courts, in determining whether consultation has been undertaken correctly. Consultation should be carried out fairly and in accordance with the Gunning Principles (As derived from the court case R v Brent London Borough Council, ex parte Gunning (1985) 84 LGR 168 at 169.)

- ***Gunning 1: Consultation must take place when the proposals are still at a formative stage***

Public bodies need to have an open mind during a consultation. They should not already have made the decision but may have some ideas about the proposals.

- ***Gunning 2: Sufficient reasons must be put forward for proposals to permit intelligent consideration and response***

Consultees need the correct amount of information to be able to make an intelligent choice and input into the process.

- ***Gunning 3: Adequate time must be given for consideration and response***

An appropriate timescale must be given to enable people to make an informed decision and then give their feedback. Enough time must also be given to allow consideration of the outcome.

- ***Gunning 4: The product of consultation must be conscientiously taken into account***

Decision makers need to demonstrate how consultation responses have been taken into account when making their decision.

## **Who we consult**

Who we consult with will depend on the nature of the consultation. Sometimes it is relevant to consult with all residents, visitors and partners, whereas at other times it is appropriate to just involve people with a direct interest in the service under review.

Particular consideration needs to be given to individuals with 'protected characteristics' as defined by the Equalities Act 2010. Public sector bodies need to be able to evidence that they have given due regard to the impact and potential impact on all people with 'protected characteristics' in shaping policy, in delivering services and in relation to their own employees. Consultation has an important part to play in identifying the impacts of proposals on these individuals.

## **4. Delivery plan**

### **Consultation Plan**

Taking into consideration the above principles, a consultation plan will be developed with input from elected members, council directorates and partners. The plan will include consultation needed to inform service reviews, key developments, evaluation of events etc. A version of the plan will be published on the council's consultation webpage as a way of raising awareness and encouraging involvement in upcoming consultation events and activities. The plan will be reviewed on a quarterly basis and activity will be monitored.

### **Consultation Toolkit**

The council will use various methods and techniques depending on the topic, the level of consultation required, and the type of stakeholders we are trying to reach. In some cases this will require a multi-method approach. When selecting which consultation method is the

most appropriate to use, the council will consider a number of factors, including accessibility, equality, cost, effectiveness and timeliness

Consultation methods can include:

Paper surveys	Online surveys	Telephone surveys
Focus groups	Workshops	Interviews
User panels	Mystery shopping	Public meetings

A consultation tool-kit has been developed to help staff plan and run a consultation. This can be found on the consultations page of the council's website:

[www.bolton.gov.uk/consultations](http://www.bolton.gov.uk/consultations)

## **Training**

A training programme will be developed to ensure elected members and senior managers are aware of their responsibilities with regards to consultation. More specific, practical training will be given to directorate representatives who may be asked to undertake specific consultation within their service areas.

## **Consultation Portal**

A consultation portal will be developed with colleagues in the web-team to display current, past and potentially future consultations. This will allow members of staff and the public to look at the results and outcomes of past consultations as well as raise awareness of current and future opportunities.

## **Consultation Group**

A consultation group will be established with key offices in the council and within partner organisations. The purpose of the group will be to share best practice, training opportunities and joint commissioning of consultation where appropriate. Terms of Reference will be developed for the group.

## **5. Roles and Responsibilities**

### **Elected members will:**

- Give genuine and conscientious consideration to the representations received through consultation and take these into account when finalising any proposals and making decisions;

### **Chief officers / managers will:**

- Seek the views of their customers when commencing a new service or planning a change in policy or procedure that is likely to affect customers;
- Give genuine and conscientious consideration to the representations received through consultation and take these into account when finalising any proposals and making decisions;
- Keep up-to-date with legislative changes that impact on the need for consultation and any developments in case law.



### **The corporate consultation team will:**

- Ensure elected members and senior council officers are aware of their responsibilities with regards to consultation by offering appropriate training;
- Co-ordinate, update and report on the consultation plan;
- Deliver consultation projects as follows:
  - Strategic consultations
  - Consultations on changes to policy
  - High risk / large consultation projects
- Make consultation results available to decision makers in appropriate formats;
- Feedback results to those who have taken part in the consultation.
- Liaise with the council's legal department for advice on legal challenges;
- Provide training, guidance and support to departments in conducting their own consultation;
- Ensure a consistent approach is delivered for consultation across the council.
- Develop and maintain a consultation database for external and internal use;
- Seek opportunities for improvements in costs and outcomes through joint consultation with partners as part of the Bolton-2030 vision;
- Develop and manage the council's eView panel (500+ residents who have expressed an interest in taking part in consultation activities);
- Support Greater Manchester consultation activities;
- Annually review the Consultation Policy and update in response to changes in legislation or case-law.
- Seek income generation opportunities from undertaking consultation for external partners.
- Chair (jointly) the Consultation Group

### **Directorate service areas will:**

- Identify a budget (where appropriate)
- Identify a consultation contact / champion;
- Deliver consultation projects as follows:
  - Ongoing satisfaction surveys
  - Consultation on operational matters
- Undertake consultation exercises and activity in accordance with the policy;
- Inform / liaise with the Corporate Consultation Team to ensure they have an overview of all consultation, maintain quality, take a consistent approach and ensure that activity meets best practice;
- Use consultation results and comments to inform decisions;
- Publicise the results and actions taken following the consultation exercise;
- Update the consultation database.

## **6. Implementation and review**

A communications plan will be developed to launch the Consultation Policy to managers within the Council. Training will then be delivered as appropriate.

The consultation plan will be reviewed on a quarterly basis to check whether activities are on track and investigate any delays. The Consultation Policy will be reviewed on an annual basis and will be updated if necessary due to legislative changes or development in case-law.

## **7. GDPR**

The Council is subject to the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 and as such all consultation will be conducted in strict accordance with this legislation. This includes making consultees aware that they have the right to have sight of their personal data, to amend it if necessary and for it to be deleted upon request. In addition, any personal data shall not be retained for longer than is necessary and it will be stored securely.