

# Report of the Chief Executive to the meeting of Corporate Overview and Scrutiny Committee to be held on 5 April 2017

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## **Subject:**

Improving our corporate approaches to consultation

## **Summary statement:**

This report provides information on the review and improvement of the corporate approach to consultation and engagement

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**Overview & Scrutiny Area:**

**Corporate**



## 1. SUMMARY

This report provides information on the work being done to improve the corporate approach to consultation. The improvement plan has five themes:

- setting corporate standards
- communication and transparency
- capacity and skills development
- quality assurance
- tools development

## 2. BACKGROUND

2.1 Consultation is an essential part of how the council makes decisions. It supports the vision set out in the District and Council Plans, for a district where people are engaged and play an active role.

The council's approach is being built around the following key objectives;

- a) to ensure that there is a clear understanding of, and commitment to, consultation and engagement by officers and elected members, and skills, tools and capacity to deliver among officers.
- b) to ensure consultation and engagement is inclusive, well coordinated, achieves value for money and meets high quality standards.
- c) to ensure the council's consultations comply with relevant statutory and legal requirements.
- d) to achieve continuous improvement by learning from the evaluation of all significant consultation and engagement activity.
- e) to ensure that the views of local people are used to help identify priorities, influence policy, service delivery and decision making.
- f) to provide clear and timely feedback following all consultation.
- g) to ensure information on consultations is easily accessible.

2.2 With public service spending cuts putting unprecedented pressure on councils to make difficult decisions, the quality of consultation becomes more high profile in informing service redesign and delivery. Robust good quality consultation processes are essential to shape improvements to services, and provide transparency and accountability. The risk of being legally challenged increases as the changes proposed to services become more significant but such challenges are less likely to be successful if robust processes are followed.

## 2.3 CORPORATE LEGAL DUTY

2.3.1 The duty consult arises in various ways.

- There may be an express duty imposed by legislation on a public authority to consult before taking a particular decision or exercising a particular function.



- There may be an implied duty to consult, as part of a public authority's duty to act fairly.
  - Where a public authority has promised (either expressly or by implication because it has consulted on something in the past) it will consult before making a specific decision or a specific type of decision, a court will usually require it to fulfil this promise.
  - If a decision of a public authority will impact very seriously on individuals, it is more likely that fairness will require that there is consultation with the affected individuals.
  - If a decision may be taken that alters the existing position, particularly if it is unexpected and may have a serious impact on individuals, it is again likely that fairness will require that there is consultation with affected individuals.
- 2.3.2 As part of the Public Sector Equality Duty the council must ensure it has sufficient information to enable it to identify how proposals might impact different groups, including people with protected characteristics.
- 2.3.3 The following principles for proper consultation have been established through case law:
- consult all those who will be or are likely to be directly affected.
  - consult them before final decisions are made, not only with information about proposals such as a draft scheme or policy, but also with an outline of the realistic alternatives, and an indication of the main reasons for the authority's adoption of its preferred option.
  - give them adequate time to respond, for example six weeks to three months would be regarded as reasonable in most circumstances.
  - Following the response from the consultees, active consideration must be given to the response, which must be analysed and taken fully in to account before the final decision is made, with an appropriate amount of time allowed for this before decisions are made.

## **2.4 REVIEW OF CORPORATE APPROACH TO CONSULTATION**

- 2.4.1 A wide range of consultation activity takes place across the council, both statutory and non-statutory, using a variety of methodologies and tapping in to different resources, networks and partnerships.
- 2.4.2 Consultation can require a variety of skill sets including: survey design; marketing and communication skills; robust admin processes; data protection awareness; event management skills; quantitative and qualitative data analysis abilities. Some council teams have limited experience of delivering consultations while other departments responsible for statutory consultations are much more experienced and can teach others.
- 2.4.3 The first phase of improvements to the corporate approach to consultation in 2016, developed consultation capacity through the citizen's e- panel and the use of SNAP software for electronic surveys. Training has been provided across departments to support staff to design surveys, and use the software. A web based consultation



calendar has been set up with the potential to capture all the activity, response summaries, decisions and outcomes.

2.4.4 Consultation leads for each department are starting to meet regularly to explore ways to coordinate, improve and align approaches. The group is supported by Office of the Chief Executive (OCX), and provides a focal point for the development and implementation of improvement activities around the council's consultation and engagement practices.

#### 2.4.5 SWOT ANALYSIS of current approaches to consultation

<b>Strengths</b>	<b>Weaknesses</b>
<p>Staff with consultation expertise and experience across the council carrying out good consultations.</p> <p>Investment has been made in IT platforms and a citizen's panel to extend the reach of consultations.</p> <p>Sound engagement mechanisms invested in and supported that provide routes for meaningful consultation with a wider variety of groups, individuals and stakeholders.</p>	<p>Not all staff have all the expertise required and some may not be aware of sources of advice and support.</p> <p>Involvement of elected members at an early stage needs embedding in the corporate approach to consultation</p> <p>Reflecting case law requirements, training required on developing options to consult on.</p>
<b>Opportunities</b>	<b>Threats</b>
<p>Departmental consultation leads group provides a channel to embed a culture of continual improvement in the council's consultation practices</p> <p>Possibilities for mutual learning and joint work with neighbouring local authorities</p> <p>Expert input will improve and validate the corporate approach.</p> <p>National toolkits are being developed in sync with the timescales of this improvement work.</p> <p>The reach of consultations can be extended to groups who may not be linked in to other publicity channels through existing networks and partnerships e.g. communities of interest leads and service user groups.</p>	<p>Legal challenges – are less likely to be successful if the Council has fully complied with its duty to consult.</p> <p>Financial and time pressures - making improvements involves a commitment of staff time and support for staff at a time when the workforce is reducing.</p> <p>Some consultation carried out may be perceived as a 'tick box' exercise that does not influence decisions.</p> <p>Poor information from weak consultation may result in poor decisions e.g. costly impacts not planned for or mitigated.</p> <p>Decisions cannot always reflect community expectations and aspirations, clear parameters about the scope for influencing decisions need to be communicated.</p>



<p>Accessibility information standards are being clarified and implemented.</p> <p>Framework being put in place to set standards, promote consistency around the different processes and to ensure compliance with legal requirements.</p> <p>Equality Impact Assessments are being improved through on going staff training.</p>	
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### 3. OTHER CONSIDERATIONS

3.1 Building on the progress made in phase one reported to Corporate Overview and Scrutiny June 2016, an improvement plan has been developed and responds to points raised by the leadership, CMT and Corporate O&S.

3.2 The outline improvement plan is attached, see Appendix 1.

#### 3.3 **Setting standards for the corporate approach to consultation**

It is proposed to establish a framework to support staff to achieve the required standards for each process through a consultation tool kit and compliance check list along with training to meet identified needs.

##### a) **Consultation Tool Kit**

The Local Government Association (LGA) has commissioned The Campaign Company to develop a new guide to support councils to deliver best practise in consultation and engagement. The Campaign Company are official partners of the Consultation Institute. The resource incorporates all legal requirements, including recent case law relevant to consultation practise and Cabinet Office guidance (Feb. 2016). See Section 12 for link to the guide.

The launch event was on 27 February 2017 in London. Bradford Council has offered the LGA a venue to extend the launch activities to the north of England and they have accepted. The event is scheduled to take place in June/July.

We will supplement this new resource to make a Bradford tool kit, providing links to key internal and external contacts, partnerships, support networks, Community of Interest (COI) groups etc. The LGA toolkit includes guidance on:

- How to know when to consult.
- How to identify the most appropriate channels for consultation.
- Current relevant legislation and how to ensure compliance.
- How to evaluate consultation and engagement.
- Local sources of support and advice.
- Guidance for Cllrs on communicating about unpopular decisions.



## b) ***Consultation Compliance Checklist***

A check list approach will summarise the consultation processes, supporting a consistent approach. The checklists will be incorporated into project management processes and may be signed off by a senior manager or strategic director to add another level of quality assurance.

### 3.4 **Communication and transparency**

#### a) ***Consultation Calendar and platform***

The consultation calendar was established in 2016 to provide an overview of consultation activity across the council. It is in use and more work is planned to promote the use of the calendar to ensure it consistently captures all consultation activity taking place.

The calendar's platform has the potential to store numerous documents including:

- the results of consultations and insight gained.
- the difference the consultation made to the decision.
- the rationale for the final decision.

The calendar will assist in providing evidence of transparent and accountable decision making. Based on the modern.gov platform it will allow links to executive and other reports where appropriate.

Guidance on how to fully use the calendar and platform will be rolled out via directors and the departmental consultation leads as part of the toolkit. This will include guidance on the format of the feedback so that is clear and accessible.

#### b) ***Social media***

Twitter and Facebook are the two main social media channels used by the Council. Services have their own accounts and share consultations with their own audiences. These channels reach mainly 25-45 year olds.

Streetlife/Next Door and Stay Connected offer more opportunities for promoting further involvement in consultations. Work is underway to ensure that channels that have a greater reach with young people are also utilised, and reviewed on a regular basis given that popularity of particular channels changes over time.

### 3.5 **Capacity and skills development**

#### a) ***Embedding the corporate approach and standards***

To help embed the corporate standards, the new consultation tools will be launched through an event/workshop that brings together those responsible for consultation and engagement work across the council. Work through the departmental



consultation leads will provide an opportunity to discuss any barriers to meeting required standards and ways of addressing them, including identifying more effective ways of working together and any training needs. As consultation covers many disciplines, all relevant staff would be invited to participate e.g. legal, Community of Interest leads, communications staff etc.

Further training on incorporating appropriate feedback into Executive reports will be embedded in report writing training, and consultation skills will be a component of future project management training. E-learning will be a key part of this approach.

Elected members will be asked for their perspectives on the corporate approach to consultation, what expertise they can share and what information and training needs they may have which will be incorporated in to the improvement plan.

### **3.6 Quality Assurance**

Quality assuring consultation requires best practice or at minimum compliance with the different parts of the consultation process including: project planning, review of documentation; review of inclusiveness and accessibility, data analysis, equalities impact analysis, and communication of consultation outputs and outcomes.

#### **a) *Peer review***

To support on going improvement, the cross departmental consultation leads group will provide some internal quality control of consultations on a quarterly basis taking a random sample of consultations. The proposed approach will be constructive and supportive to staff involved, and focus on learning points to be shared.

Colleagues in neighbouring councils have been approached to discuss possible areas for joint working including, peer review/bench marking and joint training. Opportunities to align approaches and co-ordinate consultations across agencies, including all the West Yorkshire Authorities, NHS and Police will also be scoped.

### **3.7 Tools development**

OCX and Legal colleagues will discuss how best to keep the tools up to date in terms of new case law that has implication for the council's approach and this review could be scheduled annually. The LGA has plans to keep the consultation and engagement guide updated.

#### **a) *Equality Impact Assessments* (EIAs)**

Equalities monitoring data is a pre requisite for completing equalities impact assessments. Development work around the Council's new equality objectives will create an action plan to improve the quality and collection of equalities monitoring data. Ongoing training and support around EIAs is being built into the consultation improvement plan.

## **4. FINANCIAL & RESOURCE APPRAISAL**

**4.1** The plan requires a commitment from departments for officer time to implement the





agreed actions. An ongoing commitment is required from all departments to resource future consultation work to meet the corporate standards.

- 4.2 Immediate financial costs are mainly associated with training and it is proposed that corporate training budgets may be utilised for this purpose.

## 5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 The improvement plan presented here is intended to contribute to managing the risk of legal challenge and the running of consultations that do not support effective decision making.

## 6. LEGAL APPRAISAL

- 6.1 Legal principles regarding consultation are included in the body of this report.

## 7. OTHER IMPLICATIONS

### 7.1 EQUALITY & DIVERSITY

The improvement plan aims to ensure the council's corporate approach to consultation is inclusive and accessible and fulfils its obligations under the Public Sector Equality Duty (2010).

### 7.2 SUSTAINABILITY IMPLICATIONS

None

### 7.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

### 7.4 COMMUNITY SAFETY IMPLICATIONS

None

### 7.5 HUMAN RIGHTS ACT

None

### 7.6 TRADE UNION

None. The consultation approach outlined in the report and the appendix is not intended to apply to consultation with the Trade Unions and staff.

### 7.7 WARD IMPLICATIONS

The consultation improvement plan will support elected members and staff working on consultations at a ward level including youth workers, highways staff and ward officers.





## **8. NOT FOR PUBLICATION DOCUMENTS**

None

## **9. OPTIONS**

This report is presented for information.

## **10. RECOMMENDATIONS**

- 10.1 The views, comments and observations of the Corporate Overview and Scrutiny Committee on the consultation improvement plan are requested.
- 10.2 Members are asked for their perspectives of the corporate approach to consultation and to identify what information and training needs they may have.

## **11. APPENDICES**

- 11.1 Outline Draft Action plan to improve the corporate approach to consultation.

## **12. BACKGROUND DOCUMENTS**

New Conversations – LGA guide to engagement, Feb 2017

[http://www.local.gov.uk/web/guest/publications/-/journal\\_content/56/10180/8287322/PUBLICATION](http://www.local.gov.uk/web/guest/publications/-/journal_content/56/10180/8287322/PUBLICATION)

