

**EXECUTIVE MEMBER - THE MAYOR**

<b>Date:</b>	<b>Thursday 22nd May, 2025</b>
<b>Time:</b>	<b>1.00 pm</b>
<b>Venue:</b>	<b>Spencer Room, Municipal Buildings</b>

**AGENDA**

1. Declarations of Interest
2. Consultation Policy 3 - 18
3. Any other urgent items which in the opinion of the Chair, may be considered.

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Wednesday 14 May 2025

**MEMBERSHIP**

Mayor C Cooke

**Assistance in accessing information**

**Should you have any queries on accessing the Agenda and associated information please contact Chris Lunn, 01642 729742, [chris\\_lunn@middlesbrough.gov.uk](mailto:chris_lunn@middlesbrough.gov.uk)**

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<b>MIDDLESBROUGH COUNCIL</b>	
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<b>Report of:</b>	Director of Legal and Governance Services
<b>Relevant Executive Member:</b>	Mayor
<b>Submitted to:</b>	Mayor
<b>Date:</b>	22 May 2025
<b>Title:</b>	Consultation Policy
<b>Report for:</b>	Decision
<b>Status:</b>	Public
<b>Council Plan priority:</b>	Delivering Best Value
<b>Key decision:</b>	No
<b>Why:</b>	Decision does not reach the threshold to be a key decision
<b>Subject to call in?</b>	Yes
<b>Why:</b>	Not urgent

<b>Proposed decision(s)</b>
That the Mayor:
<ul style="list-style-type: none"> <li>• <b>APPROVES</b> the Consultation Policy.</li> </ul>

<b>Executive summary</b>
<p>This report sets out a proposal for a Consultation policy which will provide a governance framework. This framework will be used by officers to identify where consultation is required to ensure compliance with legal duties or where there are non-statutory reasons why a consultation may be required.</p> <p>Where consultation is required, the appended policy also sets out how that consultation should be undertaken to ensure it is lawful, covering:</p> <ul style="list-style-type: none"> <li>▪ When a consultation should be conducted</li> <li>▪ Ensuring a consultation is 'fair'</li> <li>▪ Guidance on when and how to equality monitor</li> <li>▪ Examples of circumstances where consultation may not be appropriate</li> <li>▪ Responsibility for consultations.</li> </ul>

## 1. Purpose of this report and its contribution to the achievement of the Council Plan ambitions

1.1 The purpose of this report is to ensure the Council has a policy which sets out how it will conduct fair consultations, where there is a lawful requirement to conduct a consultation.

Our ambitions	Summary of how this report will support delivery of these ambitions and the underpinning aims
<b>A successful and ambitious town</b>	Having a policy in place will support the Council to deliver the aims across these three ambitions by ensuring there is a process in place for dialogue between residents, stakeholders and the Council to ensure the council systematically gives the local community a voice in the democratic process and helps elected members and officers understand and consider public views and concerns when making decisions about local public services.
<b>A healthy Place</b>	
<b>Safe and resilient communities</b>	
<b>Delivering best value</b>	The purpose of this policy is to ensure there is a robust and effective corporate governance process in place to oversee the consultation process. This directly, positively impacts on this ambition.

## 2. Recommendations

2.1 That the Mayor:

- **APPROVES** the Consultation Policy.

## 3. Rationale for the recommended decision(s)

3.1 Having in place a policy that sets out a clear framework of when the Council should and should not consult will support compliance with legal requirements on consultation.

## 4. Background and relevant information

4.1 Councils sometimes have a statutory requirement to consult their residents, partners and businesses. Statutory consultations are bound by legal requirements, such as Best Value legislation, and can have strict rules surrounding how they should be conducted.

4.2 There are also a range of other non-statutory reasons that mean it may be good practice to undertake consultation. These 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

4.3 This policy provides a policy framework against which consultations can be developed.

## 5. Other potential alternative(s) and why these have not been recommended

5.1 The Council could choose not to have a policy in place, however this is not recommended. Provision of a policy provides officers with a clear direction on consultation standards and expectations which will improve public engagement. The policy also reduces the risk of decisions being taken which have not been appropriately consulted on.

## 6. Impact(s) of the recommended decision(s)

Topic	Impact
Financial (including procurement and Social Value)	There are no financial implications arising directly from this policy.
Legal	The policy contributes positively towards lawful decision making.
Risk	Provision of a policy will have a positive impact on the following risks within the Strategic Risk Register: <ul style="list-style-type: none"> <li>- Risk of an unlawful decision by the Council</li> <li>- Risk that corporate governance arrangements are not fit for purpose.</li> </ul>
Human Rights, Public Sector Equality Duty and Community Cohesion	The proposed policy has been subject to Level 1 (screening) impact assessment. This assessment identified that no negative differential impacts on diverse groups and communities within Middlesbrough is anticipated from the implementation of the policy. It is found that these policies would have a positive impact on all groups in ensuring that the Council maintains a standard approach in continuing to be compliant with the PSED.
Reducing Poverty	The consultation policy does not directly impact on these themes, however it does provide a mechanism for consultation on proposed decisions which would enable residents and stakeholders to raise issues in relation to this theme where applicable to a consultation.
Climate Change / Environmental	
Children and Young People Cared for by the Authority and Care Leavers	There are no concerns that the policy could impact negatively on this group. The policy provides a framework for which formal consultations could be undertaken with this group.
Data Protection	There are no concerns that the policy could impact adversely on data protection rights. The policy is underpinned by processes to ensure that responses are not identifiable back to individuals unless it is clearly outlined at the beginning of a consultation that this will occur.

## Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Publish the Consultation Policy and disseminate to staff	Head of Governance, Policy and Information	May 2025

## Appendices

1	Draft Consultation Policy
2	Impact Assessment

## Background papers

Body	Report title	Date
Executive	Consultation and Engagement Policy	January 2020

**Contact:** Ann-Marie Johnstone, Head of Governance, Policy and Information  
**Email:** ann-marie\_johnstone@middlesbrough.gov.uk



## Consultation Policy

Live from: May 2025

Live until: May 2028

Title	Corporate Consultation Policy		
Creator	Author(s)	Ann-Marie Johnstone	
	Approved by	Executive Member for Finance and Governance	
	Department	Legal and Governance Services	
	Service area	Governance, Policy and Information	
	Head of Service	Ann-Marie Johnstone, Head of Governance, Policy and Information	
	Director	Erik Scollay, Chief Executive	
Date	Created	November 2024	
	Submitted		
	Approved		
	Updating Frequency	Every three years or as case law / legislation require changes	
Status	Version: 1.0 – Policy update prior to external review of consultation and community engagement.		
Contributor(s)	Ann-Marie Johnstone		
	Legislation	Best Value Statutory Guidance	
Subject	Consultation		
Type	Policy		
	Vital Record		EIR
Coverage	Middlesbrough Council		
Language	English		

**Document Control**

Version	Date	Revision History	Reviser
1.0	March 2025	First policy	n/a

**Distribution List**

Version	Date	Name/Service area	Action
1.0	June 2025	Council Staff	Disseminate



## CONTEXT

Middlesbrough Council is committed to involving stakeholders in shaping the town and the services they receive. Consultation and engagement are the key ways the Council interacts with and involves local communities, providing them with opportunities to have a say over the services that affect their lives.

## PURPOSE

The purpose of this policy is to set out when and how the Council will undertake consultations to ensure compliance with statutory and best practice requirements.

## SCOPE

This policy applies to all employees, contractors and consultants of the Council who undertake consultation or community engagement activity on behalf of the Council.

## POLICY DETAIL

### Definitions

Consultation	Consultation is the process of dialogue with citizens and stakeholders based upon a genuine exchange of views, with the objective of informing decisions, policies or programmes of action. It gives the local community a voice in the democratic process and helps elected members and officers understand and consider public views and concerns when making decisions about local public services. Consultation is finite, with a clear beginning and end, and so is different from engagement, which is ongoing.
Community Engagement	Community engagement is the on-going process of developing relationships and partnerships so that the voices of stakeholders and partners are heard.
Community engagement principles	<p>The principles of community engagement good practice:</p> <ul style="list-style-type: none"> <li>• Publication: Participants have a right to receive feedback on the final output, and on the eventual outcome of the process</li> <li>• Integrity: Intentions must be honest, and with a genuine willingness to listen and be influenced</li> <li>• Visibility: There should be a real effort to make all of those who have a right to participate aware of what's going on</li> <li>• Accessibility: There needs to be reasonable access, using appropriate methods and channels and catering for hard-to-reach groups</li> <li>• Transparency: Things submitted need to be made public and data disclosed, unless there's a specific reason to make them exempt</li> <li>• Disclosure: All relevant material and context should be disclosed by the council, and in return residents should disclose the full range of local opinion</li> <li>• Fairness: Assessments and interpretations of consultations need to be objective. Decisions need to be representative of the spread of opinion.</li> </ul>

## LEGISLATIVE AND REGULATORY FRAMEWORK

The Council will consult when:

- there are specific statutory provisions which state that a consultation *must* happen, and may also prescribe *how* this must happen e.g. within planning and environmental policy;
- the doctrine of legitimate expectation (common law) applies i.e. we've previously promised we would consult, we have done in the past and / or the impacts of planned changes are clearly significant; or
- where the legal rights of particular individuals, groups, or organisations may be affected e.g. as set out in the Equality Act 2010, the Council's Impact Assessment policy or in Best Value Duty Statutory Guidance.

It does not need to consult where the above do not apply.

Some of the statutory duties in relation to consultation are in place which the Council must comply with include:

<b>Best Value Statutory Guidance</b>	To fulfil the Best Value Duty under Section 3(2) of the Local Government Act (1999), the Council has a duty to consult those who use or are likely to use services provided by the authority at all stages of the commissioning cycle, including the decommissioning of services.
<b>Local Government Finance Act 1992 Section 65</b>	The duty to consult representatives of non-domestic ratepayers on the Council's expenditure plans.
<b>Local Government Finance Act 2011</b>	Duty to consult the introduction of localised council tax reduction schemes.
<b>Childcare Act 2006 (Section 5d)</b>	Duty to consult before any significant changes are made to children's centre provision.
<b>Children and Families Act 2014</b>	Duty to consult children, parents and young people in relation to reviewing educational, training and social care provision, when considering local priorities and outcomes as part of joint commissioning arrangement and EHC plans and duty to consult parents on the contents of draft education, Health and Care plans.
<b>Planning and Compulsory Purchase Act 2004, Town and Country Planning Regulations 2009, The Statement of Community Involvement (SCI)</b>	Sets out the Council's policy for involving the community in the preparation of local development plan documents and in the consideration of planning applications.
<b>Health and Social Care Act (2012)</b>	Duty to consult and involve patients, the public and representatives in the planning or commissioning of local health services.
<b>Equality Act 2010, Section 149 Public Service Equality Duty (PSED)</b>	Consultation may be required to comply with the Council's equality duty. Consultation with people with different protected characteristics can provide an evidence base to assess the impact of decisions on those affected. The need for consultation is dependent upon the relevance and proportionality of the anticipated impact.

<b>Doctrine of legitimate expectation</b>	Common law - where there is a reasonable expectation that consultation will be undertaken because previous decisions on similar issues have been consulted upon by the Council or there has been a formal commitment made to consult prior to taking a decision.
<b>Fairness</b>	An implied duty to consult in order to meet common law obligations to act fairly when making decisions as a public body.

## ROLES AND RESPONSIBILITIES

Executive	Responsible for agreeing the Consultation and Engagement Policy is in place and giving due regard with consultation where it has been undertaken by the Council to inform proposals being considered by Executive.
All Council committees	Responsible for having due regard to consultation where it has been undertaken by the Council to inform proposals being considered by that committee.
Head of Policy, Governance and Information	Responsible for ensuring a policy is in place to govern consultation to ensure the Council complies with legislative and common law responsibilities.
Head of Neighbourhoods	Responsible for the Council's approach to community engagement.
Data and Analytics team	Responsible for ensuring consultations undertaken using the Council's online portal adhere to this policy.
Employees, contactors and consultants	When undertaking consultation or community engagement on behalf of the Council they must ensure compliance with this policy.

## REVIEW

This policy will be reviewed every three years, unless there is new legislation or amendments to the common law of 'fairness' which would require the policy to be updated earlier.

## Supporting documentation

- **Appendix 1 – Consultation guidance**

## **Appendix 1: Corporate Consultation Guidance**

### **When to conduct a consultation**

In general terms, consultation should be considered when there is a statutory duty, or where feedback from the public is needed to inform decision making. The decision whether to consult or not will depend on the issues, the nature and the impact of the decision.

The following list is not exhaustive, but consultation may be appropriate when undertaking the following:

- development/ review of policies/strategies/procedures;
- Council budget reductions/ investment proposals;
- service reviews;
- commissioning and decommissioning of services;
- quality assurance of services;
- actions to meet equality duties;
- ceasing payment to voluntary/community groups; or
- if the Council has, as a matter of practice, consulted on a particular decision in the past, that will give rise to a 'legitimate expectation'<sup>1</sup> that it will do so again.

The more serious or significant the impact, the more likely it is that the views and concerns of those potentially affected should be sought before a decision is taken.

### **Consultation Content Requirements**

Once a decision to consult has been taken, the content of the consultation is governed by the common law duty of 'fairness'. The principles of 'fairness' have been decided by the Supreme Court and are known as the 'Gunning Principles'.

The Council's duty to consult is governed by a common law duty to act 'fairly'. The UK's highest court has endorsed the basic requirements of a 'fair' consultation; these are known as the Gunning principles.

- consultation should occur when proposals are still at a formative stage;
- should give sufficient information on what is being consulted upon and reasons for any proposal to permit intelligent consideration and response;
- should allow adequate time for consideration and response;
- there must be clear evidence that the decision maker has considered the consultation responses or a summary of them, before taking its decision;
- the degree of specificity regarding the consultation should be influenced by those who are being consulted; and
- the demands of fairness are likely to be higher when the consultation relates to a decision which is likely to deprive someone of an existing benefit.

The principles mean that in some circumstances, for a consultation to be considered lawful, the consultation document should not only refer to a 'preferred option', but also include other considered options and outline reasons why they may be unacceptable. For example, when designing or making changes to the Council's Tax Reduction Scheme, it would be considered unlawful for the consultation document to be premised on the assumption that any shortfall would

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<sup>1</sup> 'Legitimate expectation' is based on the idea that members of the public can rely on public bodies to act in particular ways. A 'substantive expectation' applies to specific policies or decisions and 'procedural expectation' which applies to process. The principle has been set by case law.

be met entirely by reductions in Council Tax Benefit and that there were no other options considered.

## **Equality Monitoring**

Public Sector Equality Duty requires local authorities to have 'due regard' to the impact of changes on those with protected characteristics under the Equality Act 2010. To ensure services are delivered fairly the following may be collected:

- age
- disability
- gender / sex registered at birth
- Ethnicity
- religion or belief
- sexual orientation

## **Examples of circumstances in which consultation may not be appropriate**

- Changes tightly prescribed by legislation.
- For minor or technical amendments to regulation or existing policy frameworks.
- Where adequate consultation has taken place at an earlier stage.

## **Responsibility for consultations**

Responsibility for service area consultations remains with the individual service area, with support from the Governance, Policy and Information service who will provide advice upon request and facilitate access to the Council's online consultation portal. Advice and support should be sought using the Consultation Portal email address.

There are a small number of services areas that have been permitted to facilitate and conduct consultations using products outside of the corporate approved online portal for agreed purposes only, listed as follows. Exemptions must be permitted by the Governance, Policy and Information service.

Non-compliance with this policy may result in a legal challenge, known as a judicial review being brought against the Council and could result in the decision being overturned.

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# Impact Assessment Level 1 Impact Assessment Policy: Initial screening assessment

<b>Subject of assessment:</b>	Consultation Policy			
<b>Coverage:</b>	Cross-cutting			
<b>This is a decision relating to:</b>	<input type="checkbox"/> <b>Strategy</b>	<input checked="" type="checkbox"/> <b>Policy</b>	<input type="checkbox"/> <b>Service</b>	<input type="checkbox"/> <b>Function</b>
	<input type="checkbox"/> <b>Process/procedure</b>	<input type="checkbox"/> <b>Programme</b>	<input type="checkbox"/> <b>Project</b>	<input type="checkbox"/> <b>Review</b>
	<input type="checkbox"/> <b>Organisational change</b>	<input type="checkbox"/> <b>Other (please state)</b>		
<b>It is a:</b>	<b>New approach:</b>	<input type="checkbox"/>	<b>Revision of an existing approach:</b>	<input checked="" type="checkbox"/>
<b>It is driven by:</b>	<b>Legislation:</b>	<input checked="" type="checkbox"/>	<b>Local or corporate requirements:</b>	<input checked="" type="checkbox"/>
<b>Description:</b>	<ul style="list-style-type: none"> <li>• <b>Key aims, objectives and activities</b> The policy revision has been undertaken to take the opportunity to ensure the Council continues to have a systematic approach to undertaking consultations.</li> <li>• <b>Statutory drivers (set out exact reference)</b> The policy reflects the requirements of legislation, case law and non-statutory divers that may indicate that a formal consultation process is required. The relevant legislation includes Equality Act 2010, Best Value Statutory Guidance, Local Governance Finance Act 1992, Local Government Finance Act 2011, Childcare Act 2006, Children and Families Act 2014, Planning Act 2004, Health and Social Care Act 2012.</li> <li>• <b>Differences from any previous approach</b> The policy separates out community engagement which will be addressed through the developing Neighbourhoods model, as part of the Transformation Strategy.</li> <li>• <b>Key stakeholders and intended beneficiaries (internal and external as appropriate)</b> All residents and partners.</li> <li>• <b>Intended outcomes</b> Improved outcomes for all.</li> </ul>			
<b>Live date:</b>	May 2025			
<b>Lifespan:</b>	May 2025 – May 2028			
<b>Date of next review:</b>	May 2028			

Screening questions	Response			Evidence
	No	Yes	Uncertain	
<b>Human Rights</b> Could the decision impact negatively on individual Human Rights as enshrined in UK legislation?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy will positively support consideration of human rights by ensuring due regard to the views of stakeholders when developing proposed decisions and is one of the policy mechanisms in place to ensure the council is able to provide stakeholders with a channel to raise concerns around potential impacts on individuals or groups.
<b>Equality</b> Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The Council has a duty to consider the impact of the proposal on relevant protected characteristics to ensure it has due regard to the public sector equality duty. The duty means the Council must have due regard when taking decisions to the need to:</p> <ul style="list-style-type: none"> <li>a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;</li> <li>b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;</li> <li>c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ul> <p>The policy will positively support consideration of the Public Sector Equality Duty by ensuring due regard to the views of stakeholders when developing proposed decisions and is one of the policy mechanisms in place to ensure the Council is able to provide stakeholders with a channel to raise concerns around potential impacts on individuals or groups. The policy includes provision to capture equality monitoring as well to enable analysis of consultation returns by protected characteristic to further support informed decision making.</p>
<b>Community cohesion</b> Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy will positively support consideration of the Council's duties in relation to community cohesion by ensuring due regard to the views of stakeholders when developing proposed decisions and is one of the policy mechanisms in place to ensure the Council is able to provide stakeholders with a channel to raise concerns around potential impacts on community cohesion.

\* Consult the Impact Assessment further guidance for details on the issues covered by each of theses broad questions prior to completion.



Screening questions	Response			Evidence
<b>Armed Forces</b> Could the decision impact negatively on those who are currently members of the armed forces of former members in the areas of Council delivered healthcare, compulsory education and housing policies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy will positively support compliance with these duties by ensuring due regard to the views of stakeholders when developing proposed decisions and is one of the policy mechanisms in place to ensure the council is able to provide stakeholders with a channel to raise concerns around potential impacts.
<b>Care leavers</b> Could the decision impact negatively on those who are care experienced?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy will ensure compliance with legal duties on consultation requirements in relation to children and care leavers.
<b>Reducing Poverty</b> Could the decision impact negatively on the Council's ambitions to reduce poverty in the town?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy will support the Council to undertake evidence based decisions. Ensuring that due regard to the views of stakeholders when developing decisions which will support it to identify where potential decisions could impact on its ambitions to reduce poverty in the town.

<b>Assessment completed by:</b>	Ann-Marie Johnstone	<b>Head of Service:</b>	n/a
<b>Date:</b>	1/5/2025	<b>Date:</b>	n/a

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