

Policy and Sustainability Committee

10:00am, Tuesday, 10 December 2024

Annual policy update - consultation and engagement policy

Executive/routine
Wards

1. Recommendations

- 1.1 To approve the proposed changes to the consultation and engagement policy.

Dr Deborah Smart

Executive Director of Corporate Services

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Annual policy update - consultation and engagement policy

2. Executive Summary

- 2.1 To ensure that Council policies reflect current legislative requirements, best practice and remain fit for purpose, all Council directorates and policy owners are required to review their policies on an annual basis.
- 2.2 The consultation and engagement policy was first approved by this Committee in April 2021 with agreement that it would be resubmitted for annual review, this is the third review, with minor amendments proposed for Committee consideration.

3. Background

- 3.1 The Council is under greater scrutiny to ensure that when we consult or engage, the quality of the consultation or engagement process is high, that processes are inclusive and involve all affected groups, and that feedback is meaningfully reflected in the decisions we take. If the Council does not follow a robust approach, decisions are at higher risk of legal challenge.
- 3.2 To respond to the challenges, the consultation and engagement policy was implemented in August 2021. The policy underpins the Council's commitment to effective consultation and engagement by strengthening our management and governance of consultation and engagement activity. It is moderated by a Consultation Advisory Panel (CAP), with high level consultations being signed off collectively by CLT.
- 3.3 An annual review of this policy has identified the need to make minor additions to the policy document.

4. Main report

- 4.1 A revised version of this policy can be found in appendix 1.
- 4.2 This policy was introduced in August 2021 and was most recently reviewed by Policy and Sustainability Committee in October 2023.

- 4.3 Minor amendments to the policy document following this year’s review include the addition of:
- 4.3.1 section 4.2 – 4.5, providing the criteria for determining when consultation is necessary
 - 4.3.2 section 4.23 – 4.24, undertaking and publishing a draft Integrated Impact Assessment
 - 4.3.3 section 4.25 – 4.28, setting out the minimum demographic data that should be collected, and inclusion of all other relevant demographic data as part of the consultation and engagement process.

5. Next Steps

- 5.1 This policy will continue to be reviewed on an annual basis to ensure that it remains fit for purpose.

6. Financial impact

- 6.1 There are no direct financial impacts as a result of this report.

7. Equality and Poverty Impact

- 1.1 The Integrated Impact Assessment (IIA) process is a mandatory part of the consultation and engagement policy process. For high level activities coming through the CAP, an interim IIA needs to be evidenced in order for the activity to be approved and proceed.

8. Climate and Nature Emergency Implications

- 8.1 Owners of consultation and engagement activity are prompted to consider any positive or negative environmental impacts and the steps taken (or planned) to mitigate these adverse impacts. For high level activities coming through the CAP, an interim IIA needs to be evidenced in order for the activity to be approved and proceed.

9. Risk, policy, compliance, governance and community impact

- 9.1 Ongoing engagement with the public and Council Officers have fed into the annual review of the consultation and engagement policy.

- 9.2 Owners of consultation and engagement activity are prompted to consider associated risks with proposals and take appropriate steps to manage these. For high level activities these are scrutinised through the CAP process.
- 9.3 All consultation and engagement activity proposals are required to self-assess against the consultation and engagement criteria and provide approval by a tier two or three manager.

10. Background reading/external references

- 1.2 [COVID-19 Engagement and Consultation Approach – Policy and Sustainability Committee, Tuesday 20 April, 2021.](#)
- 1.3 [Consultation Policy Annual Review – Policy and Sustainability Committee, Tuesday 7 June, 2022](#)
- 1.4 [Annual Policies Update – Strategy and Communications – Policy and Sustainability Committee, Tuesday 24 October, 2023](#)

11. Appendices

- 1.5 Appendix 1: Revised Consultation and Engagement Policy

Consultation and Engagement Policy

Implementation date: 1 August 2021

Control schedule

Version control

Approved by		Policy and Sustainability Committee	
Version	Date	Author	Comment
0.1	20/04/2021	Emma Candy	
0.2	30/08/2022	Yvonne Gannon	Changes to the activity that should go through the CAP and consultation/engagement timescales included in the standards and criteria.
0.3	22/08/2023	Yvonne Gannon	Changes to membership of CAP (4.15 – 4.16), more details on roles, and additional section 4.2 on Orb guidance
<u>0.4</u>	<u>10/12/2024</u>	<u>Yvonne Gannon</u>	<u>Added section 4.2 – 4.5, How to determine if consultation is necessary.</u> <u>Added section 4.23 – 4.24, Integrated Impact Assessment.</u> <u>Added section 4.25 – 4.28, Demographic data collection.</u>

Subsequent committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
24/10/2023	Policy and Sustainability	Item 9.1 Annual Policy Updates – Strategy and Communications	
30/08/2022	Policy and Sustainability	Item 7.6 Consultation Policy Annual Review	
<u>24/10/2023</u>	<u>Policy and Sustainability</u>	<u>Item 9.1 Annual Policy Update</u>	

Consultation and Engagement Policy

Policy statement

- 1.1 The need to positively engage with, listen to and act upon stakeholders' views is becoming increasingly important across all public sectors. As a result, the Council is under greater scrutiny to ensure that when we consult or engage, we get it right.
- 1.2 Effective consultation and engagement involves genuine dialogue, respect, integrity, transparency and accountability. It also involves the ability to evidence how views were sought, considered and how they influenced the decisions made or shaped more detailed proposals.
- 1.3 This policy:
 - 1.3.1 sets out the Council's criteria for determining whether consultation is necessary;
 - 1.3.2 provides the conditions for the management and governance of consultation and engagement activity; and
 - 1.3.3 details the quality standards that consultation and engagement activity must meet.

Scope

- 2.1 This policy applies to:
 - 2.1.1 all permanent and temporary Council employees, volunteers, people on work placements and elected members when acting as officers of the Council;
 - 2.1.2 all third parties and contractors performing a Council function or service.
- 2.2 The terms consultation and engagement can sometimes be mistaken for the same thing, and used inter-changeably, which can lead to confusion when we speak to colleagues or members of the public.
- 2.3 It is important that standards of both engagement and consultation activity are of equally good quality and are consistent across the Council. A distinction should not impact upon the quality of the project and resulting outcome.
- 2.4 This policy applies to both consultations and engagement activity.
- 2.5 The following activities are not covered by this policy:
 - 2.5.1 a vote or referendum;
 - 2.5.2 a way of justifying or validating earlier decisions;

2.5.3 solely information-giving, a public relations or communications exercise; and

2.5.4 market or social research activity.

- 2.6 This policy does not have legal force and cannot prevail over statutory or mandatory requirements. Some consultations will be governed by these requirements and will be administered in accordance with these.

Definitions

- 3.1 **Consultation:** A time-limited exercise when we provide specific opportunities for all those who wish to express their opinions on a proposed area of our work (such as identifying issues, developing or changing policies, testing proposals or evaluating provision) to do so in ways which will inform and enhance that work.¹ If the results of the activity will go to a committee or board for a decision then it is considered a consultation.
- 3.2 **Engagement:** The process of developing relationships and partnerships so that the voice of local people and partners can be heard. Engagement exercises can be used as a way to collect views and feedback to inform a more detailed proposal, policy or set of options, or to inform service changes which will not be subject to formal consultation or committee approval.
- 3.3 **The Consultation and Engagement Framework:** Supports colleagues to plan and conduct effective consultation and engagement. It provides a consistent approach across the Council; with practical advice and supporting guidance notes.
- 3.4 **Consultation and Engagement Criteria:** A set of seven measures which proposed consultation or engagement activities are assessed against, that determine the level of planning, review and oversight required.
- 3.5 **Consultation/Engagement Owner:** Like a project manager, this person has overall responsibility for the planning and management of a specific consultation/engagement activity.
- 3.6 **Consultation Advisory Panel:** Consists of approved practitioners of consultation and public engagement, who have completed accredited training. The panel assesses proposed consultation and engagement plans and supporting materials against the consultation standards and recommends whether a high-assessed consultation or engagement activities should go ahead.

¹ Adopted for the Scottish Government Consultation Good Practice Guidance

- 3.7 **Consultation and Engagement Hub:** The Council's [online platform](#) for the creation, promotion and management of consultation and engagement activity. Functionality includes:
- 3.7.1 Creating and managing an online presence for consultation/engagement activity; detailing important information, key dates, events and related documents relevant to the issue being consulted on.
 - 3.7.2 In-built survey creation tool.
 - 3.7.3 Analysis and reporting of data.
 - 3.7.4 Publishing results and feedback from consultation/engagement activities.
 - 3.7.5 Search engine allowing users to find consultation/engagement activities by area, audience, interest, postcode etc.

Policy content

- 4.1 To ensure effective consultation and engagement activity takes place, it is essential that the following policy requirements are understood and applied consistently by all Council employees and services.
- How to determine if a consultation is necessary**
- 4.2 A consultation, as defined above, is necessary if it meets any of the following:
- 4.2.1. You plan to make a change which may have a significant impact on people's lives or the environment.
 - 4.2.2. There is a statutory requirement to consult, and/or
 - 4.2.3. There is legitimate expectation² that the Council will consult.
- 4.3 Elected Members can also choose at any time for the Council to consult on a decision they are required to make.
- 4.4 A consultation should only take place if there is scope for stakeholders to influence the change or decision to be made and have a meaningful effect on the outcome.

² It is seen as common law, whereby the courts recognise consultees' rights to expect a fair process which incorporates guidance and management promises. The legitimate expectation applies: • when there has been a clear 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, or • where the nature of the relationship would create unfairness if there were to be inadequate consultation (Local Government Association Guide to Engagement - <https://www.local.gov.uk/sites/default/files/documents/Do%20I%20need%20to%20consult.pdf>).

4.5 A consultation should only take place if the following four principles can also be met:

4.5.1. Consultation takes place when proposals are still at a development stage.

4.5.2. Proposals include enough information to allow reasonable thought and response.

4.5.3. Enough time is given for consideration and response.

4.5.4. The products of consultation must be honestly considered by decision-makers.

Orb guidance

4.24.6 Any colleagues planning to undertake consultation, or involved in community and public engagement, are required to follow the process detailed on the Orb. This guides colleagues through the steps they should take to conduct good quality consultation or engagement, including using the Consultation and Engagement Framework, assessing against the Consultation and Engagement Criteria, applying the Consultation and Engagement Standards and submitting proposals through the Consultation Advisory Panel.

The Consultation and Engagement Framework

4.34.7 The Consultation and Engagement Framework was developed by a council-wide project team, from a workforce development programme with the Consultation Institute. The framework was approved by the Communities and Neighbourhoods Committee in 2014 and is reviewed periodically.

4.44.8 Colleagues should refer to the framework on the Orb when carrying out consultation or engagement work. It provides a consistent approach to consultation and engagement across the Council and offers practical guidance for each stage of consultation, with supporting guidance notes for each element and signposts to further information, best practice and techniques.

Consultation and Engagement Criteria

4.54.9 There are seven criteria that colleagues must assess their proposed consultation/engagement activity against.

- 4.5.1 Strategic
- 4.5.2 Legislative
- 4.5.3 Service Provision
- 4.5.4 Number of people likely to be directly impacted
- 4.5.5 Community / Environmental impact
- 4.5.6 Political / Reputational impact
- 4.5.7 Project Risk

4.64.10 The consultation and engagement criteria self-assessment is included as part of the Consultation and Engagement Framework section on the Orb.

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[4.74.11](#) How a consultation scores against the criteria determines the level of review and oversight required.

4.8.1 Low and medium assessed consultation/engagement activities may report to the appropriate Tier 2 and Tier 3 Managers.

4.8.2 Any consultation/engagement activities that are assessed as high should report to the Consultation Advisory Panel.

4.8.3 Where more than one criterion has been assessed as high, the Consultation Advisory Panel will refer consultation/engagement activities for final review and sign off to the Corporate Leadership Team (CLT).

[4.84.12](#) The responsibility to identify consultation/engagement activities that meet the prioritisation criteria lies with the owner.

[4.94.13](#) All completed forms should be sent to the Insight team at policyandinsight@edinburgh.gov.uk for final review and will be logged.

[4.104.14](#) Periodically, the Insight team will pull a sample of low and medium assessed consultation/engagement activities in for review, to ensure the standards are being applied consistently across all consultation and engagement activity. A summary of this review will be reported to the CAP.

Consultation and Engagement Standards

[4.114.15](#) The Council has adopted the [National Standards for Community Engagement](#). The standards help colleagues to consider how they will involve stakeholders in shaping local plans and services, ensure that the consultation or engagement process is fair and effective, and demonstrate that genuine dialogue has enabled people to influence decisions or shape proposals.

Consultation Advisory Panel

[4.124.16](#) The panel's main task is to act as a gateway to challenge and support high-assessed consultation/engagement activity. All high-assessed consultation/engagement activity will be reviewed by the panel.

[4.134.17](#) The Consultation Advisory Panel consists of two Heads of Service and three officers who have sufficient experience in consultation or public engagement. At least one of these officers will be drawn from the Insight team and will be an approved practitioner of consultation and public engagement who has completed accredited training. The panel will review proposed consultation/engagement activity.

[4.144.18](#) One of the approved practitioners of consultation and engagement from the Insight team will provide an initial advisory recommendation report to the owner indicating any improvement actions/advice before the paper is considered by the panel. These could include the creation of consultation/engagement methods, provision of further technical information, recording of risks, or documenting of procedures.

[4.154.19](#) Once the consultation/engagement owner has addressed the improvement actions, they should submit their proposals to the panel, including evidence of the completed improvement actions, for final recommendation.

[4.164.20](#) As a minimum, the Consultation Advisory Panel will meet every month. Consultation/Engagement plans, and supporting paperwork, should be submitted to the panel two weeks before the meeting. Any proposals not submitted in time will be held for the following panel meeting.

[4.174.21](#) The panel will refer significant high assessed consultation/engagement activity for final review and sign off to the Corporate Leadership Team (CLT). The consultation/engagement owner and/or a representative from the panel will be expected to attend this review to aid discussion and answer any questions.

[4.22](#) As part of the feedback process, the consultation/engagement owner may also be required to present the consultation/engagement findings to CLT and demonstrate how these have influenced decision-making.

Integrated Impact Assessment (IIA)

[4.23](#) Where relevant, all consultation and engagement owners should undertake an IIA during the planning stage. This can be in a draft format and be updated through the lifespan of the project.

[4.24](#) Where a consultation or engagement activity is assessed against the criteria as level three, a draft IIA or an approved statement saying why an IIA is not required must be published on our Consultation and Engagement Hub along with the activity when launched.

Demographic data collection

[4.25](#) As part of the consultation or engagement process, the project owner is required to consider and decide what demographic data they need to collect. Data should only be collected if it will be used to gain and understanding of the issue or if it will inform any decisions to be made.

[4.26](#) As a minimum standard, age and sex should be included in all activities, unless there is a strong argument not to include these. This is to understand who is, and who is not, responding.

[4.27](#) All other demographic data should be considered alongside the stakeholder mapping process and IIA.

[4.184.28](#) Where demographic information is being gathered, this should be done using questions from the 2022 Scottish Census, where these questions exist. These questions have been pre-populated into the Consultation and Engagement Hub as part of a survey template. These questions have been rigorously tested with stakeholders and can be deleted, as appropriate, if they are not relevant.

Implementation

All colleagues and workers will be made aware of the policy through established communication channels and the mandatory policy awareness exercise.

- 5.1 The initial key outcome of success will be the roll-out of the updated policy across the Council; embedding a consistent approach to consultation and engagement, but other success outcomes will be:
 - 5.2.1 Ensuring quality and appropriate consideration is given to significant consultation/engagement projects.
 - 5.2.2 Providing clarity on consultation/engagement standards to support colleagues to conduct consultation/engagement effectively.
 - 5.2.3 Preventing unnecessary consultation activity being undertaken; with alternative methods of engagement considered where appropriate.
 - 5.2.4 Improved quality of experience for respondents.
 - 5.2.5 Improved communication of outcomes from consultation/engagement activity.
- 5.2 All consultation/engagement owners should complete an online proforma that captures the criteria assessment for proposed consultation/engagement activity. Periodically, the Consultation Advisory Panel will pull a sample of low/medium assessed consultation/engagement activity in for review, to ensure the standards are being applied consistently across all consultation/engagement activity.
- 5.3 In cases where the criteria have not been assessed appropriately or standards have not been met, these consultation/engagement activities will be escalated to CLT for scrutiny.

Roles and Responsibilities

- 6.1 **Directors** have a general responsibility to ensure that consultation/engagement activity within their service area are managed according to this Council policy and that any risk relating to the activity is appropriately managed.
- 6.2 **Managers** must ensure that:
 - 6.2.1 this policy and associated guidance are understood in their business units by staff who carry out consultation or public engagement, and that the policy is applied to all consultation/engagement activity;
 - 6.2.2 adequate resource is made available to conduct consultation/engagement effectively;
 - 6.2.3 any consultation/engagement activities assessed as high priority are reported to the Consultation Advisory Panel for recommendation.

6.3 **Employees** must:

- 6.3.1 read, understand and follow this policy and any associated consultation/engagement procedures and guidance that are relevant to their work.

6.4 The **Consultation/Engagement Owner** must:

- 6.4.1 fully understand the degree of influence which is available through the consultation/engagement activity;
- 6.4.2 ensure there is no other recent consultation/engagement data on the same or similar issue by searching the Consultation and Engagement Hub and log;
- 6.4.3 determine resources required for each phase of the consultation/engagement process and secure support (e.g. staff resource, time, materials, methods, meeting spaces)
- 6.4.4 consider whether there is a statutory or legal process that needs to be followed;
- 6.4.5 build in monitoring, data analysis and evaluation from the start of the process;
- 6.4.6 confirm the decision-making process and timescales;
- 6.4.7 manage political expectations;
- 6.4.8 consider reputational risk to the Council; and
- 6.4.9 be the guardian of best practice.

6.5 **The Consultation Advisory Panel** will:

- 6.5.1 as a minimum, meet monthly to assess proposed consultation/engagement activities against the Consultation and Engagement Standards;
- 6.5.2 provide an advisory report to the consultation/engagement owner indicating whether they are satisfied with the information provided or if improvement action is required;
- 6.5.3 provide a recommendation to the consultation/engagement owner on whether to proceed with their consultation/engagement;
- 6.5.4 refer any significant high-assessed consultation/engagement activities to CLT for final review; and
- 6.5.5 periodically pull a sample of low / medium assessed consultation/engagement activities in for review, to ensure the standards are being applied consistently across all consultation and engagement activity.

6.6 **Elected members** in their role as representatives of the Council, must have an awareness of the policy and ensure, wherever possible, that requests for consultation/engagement are made in line with this.

- 6.7 **Third parties** (e.g. contractors, voluntary and not for profit organisations) performing a public function for the City of Edinburgh Council must also adhere to the requirements set out in this policy.

Related documents

- 7.1 [The Consultation and Engagement Hub](#)
7.2 [The 7 National Standards for Community Engagement](#)
7.3 Consultation Advisory Panel – Terms of Reference

Integrated impact assessment

- 8.1 The policy contributes directly to the delivery of the Equality Act 2010 general duties of advancing equality of opportunity, eliminating unlawful discrimination, harassment and victimisation, and fostering good relations.
- 8.2 It ensures a consistent approach to consultation and engagement activity that promotes equality of opportunity by identifying relevant affected stakeholder groups during the planning process and making appropriate methods and opportunities available to individuals to share their views and inform decision-making.

Risk assessment

- 10.1 Risk of weak internal governance and service delivery complications through a failure to raise and maintain awareness and use of the consultation and engagement policy, framework and standards amongst Council colleagues.
- 10.2 Risk that continued financial pressures adversely affect how consultation/engagement is carried out by services. Services that are under resourced do not have the capabilities or support to effectively manage consultation/engagement activity; increasing the risk that different stakeholder groups, particularly those seldom-heard or disengaged with public services, are prevented from effectively taking part in the consultation/engagement process.
- 10.3 Risk of excessive consultation through a failure to identify and apply appropriate criteria to proposed consultation or engagement activities.
- 10.4 Risk of reputational damage and lack of public trust due to ineffective consultation, engagement and decision-making.
- 10.5 Risk to citizens that the Council will mismanage their service provision due to inadequate and poorly managed consultation/engagement activity.

10.6 Risk of legal challenge because of ineffective consultation/engagement; where the scope for decision-making is not clearly identified or defined, appropriate opportunities to inform the process are unavailable and / or insufficient resource available to consult/engage effectively.

Review

11.1 This policy will be reviewed annually or when required by significant changes to legislation, regulation or business practice.