

# Community Engagement Policy

2018-2023



## **Contents**

<b>1</b>	<b>Introduction and context</b>
<b>2</b>	<b>Purpose and scope</b>
<b>3</b>	<b>Definition of engagement and consultation</b>
<b>4</b>	<b>Policy principles</b>
<b>5</b>	<b>The law</b>
<b>6</b>	<b>Roles and Responsibilities</b>
<b>7</b>	<b>Process</b>

<b>Appendices:</b>	<b>Quality Assurance Process</b>
	<b>Community Engagement Team role</b>
	<b>Useful references</b>
	<b>Glossary of terms</b>

## **1. Introduction and context**

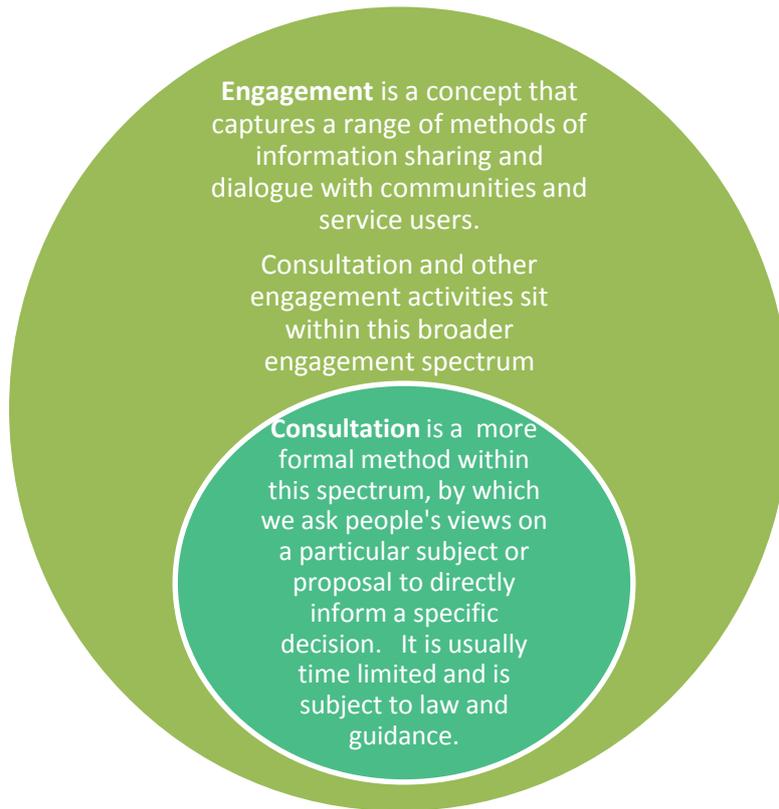
- 1.1 Council approved an updated five-year Engagement Strategy in May 2018. A clear message during the development of the strategy was that this policy should be updated to reflect the council's position and commitments, and reviewed in line with the strategy's five-year refresh cycle.
- 1.2 Community engagement is a positive thing to do, but it can be a complex discipline that encompasses a range of methods, one of which is consultation. This policy will help officers to understand the type of engagement that will best suit their needs; the difference between consultation and engagement, when and if it is required, and why the support of the Community Engagement Team (CET) is important.
- 1.3 All engagement undertaken in any area of the council **must** be approved by the CET before it can be progressed and made public.

## **2. Purpose and scope**

- 2.1 The purpose of this policy is to explain what Lincolnshire County Council means by engagement and all that it encompasses. It will particularly help to clarify the differences between engagement and consultation. It also lays out what is expected in terms of quality and standards when engaging with communities.
- 2.2 The policy covers all forms of community engagement, across all service areas and geographical parts of the county. This policy cannot provide legal advice or definitive answers on all questions relating to engagement and consultation, but it does provide clarity on the type of support and advice available to all staff wishing to undertake such activity.

## **3. Definitions**

- 3.1 For the purposes of this Community Engagement Policy 'community' refers to individuals, residents, groups or organisations (whether voluntary, public or private) of Lincolnshire.
- 3.2 There can be confusion around the difference between engagement and consultation. The following diagram demonstrates that consultation sits within the broader concept of engagement, beneath which are boxes that include definitions of the terms:



## Engagement

As an activity, 'engagement' is defined as on-going, regular dialogue, it includes simple conversations, but also collaborative approaches to working with our communities and partners. It is generally seen to offer great value in ensuring we make informed decisions, with stakeholders involved throughout the whole process.

## Consultation

Consultation is just one element of engagement. Generally we consult where we are legally or ethically obliged to do so, for example when a service or policy change is being considered. Good practice here also helps protect the reputation of the organisation.

### 4. Policy Principles

- 4.1 To achieve the council's aim of engaging with communities effectively you **must** access the support of the Community Engagement team (CET) at the earliest possible opportunity. The Team will help you to decide how to proceed and what types of engagement activity will best suit your needs of those of the people with whom you engage.

The CET will work with you to ensure that:

- the purpose, scope and objectives of any engagement (or consultation) are clearly stated at the outset, informed by an Equality Impact Analysis, where required, and clarification of the stage that the service development or commissioning activity has reached so far
- accessible engagement methods and tools are utilised to match audience needs and engagement objectives, with guidance and supporting documents made available to ensure robust and auditable practice
- engagement activities are delivered within time-frames that are proportionate and realistic, enabling stakeholders to contribute with sufficient time to provide considered responses
- engagement activities are widely advertised and promoted, including publicising feedback within 12 weeks of a consultation closing
- staff are provided with the specialist training, development and support they need to get the job done well
- continual improvement is achieved by keeping pace with current engagement and consultation research and good practice, developing case law and guidance, and by evaluating engagement activities along with the support and advice provided

4.2 It is **essential** to consider the Gunning Principles when undertaking a **consultation** exercise and good practice to bear these and the Brown and additional Bracking Principles (which relate to equalities, rather than consultation specifically) in mind when planning and running engagement. A link to more detailed information can be found in Appendix Three, but in summary, the key Gunning Principles are:

- consultation must take place when the proposal is still at a formative stage
- sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response
- adequate time must be given for consideration and response
- the product of the consultation must be conscientiously taken into account

4.3 Brown and Bracking Principles (due regard, relating to equalities) state:

- decision-makers must be aware of their personal duties
- the due regard duty must be fulfilled before and at the time of decisions
- analysis must be rigorous
- the duty to have due regard cannot be delegated
- the duty is a continuing one
- it is good practice to keep an adequate record
- it is integral and important to ensure the fulfilment of anti-discrimination legislation
- a public body must assess the risk and extent of any adverse impact and mitigation before adopting a proposed policy
- public bodies must have enough evidence to demonstrate it has discharged its duty
- public bodies should place equality considerations at the centre of policy formulation

4.4 There are a number of acts and statutes which dictate when and how consultation must take place in some services. If relevant to the service area, the Care Act for example, stipulates that if a change to an adult care service is significant, will have a considerable

impact upon people, or has been consulted on before (or a commitment to do so has been demonstrated) consultation should take place. Advice must be sought from the CET.

4.5 This policy will follow Lincolnshire County Council's risk governance and assurance structure and processes. Day to day responsibility for risks associated with this policy and provision of consultation/engagement advice and support to services across the whole council will rest with the directorate management team, which is ultimately accountable for the risk and related control environment. They are responsible for ratifying the director area's risk register and any director area risk policies in line with the corporate risk appetite, as laid out in the Risk Management Policy and Process Guide.

## **5. The law with regard to engagement and consultation**

5.1 Whilst there is no legal duty to *engage* with communities (therefore no legal risk), it is a positive thing to do as it builds relationships over time and ultimately leads to better policies, strategies and services. It also offers greater freedom and flexibility for the service and the those who are engaged than consultation.

5.2 Consultation can also be seen as a matter of good practice because of the difficulty in identifying definitively whether a legal obligation exists. This is because the law of consultation is based on the principles of fairness and legitimate expectation. Therefore, the question of legal obligation will often be a risk assessed judgment that may best be managed by carrying out a consultation.

5.3 There is no general duty on local authorities to consult when they are considering changes to services or policies. In fact the courts recognise a large degree of autonomy in public bodies, not least because public bodies are often seeking to balance a number of competing or conflicting interests and because of the impact on decision-making if everything had to be the subject of consultation. The courts have identified a number of circumstances where consultation will be required. However, they are ever developing and are a matter of judgment in every case. These circumstances fall into two categories: firstly, where there is a statutory duty to consult and secondly, where the courts will imply a duty to consult from the council's general obligation to act fairly.

5.4 Where a consultation is carried out it must be done properly, in accordance with the principles laid down by the courts. The potential for challenge means that the council is keen to accurately describe its proposals and establish, in written audit trails, the information it has provided and the responses it receives. The council must also demonstrate that it has given proper consideration to public and stakeholder views when reaching a decision.

5.5 The law allows consultation to take place on a preferred option as long as any other options that have been considered are included with clear reasons for their rejection.

5.6 Where there is uncertainty about the legal obligation to consult, the CET will advise whether further guidance should be sought from LCC Legal Services.

- 5.7 The GDPR was introduced in 2018 and all consultation and engagement must comply with the law regarding, for example consent, processing and storage of data. For more information, please contact the Information Governance team via [Information\\_Governance@lincolnshire.gov.uk](mailto:Information_Governance@lincolnshire.gov.uk)
- 5.8 Further references can be found in Section Four above and in Appendix Three. Additional terms are explained in Appendix Four at the end of this policy document.

## 6. Roles and Responsibilities

- 6.1 The Council's specialist Community Engagement team (CET) provides support and advice to LCC staff from all director areas and elected members on planning and delivery of **all** engagement (including consultation activities). The team draws on many years of experience on the varying methods of engagement, carrying out and advising on consultation and working with service areas across the authority.

The support and advice provided is designed to help services ensure that good quality engagement occurs, avoid duplication and contribute to improving community confidence in the council. It seeks to ensure a consistent and inclusive approach across all of our services.

- 6.2 In return it is expected that the service area responsible for the engagement/ consultation will carry out activities included in the Quality Assurance Process, (QAP, see Appendix One) to ensure that the consultation or engagement activity is of the best possible standard and achieves what it aims to do.
- 6.3 The QAP serves to ensure standards are met with 'sign off' (including sign off from the service area's portfolio holder) required at specific stages of consultation and engagement from the formation of the idea, to development and delivery, through to activity completion.

## 7. Process

- 7.1 The QAP was developed to support effective delivery of the 2013 Community Engagement Strategy objectives and this policy's principles. When the 2018 Strategy was endorsed in May 2018, Council specified that members of staff undertaking engagement or consultation activities **must** notify the Community Engagement team (CET) that work is planned. Officers will then follow the QAP process.
- 7.2 The engagement or consultation advice process, captured on the QAP diagram in Appendix One, follows 16 key stages and is supported by template documents. Each stage identifies the activities that will need to take place and the documents that support this activity, depending on the scale and scope of the piece of work. After each stage has been completed, the CET will ensure sign off with you. Once signed, the documents provide a record of decision making throughout your engagement/consultation.

- 7.3 Whilst the CET can support and advise you with your engagement, when planning any activity it is important that you consider and identify any resource requirements. This could include securing venues, identifying a member of staff responsible for collating and analysing feedback, staffing your consultation or engagement event or activity, and the production of any materials and postage. The CET has planning templates and references and can guide you through this part of the process as well.
- 7.4 With regard to questionnaire or survey development, the CET will advise on the content, wording or format, but are not able to extract and analyse SNAP data, however the team can connect you with Corporate Business Support who undertake this activity. Business Support colleagues will produce a data analysis report from completed SNAP survey forms free of charge. Please note that this does not include interpretative analysis that would need to be undertaken within your service or agreed in advance with Business Support (at an hourly cost). The SNAP process was also revised in 2018.

For more information on any of the above please contact the CET via [engagement@lincolnshire.gov.uk](mailto:engagement@lincolnshire.gov.uk)

# Quality Assurance Process



### **The Community Engagement Team (CET) offers:**

- advice and support in the development of consultation and engagement planning (including guidance and templates to aid the consultation/engagement process)
- advice and support on appropriate wording to ensure surveys/questionnaires are in plain language and are fit for purpose
- liaison with officers able to provide advice on information governance and build SNAP surveys, as part of the corporate SNAP process
- advice and support on testing the survey/questionnaire
- connections with services/organisations carrying out similar consultation or working with similar audiences – enabling joint working and sharing of results (where permitted)
- advice and support in the completion of equality impact analyses (EIAs)
- facilitation at workshops or other engagement/consultation activities
- access to the council's engagement database and calendar – promotion to people within the community who want to engage on issues that interest or affect them
- access to Lincolnshire's Community Engagement Community of Practice which enables sharing of experience, ideas and learning
- dissemination of training information so that colleagues are able to deliver engagement/ consultation activity themselves
- advice to ensure consultation adheres to relevant legal precedents (where required working closely with Legal Services) including Gunning, Brown and Bracking Principles
- providing a contact point to help individuals and external organisations contact the relevant member of staff within LCC
- raising an issue on behalf of an individual or external organisation with the relevant officer by such methods as forwarding e-mails or setting up a meeting
- facilitating responses to queries by making a 'reminder' contact with a member of staff if they do not respond to an individual or external organisation

### Useful references

As you can probably imagine, there are quite a few strategies, policies, procedures, guidelines, rules and laws that govern how we should engage. Case law is continually developing, but the key legal principles governing the council's engagement and consultation activity are listed below. Full details are also available through the links beneath the headings:

### Legal bits

The **Gunning Principles** and **legitimate expectation** – a set of rules that have developed as cases have been taken to court to ensure we consult in the right way, and in a genuine way. As well as the legal bit there's also guidance from the Government on consultation, known as the **Cabinet Office Principles** and **Best Value Guidance**

<https://www.consultationinstitute.org/arnstein-ladder-versus-gunning-principles/>

<https://www.gov.uk/government/publications/consultation-principles-guidance>

<https://www.gov.uk/government/publications/revised-best-value-statutory-guidance>

**Equality Act 2010, The Brown and Bracking Principles** – making sure that we, especially decision makers, consider everyone's needs, particularly those who have 'protected characteristics', such as disability and age

<https://www.gov.uk/guidance/equality-act-2010-guidance>

[http://www.equalityhumanrights.com/sites/default/files/documents/PSD/technical\\_guidance\\_on\\_the\\_public\\_sector\\_equality\\_duty\\_england.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/PSD/technical_guidance_on_the_public_sector_equality_duty_england.pdf)

<https://www.equalityhumanrights.com/cy/file/11221/download?token=xKNLBxix>

**The Localism Act 2011** – designed to change power and means we need to listen to the public when they say they'd like to take over a local resource for example

<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

The **General Data Protection Regulation** (GDPR) - A law, in force from May 2018, that provides updated rules to protect data in Europe, and as a result significantly changed previous data protection legislation in the UK, replacing the Data Protection Act 1998.

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

<https://ico.org.uk/your-data-matters/>

### Local bits

**Neighbourhood planning** is part of the Localism Act — Neighbourhood development plans are documents created by local communities and we (and particularly housing planning authorities, like district councils) must take account of them when making certain decisions

<https://www.gov.uk/guidance/neighbourhood-planning—2>

**Commissioning Strategies** – each service area in the council has a plan of how it will plan, design, deliver or buy and review services. These plans must be informed by feedback from people who use the services, those who potentially could use them one day and/or the people who care for or represent those people.

**The Community Engagement Strategy** – a document that explains to the public what they can expect from us when we engage with them. The development of the strategy in 2018 led to the update of this policy

<https://www.lincolnshire.gov.uk/local-democracy/finding-your-views/community-engagement-and-insight/51838.article>

**The Customer Insight Charter** – a guide for staff so they can better understand and use data we hold and feedback from you (awaiting approval and publishing at time of policy update, 2018)

**Corporate Customer Complaints and Compliments Policy** – an explanation of how we deal with something that the public tell us has gone well or gone wrong

<https://www.lincolnshire.gov.uk/local-democracy/complaints/>

**Petitions Scheme** – an outline of how someone can prepare a petition and what we will do with a petition if they decide it is the best course of action

<https://www.lincolnshire.gov.uk/petitions-and-consultations/petitions/132513.article>

**Customer Service Centre** – The way most people who want to speak to someone at Lincolnshire County Council get in touch is via staff who work in this centre. There are a number of rules, commitments and targets that the centre must work within

<https://www.lincolnshire.gov.uk/contact-the-council/the-customer-service-centre/88894.article>

## **Guidance relating to decommissioning and service change**

As well as general guidance there is some specific legal opinion regarding the need for engagement and consultation as part of any programme to review commissioning of services that might lead to de-commissioning decisions. The key points of this guidance include:

- The setting of a budget is not authority for the actions that underpin that budget
- Consultation on the budget is unlikely to be sufficiently specific to meet any consultation responsibility in relation to an individual proposal that underpins the budget
- It is lawful for the council to set a budget and then consult on individual proposals provided certain conditions are met
- The budget represents a limit that the Executive cannot exceed. It does not require the Executive to spend the money allocated by the full Council in the budget
- There is not anything fundamentally unlawful in consulting on changes which would lead to expenditure being incurred which is below the current budget

## Glossary of Terms

Term	Definition
Community	Individuals, residents, groups and organisations (of interest or geography, whether voluntary, public or private) of Lincolnshire
Community Engagement Team (CET)	<p>The team that supports and advises LCC staff and elected members to deliver effective, inclusive engagement and legally sound consultation. The CET is part of the Community Resilience and Assets Service. As such, the team will work towards the service strategy's aims to ensure:</p> <ul style="list-style-type: none"> <li>◆ People are informed and engaged</li> <li>◆ People can do things for yourselves</li> <li>◆ Resources are transferred to people so they can take action</li> <li>◆ Assets are protected and celebrated</li> <li>◆ People have a strong 'sense of place'</li> </ul>
Consultation	The opportunity to have a say on a specific issue at a given time using a set of planned methods within a planned process
Consultor	Person leading consultation or engagement exercise to establish answers to their questions
Engagement	Ongoing dialogue with individuals, groups and organisations to ensure they influence decisions that affect them
Feedback	Letting people know in good time how their views and ideas have contributed to decision making around implementing a change or improvement
Equality Impact Analysis (EIA)	Must be completed to inform dialogue so that stakeholders and decision makers are aware of the potential positive and negative impact(s) of proposals on the protected characteristics of service users or citizens
Gunning and Brown/Bracking Principles	Legal principles, developed through case law to explain how consultation should be carried out inclusively, transparently and fairly. Brown and Bracking relate specifically to equalities
Information	Facts and figures provided clearly and accessibly to help people understand an issue and make informed contribution and comment
Legitimate Expectation	A legal term that means when something has been done before during consultation, for example a particular method, members of the public have a right to assume we'll offer something similar next time
Quality Assurance Process (QAP)	A written process against which the engagement and consultation activity can be assessed to ensure it has met appropriate criteria and will be effective and legal

Lincolnshire County Council, in accordance with current legislation, wants to treat everyone fairly.

Although we do not translate things as a matter of course, there are times when the language barrier prevents people from accessing a service. In such cases it may be appropriate to provide an interpreter or written translation. Further information can be found by accessing the following web link:

<https://www.lincolnshire.gov.uk/residents/community-and-living/equality-and-diversity/interpreting-and-translating/>

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