

Argyll and Bute Council

Scrutiny Report

April 2023

FINAL DRAFT

Consultations

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1. Executive Summary

1. In September 2022, Elected Members requested that a scrutiny review of non-statutory council consultations take place as part of Argyll and Bute Council's (the Council) 2022/23 scrutiny plan. The Audit and Scrutiny Committee (the Committee) agreed to progress with this review and work should commence to define the scope of the work to be carried out.
2. A briefing paper was prepared by scrutiny officers and passed to the panel to provide background information. Discussion took place at this briefing session and at a further meeting of the panel to establish the scope of the review. This resulted in six themes of enquiry:
 - Sufficient comprehensive guidance is in place to assist officers carrying out consultations to achieve the intended outcomes within allocated resource constraints.
 - Public consultations are available at the correct time using the most appropriate method of consultation to ensure that all members of the public within the target audience are provided with an opportunity to participate.
 - The general public is made aware that their views are important to inform service decisions but are not inundated with multiple consultations on similar themes.
 - Results of consultations are used to inform service decisions and the associated response reports are published on the Council's website.
 - Elected Members are appropriately involved in and guided through the consultation process.
 - Council consultation toolkit guidance is in proportionate alignment with external guidance to meet Council requirements and limited resource availability.
3. Wide ranging research took place to establish legislative requirements and examples of good practice to form a basis for assessing Council consultation toolkit guidance. An extensive examination followed to measure compliance with the established assessment basis and identify any areas for improvement. The findings of this review formed the basis of discussions held with key officers involved, the full details of which are included in Exhibit 2.
4. The panel reviewed and discussed a large suite of documents obtained over the course of the review to reach its conclusions, these can be summarised as follows:
 - What happens in consultations is important to Elected Members as they are the bridge between the Council and the public; they are very alive both to the substance of consultations and the way in which they are carried out.
 - Designing and delivering successful consultations depends greatly on the quality of the Council's guidance and understanding of the audience which a given consultation is targeted at.
 - A review of the Council's guidance on consultations concluded that it was in alignment with nine of the eleven principles of good practice in the Scottish Government Guide to Public Consultations; partly aligned in one and not aligned in one.
 - Panel members wanted to find a way to be more involved in the process leading up to a consultation being announced; if it went off course; and in potential evaluation. This issue required detailed guidance on the relations between members and officers and on the delegated system of decision making within the Council.
 - There is a need for clarification during induction training of Elected Members regarding consultations and more broadly on their role in terms of policy and operational matters to clarify boundaries between members and officers.

- More comprehensive information should be provided to Elected Members including availability of self-service resources, publication of results of consultations and performance information
- There should be developed performance reporting of results within a reasonable time and feedback to those who participated in the process.

The full conclusions reached are included in paragraph 26 with findings and recommendations outlined in exhibit 3.

2. Detail

Introduction

5. As part of the Council's 2022/23 scrutiny plan, approved by the Committee in September 2022, we have undertaken a scrutiny review of non-statutory council consultations.
6. Throughout this report references to 'the panel' refers to the Chair of the Committee and four Committee Elected Members who conducted this review. They were:
 - Martin Caldwell (panel chair)
 - Councillor Hardie
 - Councillor Kennedy-Boyle
 - Councillor Irvine
 - Councillor Lynch
7. The panel was supported by council officers who gave willingly of their time to help deliver the review. We would like to extend our appreciation for the co-operation and assistance received from all attendees invited to provide evidence over the course of the review.

Objectives

8. The initially agreed objectives of the scrutiny review were to:
 - Identify any gaps in processes followed by the Council
 - Consider opportunities to implement improvements based on good practice
 - Assess alignment with other public sector organisations and good practice principles

Background

9. Consultations add value by giving local people a voice and an opportunity to influence important decisions, however they can be resource intensive and take time to complete. Each consultation that takes place is unique and therefore requires to be carefully planned and scoped to ensure clarity over the target audience of the views being sought, establish what perspectives can be added to what is already known and by what means is it best to obtain those views in a way that is appropriate and convenient for all involved.
10. Consultation exercises may be scrutinised to ensure they have been executed in an appropriate and proportionate manner, it is therefore important to record all decisions taken at the appropriate level and any supporting justification to ensure the process is demonstrably fair, effective and of a high quality.

11. Councils sometimes have a statutory requirement to consult their residents in compliance with relevant legislation such as the Schools (Consultation) (Scotland) Act 2010 where certain material changes are proposed for the school estate. Recent examples of school consultations can be viewed using this [link](#) (items 7 – 11 of the agenda). These consultations must follow a prescriptive process and timeframe as set out within the Act and are supported by additional guidance published by Scottish Government.
12. There are also non-statutory reasons that a consultation may be required, this may 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.
13. There are three key elements to working with our communities:
 - Communication – information provided to the public regarding an agreed position
 - Engagement – two way process of ongoing dialogue about a need to change e.g. budget, legislation etc. until a proposal or recommendations are made or a conclusion is reached
 - Consultation – gives the public an opportunity to provide responses to a proposal or recommendation

Scrutiny Initiation Briefings – 30 November 2022

14. In November 2022 the panel met to agree the scope and identify invitees to give evidence at panel meetings.
15. The scrutiny officers circulated a briefing paper to the panel which provided background on consultations. As well as providing background information (see paras 9-13 above) the briefing paper also noted that consultations were frequently undertaken by the Council; their importance was signified in the Annual Governance Statement of the Council; guidance for staff on the design, focus, targeting and lessons learned from consultations was contained in a toolkit suite of documents on the Council's intranet site; a Consultation Diary was available on the Council website; and that a consultation forward planner is to be put in place by the recently appointed Insight and Research Officer.
16. The panel recognised the comprehensive nature of this briefing and in a wide ranging discussion noted the following :
 - The Council guidelines are extensive and comprehensive
 - There is a legal framework to consultations which is embedded in the Gunning principles
 - A generic approach to consultations should be taken rather than focussing on specific consultations
 - There is a need to understand best practice principles and test whether the Council follows these

- The underlying process of consultation rather than a focus on one aspect should be the priority
- The role of Elected Members in consultations should be an important element for review
- There does not seem to be an oversight element for Elected Members once a consultation has been launched with the exception of consultations which could have a policy implication and these will normally be reported to the appropriate strategic committee
- The review of the governance statement could be an opportunity for the ASC to comment on consultation policy
- The partnership between Elected Members and officers is key when consultations are being considered but their roles are distinct

17. The panel agreed to a further statement of overall purpose of the review as follows:

- ensure centrality of public consultations to Council governance principles
- evaluate the alignment of the council's policy with external sources of good practice
- evaluate focus and content of the Council's guidance
- ensure accepted principles of consultation are included within Council consultation toolkit guidance

18. The panel agreed that they should meet with appropriate representatives of the groups set out in Exhibit 1.

Exhibit 1 – Scrutiny Meetings Attendees and Key Areas for Discussion

Group	Key Areas for Discussion
Council Officer(s)	<p data-bbox="451 1149 1254 1182">Centrality of Public Consultations to Council Governance Principles</p> <ul data-bbox="502 1187 916 1330" style="list-style-type: none"> • In governance statement • In routine policy development • In guidance to line managers • In guidance to committees <p data-bbox="451 1368 1254 1402">Source and Alignment of the Council's policy with External Sources</p> <ul data-bbox="502 1406 1342 1585" style="list-style-type: none"> • Scottish Local Authority sources • Other UK Local Authority sources • Other sources including Scottish Government • Sources of evidence used in arriving at conclusions in consultation exercises <p data-bbox="451 1624 983 1657">Focus and content of the Council's guidance</p> <ul data-bbox="502 1662 1342 1883" style="list-style-type: none"> • Overall audience being targeted • Involvement of Elected Members • Governance • Marketing • Tool Kit Guides in Council's intranet site (HUB) and alignment with External Sources of Guidance

3. Scrutiny Meetings

Scrutiny Panel Meeting – Council Officers – 02 & 24 February 2023

19. The first meeting consisted of the panel, Head of Customer Support Services and the Communications Manager. The second meeting consisted of those attending the first with the addition of the Head of Legal and Regulatory Support.
20. The scrutiny officers undertook a detailed review of the Council’s guidance documents on consultation against the 11 principles of good consultation in the Scottish Government Best Practice Guide to assess their alignment. This revealed that the Council’s guides wholly aligned to nine of the good practice principles, one was partially aligned and one was not aligned (please see alignment document at appendix 1 for further information).
21. Against this finding and building on the overall purpose of the review that had been agreed in the first meeting the six themes identified in paragraph 2 were agreed by the panel as the final scope of the review.
22. Scrutiny officers thereafter reviewed the Council’s guidance against these themes and identified certain gaps and considered amendments. (See conclusions at Paragraph 26)
23. The panel focussed on the first Gunning principle that a consultation proposal was essentially at a formative stage of a service development or project and that the final decision has not yet been made or predetermined by decision makers. The panel were of the view that they wanted Elected Members to be more involved in consultations and that timing of consultations in a process of project or policy development was crucial. It was noted that in the past 3 years some 92 consultations had been carried out. The panel were reminded of a statement in the SG Good Practice Guide as follows: ‘A consultation process cannot be used to indicate levels of support for a proposal or represent the views of the wider public’.
24. It was against this backdrop of issues that the panel met with council officials over the following two panel meetings. The Exhibit 2 lists the themes in order and the key messages emerging from each theme representing the respective views of the panel and the officials.
25. Key messages reflecting the views of the Council officers who attended are set out in Exhibit 2.

Exhibit 2 – Scrutiny Meetings – Council Officers - Key Messages

Theme	Detail
Sufficient comprehensive guidance is in place to assist officers carrying out consultations to achieve the intended outcomes within allocated resource constraints.	<p>The Head of Legal and Regulatory Support advised that a reason for non-statutory consultations being introduced was to demonstrate that the Council had operated in a logical and objective manner in arriving at a policy or process decision. As well as being a sound policy this would protect the Council against potential applications for judicial review over such decisions.</p> <p>When undertaking statutory consultations there is a very clearly laid out process to follow that is embedded within the relevant legislation. Non-statutory consultations are not subject to the same stringent requirements, however, there is a comprehensive set of guidance based on sound operating principles that is available to officers.</p>

	<p>Non-statutory consultations that may lead to a material service alteration or creation or revision of a policy or strategy will, in the normal course of business be approved by the appropriate Department Management Team (DMT), Executive Leadership Team (ELT) or appropriate strategic committee. There is now a recently appointed part time Insight and Research Officer in place in the communications team who will be available to support this process. This will support the application of council consultation toolkit guidance on consultations, feedback to the public on how their views made a difference, and updating as required of the council's guidance based on effective practice and/or lessons learned.</p> <p>Scottish Government guidance is 96 pages long and designed to be used by Civil Servants with greater access to further resources, it is therefore considered to be a "gold standard". The Council's consultation toolkit guidance is available on the intranet site (HUB) and is available to all Elected Members and officers, it condenses the required information into a more user friendly format across four compact documents totalling 36 pages. This guidance is not currently available to the general public.</p> <p>The consultation toolkit guidance is based on national guidelines. It is appropriate to apply guidelines as it is not possible to codify consultations as each one will have a life of its own, a different message, audience, impact and way of managing progress but there are key landmarks and principles in the guidance which need to be recognised and followed, though not rigidly.</p> <p>The consultation toolkit guidance provides tips and advice on planning, designing and developing effective consultations drawn from lessons learned from previous consultations undertaken by Council officers and from best practice set out in the National Standards for Community Engagement.</p> <p>The consultation toolkit guidance also advises officers how to construct questions in such a way that they do not contain inherent assumptions about the outcome, they should be clear and objective based on facts and circumstances at the time.</p> <p>The planning timetable at step 3 (page 10) of the consultation toolkit guidance indicates that consideration should take place on whether the consultation and the subsequent completed consultation report needs to be approved, and if so to ensure it meets the set management</p>
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	<p>or committee meeting deadline. (This will vary depending on the specific nature and scope of each consultation.)</p> <p>There is a need to clarify whether a lessons learned review is an appropriate way to determine improvement going forward and whether this can be accommodated into the consultation toolkit guidance for those undertaking consultations.</p> <p>The Best Value Action Plan has an action to further develop the consultation toolkit guidance around communication and engagement and this is in progress.</p> <p>Constructive conversations training is currently being delivered to interested officers to improve their communication, engagement and consultation skills.</p>
<p>Public consultations are available at the correct time using the most appropriate method of consultation to ensure that all members of the public within the target audience are provided with an opportunity to participate.</p>	<p>Detailed internal documentation and guidance is available to officers and additional reference is made in the Council's Annual Governance Statement which is contained within the Annual Accounts and placed before the Audit and Scrutiny Committee. The Annual Governance Statement is reviewed annually and updated as required to reflect the current position and all senior staff have input into the document. This is a robust process that is acknowledged by External Auditors.</p> <p>It is considered that the correct number of consultations take place as those that are carried out are authorised by appropriate senior management and/or committees as required within the Council's guidance and we are not aware of any comments implying that other topics should have been consulted on.</p> <p>The Council must consult where a material change is required to the way in which services are delivered and/or where there is a statutory obligation to do so.</p> <p>A change programme sits alongside the Council's agreed priorities for delivery over the rest of the period of this current administration. This provides longer-term planning for how we redesign our services and acknowledges that service redesign is not a luxury but essential due to the financial constraints on the Council. There is an awareness that this requires greater involvement with our communities and service users.</p> <p>Smaller consultations at an operational level are not necessarily about policy change or material alterations to the way the council operates. The operational principles would be set out in agreement with the relevant Executive</p>

	<p>Director and appropriately in consultation with the Policy Lead and, if necessary the strategic committee.</p> <p>The need to consult before decisions are made is set out in the guidance and therefore resources would not be deployed to work on a consultation had decisions already been made.</p> <p>Resourcing a consultation is an operational matter which is considered as part of the consultation process and authorised via senior management and, if appropriate, a strategic committee. Consultations can be time consuming and resource intensive, they can also create a great deal of controversy and an enormous amount of communication. There are avenues to follow to request additional funding from Financial Services should additional resources be required.</p> <p>Consultation information is published on the website for the general public to access to save generating multiple communications containing the same information.</p> <p>Clear communications describing what is being asked, why we are asking, what stage we are at and this is how we will use your response is essential to manage public expectations, avoid misunderstandings and minimise reputational damage.</p> <p>There is a difference between the efficacy of a consultation process and the substance of what we are consulting on. When people don't like the proposal being made there is a risk that the process will be blamed.</p> <p>A Member's seminar has been held around the Scottish approach to service design. This approach is aimed at involving members of the public at the right time and in the right way to generate improvements.</p>
<p>The general public is made aware that their views are important to inform service decisions but are not inundated with multiple consultations on similar themes.</p>	<p>The Consultation Diary area of the Council's website provides some feedback received in the year 2019/20 indicating what was asked, what was said and what was done upon receipt of results ("We Asked", "You Said" and "We Did").</p> <p>There was no specific feedback from consultees regarding how well they considered the consultation process was carried out.</p> <p>Although both are intended to involve the general public, there was concern that the difference between consultation and public engagement can easily be confused.</p>

	<p>There is a need to demonstrate that we are genuinely committed to involving the general public in different ways and at different stages that are appropriate to the subject matter.</p>
<p>Results of consultations are used to inform service decisions and the associated response reports are published on the Council’s website.</p>	<p>The guidance clearly advises the officer to feedback results of consultations, it states “You must always provide feedback on the results of the consultation and on how the views given have influenced decisions. Remember, if you don’t feedback, the public will be less inclined to participate the next time round.”</p> <p>Results of consultations are not always posted on the web page by the relevant officers on a timely basis.</p> <p>There is no metric of performance for placing results of consultations on-line within a reasonable timeframe after the closing date.</p> <p>There was concern that decisions can appear to have been already made prior to consultation taking place e.g. “this is our preferred option”. This is, however, often as a result of an option appraisal where a preferred option may be consulted on.</p> <p>Evaluation of major consultations is an operational task and results are passed to relevant Elected Members. There may be benefit in undertaking an independent review of a sample of consultations that have taken place to verify compliance and identify any lessons learned.</p> <p>Officers can share examples of good practice where engagement and consultation exercises have been successful, however, this has not been well used in the past.</p>
<p>Elected Members are appropriately involved in and guided through the Consultation process.</p>	<p>Panel members advised that they are often unaware of decisions on consultations until they are announced in the local press.</p> <p><i>Involvement in consultations</i></p> <p>Some panel members wanted to find a way to be more involved in the process leading up to a consultation being announced; if it went off course; and in any potential evaluation.</p> <p>Discussion took place on whether there was a role for members at the inception or pre-planning stage of a consultation. It was thought that greater clarity be provided in the Council guidance on whether the timing is considered to be appropriate and what strategic interaction if any</p>

	<p>between Elected Members and officers is appropriate as a project, programme or policy develops.</p> <p>This may potentially provide opportunities for officers to engage with Elected Members prior to the finalisation of the consultation design. It is difficult to gauge the type and scale of projects that Elected Members would be interested in. Any clarification or issues could be initially raised with the Head of Service.</p> <p>Notwithstanding the potential for such engagement it was important that the role of councillors be put into its statutory context. This relates firstly to the distinct role of both members and officers as set out in the code of conduct; and second to the delegation structure of the Council.</p> <p><i>Member / Officer Relations in the Code of Conduct</i></p> <p>Members are required to provide strategic leadership and oversight. This involves setting strategy, scrutinising and making major, complex decisions that concern the Council as a whole. Councillors are not, however, responsible for operational management (being the planning, organising and execution involved in day to day activities) as this is the role of employees. (Code of Conduct Annex A Para 3.)</p> <p>Elected Member's relationship with council officers is explained within the Local Government Scotland Act and the Council's Code of Conduct for Elected Members (pages 198 and 221). Scottish Government Councillors' Code of Conduct 2021 also sets out standards of behaviour to be followed by elected members of local authorities, under the Ethical Standards in Public Life etc. (Scotland) Act 2000.</p> <p><i>Delegation</i></p> <p>Delegation is essential to the smooth running of the Council and therefore any policy development or significant change is approved by the appropriate committee as it would not be practical for all decisions to be passed to the full Council</p> <p>Policy decisions cannot take place without involvement of the Executive Director and the Policy Lead. Once it has been identified that a consultation is required, the proposal is reported to the relevant strategic committee for approval by Elected Members. Not all Elected Members can be involved in the development of a policy unless it is passed to a meeting of the full Council. Once the consultation has taken place, results are gathered and reported back to the committee to make a decision based on the</p>
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	<p>recommendations made. All Strategic Committee papers are publically available and are held on a hybrid basis, therefore all elected members can access these and attend meetings where the proposal is discussed.</p> <p>Under the Council's delegated structure senior management and Elected Members within the strategic committees are ordinarily involved but if a topic is to be wider ranging, all Elected Members should be initially sign-posted to information that is available on the Council's website for public access. In the event of additional information being required by Elected Members, they should direct enquiries to the relevant Head of Service.</p> <p>Once feedback is received and it is decided that the matter requires a policy change after discussion with the policy lead it is taken forward to the appropriate committee for approval of the delegated Elected Members.</p> <p>92 consultations took place over last 3 years and would be extremely difficult and inefficient to have all Elected Members involved in all consultations. There is a need to find a balance where everyone feels involved but does not increase the administrative burden on officers.</p> <p><i>Member Development</i></p> <p>It was noted that there may be some uncertainty on the part of some Elected Members who may not have fully grasped their role as set out above.</p> <p>There is a gap in Elected Members training to ensure they have enough knowledge of statutory and non-statutory consultations and engagement and an understanding of how decisions are made and at what point it is decided that a topic goes to consultation.</p> <p>The Elected Member Development Plan is under review from induction through to one-to-one sessions regarding personal development and all training in between to equip Elected Members as changes take place. The desire of Elected Members to be more involved in consultations arising from this scrutiny review will be reported to those involved in the Member Development Plan to identify what improvements can be made. A session on consultations can be accommodated within induction planning.</p> <p>Elected Members may be helpful in raising awareness of specific consultations either across the Council or in their specific wards.</p>
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	<p>Elected members have a role in managing expectations of the general public about what level of engagement the Council is able to carry out, what the expectations of consultations are and realistic expectations of what local government is in a position to take forward using resources available.</p> <p>Elected Members and third sector partners are encouraged to make use of the consultation space on the Council's website that can be accessed by the general public providing details of live consultations and results of closed consultations that have been published. This is the most up to date source of consultations information and should be reviewed regularly by interested parties.</p> <p>The Council issues a Weekly News Roundup bulletin which contains a section dedicated to consultations, it provides a brief description of the consultation and key dates at a glance which would help people decide if they wanted to become involved. This is a free subscription service and is currently sent out to around 4 – 5 thousand recipients and removes the need to proactively check the consultations space on the Council's website.</p>
<p>Council consultation toolkit guidance is in proportionate alignment with external guidance to meet Council requirements and limited resource availability. A process is in place to identify any gaps and consider amendments.</p>	<p>The Annual Governance Statement is currently under review and we are considering what other LAs do as part of that process. There is currently a good system in place in relation to governance arrangements within the Council.</p> <p>The Council's consultation toolkit guidance was prepared by the Communications team using good practice available from various sources, it is fully aligned to 9 of the 11 UK government principles and one is partially aligned. A summary table of the alignment exercise has been attached at appendix 1.</p>

4. Overall Conclusion and Findings

26. Based on the information obtained over the course of the review the panel has concluded that:

- There is a comprehensive suite of guidance available to officers on the Council's intranet site, the Hub, however, this guidance does not advise the reader to avoid consultations during an election period.
- New Elected Members are provided with induction training promptly after elections take place as well as regular development sessions, however, these do not currently include details regarding the Council's consultation process and the differentiation between statutory and non-statutory requirements.
- There may be some ambiguity on the part of some Elected Members regarding the role of Elected Members in terms of policy and operational matters and it is considered that

induction and development training do not provide sufficient information to clarify the boundaries.

- Elected Members consider that they are not being adequately informed when consultations are about to take place, however, there are additional resources they can view on the website or receive upon subscribing to the Council's weekly bulletin that contains a consultations section.
- Results of consultations are not always published on the council's website in a timely manner.
- There is no metric in place to report on the timely publication of consultation results.

27. The review has identified 6 findings which have been discussed with management. These, and the management responses, are detailed in Exhibit 3.

Exhibit 3 – Findings

No.	Recommendations	Management Response
1	The consultation guidance document on the HUB should be updated to include further advice for officers to avoid conducting consultations during an election period.	The consultation guidance will be updated by the Communications Manager.
2	As part of induction training for new Elected Members and at appropriate development sessions, specific content on the Council's process of consultations should be included to explain the differentiation between statutory and non-statutory in terms of process requirements.	The Head of LRS and Head of CSS will liaise to develop appropriate content for the members' induction and development sessions.
3	As part of induction training for new Elected Members and at appropriate development sessions, information should be provided to help clarify the boundary of responsibility between Elected Members and Officers as set out in statute, the code of conduct for Councillors and related guidance. There should be specific focus on how processes work within the Committee structures and systems to ensure that Elected Members are aware of how matters are appropriately dealt with and by which policy leads.	The Head of Legal and Regulatory Support has commenced separate reviews in regard to Induction Training and Elected Member Development and these matters will be picked up in each of those as they progress.
4	Elected Members should be advised to subscribe to the Council's weekly newsletter which contains information regarding current issues and projects and includes a specific section on live consultations. Additionally, Elected	The Communications Manager will advise Elected Members of the Council's weekly newsletter and how to subscribe to this service, they will also be made aware of the information published on the

No.	Recommendations	Management Response
	Members should be advised to refer to the Consultations Diary page on the Council's internet site where they can view details and results of closed consultations and links to participate in those that are current. This will aid member's awareness of consultations taking place.	Consultation Diary area of the Council's website.
5	Officers should be reminded of the need to publish results of consultations on the Council's web page on a timely basis.	<p>The Communications Manager/Head of Customer Support Services will provide the Executive Leadership Team (ELT) with a paper supporting the need to publish results of consultations on a timely basis. ELT will direct the Departmental Management Teams to remind Heads of Service of this need.</p> <p>The Communications Manager will provide additional guidance to assist officers through the publication process.</p>
6	A performance metric should be implemented to encourage prompt publication of consultation results in accordance with step 4 of the HUB guidance and overarching UK Government Principles.	The Communications Manager will involve the Community Engagement Working Group in developing and establishing an effective metric.

APPENDIX 1

Review of Argyll and Bute Council's Toolkit Guides to ensure Alignment with UK Government's Consultation Principles 2018

The Scottish Government has prepared guidance which outlines their approach to consultations and this has been published on its [website](#), a [Consultation Good Practice Guidance](#) document has also been prepared and made available for public access. Both of these documents make several references to other organisations and their resources, however, the key information source is that of the [UK Governments 11 Principles of Consultation](#) which incorporates and expands upon the Gunning principles. Use of these principles helps to ensure that appropriate and justifiable decisions are made about consultation exercises in terms of legal issues as well as good practice.

An exercise has been carried out to assess the content of the Council's guidance ([Consultation Guidance \(toolkit\)](#), [Consultation checklist](#), [Consultation Lessons Learned](#) & [Consultations do and don't guide to writing consultation questions](#)) against the UK Government's 11 principles and the results are included within the table below.

Assessment of Council Consultation Toolkit Guidance against UK Government Principles

	Consultation Principles 2018	Inclusion within ABC Guidance
A	<p>Consultations should be clear and concise Use plain English and avoid acronyms. Be clear what questions you are asking and limit the number of questions to those that are necessary. Make them easy to understand and easy to answer. Avoid lengthy documents when possible and consider merging those on related topics.</p>	<p>Consultation toolkit page 8 first bullet advises reader to use plain English and provides link to further guidance which advises to avoid use of jargon and acronyms in the 2nd bullet on page 7. Page 10 of the do and don't guide states that all questions should be clear and unambiguous. Page 1 of the do/don't guide suggests using routing to allow participants to skip questions that are not relevant to them. Page 2 of the do/don't guide advises to make sure that questions are short and specific to be clear of what is being asked. The HUB landing page for consultations advises against overloading people with consultation requests and refers the reader to review the consultation diary to assess what consultations have taken/are due to take place. Upcoming consultations should be registered with the Communications team to avoid duplication. The toolkit also states on page 2 that the officer should check that a consultation has not already taken place on the topic or the information is already out there, page 6 also advises that people are reluctant to read long documents.</p>
B	<p>Consultations should have a purpose Do not consult for the sake of it. Ask departmental lawyers whether you have a legal duty to consult. Take consultation responses into account when taking policy forward. Consult about policies or implementation plans when the development of the policies or plans is at a formative stage. Do not ask questions about issues on which you already have a final view.</p>	<p>Toolkit page 3 states that the overall purpose of the consultation should be identified and is reiterated in the do/don't guide on page 9. Requirements for a consultations of a statutory nature are set out in legislation and therefore not relevant to this review. Page 2 of the toolkit states that local views help the Council reach the best decisions about what we do and how we do it, additionally, step 4, no.3 (page 14) states that it is important that participants know how the consultation will influence policy development or service delivery. Page 1 of the do/don't guide defines</p>

		the role of a consultation including that it gives people the opportunity to contribute to a decision that has not been made yet.
C	<p>Consultations should be informative</p> <p>Give enough information to ensure that those consulted understand the issues and can give informed responses. Include validated impact assessments of the costs and benefits of the options being considered when possible; this might be required where proposals have an impact on business or the voluntary sector.</p>	Page 7 of the toolkit states that a consultation document provides an opportunity to provide detailed background information on a particular proposal or issue. The do/don't guide also suggests to consider the information that needs to be provided to enable people to respond honestly and constructively and offers some suggestions to assist.
D	<p>Consultations are only part of a process of engagement</p> <p>Consider whether informal iterative consultation is appropriate, using new digital tools and open, collaborative approaches. Consultation is not just about formal documents and responses. It is an on-going process.</p>	The consultation toolkit assists the officer to decide which method of consultation to use and lists the associated pros and cons on pages 6 & 7.
E	<p>Consultations should last for a proportionate amount of time</p> <p>Judge the length of the consultation on the basis of legal advice and taking into account the nature and impact of the proposal. Consulting for too long will unnecessarily delay policy development. Consulting too quickly will not give enough time for consideration and will reduce the quality of responses.</p>	Pages 10 & 11 of the toolkit are dedicated to planning the consultation and this includes, preparation, notifications, consulting and evaluating responses. The ideal time indicated for the consultation element to take place is 6 to 8 weeks.
F	<p>Consultations should be targeted</p> <p>Consider the full range of people, business and voluntary bodies affected by the policy, and whether representative groups exist. Consider targeting specific groups if appropriate. Ensure they are aware of the consultation and can access it. Consider how to tailor consultation to the needs and preferences of particular groups, such as older people, younger people or people with disabilities that may not respond to traditional consultation methods.</p>	Step 2 of the consultation toolkit helps the officer decide how to reach the target consultees including enabling the seldom heard to take part where appropriate. The various methods listed on pages 6 & 7 assist in this task. Page 8 identifies measures to help overcome barriers that prevent anyone from taking part and advises where to contact for further advice and assistance.
G	<p>Consultations should take account of the groups being consulted</p> <p>Consult stakeholders in a way that suits them. Charities may need more time to respond than businesses, for example. When the consultation spans all or part of a holiday period, consider how this may affect consultation and take appropriate mitigating action, such as prior discussion with key interested parties or extension of the consultation deadline beyond the holiday period.</p>	The most appropriate method to conduct a consultation for the target audience is discussed in step 2 of the toolkit. The table in stage 3 on page 11 states that sufficient time should be allowed for key stakeholders to respond and be aware of times of year when responses may be affected e.g. religious festivals, school holidays etc.

H	<p>Consultations should be agreed before publication Seek collective agreement before publishing a written consultation, particularly when consulting on new policy proposals. Consultations should be published on gov.uk.</p>	<p>Step 3 on page 10 of the consultation toolkit states that consultation should be approved by DMT, SMT or appropriate council committee prior to registering with the research and engagement officer.</p>
I	<p>Consultation should facilitate scrutiny Publish any response on the same page on gov.uk as the original consultation, and ensure it is clear when the government has responded to the consultation. Explain the responses that have been received from consultees and how these have informed the policy. State how many responses have been received.</p>	<p>Step 5 within the Consultation toolkit deals with the provision of feedback and evaluation of the consultation. This includes, thanking everyone involved, no. of responses and comments provided, outline of how the Council will act on the results, detailed feedback, publication and disbursement. Feedback reports are expected to be published on the Council's website but this does not always appear to be happening.</p>
J	<p>Government responses to consultations should be published in a timely fashion Publish responses within 12 weeks of the consultation or provide an explanation why this is not possible. Where consultation concerns a statutory instrument publish responses before or at the same time as the instrument is laid, except in very exceptional circumstances (and even then publish responses as soon as possible). Allow appropriate time between closing the consultation and implementing policy or legislation.</p>	<p>Step 3, page 11 of the consultation toolkit advises the officer to set a deadline for the consultation results to be done/reported to appropriate decision making meeting, however, there is no recommended time period for this to be completed.</p>
K	<p>Consultation exercises should not generally be launched during local or national election periods If exceptional circumstances make a consultation absolutely essential (for example, for safeguarding public health), departments should seek advice from the Propriety and Ethics team in the Cabinet Office. This document does not have legal force and is subject to statutory and other legal requirements.</p>	<p>There is no reference to election periods within the guidance.</p>



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Lessons learned from
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Guide to writing
consultations question