

Wiltshire Council

Overview and Scrutiny Management Committee

24 September 2019

Final Report of the Public Consultations Task Group

Purpose of the report

1. To present the findings and recommendations of the task group for endorsement by the Overview and Scrutiny Management Committee (OSMC) and referral to the Cabinet Member for Communications, Communities, Leisure and Libraries for response.

Background

2. Following Cabinet's consideration of the detail from the public consultation regarding the future of Everleigh Household Recycling Centre on [9 October 2018](#), Cllr Graham Wright (Chairman of Overview and Scrutiny) offered for scrutiny to undertake a review into the way that Wiltshire Council carries out public consultations.
3. After this, the Chairman and Vice-Chairman of OSMC met with the Cabinet Member for Communications, Communities, Leisure and Libraries and the Director for Communities and Communications, to discuss the establishment of the task group and terms of reference. On [20 November 2018](#) OSMC endorsed the establishment of a Public Consultations Task Group, along with a set of terms of reference (listed below).
4. At November 2018's meeting, OSMC agreed that the task group's scope should focus on:
 - The purpose of consulting the public on certain decisions
 - The amount of consultations conducted by Wiltshire Council and whether this was reasonable
 - The public's perception of how their contribution would influence decisions.
5. This remit of the task group aligns with the Business Plan 2017-27 priority of 'working with partners as an innovative and effective council'. Within this objective the specific heading of: 'Community Involvement: Robust decision making which is open, inclusive, flexible and responsive'.

Terms of reference

6. The following terms of reference (ToR) for the task group were endorsed by OSMC:
 1. *To investigate:*
 - a) *The quantity and scope of council consultations and the level of response*
 - b) *How the council determines when, and when not, to consult the public on proposals or potential service changes*

- c) *How the council determines the best design and format for each consultation*
- d) *The public's perception and experience of council consultations*

2. *To make constructive recommendations for improvement if appropriate.*

Membership

7. The task group comprised the following membership:

Cllr Gavin Grant
 Cllr Ruth Hopkinson
 Cllr Jim Lynch
 Cllr Pip Ridout
 Cllr Fred Westmoreland
 Cllr Stuart Wheeler (Chairman)

Methodology

8. The task group is grateful to the following witnesses for contributing to the scrutiny review:

Cllr Richard Clewer	Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism
Cllr John Thomson	Former Cabinet Member for Communications, Communities, Leisure and Libraries
Cllr Philip Whitehead	Former Cabinet Member for Finance, Procurement, ICT and Operational Assets
Cllr Christopher Williams	Portfolio Holder for Communities and & Area Boards
Laurie Bell	Former Director for Communities and Communications
David Bowater	Senior Corporate Support Manager
Frank Cain	Head of Legal Services
Liz Creedy	Head of Corporate Assurance and Programmes
Ian Gibbons	Director for Legal, Electoral and Registration Services
Emily Higson	Corporate Support Manager
Phil Morgan	Former Census Liaison Manager
Paul Taylor	Senior Solicitor
Ceri Tocock	Head of Communications, Marketing and Events
Robin Townsend	Director for Corporate Services

9. Alongside receiving evidence from the witnesses detailed above, the task group also considered other sources of evidence and these included:
- Case Study: Wiltshire Council Public Consultation on the Future of Everleigh Household Recycling Centre
 - Case Studies: Flawed Local Government and Central Government Consultations (those successfully challenged in Court)
 - Legal Services' Internal Advice to Service Areas: The Duty to Consult
 - The Market Research Society's Code of Conduct
 - Models of Communication: William Bridges
 - Public Sector Equality Duty
 - The Wiltshire Compact
 - Wiltshire Council's Business Plan 2017-2027
 - Wiltshire Council's Constitution
 - Wiltshire Council's Consultation Strategy
 - Wiltshire Council's Public Consultations from July 2017 to January 2019
10. The task group met four times between January 2019 and September 2019. The task group discussed this final report and its recommendations with the Executive on 2 September 2019.

Evidence

Internal Documents

11. The task group found that the Council's internal documentation relating to public consultations was either out of date, or not being adhered to consistently. This documentation related to the Wiltshire Compact, Wiltshire Council's Constitution and Wiltshire Council's Consultation Strategy. The Cabinet Member for Communications, Communities, Leisure and Libraries confirmed that these documents were under review and would be updated, once the task group had concluded its work and put forward a set of recommendations.

The Business Intelligence Hub

12. As the officer responsible for managing the Council's public consultations had retired in April 2019, the task group felt that it was important for the Council to uphold its practise of carrying out public consultations in line with legislative duties. In other words, in light of recent national headlines, the Council needed to ensure that its decisions were not at risk of being challenged in the Courts, now that the Census Liaison Manager had retired and there was no immediate plan to recruit a successor. As such, the proposed Business Intelligence Hub would have an integral role to play in the Council's future public consultation process.
13. In the interim period whilst the Business Intelligence Hub is established, the task group heard that individual service areas and their appropriate teams would be responsible for managing any public consultations. Essentially, the ownership of any public consultation and its process would rest with the team who are leading on work considering any changes in policy. For example, as public consultations on the proposed boundary review changes need to be completed by 2020, the team leading

on this piece of work would be tasked with undertaking and managing the public consultations. The task group heard that absorbing this significant additional task may present a challenge for the team.

Terminology

14. The task group found that between July 2017 and January 2019, 86 per cent of all public consultations conducted by Wiltshire Council were examples of canvassing or engagement. This meant that only 14 per cent of consultations conducted during this period were examples of either statutory consultations, or consultations recommended by Legal Services (i.e. consultations that the Council needed to undertake as per legislation from the 'Duty to Consult').
15. Primarily, the words 'public consultation' have certain connotations and set the expectation that a respondent can influence the outcome of a specific decision. When such terminology is used to describe a form of engagement or canvassing, respondents therefore wrongly assume the purpose of their role, as well as their power of influence.
16. Secondly, when a form of engagement or canvassing is labelled a 'public consultation', a larger amount of internal resources become committed to managing this process. The task group heard that engagement and canvassing activities should be managed by individual service areas and such pieces of work are usually carried out by either Community Engagement Managers (CEMs), or through teams undertaking surveys independently through – for example – 'Survey Monkey'.

Public Perception

17. As discussed above, through the incorrect use of terminology, the public's expectation when participating in a Wiltshire Council consultation could be mistakenly raised. Alongside this, the task group heard that consultations should be set out in a manner which enables the respondent to understand what they are responding to, as well as to be informed of all the options under consideration.
18. When considering national guidelines on public consultations, the task group understood that consultations should only be undertaken when a decision is genuinely undecided and proposals are at a formative stage.

Conclusions

19. The task group agreed that the underlying principles and foundations of the Wiltshire Council documents relating to public consultations were sound. Therefore, any work required to update these documents would be marginal.
20. In regards to the Business Intelligence Hub, in order to capitalise on the opportunity for the Council to improve the way in which it conducts public consultations, it would be fundamental for the Hub's officers to be both well versed in consultation processes, as well as possessing the expertise to allow them to design consultations that encourage responses which would be beneficial to the Council, when it comes to

the final decision-making stage. Theories from William Bridges' model of communication helped to evidence this need.

21. Also, as the final scope of tasks to be undertaken by the Business Intelligence Hub have not yet been agreed, the task group felt that additional expertise could provide valuable input into the Executive's final decision about how the proposed Hub would be organised. During this interim period however, the task group is very concerned about how the Council is planning to manage public consultations; believing that the risk of adverse legal challenge is too great under the present arrangements.
22. Furthermore, the task group felt that it is important for members of the public to be able to see how their consultation response had impacted on any final decisions. The current practise of appending consultation responses to Cabinet/Full Council reports, can be a complex way for the average resident to see how their contribution has helped to shape Council policy. It would be good practise to summarise the results of the consultation in an easily decipherable fashion, as well as continuing with the practise of appending responses to the end of Cabinet reports.
23. The task group concluded that if public consultations are organised effectively, both in terms of the process itself and language used, then the expectations of all stakeholders would be better managed and the public could feel that their voice is better valued by Wiltshire Council; thereby increasing participation in Council consultations.

Proposal

24. To endorse the report of the task group and refer it to the Cabinet Member for Communications, Communities, Leisure and Libraries for response at Overview and Scrutiny Management Committee's next meeting.

Recommendations

25. **That the Cabinet Member for Communications, Communities, Leisure and Libraries considers implementing the following recommendations:**
 - 1) **To ensure that the Council is compliant with its own guidelines and consistent in its approach to public consultations, to update the sections of the following documents which relate to public consultations:**
 - a) **Wiltshire Council: The Constitution**
 - b) **Wiltshire Council: Consultation Strategy**
 - 2) **To ensure that the proposed Business Intelligence Hub has the necessary expertise and skills to manage public consultations:**
 - a) **Additional expertise and advice to be sought, before finalising arrangements for the Hub**
 - b) **The Hub to have the required specialist knowledge and skills to design effective and balanced consultation processes.**

- 3) In the interim period whilst the Business Intelligence Hub is established and to minimise the risk of the Council being legally challenged on its decisions, public consultations to continue to be managed by specialists.
- 4) In order to ensure that the Council uses the appropriate process and terminology, corporate training to be rolled-out to all service areas on the difference between a public consultation and engagement/canvassing, and guidance to be provided on the internal processes for managing each of these forms of participation.
- 5) For all future public consultations to be designed so that the public can respond with feedback that is directly relevant to and can directly inform the council's subsequent decision making.
- 6) For all public consultations to clearly state:
 - a) the purpose of consulting the public on the proposal
 - b) the process that the Council will follow when making its final decision and where a respondent's contribution fits into this chain of events.
- 7) The same principles as set out in recommendation six to also apply to any form of public engagement, canvassing/surveys.
- 8) For all decision-making papers to clearly set out how respondents' views have actively influenced the final decision made.
- 9) For Overview and Scrutiny Management Committee to consider receiving a report in approximately 12 months' time about how any of the above recommendations accepted by the Executive have been implemented.

Cllr Stuart Wheeler, Chairman of the Public Consultations Tash Group

Report author: Natalie Heritage, Senior Scrutiny Officer, 01225 718062,
natalie.heritage@wiltshire.gov.uk

Background documents

Links have been provided within the body of the report to background documents.