

Session 3 – Consultation and Equalities

Outline of session content

- Statutory duties to consult
- Statement of Community Involvement
- Principles of fairness
- National policy on consultation
- Public Sector Equality Duty
- Southwark Council's Equalities Approach

Legal requirements on consultation - 1

- No general statutory duty to consult
- Instead, specific legal provisions for different planning situations
- Local authority must also produce a Statement of Community Involvement
- Local authority should follow SCI or have good reasons for not doing so

Legal requirements on consultation - 2

- Courts have set out certain minimum requirements for a fair consultation
- Supreme Court case of *Moseley* (2014) confirmed 4 principles of consultation:
 - Proposals still at a formative stage
 - Sufficient reasons given for proposals to enable intelligent consideration and response
 - Adequate time must be given for consideration and response
 - Responses must be conscientiously taken into account in finalising any proposals
- Supreme Court also held that in some situations, fairness will require that local authorities consult on arguable alternative options as well as the preferred option

Legal requirements on consultation - 3

- National Planning Policy Framework:
 - Para 17, principle 1: “Planning should be genuinely plan-led, empowering local people to shape their surroundings ... plans should be ... based on joint working and co-operation”
 - Para 69: “Local planning authorities should create a shared vision with communities ... local planning authorities should aim to involve all sections of the community in the development of Local Plans and in planning decisions”
 - Para 155: “Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. A wide section of the community should be proactively engaged”
- Planning Practice Guidance
 - Para 17 “Local planning authorities need to identify and engage at an early stage with ... those that may be affected by [a Local Plan] but do not play an active part in most consultations”

Public Sector Equality Duty -1

- A legal duty on public bodies to **have due regard** to the need to:
 - Eliminate discrimination, harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations
- Advancing equality of opportunity includes:
 - Encouraging participation in public life
- Protected characteristics: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Public Sector Equality Duty - 2

- Duty to have “due regard”
- More than just a tick-box exercise
- Consider possible mitigation
- Give reasons where other considerations outweigh equality objectives
- Proper record-keeping to demonstrate compliance
- Equality Impact Assessments
- Southwark Council’s Equalities Approach

PSED and consultation

- Engagement is an important part of the PSED
- E.g. with those typically less active in public life
- PSED imposes a positive duty of inquiry
- SCI and Equalities Approach make specific provision for how equalities groups will be engaged

How can you use these duties to influence planning decisions?

- Object to planning applications and proposed planning policies
- Raise with local councillors and MPs who may be less familiar with particular legal duties
- Register a formal complaint with local council
- Complain to Local Government Ombudsman
- Take legal action

Where to find more information?

- NPPF <https://www.gov.uk/government/publications/national-planning-policy-framework--2>
- Planning Practice Guidance
<https://www.gov.uk/government/collections/planning-practice-guidance>
- Planning Aid <http://www.rtpi.org.uk/planning-aid/>
- Landmark Chambers resource bank
http://www.landmarkchambers.co.uk/resource_bank
- Equality and Human Rights Commission
<https://www.equalityhumanrights.com/en>