

## Notes regarding Warrington Borough Council's flawed consultation process

A Supreme Court case against Haringey Borough Council in 2014 set the benchmark for the standards of local authority consultation. The case made it clear that while there is no general legal duty to consult people affected by a decision, a duty to consult may arise out of the Council's **common law duty of fairness** (R(BAPIO Action Limited) v Secretary of State for the Home department [2007] EWCA Civ 1139).

The key message from the Haringey case is that consultations must be carried out fairly. Looking at issues of who, when, how and evidence based analysis.

1. Who should they consult- the demands of fairness are higher where the authority contemplates depriving someone of something;
2. How should they consult – if someone is likely to be worse off they should be specifically identified and consulted;
3. When to consult- it should be done with sufficient time to allow people to know what you are thinking of doing, telling them the options and giving time for them to reflect on it:
  - a. Consultation should be at a time when the proposals are still at a formative stage to allow for "intelligent consideration and response";
  - b. Adequate time must be given;
  - c. It must allow the public meaningful participation in the process;
4. Analysis- The data collected from the consultation must be handled and objectively managed – there must be sound data collection, processing and analysis.

Warrington Borough Council has failed in several respects.

The highest court in the land requires that if a person is to be worse off as a result of the proposals they should be contacted directly by hand delivered letters and by telephone if necessary. This should have been reinforced by street notices and press releases. None of which have been done by the council. The courts have determined that use of the Council's website alone is not sufficient. People affected should have been identified and targeted with communications. Most of Grappenhall will consider themselves to be worse off as a result of these proposals but a number will definitely lose businesses and property. Communication has therefore been ineffective and compromised the consultation process.

There appears to be no evidence of a scoping exercise around the consultation and no steering group. The greater the involvement with the community the better. No links have been forged with local groups, community representatives, bodies and forums to ensure understanding of the proposals and also the process.

It is not clear how the council has determined the necessary period of consultation. It has given the minimum time possible for people to be consulted. Consultations of this size and nature could last for 3 months. It has consulted over the holiday period meaning a large proportion of those affected will not have been made aware of the consultation being carried out or have been unable to access the information.

There is no evidence of a communications strategy. The communication has been very inadequate. The information is poor and the plans are illegible. Information from the planning officers at the public meetings has been conflicting and unclear. In addition, the data and documents provided in the consultation are not digestible during the period allowed for the consultation.

There has been no proper access given to the consultation documentation. The information has been placed online and at libraries only as far as we are aware. Only a limited amount of paper forms have been made available and then only on request and by collection from the council offices. The Council have relied too heavily on online forms and information. The council should not assume that people have access to technology.

There has been no proper data collection at the consultation meetings. A note of the number and name and address of attendees was not taken. Feedback forms were not provided to the attendees to allow the council or any other relevant body to determine the usefulness and appropriateness of these meetings. Attendees at the meetings did not see the council's planners taken any notes of comments made to them.

The consultation timetable does not even seem to include the requirement for a report to be produced summarising the results of the consultation that is currently being carried out.

The council have failed to provide a proper consultation plan including a communications plan. This should have been drafted, tested and then implemented. People have not been enabled to take part in this extensive plan consultation. The council must give active consideration of the data collected.

Even in times of local government austerity this is not just best practice it is a requirement.