

Merryshire Libraries consultation Neutral Evaluation

Investigation commencement date: 29th February 2021

Date of publication of this report: 10th March 2021

Client correspondence date: 3rd March 2021

Evaluator: Dified Jones

SAMPLE ONLY

Neutral Evaluation provides preliminary, observations by an experienced investigator, drawing upon the impression conveyed from our conversations with you. We will check the consultation and its available key documents for any weaknesses and highlight any areas of concern based on our extensive knowledge of precedents and good practice ('the tCI Consultation Charter').

The Institute cannot accept any liability for errors or omissions arising from these dialogues or for any consequences or liabilities arising from statements made in our findings. Other than in exceptional circumstances, reports (written or verbal) are for the use of the client alone and it is not permissible to make this available to a third party without the express consent of the Consultation Institute.

Investigation brief

These are the response that you have already provided: -

Consultor:	Merryshire District Council
Title of consultation:	Libraries Consultation
Consultation web link:	www.gov.uk/libraries/consult
MIDAS reference number:	0012424
Details of your contact with consultor	None
Your response status to the consultation	Not yet responded to the consultation
Other stated issues:	Cannot make contact with the local authority on the stated email address

Conversation summary

- You expressed concern that the consultation was misleading because the footfall at central library was too low compared to your own observations in the past month
- You felt the consultation was flawed in that it was only online
- You want the consultation re-run with the correct information so that local people can make an informed view on the current situation.

Timetable

The Consultation was launched on January 26th, 2021 and remains open until 26th March 2021. No feedback has been published yet.

Key documents inspected for this report

- Initial impact assessment
- Consultation questionnaire
- Consultation video

Relevant legislation

Public Libraries and Museums Act 1964 'to provide a comprehensive and efficient library service for all persons'

Evaluation Summary

Observations critical to the *honest intention* of the consultation have been marked in underlined text for each of the following sections.

Principle 1: The INTEGRITY of Consultation
<p><u>Description</u></p> <p>The process must have an honest intention. The Consultor must be willing to listen to the views advanced by consultees, and be prepared to be influenced when making subsequent decisions. If the decisions subject to consultation have already been taken, it is a waste of consultees' time and a fraud upon all participants to undertake a purposeless exercise, and breaches the principle of Consultation Integrity.</p>
<ul style="list-style-type: none"> • The proposals are still at a formative stage. • Despite the concerns of the client, there is no strong evidence of predetermination in the sense that there is robust evidence of options appraisal, multiple options in the consultation paper and the tone of the narrative would intimate that the consultor demonstrates it has an open mind. • A preferred option has been declared to close central library instead of county library, which is in accordance with good practice. • The consultation is preceded by a lengthy pre-consultation engagement phase which has solicited the priorities and preferences of local people. While this did not solicit alternative solutions, it was generally well orchestrated. • We have a concern related to the initial <i>business case</i> which states that the contractor for demolishing central library is in the process of being commissioned. <u>If this is true then it could constitute a form of predetermination relating to a particular outcome.</u> • The limited scope of the questions means that the key issues tend to get clouded. We note, however, that there is a key question relating to support (or not) for the proposals which is necessary.

Principle 2: The VISIBILITY of the Consultation

Description

All those who have a justifiable right to participate in a consultation should be made reasonably aware of the exercise. For Closed consultations, this will be less demanding than for Open Consultations. Visibility is also important for decision-makers who should have full awareness of any consultation exercise which is relevant to decisions they are about to take.

- A stakeholder mapping document was provided which demonstrates that the authority has considered the direct and indirect impact of the consultation. It remains unclear if those directly impacted will be those who responded – in other words, if the output of the consultation is representative.
- We are surprised that the local business community was omitted from any direct or indirect impact.
- The consultation is open for 8 weeks which, while is relatively short, does not give us any grave concern – particularly as there are no public holidays during the period.
- The consultation overlaps with a period of Purdah towards the end but this is not of concern.
- The consultation was announced via a press release and newspaper copy. There are no obvious stakeholders outside of the immediate locality.
- An Equalities impact assessment exists (and is published). However, there is only one assessment and there should be one for each presented option. There are nine protected characteristics yet age seems to have been omitted from this and subsequent equalities monitoring. This is unusual but there may be justification.
- We are unable to pass comment on the internal visibility of the consultation among the relevant officers and the relevant portfolio holder.

Principle 3: The ACCESSIBILITY of the ConsultationDescription

Consultees must be able to have reasonable access to the exercise. This means that the methods chosen must be appropriate for the intended audience, and that effective means are used to cater for the special needs of hard-to-reach groups and others with special requirements.

- New technology offers an ever-wider choice of consultation mechanism, but consultors must always ensure that the Digital Divide does not disenfranchise citizens or stakeholders. As the consultation is “online only”, the limited range of methods chosen seem inappropriate for the intended audience, particularly in the context of the special requirements of this rural locality.
- There is no provision for alternative consultation formats/languages which demonstrates a lack of due regard for their equalities duty
- The language of the consultation was overly complex. For example, acronyms relating to the library’s services were not explained. This may contradict the Council’s own “easy read policy”.

Principle 4 The TRANSPARENCY of Consultation

Description

The principle of Transparency and the Freedom of Information Act 2000 requires that stakeholder invitation lists, consultee responses and consultation results be published. But this should only occur with the express or implied consent of participants. Consultors who intend to publish details of respondents and their responses have a duty to ensure that this is understood by all participants. Consultation submissions will be published unless specific exemptions apply.

Consultees rightly expect full transparency of the governance arrangements applicable to a consultation and the decision-making process which will follow. They will also expect explanations for decisions taken following a consultation.

- There is no “disclosure of responses” statement or question which means that consultees have no opportunity to understand the published status of their responses or request that it be protected from FOI.
- There is no obvious “Privacy Information Notice” setting out the terms of use for personal data (or purpose for processing). As contact details are collected by the questionnaire, this is mandated by the GDPR regulations. The technology used for the online questionnaire may also be incompatible with the premise of limited international transfers.

Principle 5 The DISCLOSURE obligations in ConsultationDescription

For consultation to succeed, and to encourage a measure of trust between the parties, it is important to provide for reasonable disclosure of relevant information.

Consultors are under a duty to disclose information which could materially influence the nature and extent of consultees' responses. In particular, areas where decisions have effectively been taken already, and where consultee views cannot influence the situation, should be disclosed.

- The scope of the consultation is clear in the narrative, including what *cannot* be influenced. However, there is a linked decision in terms of the preceding budget consultation. There is a subtle difference between the shape and substance of a budget and there may be grounds for challenge if a prior decision was taken on savings without considering impact and if the specified amounts were ambitions or hard and fast savings figures.
- The authority has disclosed the numbers relating to the footfall of each library but has not substantiated this with a source for the data or the freshness of it. We recommend asking for this information as it is that which can make a difference.
- The closure options *are* suitably specific, this a requirement of effective consultation.
- There are detailed needs assessments published for each library but there are no costs provided for the current library provision. We feel this is key missing information necessary for making an informed response to the consultation.

Principle 6 The FAIR INTERPRETATION of Consultation

Description

Information and viewpoints gathered through Consultation exercises have to be collated and assessed, and this task must be undertaken objectively.

Only in exceptional circumstances should the decision-makers themselves be involved with primary assessment of the data, and the use of external assessors has many advantages.

- No report is yet available so it is not possible to evaluate this principle fully at this time
- The consultation does not ask a question about “who is speaking” which will make any results less meaningful for decision makers
- The cabinet meeting to decide on the consultation has not yet been set
- The consultation is being evaluated internally which may throw up unwanted confirmation bias

Principle 7 The PUBLICATION of Consultation

Description

Participants in a consultation exercise have a proper expectation that they will see both the output and the outcome of the process. Except in certain Closed or Internal consultations, the assumption should be that publication in a form accessible to the consultee will follow within a reasonable time after the conclusion of the exercise.

Where no publication is intended, it is the duty of the consultor to disclose this when initially inviting stakeholders or the public to participate

- No report or report timetable is yet published so it is not possible to evaluate this principle fully at this time

Summary

INTEGRITY	Not realistically vulnerable
VISIBILITY	Not realistically vulnerable
ACCESSIBILITY	Some significant vulnerabilities
TRANSPARENCY	<u>Some</u> significant vulnerabilities
DISCLOSURE	Many significant vulnerabilities
FAIR INTERPRETAIOTN	NA
PUBLICATION	NA

Expert statement

“It is my belief that the information deficit is the main issue with this consultation. If this cannot be rectified quickly then consultees will be denied intelligent consideration of the presented case for change and will be unable to meaningfully respond. While there are other flaws, particularly the over reliance on digital, this is in balance with the limitations of the pandemic. However, it is compounded by shortcomings relating to accessibility and other matters of due process which for which the sum of the problems is very hard to ignore in the context of its lawfulness.”

Number of previously requested investigations with this Consultor: Zero

Further reading

Over reliance on digital	Kendall v Rochford DC (2014)	
	London Oratory School v adjudicators (2015)	
Lack of key information		