




The Gunning Principles

The **Gunning Principles** are a set of rules for public consultation that were proposed in 1985 by Stephen Sedley QC, and accepted by the Judge in the Gunning v LB of Brent case.

The case centred on a school closure consultation, and prior to this very little consideration had been given to the laws of consultation. In delivering his judgment, Sedley defined that a consultation is only legitimate when these four principles are met:

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- Gunning One: That consultation must be at a time when proposals are still at a formative stage;
- Gunning Two: That the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
- Gunning Three: That adequate time is given for consideration and response; and
- Gunning Four: That the product of consultation is conscientiously taken into account when finalising the decision.

The Gunning Principles are fair to both Consultor and Consultee, and are increasingly being used to measure the legitimacy of consultations. The number of cases where challenge has arisen is growing, and with communities becoming increasingly aware of what is expected, where challenge has been successful, the ability to crowd-fund challenges and truly hold consultors to account, it is essential that those undertaking consultation have good awareness of the Gunning Principles and embed them within any planned activity.

Of particular note is the shift from challenges being based on the first three Gunning Principles over the last decade or so, to Gunning Four over the last 12 months.

We see first-hand how communities and individuals are willing to use any angle possible to challenge proposals during the consultation stage. Equally, we see how consultors are leaving themselves exposed to risk by not carrying out consultations in accordance with the Gunning Principles.

The Judicial Review process is a timely and costly process for all concerned, and our advice is:

- That Consultees ensure that any argument being relied on to mount a challenge is sound
- That Consultors ensure that they are aware of previous challenges (won and lost). Use them to learn from their mistakes, understand the risks of challenge, don't repeat those mistakes and ensure that you have adequate resources and skills to be confident that your consultation is safe and beyond reproach.