

PUBLICATION OF REPORTS AND AGENDAS

At the council meeting on Tuesday 16th March there were allegations made that the council was failing in its legal duty to publish to the public all information relating to matters contained in the agenda with three clear days in advance of the meeting. I would like to take this opportunity to clarify the position as far as is possible, without the courts having offered much case law.

The legislative framework for this is complicated and can be summarised as follows.

Public Bodies (Admission to Meetings) Act 1960

<https://www.legislation.gov.uk/ukpga/Eliz2/8-9/67/contents>

**Sections related to this subject which apply to Parish and Town Councils.
And, those as amended by the Coronavirus regulations.**

<https://www.legislation.gov.uk/ukxi/2020/392/made?view=plain>

(4) [F7 Where a meeting of a body is required by this Act to be open to the public during the proceedings or any part of them, the following provisions shall apply, that is to say,—] [F7 The following provisions apply in relation to a meeting of a body—]

(a) [F8 public notice of the time and place of the meeting shall be given by posting it at the offices of the body (or, if the body has no offices, then in some central and conspicuous place in the area with which it is concerned) three clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;][F8 public notice of the time of the meeting and, if the meeting is to be open to the public, how to access the meeting, must be given by publishing it electronically at least three clear days before the meeting or, if the meeting is convened at shorter notice, then as soon as reasonably practicable;]

...
(c) while the meeting is open to the public, the body shall not have power to exclude members of the public from the meeting [F9 and duly accredited representatives of newspapers attending for the purpose of reporting the proceedings for those newspapers shall, so far as practicable, be afforded reasonable facilities for taking their report and, unless the meeting is held in premises not belonging to the body or not on the telephone, for telephoning the report at their own expense]

The Local Government Act 1972

<https://www.legislation.gov.uk/ukpga/1972/70/section/100/england>

Section 100 of the LGA specifies requirements in regard to meetings being open to the public

100 Admission of public and press to local authority committee meetings.

(1) [E1 For the purpose of securing the admission, so far as practicable, of the public (including the press) to all meetings of committees of local authorities as well as to meetings of local authorities themselves, the M1 Public Bodies (Admission to Meetings) Act 1960 (in this section referred to as “the 1960 Act”) shall have effect subject to the following provisions of this section.]

[E1 The Public Bodies (Admission to Meetings) Act 1960 (“the 1960 Act”) has effect in relation to meetings of committees of local authorities, subject to subsection (2).]

- (2) Without prejudice to section 2(1) of the 1960 Act (application of section 1 of that Act to any committee of a body whose membership consists of or includes all members of that body) section 1 of the 1960 Act shall apply F2. . . to any committee appointed by one or more local authorities under section 102 below, not being a committee falling within section 2(1) of the 1960 Act [F3or section 100E(3)(a) or (b) below (whether or not by virtue of section 100J below)].
- (3) [F4Where section 1 of the 1960 Act applies to a committee by virtue of subsection (2) above, then, for the purposes of subsection (4)(c) of that section, premises belonging to the local authority or one or more of the local authorities which appointed the committee shall be treated as belonging to the committee.]

And, publication of reports to accompany the agenda for **principal councils** which **do not apply to local (town and parish) councils.**

100A Admission to meetings of principal councils.

- (1) A meeting of a **principal council** shall be open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under subsection (2) below or by resolution under subsection (4) below.
- (2) . . .

100B Access to agenda and connected reports.

- (1) Copies of the agenda for a meeting of a **principal council** and, subject to subsection (2) below, copies of any report for the meeting shall be open to inspection by members of the public at the offices of the council in accordance with subsection (3) below.
- (2) . . .

100J Application to new authorities, Common Council, etc.

- (1) Except in this section, [F3and subject as follows,] any reference in this Part to a **principal council** includes a reference to—
 - F4 (a)
 - (b) a joint authority;
 - F5 (ba)
 - [F6 (bb) [F7the London Fire and Emergency Planning Authority;]]
 - [F8 (bc) an economic prosperity board;
 - (bd) a combined authority;]
 - [F9 (be) Transport for London;]
 - [F10 (bf) a sub-national transport body;]
 - (c) the Common Council;
 - [F11 (cc) The Broads Authority;]
 - [F12 (cd) a National Park authority;]
 - (d) a joint board or joint committee falling within subsection (2) below;
 - F13 (e)
 - F14 (eza)
 - F15 (ea)
 - [F16 (f) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.]
 - [F17 (g) the Homes and Communities Agency so far as it is exercising functions conferred on it in relation to a designated area by virtue of a designation order.]
 - [F18 (h) a Mayoral development corporation.]

And, Schedule 12, Part II Paragraph 10 section (2) which refers to parish and town councils:

- (2) *Three clear days at least before a meeting of a parish council—*
- (a) *notice of the time and place of the intended meeting shall be fixed in some conspicuous place in the parish and, where the meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting; and*
 - (b) *[F29 a summons to attend the meeting, specifying the business proposed to be transacted at the meeting and signed by the proper officer of the council, shall be left at or sent by post to the usual place of residence of every member of the council.]*
[F29 a summons to attend the meeting, specifying the business proposed to be transacted at the meeting and certified by the proper officer of the council, shall be sent to every member of the council by an appropriate method.]

The Openness Of Local Government Bodies Regulations 2014

<https://www.legislation.gov.uk/ukdsi/2014/9780111113554>

These require that members of the public may record and report on meetings and use any reports available at the meeting in making such recordings and reports. They do not require the publication of such reports and background Information prior to the meeting.

PART 2

Admission to and reporting of meetings of certain local government bodies Amendment of the Public Bodies (Admission to Meetings) Act 1960

3.—(1) Section 1 of the 1960 Act (admission of public to meetings of local authorities and other bodies) is amended as follows.

(2) After subsection (3) insert—

(3A) Where the public are excluded from a meeting of a relevant local government body under subsection (2), the body may also prevent any person from reporting on the meeting using methods—

- (a) which can be used without that person's presence at the meeting, and
- (b) which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later."

(3) In subsection (4), after paragraph (c) insert—

- (d) *in the case of a meeting of a relevant local government body, while the meeting is open to the public any person attending is to be permitted to report on the meeting."*

(4) After subsection (4) insert—

(4A) Subsection (4)(d) does not require a relevant local government body to permit oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting."

(5) In subsection (7)—

- (a) after "television broadcasting services" insert "or, in the case of a relevant local government body, for use in electronic or any other format to provide news to the public by means of the internet"; and
- (b) for "but nothing in this section" substitute "but, subject to subsection (4)(d), nothing in this section".

(6) After subsection (8) insert—

(9) *In this Act—*

relevant local government body" means—

- (a) the Council of the Isles of Scilly;
- (b) a parish council; or

They also require that when an officer makes a delegated decision then any reports and background information which has been used in reaching the decision are available at the time the decision is made. Whilst this applies to parish and town councils it does not relate to meetings of the council.

PART 3

Record of decisions and access to documents

Interpretation of this Part

6. In this Part—

“background papers” in relation to a decision which falls within regulation 7(2), means those documents other than published works, that—

- (a) relate to the subject matter of the decision or, as the case may be, part of the decision; and
 - (b) in the opinion of the proper officer—
 - (i) disclose any facts or matters on which the decision or an important part of the decision is based; and
 - (ii) were relied on to a material extent in making the decision;
- “confidential information” means—

...

- (o) a parish council, or,
- (p) a parish meeting.

Recording of decisions

7.—(1) The decision-making officer must produce a written record of any decision which falls within paragraph (2).

(2) A decision falls within this paragraph if it would otherwise have been taken by the relevant local government body, or a committee, sub-committee of that body or a joint committee in which that body participates, but it has been delegated to an officer of that body either—

...

(3) The written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision and must contain the following information—

- (a) the date the decision was taken;
- (b) a record of the decision taken along with reasons for the decision;

...

Decisions and background papers to be made available to the public

8.—(1) The written record, together with any background papers, must as soon as reasonably practicable after the record is made, be made available for inspection by members of the public—

- (a) at all reasonable hours, at the offices of the relevant local government body;
- (b) on the website of the relevant local government body, if it has one; and,
- (c) by such other means that the relevant local government body considers appropriate.

The Smaller Authorities (Transparency Requirements) (England) Regulations 2015

& the related Transparency Code for Smaller Authorities

<https://www.legislation.gov.uk/uksi/2015/494/made>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/388541/Transparency_Code_for_Smaller_Authorities.pdf

These require the smallest parish and town councils (Those with a budget of £25,000 or less) to publish supporting documents with agenda items. This **does not therefore apply to Trowbridge Town Council.**

2. The Local Audit and Accountability Act 2014 sets out a new audit framework for local public authorities which are currently covered by the Audit Commission regime. Under the new audit framework smaller authorities, including parish councils, internal drainage boards, charter trustees and port health authorities, with an annual turnover not exceeding £25,000 will be exempt from routine external audit. In place of routine audit, these smaller authorities will be subject to the new transparency requirements laid out in this Code. This will enable local electors and ratepayers to access relevant information about the authorities' accounts and governance.

Minutes, agendas and papers of formal meetings

29. Smaller authorities should publish the draft minutes from all formal meetings (i.e. full council or board, committee and sub-committee meetings) not later than one month after the meeting has taken place. These minutes should be signed either at the meeting they were taken or at the next meeting.

30. Smaller authorities should also publish meeting agendas, which are as full and informative as possible, and associated meeting papers not later than three clear days before the meeting to which they relate is taking place.

As I stated at the meeting any guidance provided by the National Association of Local Councils is guidance and is not legislation.

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