



2014 CHAPTER 8

PART 8

ACCESS TO MEETINGS AND DOCUMENTS

Admission to meetings of councils

42.—(1) A meeting of a council must 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) or by resolution under subsection (4).

(2) The public must be excluded from a meeting of a council during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence; and nothing in this Part authorises or requires the disclosure of confidential information in breach of the obligation of confidence.

(3) For the purposes of subsection (2), “confidential information” means—

- (a) information provided to the council by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and
- (b) information the disclosure of which to the public is prohibited by or under any statutory provision or by the order of a court;

and, in either case, the reference to the obligation of confidence is to be construed accordingly.

(4) A council may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public

were present during that item there would be disclosure to them of exempt information, as defined in section 51.

(5) A resolution under subsection (4) must—

- (a) identify the proceedings, or the part of the proceedings, to which it applies; and
- (b) state the description, in terms of Schedule 6, of the exempt information giving rise to the exclusion of the public,

and where such a resolution is passed this section does not require the meeting to be open to the public during proceedings to which the resolution applies.

(6) The following provisions apply in relation to a meeting of a council—

- (a) public notice of the time and place of the meeting must be given by posting it at the offices of the council five days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;
- (b) while the meeting is open to the public, the council does not have power to exclude members of the public from the meeting; and
- (c) while the meeting is open to the public, duly accredited representatives of newspapers attending the meeting for the purpose of reporting the proceedings for those newspapers must, so far as practicable, be afforded reasonable facilities for taking their report and, unless the meeting is held in premises not belonging to the council or not on the telephone, for telephoning the report at their own expense.

(7) Nothing in this section requires a council to permit—

- (a) the taking of photographs of any proceedings; or
- (b) the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later); or
- (c) the making of any oral report on any proceedings as they take place.

(8) But a council shall permit during proceedings which are open to the public the use of social media by councillors, members of the public or journalists, to the extent that its use does not disrupt proceedings.

(9) This section is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

Access to agenda and connected reports

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

(2) If the clerk of the council thinks fit, there may be excluded from the copies of reports provided in pursuance of subsection (1) the whole of any report which,

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or any part which, relates only to items during which, in the opinion of the clerk, the meeting is likely not to be open to the public.

(3) Any document which is required by subsection (1) to be open to inspection must be open to inspection at least five days before the meeting, except that—

- (a) where the meeting is convened at shorter notice, the copies of the agenda and reports must be open to inspection from the time the meeting is convened, and
- (b) where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (or of the revised agenda), and the copies of any report for the meeting relating to the item, must be open to inspection from the time the item is added to the agenda;

but nothing in this subsection requires copies of any agenda, item or report to be open to inspection by the public until copies are available to members of the council.

(4) An item of business may not be considered at a meeting of a council unless either—

- (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by members of the public in pursuance of subsection (1) for at least five days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
- (b) by reason of special circumstances, which must be specified in the minutes, the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

(5) Where by virtue of subsection (2) the whole or any part of a report for a meeting is not open to inspection by the public under subsection (1)—

- (a) every copy of the report or of the part must be marked “Not for publication”; and
- (b) there must be stated on every copy of the whole or any part of the report the description, in terms of Schedule 6, of the exempt information by virtue of which the council is likely to exclude the public during the item to which the report relates.

(6) Where a meeting of a council is required by section 42 to be open to the public during the proceedings or any part of them there must be made available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and, subject to subsection (8), of the reports for the meeting.

(7) There must, on request and on payment of postage or other necessary charge for transmission, be supplied for the benefit of any newspaper—

- (a) a copy of the agenda for a meeting of a council and, subject to subsection (8), a copy of each of the reports for the meeting;

- (b) such further statements or particulars, if any, as are necessary to indicate the nature of the items included in the agenda; and
- (c) if the clerk of the council thinks fit in the case of any item, copies of any other documents supplied to members of the council in connection with the item.

(8) Subsection (2) applies in relation to copies of reports provided in pursuance of subsection (6) or (7) as it applies in relation to copies of reports provided in pursuance of subsection (1).

Inspection of minutes and other documents after meetings

44.—(1) After a meeting of a council the following documents must be open to inspection by members of the public at the offices of the council until the expiration of the period of six years from the date of the meeting—

- (a) the minutes, or a copy of the minutes, of the meeting, excluding so much of the minutes of proceedings during which the meeting was not open to the public as discloses exempt information;
- (b) where applicable, a summary under subsection (2);
- (c) a copy of the agenda for the meeting; and
- (d) a copy of so much of any report for the meeting as relates to any item during which the meeting was open to the public.

(2) Where, in consequence of the exclusion of parts of the minutes which disclose exempt information, the document open to inspection under subsection (1)(a) does not provide members of the public with a reasonably fair and coherent record of the whole or part of the proceedings, the clerk of the council must make a written summary of the proceedings or the part, as the case may be, which provides such a record without disclosing the exempt information.

(3) A council must as soon as is reasonably practicable put on its website any document which is open to inspection under subsection (1)(a).

Inspection of background papers

45.—(1) Subject, in the case of section 44(1), to subsection (2), if and so long as copies of the whole or part of a report for a meeting of a council are required by section 43(1) or 44(1) to be open to inspection by members of the public—

- (a) those copies must each include a copy of a list, compiled by the clerk of the council, of the background papers for the report or the part of the report; and
- (b) at least one copy of each of the documents included in that list must also be open to inspection at the offices of the council.

(2) Subsection (1) does not require a copy of any document included in the list, to be open to inspection after the expiration of the period of four years from the date of the meeting.

(3) Where a copy of any of the background papers for a report is required by subsection (1) to be open to inspection by members of the public, the copy must be taken for the purposes of this Part to be open to inspection if arrangements exist for its production to members of the public as soon as is reasonably practicable after the making of a request to inspect the copy.

(4) Nothing in this section—

- (a) requires any document which discloses exempt information to be included in the list referred to in subsection (1); or
- (b) without prejudice to the generality of subsection (2) of section 42, requires or authorises the inclusion in the list of any document which, if open to inspection by the public, would disclose confidential information in breach of the obligation of confidence, within the meaning of that subsection.

(5) For the purposes of this section the background papers for a report are those documents relating to the subject matter of the report which—

- (a) disclose any facts or matters on which, in the opinion of the clerk of the council, the report or an important part of the report is based; and
- (b) have, in the opinion of the clerk of the council, been relied on to a material extent in preparing the report,

but do not include any published works.

(6) A council must put on its website any document which is open to inspection under subsection (1).

Application to committees and sub-committees

46.—(1) Sections 42 to 45 apply in relation to a committee or sub-committee of a council as they apply in relation to a council.

(2) In the application by virtue of this section of sections 42 to 45 in relation to a committee or sub-committee—

- (a) section 42(6)(a) is complied with if the notice is given by posting it at the time there mentioned at the offices of the council and, if the meeting of the committee or sub-committee is to be held at premises other than the offices of the council, at those premises;
- (b) for the purposes of section 42(6)(c), premises belonging to a council are treated as belonging to the committee or sub-committee;
- (c) for the purposes of sections 43(1), 44(1) and 45(1), offices of the council are treated as offices of the committee or sub-committee; and

(d) for the purposes of sections 43(3) and 44(6) the council's website is treated as the website of the committee or sub-committee.

(3) Any reference in this Part to a committee or sub-committee of a council includes—

- (a) a joint committee; or
- (b) a sub-committee of a joint committee.

Audio recording of meetings

47.—(1) So far as is reasonably practicable, a council must make an audio recording of so much of any meeting of the council as is open to the public and the recording must be available to the public at the offices of the council until the expiration of the period of six years from the date of the meeting and published on the council website until the expiration of the period of two years from the date of the meeting.

(2) This section does not apply in relation to meetings of any committee or sub-committee of the council.

Additional rights of access to documents for members of councils

48.—(1) Any document which is in the possession or under the control of a council and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council must, subject to subsections (2) to (4), be open to inspection by any member of the council.

(2) Subsection (1) does not require the document to be open to inspection if it appears to the clerk of the council that it discloses exempt information.

(3) But subsection (1) does require (despite subsection (2)) the document to be open to inspection if the information is information of a description for the time being falling within—

- (a) paragraph 3 of Schedule 6 (except to the extent that the information relates to any terms proposed or to be proposed by or to the council in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 6.

(4) In subsection (3), “the council” has the meaning given in paragraph 10(2) of Schedule 6.

(5) The Department may by order amend subsections (2) to (4)—

- (a) by adding to the descriptions of exempt information to which those subsections refer for the time being; or
- (b) by removing any description of exempt information to which those subsections refer for the time being.

(6) The accounts of a council must be open to inspection by any member of the council and nothing in subsections (1) to (5) affects the right conferred by this subsection on a member of the council.

(7) The rights conferred by this section on a member of a council are in addition to any other rights which the member may have apart from this section.

Councils to publish additional information

49.—(1) A council must maintain a register stating—

- (a) the name and address of every member of the council; and
- (b) in respect of every committee or sub-committee of the council—
 - (i) the members of the council who are members of the committee or sub-committee or who are entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them;
 - (ii) the name and address of every other person who is a member of the committee or sub-committee or who is entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them otherwise than in the capacity of an officer of the council;
 - (iii) the functions in relation to the committee or sub-committee of every person falling within sub-paragraph (i) who is not a member of the committee or sub-committee and of every person falling within sub-paragraph (ii).

(2) A council must maintain a list—

- (a) specifying those powers of the council which are exercisable by officers of the council in pursuance of arrangements made under this Act or any other statutory provision for their discharge by those officers; and
- (b) stating the title of the officer by whom each of the powers so specified is so exercisable;

but this subsection does not require a power to be specified in the list if the arrangements for its discharge by the officer are made for a specified period not exceeding six months.

(3) There must be kept at the offices of a council a written summary of the rights—

- (a) to attend meetings of a council and of committees and sub-committees of a council; and
- (b) to inspect and copy documents and to be furnished with documents, which are conferred by this Part and such other statutory provisions as the Department may by order specify.

(4) The register maintained under subsection (1), the list maintained under subsection (2) and the summary kept under subsection (3) must be open to inspection by the public at the offices of the council.

Supplemental provisions and offences

50.—(1) A document directed by any provision of this Part to be open to inspection must be open to inspection at all reasonable hours and—

- (a) in the case of a document open to inspection by virtue of section 45(1), upon payment of such reasonable fee as may be required for the facility; and
- (b) in any other case, without payment.

(2) Where a document is open to inspection by a person (“P”) under any provision of this Part, P may, subject to subsection (3)—

- (a) make copies of or extracts from the document; or
- (b) require the person having custody of the document to supply a photographic copy of or of extracts from the document,

upon payment of such reasonable fee as may be required for the facility.

(3) Subsection (2) does not require or authorise the doing of any such act which infringes the copyright in any work except that, where the owner of the copyright is a council, nothing done in pursuance of that subsection constitutes an infringement of the copyright.

(4) If, without reasonable excuse, a person (“C”) having the custody of a document which is required by section 43(1) or 44(1) to be open to inspection by the public—

- (a) intentionally obstructs any person exercising a right conferred by this Part to inspect, or to make a copy of or extracts from the document; or
- (b) refuses to furnish copies to any person entitled to obtain them under any provision of this Part,

C is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Where any accessible document for a meeting to which this subsection applies—

- (a) is supplied to, or open to inspection by, a member of the public; or
- (b) is supplied for the benefit of any newspaper, in pursuance of section 43(7),

the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be made with malice.

(6) Subsection (5) applies to any meeting of a council and any meeting of a committee or sub-committee of a council; and, for the purposes of that subsection, the “accessible documents” for a meeting are the following—

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- (a) any copy of the agenda or of any item included in the agenda for the meeting;
- (b) any such further statements or particulars for the purpose of indicating the nature of any item included in the agenda as are mentioned in section 43(7)(b);
- (c) any copy of a document relating to such an item which is supplied for the benefit of a newspaper in pursuance of section 43(7)(c);
- (d) any copy of the whole or part of a report for the meeting;
- (e) any copy of the whole or part of any background papers for a report for the meeting, within the meaning of section 45.

(7) The rights conferred by this Part to inspect, copy and be provided with documents are in addition, and without prejudice, to any such rights conferred by or under any other statutory provision.

Exempt information and power to vary Schedule 6

51.—(1) The descriptions of information which are, for the purposes of this Part, exempt information are those specified in Part 1 of Schedule 6, but subject to any qualifications contained in Part 2 of that Schedule; and Part 3 has effect for the interpretation of Parts 1 to 3 of that Schedule.

(2) The Department may by order vary Schedule 6 by adding to it any description or other provision or by deleting from it or varying any description or other provision for the time being specified or contained in it.

(3) The Department may exercise the power conferred by subsection (2) by amending any Part of Schedule 6, with or without amendment of any other Part.

Interpretation and application of this Part

52.—(1) In this Part—

“copy”, in relation to any document, includes a copy made from a copy;

“exempt information” has the meaning given by section 51;

“information” includes an expression of opinion, any recommendations and any decision taken;

“newspaper” includes—

- (a) a news agency which systematically carries on the business of selling and supplying reports or information to newspapers; and
- (b) any organisation which is systematically engaged in collecting news—
 - (i) for sound or television broadcasts; or

- (ii) for inclusion in programmes to be included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service.
- (2) The Department may by order amend sections 42(6)(a) and 43(3) and (4) (a) so as to substitute for each reference to five days such greater number of days as may be specified in the order.