

Minute 124 – Public Question Time

Ashley Wilce, Question 1

The officers of this Council added documents to the Agenda for this meeting only hours before the meeting, rather than the 5 days that it should be. Would the person responsible for the decision to do that, please tell me, now, why Parliament would have bothered to have included the prior publishing requirements in both the 72 Act and the 2012 Regulations, and to provide contingency for urgent documents to be considered, if those publication rules did not apply and could be ignored at will, as this Council is doing?

Could the person also tell me how they expect members to read and properly consider the contents of documents, if they have only been sent to them hours before a meeting? Does the person responsible not think that such actions are likely to result in Council decisions being challenged, on that basis alone, especially when there can be 100s of pages, as at least one of the added documents is, this evening.

If so, that person should be aware of a Planning Consent granted by Northumberland County Council that was overturned on Appeal to the High Court, on the basis of relevant documents not having been published according to the rules. A clear example of the need to abide by the rules is the fact Councillor Woollatt has had to have a very late amendment accepted for this evening, which was published only a few hours ago.

Democracy should not suffer just because the Chief Executive is incapable of providing efficient and effective democratic services. I call on Councillors to stand up for democracy and to refuse to consider those items that have been improperly added to the Agenda, both tonight and going forward.

Additional response:

To clarify the Local Government Act 1972 Act S100A to S100D relates to Council, Committees, Sub-Committees etc and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 relates to meetings of Cabinet/the Executive.

Section 100B (3) of the 1972 Act requires documents to be open to inspection at least 5 clear days before a meeting; or where the meeting is convened at shorter notice, copies of the agenda and reports must be open to inspection from the time that meeting is convened; or where an item is added to the agenda, the documents in relation to that item and the revised agenda must be open to inspection from the time that item is added to the agenda.

Section 100B (4) of the 1972 Act does not relate to the provision of documents, but allows for items on the agenda to be considered where the documents have been open to inspection for at least 5 clear days; or where the meeting is convened at shorter notice at the time the meeting is convened; and in addition, where the chairman designates that an item should be considered by reason of special circumstances as a matter of urgency.

Under the 2012 Regulations this provides the same as for S100B (3) provisions above in relation to documents. However, there is no equivalent of S100B (4) in relation to items of business.

Although it is not ideal that documents are available less than 5 days' notice, in R. (on the application of Lady Hart of Chilton) v Babergh DC [2014] EWHC 3261 (Admin), it was held that the timing of the release of an addendum to a report required by the 1972 Act s.100B had been satisfied where it had been given at the same time to committee members and to members of the public approximately two hours before the meeting. Therefore, it is lawful that a supplemental document is provided to members with less than 5 days' notice in some situations.

Our constitution on page 105 states in 5.2 that "The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the website (if any) at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the Member Services Manager shall make each such report available to the public as soon as the report is completed and sent to Councillors)." This applies to all council meetings including cabinet. However, the constitution cannot be read on its own and needs to be read in the context of the legislation.

It is MDDC's aim to publish reports alongside the published items and we do not encourage the publication of late reports. Practical circumstances may prevent meeting the constitutions requirements, but only where the law allows, and not on a regular basis.