

FALMOUTH TOWN COUNCIL

Minutes of the meeting of the Council held in the Council Chamber, Municipal Buildings, The Moor, Falmouth on Monday 11th December 2017 at 7.00pm.

Present: Councillors, G G Chappel (Town Mayor), P A Minson (Deputy Mayor), R J Bonney, S D Eva, G F Evans CC (to point mentioned), A J Gillett, A J Jewell CC, M T McCarthy CC, R J O'Shea, A Parker, J C Robinson, B M A Ross, D W Saunby CC and J M Spargo.

In Attendance: A M Williams	(Town Clerk)
R J Gates	(Town Manager)
PC M Cummins	(Falmouth Police)
D Keen	(Falmouth Fire Station)
J Nesbitt	(Western Power)
Rev I Froome	(Mayor's Chaplain)

PRAYERS

Prior to the formal commencement of the meeting the Mayor's Chaplain led the Council in prayers.

C4930 APOLOGIES

An apology for absence was received and approved from Councillor Morgan (ill).

C4931 INTERESTS

None received.

C4932 MINUTES

It was proposed by Councillor Evans, seconded by Councillor Ross and

RESOLVED that the minutes of the Council meeting held on 30th October 2017 be confirmed as a correct record and signed by the Chairman.

C4933 TOWN MAYOR'S REPORT

The Town Mayor reported upon civic activity and Christmas events attended by himself and the Deputy Mayor.

C4934 PUBLIC QUESTIONS

None received.

C4935 WESTERN POWER STREET WORKS

Mr Nesbitt apprised the Council upon underground cable and substation replacement required in Market Street, Church Street and Arwenack Street. Western Power had worked with the Town Team regarding local consultation planning works and mitigation factors. Full road closures were required and to minimise disruption works scheduled January to March each year for five years. Trader delivery arrangements and refuse and recycling provision would be made at set times with traffic management 6am to 11am per day. He responded to questions and the report was duly noted.

C4936 POLICE REPORT

PC Cummins presented the Community Police report that is attached as part of these minutes. The report was duly noted.

C4937 FALMOUTH COMMUNITY FIRE SERVICE REPORT

D Keen presented the Community Fire and Safety Report that is attached and responded to questions thereon. The report was duly noted.

C4938 COMMUNITY NETWORK REPORT

The minutes of the Falmouth and Penryn Community Network Panel held on 5th September 2017 was duly noted.

C4939 CORNWALL COUNCILLORS REPORT

Smithick

It was noted that the vacancy had been advertised. Councillor Jewell was covering divisional matters until the election.

Penwerris

Councillor McCarthy advised that the planning appeal in regard to the former Coachworks site had been postponed. He was concerned at opportunistic developers undermining the merging Local Plan DPD and Neighbourhood Plan.

Arwenack

Councillor Evans reported that the Planning Inspectorate had allowed purpose built student accommodation development at the former Ocean Bowl site. The Penvose planning application would shortly be considered by Cornwall Council. The Inspectors decisions in regard to the Fish Strand Hill and Roslyn Hotel sites was awaited.

Boslowick

Councillor Jewell also expressed concern at the Ocean Bowl approval. The appeal regarding the housing development at Menehay Farm would be in 2018.

Trescobeas

Councillor Saunby reported further on recent planning appeals. He agreed to take forward some traffic measures following reported vehicle collisions in Trescobeas Road.

C4940 FALMOUTH BEACHES MANAGEMENT GROUP

The minutes of the meeting of the Group held on 15th November 2017 were duly noted.

C4941 FALMOUTH BUSINESS IMPROVEMENT DISTRICT

The details of the Annual General Meeting held on 27th November 2017 were duly noted.

C4942 CORNWALL ASSOCIATION OF LOCAL COUNCILS – LARGER COUNCILS COMMITTEE

The minutes of the meeting of the Committee held on 26th July 2017 were duly noted.

C4943 BOUNDARY COMMISSION FOR ENGLAND – CORNWALL REVIEW

It was proposed by Councillor Parker, seconded by Councillor Chappel and

RESOLVED that given the urban area of Falmouth would be reduced in electoral division representatives, the Council would expect the Smithick Division to be assimilated and prefer to see Trescobeas Division extended west rather than Penwerris Division extended north. The A39 road should form the northern boundary of Trescobeas Division. The Council would also wish to see a Community Governance Review undertaken to rationalise Town Ward boundaries with

the recently formed electoral division and extend the town boundary west and north (to the A39 road) to incorporate the urban expansion proposed by the Cornwall Local Plan.

C4944 BANK MANDATE

It was proposed by Councillor Robinson, seconded by Councillor Eva and

RESOLVED that all sixteen Councillors names appear on the Bank Mandate to be authorised to sign cheques and BACS.

C4945 FINANCE AND GENERAL PURPOSES COMMITTEE

The Mayor sought nominations for Chair of the Committee. One valid nomination was sought.

It was proposed by Councillor Eva, seconded by Councillor Jewell and

RESOLVED that Councillor R J O'Shea Chairs the Finance and General Purposes Committee for the remainder of the municipal year.

The Mayor sought nominations for Vice-Chair of the Committee. Two valid nominations were received.

It was proposed by Councillor Jewell, seconded by Councillor Bonney and

RESOLVED that Councillor B M A Ross be appointed Vice-Chair of the Finance and General Purposes Committee for the remainder of the municipal year.

An Amendment proposed by Councillor Eva and seconded by Councillor O'Shea that Councillor M T McCarthy be appointed was lost.

C4946 SMITHICK BY-ELECTION

It was noted that the Electoral Division and Town Ward vacancies had been advertised and a residents call for an election must be by 15th December 2017.

C4947 COUNCIL VACANCIES

It was proposed by Councillor Eva, seconded by Councillor Minson and

RESOLVED that the Council considers appointments to the following positions after the Smithick By-Election:

- Planning Committee
- Staffing Committee
- Trescobeas Recreation Area Working Party
- Kimberley Park Working Party
- Dracaena Fields Working Party
- Grounds and Property Sub-Committee
- Falmouth in Bloom

It was duly noted that Councillor Chappel would Chair the Falmouth Neighbourhood Plan Stakeholders Group. Councillor Parker would also now represent the Council on the Group.

C4948 COMMITTEE REPORTS

The Cultural Services Committee Report dated 4th December 2017 was presented by Councillor Evans, Chairman of the Committee.

It was proposed by Councillor Evans, seconded by Councillor Gillett and

RESOLVED that the report of the Committee
dated 4th December 2017 be approved.

The Finance and General Purposes Part I Report dated 27th November 2017 was presented by Councillor O'Shea, Chairman of the Committee.

It was proposed by Councillor O'Shea, seconded by Councillor Ross and

RESOLVED that the report of the Committee
dated 27th November 2017 be approved.

The Planning Committee Report dated 9th October 2017 was presented by Councillor Jewell, Chair of the Committee.

It was proposed by Councillor Jewell, seconded by Councillor Spargo and

RESOLVED that the report of the Committee
dated 9th October 2017 be approved.

The Planning Committee Report dated 30th October 2017 was presented by Councillor Jewell, Chairman of the Committee.

It was proposed by Councillor Jewell, seconded by Councillor Spargo and

RESOLVED that the report of the Committee
dated 30th October 2017 be approved.

The Planning Committee Report dated 20th November 2017 was presented by Councillor Jewell, the Chairman of the Committee.

It was proposed by Councillor Jewell, seconded by Councillor Spargo and

RESOLVED that the report of the Committee
dated 20th November 2017 be approved.

C4949 TOWN MANAGEMENT REPORT

The Town Manager presented the Town Management Report that was duly noted and forms part of these minutes.

C4950 TOWN CLERK'S REPORT

The Town Clerk presented his Report that was duly noted and forms part of these minutes.
Further :

(1) BUGLIFE PROJECT

It was proposed by Councillor Jewell, seconded by Councillor McCarthy and

RESOLVED that the Council contribute
£3,500 from its Environmental Enhancements
Budget to facilitate the 'Cornwall Buzzing'
initiative (£100,000) linked to Cornwall's
Pollinator Action Plan and for Falmouth
to be one of the focus towns.

C4951 EXCLUSION OF THE PRESS AND PUBLIC

It was proposed by Councillor Minson, seconded by Councillor Robinson and

RESOLVED that in view of the confidential
nature of contractual matters and personal
information it is advisable in the public interest
that the press and public be excluded from the
meeting.

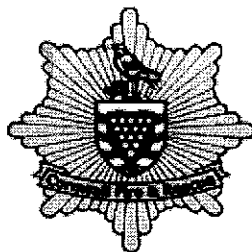
Councillor Evans now left the meeting.

Police Report for Town Council Meeting 11/12/17

PCSO Crowther has been in close contact with Richard Gates the town manager to ensure that the Western Power works in the new year do not affect our response times and service delivery to the town centre throughout the works.

Myself and another PCSO will be present for Saturday the 23rd and the Harmony Choir in the town centre. Traditionally this is a peak time for the town centre and a presence is required to assist with the inevitable numbers.

Where the Moor area of the town centre has been successfully targeted in relation to antisocial behaviour, street drinking etc it appears that we have received reports of Discovery Quay area suffering from similar issues though on a far smaller scale. The neighbourhood team will target the area to offer assistance to those who may need assistance and robustly deal with any street drinking or anti-social behaviour found during patrols.



CORNWALL
FIRE & RESCUE SERVICE
A service of Cornwall Council

Falmouth Community Fire Station Town Council Report

The following outlines a brief overview of Sept, Oct, and Nov focusing on three core areas of Protection, Prevention & Response.

1. Protection

Watches fulfil their part in the protection arm of the Fire and Rescue Service by undertaking visits at commercial premises. Many larger premises either have in-house staff trained in fire safety or choose to buy in the services of a consultant. Either way that person is ensuring their employer is fulfilling its legal and moral duty to protect staff and customers from the risk of fire. However, many smaller businesses have very little knowledge of their responsibilities and the laws concerned with fire safety. Cornwall Fire and Rescue Service aims to raise the standards within these organisations by visiting, informing and advising on fire safety. Our simple aim for these small businesses is that they fulfil their minimum legal obligations and look to write into their business plan a work schedule which brings their property up to a standard which better reflects the widely accepted best practice.

- a. Tactical Information Files – for higher risk premises
The watches completed **12** site visits this quarter, A TIF visit is an information gathering exercise where watches collate and check the data held about commercial premises. These premises are selected as they are either deemed to be at greater risk of a fire breaking out, or should a fire break out, they pose a greater risk to the public or firefighters attending an incident. The TIF data is stored on each fire engine, and at Fire Control, however firefighters are expected to have a broad knowledge of the layouts and risks presented by each of our TIF premises.
An example of the sort of premises covered by a TIF would be a large manufacturing company, or a medium-large hotel.
- b. Operation Fire Safety Visits – for lower risk premises
The watches completed **24** site visits, in Falmouth and Penryn, An OFSV is a brief visit carried out on premises whose risk is deemed to be more generic. The aims are to identify the use and occupier of the building, and to inform and advise the occupier of their legal responsibility to protect from the risk of fire. In practice this means the crews carry out a brief and informal survey of the building; checking that the occupier has carried out a Fire Risk Assessment; taken steps to reduce the risk of fire; and taken appropriate steps to protect occupants should a fire break out.
An example of the sort of premises covered by an OFSV would be any commercial property not covered by a TIF; eg. A small shop or industrial unit

2. Prevention

At a watch level this area is covered by Home Fire Safety Checks and prevention talks to community groups.

- a. Home Fire Safety Checks
During this quarter, crews carried out **144** HFSC, mainly focusing on Mabe, Rame, Ponsanooth and Perranwell. This is a free service we offer to all residents, be they home owners or tenants. The crew base their advice around a booklet entitled Fire Safety in the Home, but tailor the information specifically to the hazards identified during their visit. The crew also carry free smoke detectors to fit if appropriate.

b. **Community Engagement**

During the quarter, crews were involved in TWO separate community events. These groups vary from small support groups for those with dementia to whole-year school groups, and everything in between.

3. Response

This area is self-explanatory however members of the general public are often unaware of the breadth of incidents the Fire & Rescue Service are trained and equipped to respond to. The following list summarises only the types of incidents we attended during the quarter:

Summary	S	O	N	Total
Fire	10	16	8	
Special Service	15	6	18	
False Alarm	10	16	8	
Grand Total	39	39	40	118

Fire	S	O	N	Σ
Dwelling	3	6	3	12
boat	5	2	0	7
Outdoor/shed	1	4	1	6
Non res	1	3	0	4

Special	S	O	N	Σ
RTC	1	1	6	8
Assist Amb	2	1	4	7
Water rescue	4	0	0	4
flooding	1	1	3	4

False Alarm	S	O	N	Σ
Fire Alarm app	14	11	5	30
Good Intent	3	1	9	13
Malicious	0	2	0	2

During this quarter incidents were divided **50.85** and **49.15** % by day and night.

Other

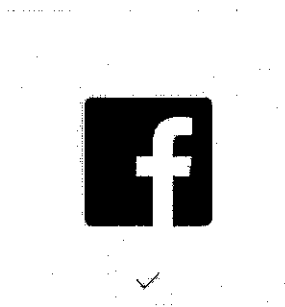
During this quarter there was a national campaign by the RLSS supporting #dontdrinkanddrown campaign, blue watch with help with other partners forming collaboration in training bar staff and door staff what to do in the event of someone falling into the water and how to use the throw lines and perform a rescue thus becoming a first responder.

Summary

The above overview gives an impression of the range of work that is undertaken by Falmouth Community Fire station on a day to day basis. Alongside the public-facing Protection, Prevention, and Response duties are the internal and preparatory tasks; obviously for each incident or inspection there is the inevitable paperwork trail to complete, all the equipment on our seven response vehicles needs to be regularly tested and maintained, and to ensure the crews are able to fulfil their duties the watches undertake regular training drills and courses. Add to all this the work undertaken by the Phoenix team and the volunteer community work and hopefully it is clear that your local fire station continues to be a busy hub in the community for Community Safety and Protection.

4. Social Media

 @FalmouthCFRS



You can follow us now on **Facebook** and **Twitter** for the latest updates



FALMOUTH

the spirit of the sea

Town Management Report to Falmouth Town Council 11/12/17

Western Power

With less than a month to go until the works take place we have been working on a suite of products to support the town during these works. This is very much a collaborative approach between Town Council/Falmouth BID/Western Power/Kier and other partners such as the Falmouth Packet, Pirate FM and OTS.

While the works will be challenging, and disruption will obviously be an issue everyone is working hard to minimise this as much as possible with a selection of measures that you will be aware of. For clarity these are:

- 1) Falmouth Packet running an ad-campaign 'I'm supporting Falmouth' launching this month.
- 2) Pirate FM ad-campaign, through the ten-week schedule of works. This will be 272 thirty second clips.
- 3) OTS additional shuttle bus plus making the existing one free for the period of the works. This is Mon 8th Jan- Fri 16th March, six days a week.
- 4) Free parking in Cornwall Council car parks each Saturday of the works taking place (this does not include Church Street car park as this will not be able to be accessed due to the works).

It is important to mention that at the time of compiling this report the points above have not been finalised and agreed but very good progress is being made with various parties.

I thought it was useful to include delivery information, so Cllrs are fully up to speed with what is happening. This whole process is very fluid and there will no doubt be amendments as the works proceed.

Deliveries (this will be obviously being monitored as the works commence and tweaked accordingly)

6.00 to 8.00am - articulated/large vehicles

6.45am to 9.00am - waste collection and street cleaning services

9.00 to 11.00am - couriers

please note:



Town Management Report to Falmouth Town Council 11/12/17

if you are a Market Street business, then deliveries, waste, couriers etc will access your business the usual way through the town

if you are a Church St, Quay St or Arwenack St business, then deliveries, waste, couriers etc will access your business the reverse way through the town i.e. via Grove Place.

At the most recent Traders meeting that was very well attended, information above was conveyed to everyone.

Christmas activities

The switch-on went well despite the weather earlier in the evening. There was a good turn out and feedback on the lights has been very positive.

The Creation Station 'Christmas Crafts on the Moor' is taking place in the marquee Sat 9th with the Frozen evening taking place later that day. Then on Sun 10th the Live Nativity will take place through the town. This is working with various organisations to put these events on.

Sat 16th is the Santa Fun Run and this will also be free parking in all Cornwall Council car parks from 9am on the day.

Sat 23rd is the Harmony Choir. Please note it is the Saturday this year and not Christmas Eve. The Harmony Choir do not hold the event on a Sunday.

Sunday 31st New Year's Eve. The Town Fireworks display from the castle.

A very Merry Christmas and a Happy New Year!



FALMOUTH TOWN COUNCIL
11TH DECEMBER 2017
TOWN CLERKS REPORT -PART I

ITEM NO. 22

22.1 BUGLIFE PROJECT

Buglife is a project linked to Cornwall's Pollinator Action Plan that has been offered £100,000 to get 'Cornwall's Buzzing' off the ground. The plan is to concentrate on three towns including Falmouth and provide a Project Officer, workshops and outreach events as well as seeds and equipment in early 2018 through to 2019.

The project requires £10,000 and confirmation by December 2017, that is £3,500 from each town. It is recommended that this opportunity be taken up by the Council and the environmental enhancements budgets utilised.

22.2 DATA PROTECTION

Some Councillors have sought advice regarding the expectation on them to notify as data controllers in their Ward work. I attach advice note from the Information Commissioner. ()

22.3 CORNWALL ASSOCIATION OF LOCAL COUNCILS TRAINING 2017/18

The CALC training calendar is attached. () Let me know if you are interested in undertaking the training.

22.4 NATIONAL ASSOCIATION OF LOCAL COUNCILS

To consider the following advice notes and briefings () :

- PR13-17 Broadband Universal Service Obligations
- PR15-17 Planning for the Right Houses in the Right Places
- PR16-17 Brexit and Local Government
- L08-17 Privacy Notices and the Legal Basis for Processing Personal Data
- L09-17 General Data Processing Regulations and Subject Access Requests

22.5 CONSULTATIONS

To note the following Consultations:

- Winter Wellbeing Guides – Cornwall Council
- Pendennis Voyage Issue 15 2017/18
- War Memorial Trust Bulletin 75 – Nov 2017
- Falmouth Civic Society Newsletter Autumn 2017

Mark Williams FCIS FSLCC

Town Clerk

December 2017

Advice for elected and prospective councillors

Data Protection Act

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Introduction

1. The Data Protection Act 1998 (DPA) is based around eight principles of good information handling. These give people specific rights in relation to their personal information and place certain obligations on those organisations that are responsible for processing it
2. An overview of the main provisions of the DPA can be found in The Guide to Data Protection.
3. This is part of a series of guidance, which goes into more detail than the Guide, to help data controllers to fully understand their obligations and promote good practice.
4. This guidance aims to provide elected and prospective councillors with advice on how the DPA applies to them.

The role of the councillor

5. Councillors are likely to have three different roles:
 - As a member of the council, for example, as a cabinet member or a member of a committee.
 - A representative of residents of their ward, for example, in dealing with complaints.
 - They may represent a political party, particularly at election time.

Use of personal information

6. When councillors consider using personal information, they should take into account the context in which that information was collected to decide whether their use of the information will be fair and lawful, as required by principle 1 of the DPA:
 - Where a councillor is representing an individual resident who has made a complaint, the councillor will usually have the implied consent of the resident to retain relevant personal data provided and to disclose it as appropriate. The resident will also expect that the organisations (including the local authority) who are the subject of the complaint will disclose personal data to the councillor. If

there is any uncertainty regarding the resident's wishes, it would be appropriate to make direct contact with the resident to confirm the position.

- Sensitive personal information is treated differently; for example, where consent is being relied on this should be explicit in nature. However, in the context of a complaint, councillors – and organisations making disclosures to them – will usually be able to rely on the Data Protection (Processing of Sensitive Personal Data)(Elected Representatives) Order 2002 as a condition for processing.
- Personal information held by the local authority should not be used for political purposes unless both the local authority and the individuals concerned agree. It would not be possible to use a list of the users of a particular local authority service for electioneering purposes without their consent. An example would be using a local authority list of library users to canvass for re-election on the grounds that the councillor had previously opposed the closure of local libraries.
- When campaigning for election as the representative of a political party, candidates can use personal information, such as mailing lists, legitimately held by their parties. However, personal information they hold in their role as representative of local residents, such as complaints casework, should not be used without the consent of the individual.
- When campaigning for election to an office in a political party, councillors should only use personal information controlled by the party if its rules allow this. It would be wrong, for instance, to use personal information which the candidate might have in their capacity as the local membership secretary, unless the party itself had sanctioned this.
- Candidates for election should be aware that political campaigning falls within the definition of direct marketing. Consequently, they should have regard to the requirements of the DPA (in particular section 11) and the Privacy and Electronic Communication (EC Directive) Regulations 2003 which set out specific rules that must be complied with for each type of marketing communication. For further information on this, the Information

Commissioner has produced Guidance on Political Campaigning which is available on our website.

Multi-member wards

7. In some types of local authority, councillors are elected under a multi-member system where more than one councillor represents a particular ward.
8. As a result, there may be situations where a councillor who represents a resident may need to pass on that particular individual's personal information to another councillor in the same ward. The councillor will only be allowed to disclose to the other ward councillor the personal information that is necessary:
 - to address the resident's concerns;
 - where the particular issue raises a matter which concerns other elected members in the same ward; or
 - where the resident has been made aware that this is going to take place and why it is necessary.

If a resident objects to a use or disclosure of their information, their objection should normally be honoured.

9. The councillor should not pass on personal information which is not connected to the resident's case.

Example

A resident asks one of the councillors in a multi-member ward for help about teenagers acting in an intimidating way in the area. The councillor wishes to share the resident's complaint with the other ward councillors because it is an issue of general concern.

The councillor lets the resident know that he wants to give the details of their complaint to the other ward councillors and why he wants to do that, rather than giving a general description of the complaint to other ward councillors.

If the resident objects, then his wishes are respected and only the general nature of the complaint is shared.

Notification

10. In considering whether they need to register their processing with the Commissioner, councillors must first decide in which role they are processing personal information:

- **As a member of the council**

Councillors may have access to, and process, personal information in the same way as employees. In this case it is the council rather than the councillor that determines what personal information is used for and how it is processed. For example, if a member of a housing committee has access to tenancy files to consider whether the local authority should proceed with an eviction, the councillor is carrying out the local authority's functions and so does not need to register in their own right.

- **As a representative of the residents of their ward**

When councillors represent residents of their ward, they are likely to have to register in their own right. For example, if they use personal information to timetable surgery appointments or take forward complaints made by local residents.

- **As a representative of a political party**

When acting on behalf of a political party, for instance as an office holder, councillors are entitled to rely upon the registration made by the party.

When individuals campaign on behalf of political parties to be the councillor for a particular ward, they can rely on the parties' registration if the party determines how and why the personal information is processed for the purpose of their individual campaigns.

If a prospective councillor is not part of any political party but campaigning to be an independent councillor for a particular ward, they need to have their own registration.

11. There is an exemption from registration where the only personal information which is processed takes the form of paper records.

12. A standard form for registration by councillors has been created to simplify the procedure.

Offences

13. The DPA contains a number of criminal offences, including:

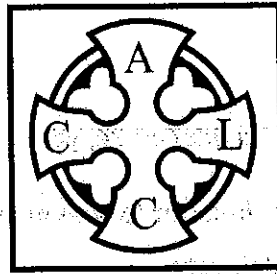
- Failure to register when required to do so. For example, a councillor who holds computerised records of residents' details for casework purposes would commit an offence if they had not registered this use of personal information.
- Making unauthorised disclosures of personal information. For example, a councillor who discloses personal information held by the council to their party for electioneering purposes without the council's consent could commit an offence.
- Procuring unauthorised disclosures of personal information. For example, a councillor who obtains a copy of personal information apparently for council purposes, but in reality for their own personal use (or the use of their party), is likely to have committed an offence.

Security

14. Councillors should be aware that they need to arrange for appropriate security to protect personal information. They must take into account the nature of the information and the harm that can result. They should consider what technical and organisational measures, such as use of passwords, computer access privileges, procedures and staff training, are appropriate to keep the information safe. Councils should also take appropriate measures in the same way.

More information

15. Additional guidance is available on [our guidance pages](#) if you need further information on other parts of the DPA.
16. If you need any more information about this or any other aspect of data protection, please [contact us](#), or visit our website at www.ico.org.uk.



CALC Training 2017/18

Being a Better Employer

This training will run you through the job cycle, from recruitment to leaving an organisation. It will give an overview of key legal issues relating to employment. This training is suitable for Councillors and Clerks/ Council staff.

Cost £25.00 +VAT per delegate – 10% discount for councils booking 3 or more delegates.

Non-Member Rate- £40.00 +VAT per delegate.

Date	Venue	Time
8 th of February 2018	Trispen, St Erme Community Centre	10:00am- 12:00 noon
15 nd of February 2018	Truro, New County Hall, Trelawny Room	07:00pm- 09:00pm

Working with your Council

This course is a fantastic opportunity for clerks to gain a rounded view of council functions and the important role they play in enabling a council to operate and function well.

The subjects covered will include:

- Roles and Responsibilities
- Community Engagement
- Procedures
- Law
- Finance
- Information Law & Managing Confidential Information

Each session will run from 10:00am – 4.00pm and the course is aimed at new clerks, administration assistants or anyone considering or currently studying the SLCC ILCA on line course.

Lunch and refreshments are provided.

Please note that if you book to attend this course, you must attend all three sessions.

Cost £250 +VAT per delegate – 10% discount for councils booking 3 or more delegates.

Non-Member Rate- £300 +VAT per delegate

Date	Venue	Time
30 th of January 2018	Truro, CALC Offices	10:00am- 04:00pm
27 th of February 2018	Truro, CALC Offices	10:00am- 04:00pm
20 th of March 2018	Truro, CALC Offices	10:00am- 04:00pm

Audit Under £25,000

With the introduction of the Transparency Code, comes a new audit regime. This training will guide Smaller Authorities (those with an annual turnover of £25,000 or under) through the new audit system. This training is suitable for both councillors and clerks/council staff.

We are holding a small session in our offices on the 1st of March; this will be specifically for clerks/ council employees who may not be able to attend the evening sessions.

Cost £25.00 +VAT per delegate – 10% discount for councils booking 3 or more delegates.

Non-Member Rate- £40.00 +VAT per delegate

Date	Venue	Time
19th of February 2018	Launceston TC, The Guildhall	07:00pm- 09:00pm
1 st of March 2018	Truro, CALC Offices (for clerks only)	10:00am- 12:00pm
28 th of March 2018	Hayle, Hayle TC Offices	07:00pm-09:00pm

Minutes and Agendas

A practical session looking at the legal requirements for Agendas and Minutes of Council Meetings, this will include working through a number of examples to establish best practice. The workshop will also cover dealing with confidential items, recording interests and dealing with emergency items. This training is suitable for both clerks and councillors.

Lunch and Refreshments will be provided.

Cost £50.00 +VAT per delegate – 10% discount for councils booking 3 or more delegates.

Non-Member Rate- £65.00 +VAT per delegate

Date	Venue	Time
18 th of January 2018	Charlestown, The Pattern Hall	10:00am-04:00pm
7 th of February 2018	Truro, City Council Chamber	10:00am-04:00pm

Please Note: Full details for each session booked will be sent via email a week prior to the event. Places are limited and we do operate a reserve list.

Cancellation: It will not be possible to refund fees if notification of cancellation is received less than 5 working days before the event. Any bookings cancelled after this date will be subject to the full fee. Substitutes are welcome. Please note, cancellations must be received in writing, by post or email.

9 OCTOBER 2017

PR13-17 | BROADBAND UNIVERSAL SERVICE OBLIGATION

I am writing in response to the recent consultation on Broadband Universal Service Obligation.

The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 10,000 parish and town councils and many parish meetings in England. Local (parish and town) councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for taking action, contributing in excess of £2 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.

Whilst we welcome the opportunity to respond to this consultation on the design of the Universal Service Obligation we feel that it is not ambitious enough.

The key points we would make in response to this consultation are set out below:

- The £3,400.00 cost threshold proposed by government is too low given the cost of serving hard to reach premises and does not take into account ability to afford the connection.
- The benefits of a USO could be far reaching and alongside those benefits stated in the consultation paper could include giving individuals greater access to employment opportunities and the ability to work flexibly.
- Uniform pricing should form part of the USO so that it can be provided for those who need it, not just those who can afford it.
- The proposed minimum download speed of 10Mbps is not sufficient given ever increasing bandwidth requirements.
- We support the Rural Coalition Network's call for infrastructure which reaches rural areas, so the rural economy can grow and create quality jobs.

Question 3 - Is this assessment of technologies accurate based on current capabilities?

Yes, the assessment of technologies is accurate. The consultation document notes correctly the extra expense of using 4G instead of fixed broadband. An example of this can be seen in Northumberland, where using a 4G connection in place of superfast broadband costs

£150 for the first month as opposed to £27 a month for superfast broadband. The assessment of satellite technology as being not highly dependable and fibre to the premise as being most dependable is also accurate.

Question 4 - Is £3,400 the right level to set the cost threshold in order to balance the need to extend coverage as far as possible at reasonable cost?

No, a £3,400 cost threshold is too low given that the estimated cost provided by Ofcom of serving harder to reach premises could be as much as £45,000. This could put the USO out of reach of those most in need of it. The proposed cost threshold also fails to take into account levels of deprivation in current rural 'not spots.'

We also acknowledge the LGA's proposals that these regulations are reviewed both to require the installation of a connection for all developments of 30 or more homes and to ensure that for those developments likely to be eligible to receive the Universal Service Obligation the per property threshold is waived, so that no more digitally disconnected homes are created.

Question 8 - are the benefits of the USO, as set out and modelled in the Impact Assessment (Annex B), comprehensive and accurate? Do you have any further evidence on the benefits of the USO?

Yes, the benefits stated in the Impact Assessment are accurate. We would also include rural economic growth and the creation of quality jobs as benefits that the USO could bring. This would enable rural villages to retain more working age people. There could also be the potential for more people to work flexibly.

We also acknowledge the LGA's comments that the USO will bring benefits to education and skills, for example in schools, which are becoming increasingly reliant on 'Virtual Learning Environments' for homework and the wider benefits to the public sector, particularly at the local level.

Question 11 - Do you agree that uniform pricing for the broadband connection and services should form part of the USO?

Yes, there should be a method of subsidising connection costs in those areas which do not currently meet the USO specification. We do not believe that it is appropriate that hard to reach businesses and properties should be required to pay extra to receive an appropriate broadband connection.

We also acknowledge the LGA's comments that in line with the telephony, the government should look to introduce a 'social tariff', so that households with constrained incomes are able to secure a connection through the Universal Service Obligation at a reduced cost."

Question 12 - Do the measures proposed by government sufficiently minimise the risk of market distortion?

Yes, limiting the premises in scope of the USO would be a simple and logical way to minimise the risk of market distortion. With regards to retail competition, fibre infrastructure should be contracted out by open public tender. The network should be opened out to any qualified providers including smaller ISP providers. We would also like to see transparency of bids by service providers.

Question 14 - Do you agree with the proposed monitoring arrangements? If not, how do you think they could be improved on?

The on-going monitoring and review of the USO is an absolute necessity. It will be needed to ensure the commercial landscape has not changed leading to pricing distortion. The Government / Ofcom need to be far better at understanding technology and how the USO can be adapted to best use it.

Proposed minimum download speed of 10Mbps

With regards to the proposed minimum download speed of 10Mbps, we do not believe this to be sufficient. Whilst it might seem acceptable at the moment, bandwidth requirements are increasing all the time. The advent of 4K and HD streaming means that acceptable minimum download speeds may need to be higher in future.

We also want to bring to the department's attention the exceptionally poor broadband service that many of our councils are reporting in their parish. South Muskham and Little Carlton parish council, Nottinghamshire have noted that regular download speeds can be as low as 0.5Mbps, whilst Tixall parish council state upload speeds in their parish can be less than 0.5Mbps. This further underlines the need for a USO which can reach those currently unable to access superfast broadband.

Should you require any further information on this response please do not hesitate to contact Jessica Lancod-Frost, policy and development officer, on 020 7290 0317 or via email at jessica.lancod-frost@nalc.gov.uk

Yours sincerely,



Cllr Sue Baxter
Chairman of NALC

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9 NOVEMBER 2017

PR15-17 | PLANNING FOR THE RIGHT HOMES IN THE RIGHT PLACES

I am writing in response to the recent planning for the right homes in the right places consultation.

The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 10,000 parish and town councils and many parish meetings in England. Local (parish and town) councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for taking action, contributing in excess of £2 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.

We welcome the opportunity to respond to this consultation as we understand that one of its aims was to simplify and make more transparent the assessment of housing needs though we were disappointed by the limited reference to local (parish and town) councils.

A summary of our key points in response to the consultation are set out below:

- Housing need should be determined at a local level and 'need' should be treated differently than 'demand'.
- Local (parish and town) councils should be consulted in a meaningful and inclusive manner at all stages of the planning process.
- We agree with the need to see an increase in the delivery of affordable housing in villages and small towns as one of the four key priorities highlighted in the Rural Coalition's policy statement, published in July 2017, setting out key principles, policies and action which the Coalition urged the Government to apply to rural communities.

Question 1:

a) Do you agree with the proposed standard approach to assessing local housing need? If not, what alternative approach or other factors should be considered?

No, we have a number of concerns with the proposed approach to assessing local housing need.

Firstly by imposing on local planning authorities a formula for calculating housing need on the approach appears to fly in the face of localism as it fails to take into account local circumstances.

Far too much emphasis is placed on housing demand over housing need. An emphasis on housing demand has already been shown to lead to disproportionate developments with high numbers of larger houses in high demand areas.

The major problems are around affordability and the distribution of housing. Simply increasing the number of houses does not and will not bring down the prices. We also support the Rural Coalition's point here that the level of rural proofing in the Department's methodology for calculating levels of housing need is unclear.

The stated intention to impose the Government figure on any Local Plan submitted to them after 31st March 2018 will result in draft plans nearing the end of the process being rushed, putting in jeopardy proper consultation and robust decision making.

We are concerned that the approach would punish those areas that have already delivered housing and load them with even more and would reward those areas that have held back from delivering housing. Historic development, other constraints and other local factors, needs to be taken into account after any other methodology is applied. It also true as the Rural Coalition have said that basing housing need levels on averaged out local authority data does nothing to make housing need assessment more local. For this reason local authorities should be asked to provide breakdowns of how they have arrived at their housing needs assessments more locally.

The approach does not take into account changes in the housing market that Brexit may cause.

The formula for calculating median earnings as part of the median affordability ratio proposed is not fit for purpose. Only looking at full time earnings of those working within a local authority when determining median earnings for a local authority has the potential to result in a misleading figure. This is especially likely in commuter towns where many residents work outside the local authority area and earn far more than those who work within it. The affordability calculation should instead be based on the ratio of house price to residence as this will take into account what people living in the area actually earn. This is especially true as lack of affordable housing is the main housing issue in most small rural areas.

Case study 1 - In Apsey Guise parish council, Bedfordshire, a large proportion of residents work in well paid jobs in neighbouring Milton Keynes or commute to London. The very limited local employment within the parish is for example as bar staff in the local pub. To base affordability solely on those bar staff is very misleading. Using the currently envisaged data set this results in the anomaly of houses on one side of the street being classed as 10.36 times average earnings and those on the opposite side at 7.54. Using the residence based earnings the two sides of the street are 8.20 and 8.40, which seems more realistic.

Housing need should be determined at a local level through genuine consultation between planning authorities, local (parish and town) councils and community groups. It is very important that planning authorities work with local (parish and town) councils from the start of the planning process as they are more informed as to the number and type of housing that is required in their communities.

The type of settlement, employment needs, rates of unemployment, the wage range of a population, average wages, infrastructure (or lack of) and variations within each local authority all need to be taken into account when local housing need is determined.

Also, the current system allows areas to exceed local housing needs assessments without discussions around the knock-on effects on other areas. The issue must be addressed.

Brownfield sites and land that has been land banked should always be looked at before any new development is proposed on green fields, important open spaces or the green belt.

b) How can information on local housing need be made more transparent?

Information regarding how many homes a local area is planning for and how many homes are needed should be available in plain, clear English on an easy to navigate dedicated national planning website. The website should also set out how the housing figures have been arrived at, on what they are based, the impact on infrastructure, measures which will be taken to mitigate against any adverse effects and an explanation of what relevance the figures have for the public. The website should be updated regularly and the link should be clearly displayed on principal authority websites.

Question 2: Do you agree with the proposal that an assessment of local housing need should be able to be relied upon for a period of two years from the date a plan is submitted?

No, two years is too short a timescale given the length of time it takes to produce a local plan. We are also concerned that a two year period may lead to implications in relation to the effectiveness of parish council Neighbourhood plans, creating conflict. The assessment of local housing need should be able to be relied up on for a minimum of three years in order to ensure stability and prevent developer speculation. In Addition whilst we appreciated that that the proposals for allocating a housing need figure to Neighbourhood Plan and parished areas are intended to enable better local decision making, we believe it is important that the figures should reflect the need for such communities to grow to ensure their future sustainability.

Question 3: Do you agree that we should amend national planning policy so that a sound plan should identify local housing need using a clear and justified method?

Yes, inconsistencies in planning policy only serve to confuse or provide the ability to manipulate and are therefore undesirable. A sound understandable plan that identifies local housing need, using a clear and justified method is needed. The method should be set out in Plain English so that it can be clearly understood by members of the public. However it is important that the clear and justified method is based on actual housing needs of people needing homes in communities and not property or market criteria. It is also important that local (parish and town) councils are involved in the housing need assessment process as they have the best idea of what actual local housing need is in their areas.

The consultation implies that local authorities will once again be able to set their own development site thresholds for affordable housing. This would be most

welcome. This has been a contentious issue for developments on small rural sites, despite evidence that this is one of the main avenues for the provision of affordable housing in small rural settlement. However there is some confusion with some previous proposals to amend the NPPF and we would support the Rural Coalition's request for clarification on this issue.

Question 5:

b) Do you consider that authorities that have an adopted joint local plan, or which are covered by an adopted spatial development strategy, should be able to assess their five year land supply and /or be measured for the purposes of the Housing Delivery Test, across the area as a whole?

Yes, providing that local (parish and town) councils agree to such an approach. However the emphasis on house building should lie with developers to build out sites for which they have planning permission and not on punishing local authorities for failure to meet their 5 year land supply. The NPPF needs to be amended and clarified to prevent developers from riding roughshod over Local and Neighbourhood Plans so that the need for the 5-year land supply does not have the strength it currently has to effectively remove democratic planning policies from decision making.

c) Do you consider that authorities that are not able to use the new method for calculating local housing need should be able to use an existing or an emerging local plan figure for housing need for the purposes of calculating five year land supply and to be measured for the purposes of the Housing Delivery Test?

Yes, providing that it is in the local interest to do so.

Question 7:

a) Do you agree with the proposed administrative arrangements for preparing the statement of common ground?

On balance, no. As proposed, there appears to be a real risk that the public would be excluded from the process of drawing up statements of common ground. Without question, local (parish and town) councils should be statutory consultees but the matter of how other interested members of the public engage needs to also be addressed.

b) How do you consider a statement of common ground should be implemented in areas where there is a Mayor with strategic plan-making powers?

Through co-operation between the Mayor and planning authorities. Guidelines should be set out detailing how this should work in practice.

c) Do you consider there to be a role for directly elected Mayors without strategic plan-making powers, in the production of a statement of common ground?

Yes, we would expect that the Mayor would still have a view on local housing and therefore have a role in developing a statement of common ground. This could include meeting with planning authorities to facilitate working towards the statement of common ground and acting as a mediator where there are points of contention.

Question 8: Do you agree that the proposed content and timescales for publication of the statement of common ground are appropriate and will support more effective co-operation on strategic cross-boundary planning matters?

Yes, provided that local planning authorities are given the resources to do the task we believe that the proposed content and timescales should succeed in establishing more effective cross boundary co-operation.

Question 9:

a) Do you agree with the proposal to amend the tests of soundness to include that: i) plans should be prepared based on a strategy informed by agreements over the wider area; and ii) plans should be based on effective joint working on cross-boundary strategic priorities, which are evidenced in the statement of common ground?

Yes, providing that all parties including local (parish and town) councils are listened to and their views taken into account. There should be consensus rather than imposition of one view.

b) Do you agree to the proposed transitional arrangements for amending the tests of soundness to ensure effective co-operation?

Yes, providing there is national willingness to get these proposals up and running.

Question 11:

a) Should a local plan set out the housing need for designated neighbourhood planning areas and parished areas within the area?

No, the local planning authority should not be imposing housing need on neighbourhood planning areas and parished areas within the area. Local planning authorities should work with local (parish and town) councils and community groups to determine housing need for the area in question. Where there is a neighbourhood plan in place, the neighbourhood plan should set out housing need. The government should provide greater certainty that the neighbourhood plan will be upheld and it is in the process of being developed the government should provide mandatory protection for parishes from speculative development.

In our response to the Housing White Paper we said that we agreed that local planning authorities should provide neighbourhood planning groups with a housing requirement figure where this is sort.

Case study 2: Corhampton & Meonstoke, Hampshire is a small rural parish within the South Downs National Park. In the draft South Downs Local Plan it is not being allocated any housing target beyond what has already been granted planning approval. But the failure of market developments in recent years to deliver affordable housing specifically allocated to meet the needs of this Parish means that there is an ongoing need for more affordable housing. Quantification of that need is best assessed locally.

b) Do you agree with the proposal for a formula-based approach to apportion housing need to neighbourhood plan bodies in circumstances where the local plan cannot be relied on as a basis for calculating housing need?

No, a formula based approach, especially one based primarily on the earning-power of local residents and the desirability of an area, does not take into account all local circumstances. This includes rural communities which are less sustainable and poorly served by infrastructure compared with towns and the significant differences in land availability that exist depending on local constraints and ownership. Local housing need is best determined locally through local planning authorities working with community groups and local (parish and town) councils in their area. Where local planning authorities fail to share accountable and transparent evidence of housing need with local (parish and town councils) we call for the Community Infrastructure Levy to be payable as if the relevant councils had adopted a neighbourhood plan.

Question 12: Do you agree that local plans should identify the infrastructure and affordable housing needed, how these will be funded and the contributions developers will be expected to make?

Yes, it is absolutely imperative that this happens. Any future housing development should be underpinned with the required infrastructure to support that development, including hospitals, GP surgeries, schools, roads and additional policing. It is also vital that local (parish and town) councils are involved from the start in identifying the infrastructure and affordable housing needed. Additionally any section 106 funding received should be spent within the vicinity of the development and developers should be obliged to build the affordable housing required without the option to exchange for a financial contribution.

Question 17:

a) Do you agree that local planning authorities should set out in plans how they will monitor and report on planning agreements to help ensure that communities can easily understand what infrastructure and affordable housing has been secured and delivered through developer contributions?

Yes, in the interests of transparency and openness it is essential that planning authorities include in plans how they will monitor and report on planning agreements. This is necessary in order that local communities can more easily understand what has been secured from developers, in terms of infrastructure and affordable housing. Local planning authorities should also set out in plans how developer contributions will be managed and how they will be passed onto local (parish and town) councils.

b) What factors should we take into account in preparing guidance on a standard approach to monitoring and reporting planning obligations?

The need for greater involvement of communities in the whole planning process. This can be achieved through notifying local (town and parish) of any planning obligation being negotiated with the developer and inviting them to comment. Other factors that should be taken into account include deviations to the Section 106 agreement and the agreed timescale, both of which should be publicised.

c) how can local planning authorities and applicants work together to better publicise infrastructure and affordable housing secured through new development once development has commenced, or at other stages of the process?

Firstly through regular communication with local (town and parish) councils as they are closest to the communities they serve. Such communication should include both regular electronic communications and face to face briefings. Local planning authorities and applicants should also reach out directly to residents

through the use of social media, better websites and contributions in local newsletters and parish magazines.

18 a) Do you agree that a further 20 per cent fee increase should be applied to those local planning authorities who are delivering the homes their communities need? What should be the criteria to measure this?

We recognise that local planning authority resourcing is a huge issue, impacting on the ability to deliver the tasks being expected of the planning system. Given the strong focus in the Housing White Paper on further changes to the planning system in efforts to increase supply, it is more crucial than ever that measures to fund local planning authorities sustainably and support capacity building are put in place.

18d) Are there any other issues we should consider in developing a framework for this additional fee increase?

In order to address the issue of land banking it has been suggested to us there should be an additional fee increase where an applicant has land identified in the Local Plan that has not been developed.

Question 19: Having regard to the measures we have already identified in the housing White Paper, are there any other actions that could increase build out rates?

Yes, there are a number of other actions not stated in the Housing White Paper that could increase build out rates. The first would be to limit the amount of time developers can hold planning permission on land without actually building on it. Secondly the government should provide the housing industry with the political and economic certainty it needs to plan ahead. There are some private landlords/ companies / insurance groups/ mutuals, who are interested in entering the Housing Market but recent changes over Land Transfer Tax, Capital Gains, CILS make them perplexed as to what 'burden' will be imposed next. In such a situation they remain on the sidelines. Between them, they have a huge volume of funds that could be invested very quickly, if there was a degree of certainty. An increase in staff at Local Authority planning departments and more identifying of land on brownfield sites would also help increase build out rates.

Should you require any further information on this response please do not hesitate to contact Jessica Lancod-Frost, policy and development officer, on 020 7290 0317 or via email at jessica.lancod-frost@nalc.gov.uk

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Yours sincerely,



Cllr Sue Baxter
Chairman of NALC

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14 NOVEMBER 2017

PR16-17 | BREXIT AND LOCAL GOVERNMENT

I am writing in response to the recent consultation on Brexit and Local Government.

The National Association of Local Councils (NALC) is the nationally recognised membership and support organisation representing the interests of around 10,000 parish and town councils and many parish meetings in England. Local (parish and town) councils are the backbone of our democracy and closest to local people, providing our neighbourhoods, villages, towns and small cities with a democratic voice and structure for taking action, contributing in excess of £3 billion of community investment to supporting and improving local communities and delivering neighbourhood level services.

We welcome the opportunity to respond to this consultation and were particularly encouraged to see that the Communities and Local Government Select Committee are looking at the transfer of powers for local government as Britain prepares for its departure from the EU. We think it is vital the local council perspective is considered in the Brexit negotiations.

The key points we would make in response to this consultation are set out below:

- Communities should be awarded more control of decisions by community proofing powers repatriated from EU, which could be devolved beyond national government and principal councils.
- Loss of EU funding for principal authorities may have a direct impact on local councils and we are calling for that to be addressed by the Government.
- Rural communities are at risk of being left behind post Brexit due to loss of EU funding and skilled workers.

As the first tier of local government, local councils are positioned at the very heart of the community and closest to those who know what is best for their community. In NALC's prospectus, we call for ultra-localism which gives communities more control of decisions by community proofing powers repatriated from the EU. We are calling for these powers to be devolved beyond national government and principal councils and straight to local councils, helping communities to help themselves. We want local councils to have more of a say

over planning, licensing, highways and housing issues through consultation, appeal powers and greater protection for neighbourhood plans.

As mentioned in the Select Committee's consultation, there has been no engagement so far, with local government in the Brexit negotiations and we think it is vital local councils are considered. As a starting point for this, we support the recent call by metro and regional mayors for them to have 'a seat at the table' in Brexit negotiations. We think this will give a voice for local government and will help achieve a good deal for our sector upon Britain's departure from the EU. We do however, highlight in our prospectus that we would like links to improve between local councils and directly elected mayors of combined authorities, police and crime commissioners and clinical commissioning groups including sharing good practice.

Last week, in the Municipal Journal, it was reported that more than 30 urban leaders have called for a Brexit 'city deal' that recognises their role in promoting growth. The signatories have complained that the UK metropolitan centres have fewer powers and investment than their EU counterparts and would like to see this change. We are supporting this call but would like to see the city deal go further and for powers and investment to reach town centres to help them prosper.

We are also particularly concerned about rural communities and the effects the implementation of the Common Agricultural Policy will have after Brexit. If the Government proves to be less generous in its subsidies to particularly small farmers then their businesses may not be viable and this could have a knock on effect on local support industries such as animal feed suppliers, farm equipment suppliers and repair and maintenance engineers to name a few. We are calling for the Government to commit to providing the same amount of subsidies to those which are currently provided.

This is not the only threat to rural communities. Brexit could mean fewer skilled workers coming to Britain. We share LGA's concerns that this may lead to a short labour supply, particularly in those rural communities. This could negatively impact rural communities and leave them behind. For Britain to thrive post Brexit we need the country to have skilled workers in every community across the country. We would like to know what the Government has in place to ensure Britain has enough skilled workers for all communities.

In NALC's prospectus for 'ultra-localism' we also call for encouragement of joint working between principal councils and local councils including supporting

onward devolution of services, introducing a new right to engage to help local councils work more equitably and effectively with principal councils and other public services consistently encourages local councils to work closely and form positive relationships with principal authorities to achieve the best results for their area. We think that if Brexit is to work for local government the relationship between local councils and principal authorities needs to continue to improve. We would like to see more meaningful consultation from principal authorities with local councils in decision making.

Loss of EU funding for local government is a particular concern to us. The Local Government Association (LGA) has stated that local areas need £8.4 billion of European Union funding replaced as part of a locally-led successor to EU regional aid after Brexit. The LGA has stated that "The EU money has been vital to create jobs, support small and medium enterprises, deliver skills, and boost local growth across the country, in all types of areas". Local councils continue to take on more services from principal authorities with the expectation from the government for local councils to refrain from raising their precept. We fear that without the EU regional aid being replaced even more services will be thrust upon local councils with no additional support provided. We support the LGA's call for the Government to commit to replace vital EU regeneration funding to help ensure this doesn't happen.

We would also like to raise our concerns regarding the loss of the EU Social Fund. The EU Social Fund provides support to disadvantaged communities and provides funding for better education, employment opportunities and helps integrate those who are at risk of social exclusion back into the community. This is vital to communities across the country and we are calling on the Government to commit to replacing this funding with local community funds.

We also fear for the loss of the EU's LEADER funding scheme which is providing £138 million to rural communities in England between 2015 and 2020. The fund is eligible to projects which support micro and small businesses, boost rural tourism, provide rural services and cultural and heritage activities and increase productivity on farms and in forestry. Oxfordshire Association of Local Councils stated that in rural communities its loss will be sorely felt.

We would welcome the chance to discuss Local Government and Brexit further with the Committee by giving oral evidence on behalf of 10,000 town and parish councils.



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10 NOVEMBER 2017

L08-17 | PRIVACY NOTICES AND THE LEGAL BASIS FOR PROCESSING PERSONAL DATA

Introduction

Legal Briefings L04-17 and L05-17 explained that the present rules regarding the content and communication of privacy notices (currently contained in the Data Protection Act 1998) will become stricter under the General Data Protection Regulation ("GDPR"), which comes into force on 25 May 2018. This briefing explains the requirements of articles 12, 13 and 14 of the GDPR in relation to the content and communication of privacy notices in the context of parish meetings, parish councils, and in Wales, community councils.

The preparation of privacy notices requires identifying the legal grounds for processing of personal data. This is summarised in the Annex.

Background

A privacy notice (sometimes known as a fair processing notice) is a reference to particular set of information which a data controller is required to provide to an individual ("the data subject") when it is processing his personal data. The use of privacy notices implements one of 6 data protection principles contained in GDPR which requires personal data to be processed fairly, lawfully and in a transparent manner in relation to the data subject.

A parish meeting, parish council, and in Wales, a community council are data controllers because they collect and use personal data. This includes, for example, information about current, former and prospective staff, local residents, suppliers and service providers, enquirers, complainants, individuals captured by CCTV images, allotment garden tenants and councillors for a variety of corporate functions, some of which originate from the performance of statutory, contractual or other legal obligations. These include the following:

- maintaining and managing accounts and records;
- recruiting and managing staff;
- promotion or provision of council services;
- making contracts for supply of goods and services;
- managing premises (such as allotment gardens, village halls, sports facilities or markets);
- administering grants;

- crime prevention via the use of CCTV;
- corporate/office administration;
- parking regulations administration and
- resident surveys.

The above list is for illustrative purposes and is not exhaustive.

Content of privacy notices

Under GDPR, the content of a council's (or parish meeting's) privacy notice will depend on whether or not the personal data has been collected from the data subject.

1. The below rules apply when personal data relating to a subject data is collected from that data subject.

- a) The data controller shall, at the time when personal data is obtained, provide the data subject with following information:
 - the identity and the contact details of the controller and, where applicable, of the controller's representative (meaning the data processor);
 - the contact details of the data protection officer;
 - the purposes of the processing (e.g to promote council services, to maintain accounts and records, to recruit and manage staff, to undertake research, manage property, crime prevention) and the legal basis for the processing*;
 - the recipients or categories of recipients of the personal data, if any (e.g credit reference agencies, the Disclosure and Barring Service, providers of goods and services, HMRC, current, past and prospective employers, professional advisors, other local authorities, charities and voluntary bodies) and
 - where applicable, the fact that the controller intends to transfer personal data to a third country or international organisation and the appropriate safeguards.

*See Annex for an explanation of the legal grounds for processing (i) personal data and (ii) sensitive personal data.

b) In addition, the data controller is required to provide the below information.

- the period for which the personal data will be stored, or if not possible, the criteria used to determine that period (e.g. for unsuccessful job applicants, personal data may be retained for a further 6 months in the event of new council job opportunity);
- the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability;
- where the processing is based on the data subject's consent to the processing of personal data or explicit consent to the processing of sensitive personal data, the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
- the right to lodge a complaint with the Information Commissioner;
- whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data and
- the existence of automated decision making, including profiling and information about how decisions are made, the significance and the consequences of such processing for the data subject.

Where a data controller wants to process the personal data for a purpose other than that for which the personal data was collected, the controller shall provide the data subject prior to that further processing with information on that other purpose and with relevant further information described in paragraph (b) above.

The above requirements shall not apply if the data subject already has the information. For example, a council's job advertisement and standard application form/recruitment pack may have already provided the requisite information to job applicants.

A council or parish meeting may have one comprehensive privacy statement which deals with the various categories of people whose personal data it processes. However, it could have privacy statements for different categories of individuals. For example, a council may have one privacy notice in respect of enquirers/ complainants and local residents and a separate one in respect of personal data collected from (allotment) tenants. It may also have a separate privacy statement for the personal data collected from staff.

2. The below rules apply where personal data has not been obtained from the data subject (e.g. planning applications sent to a council by the planning authority, electoral roll).

- a) The data controller shall provide the data subject with the following information:
- the identity and the contact details of the controller and, if any, of the controller's representative (meaning the data processor);
 - the contact details of the data protection officer;
 - the purposes of the processing for and the legal basis for the processing*;
 - the categories of personal data concerned;
 - the recipients or categories of recipients of the personal data, where applicable and
 - where applicable, that the controller intends to transfer personal data to a recipient in a third country or international organisation and the appropriate safeguards.

*See Annex for an explanation of the legal grounds for processing (i) personal data and (ii) sensitive personal data.

- b) In addition, the data controller shall provide the data subject with the following information.
- the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period;
 - the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing; concerning the data subject and to object to processing as well as the right to data portability;
 - where the processing is based on the data subject's consent to the processing of personal data or explicit consent to the processing of sensitive personal data, the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
 - the right to lodge a complaint with the Information Commissioner;
 - from which source the personal data originates, and if applicable, whether it came from publicly accessible sources and

- the existence of automated decision making, including profiling and information about how decisions are made, the significance and the consequences of such processing for the data subject.

The controller must provide the information in (a) and (b) above:

- within a reasonable period after obtaining the personal data, but at the latest within one month, having regard to the specific circumstances in which the personal data are processed;
- if the personal data are to be used for communication with the data subject, at the latest at the time of the first communication to that data subject; or
- if a disclosure to another recipient is envisaged, at the latest when the personal data are first disclosed.

Where the controller wants to further process the personal data for a purpose other than that for which the personal data were obtained, the controller shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information described in paragraph (b).

The above requirements shall not apply if the data controller has already provided the information to the data subject:

Communication of information in a privacy notice

The information in a privacy notice shall be provided in writing, or by other means, including, where appropriate, by electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

The information communicated in a privacy notice must be in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child. Data controllers processing children's data will need to take account of the level of comprehension of the age groups involved and tailor their notices accordingly.

Where/how to communicate a privacy notice

The GDPR does not prescribe the means of delivering a privacy notice. It is common for organisations to have a comprehensive privacy notice on their website and display them in their offices. A layered approach to the delivery of information in a privacy notice should also be considered. This allows a data

controller to provide key information immediately and have the other information readily available / clearly communicated elsewhere. For example, signage under a CCTV may include key information in paragraph 1(a) above and the remaining information in paragraph 1(b) above may be communicated on the council's website and on noticeboards in the council's premises at which the CCTV has been installed. Relevant guidance from the Information Commissioner's website is set out below.

"You can provide privacy notices through a variety of media:

Orally - face to face or when you speak to someone on the telephone (it's a good idea to document this).

In writing - printed media; printed adverts; forms, such as financial applications or job application forms.

Through signage - for example an information poster in a public area.

Electronically - in text messages; on websites; in emails; in mobile apps.

It is good practice to use the same medium you use to collect personal information to deliver privacy notices.

It is good practice to use the same medium you use to collect personal information to deliver privacy notices.

You should not necessarily restrict your privacy notice to a single document or page on your website. The term 'privacy notice' is often used as a shorthand term, but rather than seeing the task as delivering a single notice it is better to think of it as providing privacy information in a range of ways. All of the information you are giving people about how you are processing their data, taken together, constitutes the privacy information.

It is good practice to try to put yourself in the position of the people you're collecting information about. You need to understand the level of knowledge your intended audience has about how their data is collected and what is done with it. This will help you decide when to give them privacy information. If an individual would not reasonably expect what you will do with their information you need to actively provide privacy information, rather than simply making it available for them to look for themselves, for example on your website."

Next steps

With only six months to go before the introduction of GDPR, councils and parish meetings are recommended to review and update the privacy notices they already have and to put new privacy notices in place by 25 May 2018.

Further guidance

Guidance about privacy notices is available from the ICO's website via <https://ico.org.uk/for-organisations/guide-to-data-protection/privacy-notice-transparency-and-control/privacy-notice-under-the-eu-general-data-protection-regulation/>

Annex

An explanation of the legal grounds for processing (i) personal data and (ii) sensitive/special categories of personal data. Article 6 of GDPR provides that it will be lawful to process personal data if at least one the following conditions apply.

- The data subject has given consent to the processing of his personal data for specific purpose(s);
- Necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract (in other words, processing is a contractual necessity);
- Processing is necessary for compliance with the data controller's legal obligation(s) - this would include legal obligations which are not contractual and would cover the performance of a council's or a parish meeting's statutory obligations.
- Processing is necessary in order to protect the data subject or another individual's vital interests (e.g. in a medical emergency) or
- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller - this may sometimes apply to councils or parish meetings.

There are different rules for the processing of sensitive/special categories of personal data, defined as data about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying an individual, data concerning health or data concerning an individual's sex life or sexual orientation.

Article 9 of GDPR provides that it is lawful to process sensitive personal data if one the following conditions apply.

- The data subject has given explicit consent to the processing for specified purpose(s);
- Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law;
- Processing is necessary to protect the data subject or another individual's vital interests where the data subject is physically or legally incapable of giving consent;

- Processing is carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent;
- Processing relates to personal data manifestly made public by the data subject (e.g. information shared by the data subject on his Twitter account or in article he has written in a newspaper or a blog);
- Processing is necessary for the establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity;
- Processing is necessary for reasons of substantial public interest which is proportionate to the aim pursued and which contains appropriate safeguards;
- Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services or a contract with a health professional;
- Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices or
- Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes which is subject to appropriate safeguards.

10 NOVEMBER 2017

L09-17 | GENERAL DATA PROCESSING REGULATION AND SUBJECT ACCESS REQUESTS

Introduction

The advent of the General Data Protection Regulation (GDPR) in May 2018 will affect councils (parish and town councils in England and community councils in Wales) and parish meetings because they are data controllers. The duties on all data controllers involve providing certain rights to individuals in respect of information held and processed by the data controller. One such right permits an individual to request and see what information is held about them ("a subject access request"). This briefing explains the issues for data controllers when dealing with a subject access request.

The basic position in respect of a subject access request is that individuals having the right to:

- confirmation that their data is being processed;
- access to their personal data and details of:
- the purposes of the processing;
- the categories of personal data concerned;
- to whom the personal data have been or will be disclosed (in particular recipients in third countries or international organisations);
- the period for which the personal data will be stored, or, if no set period, the criteria used to decide when to destroy the data;
- the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
- the right to lodge a complaint with a supervisory authority (ICO);
- where the personal data are not collected from the data subject, any available information as to their source;
- the existence of any automated decision-making, including profiling and information about the logic involved, as well as the significance and the expected consequences of such processing for the data subject.

(This information is the same as for a privacy notice).

The information must be available to allow individuals to be aware of the processing of their personal data and so that they can check that the data is used lawfully.

Responding to a subject access request

Where the subject access request is made electronically, the information should be provided by electronic means where possible, unless otherwise requested by the data subject. In any event, the information given to the data subject must be communicated in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child.

However, the right to obtain a copy of information (or to access personal data through a remotely accessed secure system such as a website) should not adversely affect the rights and freedoms of others. As a result personal information about a third party must be redacted (obliterated or removed) from any information provided unless that person has agreed to it being included. Note that the extent of this exemption from disclosure still needs to be defined by the UK Parliament and could extend to intellectual property rights and trade secrets (e.g. in respect of suppliers) and items covered by legal privilege (e.g. legal advice).

Fees

The information must be given free of charge under the GDPR. The exception to this is if the request from a data subject is "manifestly unfounded or excessive" (see below for more information) in which case a reasonable fee can be charged. A reasonable fee can also be charged for supplying further copies of the same information (but not for subsequent requests for different information). The fee must be based on the actual administrative cost of providing the information. Administrative cost is not defined but it is anticipated that it will not include staff time.

Timescale

The information requested must be provided without delay and at the latest within one month of receipt of the request. That timescale can be extended up to three months if the information requested is complex or numerous but in that case the individual must be told, within one month, how much extra time is required and why it is necessary.

Large amounts of data

The ICO website says "Where you process a large quantity of information about an individual, the GDPR permits you to ask the individual to specify the information the request relates to (Recital 63). The GDPR does not introduce an exemption for requests that relate to large amounts of data, but you may be able to consider whether the request is manifestly unfounded or excessive."

Subject access requests which are "manifestly unfounded or excessive"

If the data controller believes that the request is "manifestly unfounded or excessive", in particular because of its repetitive character, it can charge a reasonable fee or it can refuse to provide the information requested. In either case, the data controller will need to be able to provide evidence of how it reached the conclusion that the request was "manifestly unfounded or excessive". If the data controller cannot justify that conclusion then it risks a substantial fine. If a data controller refuses to provide the requested information on the basis that the request is "manifestly unfounded or excessive" it must, without undue delay and at the latest within one month of receipt of the request, explain to the individual:

- why it believes the request is unfounded or excessive;
- that the requester has a right to complain to the Information Commissioner's Office; and
- that they have a right to apply to the courts to force disclosure and for compensation.

Identifying the requester

It is important that personal data is only disclosed to the relevant person so if a data controller has reasonable doubts concerning the identity of the individual making a subject access request, it may request additional information necessary to confirm their identity. A data controller must use no more than reasonable means to verify the identity of the person making the request. This might include such things as checking the electoral roll or requiring photo ID.