

ITEM 14

A) Motion – Implementation of Archive Policy.

For the public record the Parish Council has an Archive Policy which is currently not been implemented due in part to the failure of a predecessor of the current Parish Clerk (left office in 2009 - no record of any formal training) to update the Parish Councils Retention Policy, extract taken from minutes "Item 9 It was agreed that a request that a Minute Book be deposited in Record Office as the Book was full. **It was agreed that the Clerk keep the last two years**". (No evidence found that this policy has been rescinded). Examination of Appendix A: List of Documents for Retention or Disposal shows the Parish Council implemented (unknown date) to archive minutes **"At regular intervals of not more than 5 years they must be archived and deposited with the Higher Authority"**. It is important to draw to the Parish Councils attention that minutes also includes all background documentation. No records have been archived for the last 20 years in breach of these policies.

Minutes Local Government Act 1972 Schedule 12 paragraph 41(1), 41(2)

Extract - Parish Council Minutes.

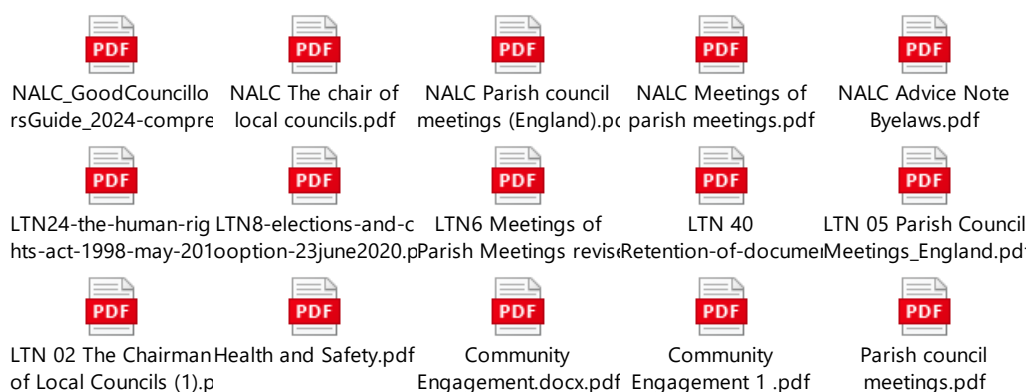
Upon investigating a letter sent to a resident of the area, Cllr. Carr informed members that the City Council had no plans to build upon this site and it was not one of the preferred sites. It was also Green Belt. However it was proposed by Cllr. Carr and 2nd by Cllr Bennett that objections be raised. - Clerk to write to City Council to this effect. All agreed.

9. It was agreed that a request that a Minute Book be deposited in Record Office as the Book was full. It was agreed that the Clerk keep the last two years.

B) Motion – I move that the attached information is made available to the local electorate on the Parish Councils website (Policies and Procedures) to promote community engagement, inform the local electorate, strengthen democratic accountability and ensure transparency, accountability, and effective service delivery for the public. As Local taxpayers have rights to scrutinise council decisions (named vote).

1. NALC The Good Councillors Guide 2024.
2. NALC Legal Topic Note 02 The Chairman of Local Council
3. NALC Advice Note Parish Council Meetings (England)
4. NALC Advice Note The chair of local councils
5. NALC Advice Note Meetings of parish meetings
6. NALC Advice Note Health and Safety
7. Openness, Accountability and Transparency Governance Document
8. Public Governance Document (Community Engagement 1)
9. NALC Legal Topic Note 08 Elections and Co-option
10. NALC Legal Topic Note 05E Parish Council Meetings [England]
11. NALC Advice Note Byelaws (England)
12. NALC Legal Topic Note 06 Meetings of Parish Meetings
13. NALC Legal Topic Note 40 Local Council Document and Records
14. NALC Legal Topic Note 02 The Chairman of Local Council
15. NALC Legal Topic Note 24 Human Rights Act 1998 X

NALC Legal Advice "Regardless of their size, parish and town councils in England are governed by legal requirements that ensure they operate transparently, accountably, and in the best interests of their communities. All councillors and council staff must understand that acting according to this statutory framework is a legal requirement. By adhering to these legal requirements, parish and town councils ensure they operate within the law, maintain public trust, and effectively serve their communities."



C)

C) Motion – I move that the attached information is made available to the local electorate on the Parish Councils website to ensure members of the public can access information held by the parish council without any interference:

1. Data Protection Act 2018.
2. General Data Protection Regulations 2018.
3. Freedom of Information Act 2000 Exemptions.
4. Local Government Act 1972 Schedule 12A Exemptions.
5. Environmental Information Regulations (EIR) 2004 - The regulations require disclosure by default unless specific exemptions, subject to a public interest test.
6. Openness of Local Government Bodies 2014.
7. Human Rights Act 1998.
8. The Local Government (Access to Information)(Variation) Order 2006.
9. Local Audit and Accountability Act 2014.
10. Public Bodies (Admission to Meetings) Act 1960 Exemptions Local Government Act 1972 Schedule 12A.
11. Local Government (Access to Information) Act 1985.
12. Section 2 of the FOIA - Public Interest Test must be applied if an Exemption.
13. **The "public interest test" under the [UK's Freedom of Information Act \(FOIA\)](#) (which is found in Section 16 of the Act) requires public authorities to balance the public interest in withholding information against the public interest in disclosing it when a qualified exemption applies. This means information should be released unless the arguments for keeping it secret are stronger, as disclosure is the default position if the scales are balanced.**
14. The House of Lords held that it is in the highest interest of the public to allow a council to be subject to scrutiny and criticism.
15. Members of the public have a right to see information relating to decisions made outside meetings by the Parish Clerk acting under a general or specific delegated power.

The information contained within this document has been obtained from publicly available sources.

Proposed Openness, Accountability and Transparency Governance Document

The Parish Council should already be implementing the statutory legislation, policies and guidance contained within these documents to ensure good governance, transparency, accountability, and effective service delivery for the public. To encourage greater Community Engagement with the Parish Council by its electorate.

The House of Lords held that it is in the highest interest of the public to allow a council to be subject to scrutiny and criticism.

Councillors can only prevent public access to meetings in limited circumstances,

primarily to protect confidential information see Local Government Act 1972 Schedule 12A exemptions. However, they must also adhere to their statutory obligations to ensure public transparency and accountability. Schedule 12A of the Local Government Act 1972 "the 1972 Act. Pre-dates Data Protection Act 2018. General Data Protection Regulations 2018 (Data Protection Act 1998) and other legislation.

Interest in disclosure - Regulation 12(2) under the Environmental Information Regulations (EIR) requires public authorities to operate under a presumption in favour of disclosure, meaning they must find strong arguments to withhold information. This principle ensures that information is released by default, and authorities must perform a public interest test to justify withholding the information by balancing the potential negative effects of disclosure against the public interest in transparency. Public Interest Test documents are open to public scrutiny.

Transparency and openness should be the fundamental principle behind everything councils and other local government bodies do, and new rights have now been introduced by the Openness of Local Government Bodies 2014, which will enable members of the public to know how decisions are made.

These rights allow members of the public including citizens and professional journalists to:

- use modern technology and communication methods such as filming, audio-recording, blogging and tweeting to report the proceedings of the meetings of their councils and other local government bodies
- see information relating to decisions made outside meetings by officers acting under a general or specific delegated power.

Legislation relating to openness, accountability and transparency:

Data Protection Act 2018 / General Data Protection Regulation 2018

All proceeding to the Parish Council must comply with the Data Protection Act 2018.

Council meetings must comply with data protection laws, including the UK GDPR and the Data Protection Act. These laws govern how personal data is collected, used, stored, and protected. Councils have a responsibility to ensure that any personal data gathered during meetings, whether through recordings, attendance lists, or other means, is handled in accordance with these regulations.

Penalties:

Freedom of Information Act 2000

Section 77 of the Freedom of Information Act 2000 (FOIA) makes it a criminal offense to deliberately alter, deface, block, erase, destroy, or conceal any record held by a public authority to prevent its disclosure in response to a valid information request. The offense applies to the public authority itself and any individuals employed by or acting under its direction, with individuals facing prosecution and a potential fine.

Data Protection Act 2018

Section 173 of the Data Protection Act 2018 makes it a criminal offense alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of all or part of the information that the person making the request would have been entitled to receive. The Act provides for financial penalties for offenses, although specific sentencing guidelines may vary. The Crown Court can impose unlimited fines, a power extended to Magistrates' Courts since 2015.

Who can be prosecuted?

- Data controllers.
- Individuals employed by an officer of, or otherwise subject to the direction of the data controller.
- In cases where an offense is committed by a body corporate, any officer who consented to or connived with the act can also be prosecuted.

Data Protection legislation:

Council meetings must comply with data protection laws, including the UK GDPR and the Data Protection Act. These laws govern how personal data is collected, used, stored, and protected. Councils have a responsibility to ensure that any personal data gathered during meetings, whether through recordings, attendance lists, or other means, is handled in accordance with these regulations.

Freedom of Information Act 2000

The "public interest test" under the UK's Freedom of Information Act (FOIA) (which is found in Section 16 of the Act) requires public authorities to balance the public interest in withholding information against the public interest in disclosing it when a qualified exemption applies. This means information should be released unless the arguments for keeping it secret are stronger, as disclosure is the default position if the scales are balanced.

Exemptions:

- Section 21 – information already reasonably accessible

- Section 22 – information intended for future publication
- Section 22A – research information
- Sections 23 and 24 – security bodies and national security
- Sections 26 to 29 Sections 26 to 29 prejudice defence, international relations, relations in the UK, economy and financial interests in the UK
- Sections 30 and 31 – investigations and prejudice to law enforcement
- Section 32 – court records
- Section 33 – prejudice to audit functions
- Section 34 – parliamentary privilege
- Sections 35 and 36 – government policy and prejudice to the effective conduct of public affairs
- Section 37 – communications with the royal family and the granting of honours
- Section 38 – endangering health and safety
- Section 39 – environmental information
- Section 40(1) – personal information of the requester
- Section 40(2) – Personal information
- Section 41 – confidentiality
- Section 42 – legal professional privilege
- Section 43 – trade secrets and prejudice to commercial interests • Section 44 – prohibitions on disclosure

Human Rights:

Council meetings must comply with human rights principles. Human Rights Act 1998 para 6 Specifically, the public has rights to access and report on council meetings, and these rights are often grounded in human rights legislation like the Human Rights Act 1998, which incorporates the European Convention on Human Rights into UK law. These rights include the ability to attend meetings, report on them, and, in some cases, even record them.

Key points regarding human rights and council meetings:

• Open Meetings:

A fundamental principle is that council meetings should be open to the public, allowing for transparency and accountability.

• Right to Attend:

Members of the public generally have the right to attend council meetings, with limited exceptions for confidential or exempt information.

- Right to Report:

This includes the right to film, record audio, take photographs, and use social media to report on proceedings.

- Data Protection:

While reporting on meetings is permitted, individuals must still be mindful of data protection regulations, especially when recording or filming.

- Reasonable Facilities:

Councils are expected to provide reasonable facilities for those reporting on meetings, such as access to appropriate space or information.

- Exemptions:

There are limited circumstances where meetings or parts of meetings can be closed to the public, usually to discuss confidential or sensitive information.

The Local Government (Access to Information)(Variation) Order 2006

establishing duties of transparency and accountability to the public bodies

Local Audit and Accountability Act 2014 establishing duties of transparency and accountability to the public bodies

Local Government Act 1972 Schedule 12A Exemptions

The categories of information which can be exempt under Schedule 12A of the Local Government Act 1972 "the 1972 Act." All of them require consideration of the public interest before deciding whether to withhold the information.

The categories are-

1. Information related to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes: (a) to give under any enactment a notice of by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Local Government Act 1972 Part VA Access to Meeting and Documents

Schedule 12A of the Local Government Act 1972 and Public Bodies

(Admission to Meetings) Act 1960 pre-dates Data Protection Act 2018 and

General Data Protection Regulations 2018 (Data Protection Act 1998).

Environmental Information Regulations 2004

Public interest regulation 12(2) is a provision under the Environmental Information Regulations (EIRs) that requires public authorities to presume in favour of disclosure when deciding whether to withhold information that falls under an EIR exception.

This means that before an authority can refuse a request, they must apply a public interest test. If the public interest in disclosing the information outweighs the public interest in withholding it

The Environmental Information Regulations 2004 (EIRs) grant the public the right to access to information held by public authorities in the UK. The regulations require disclosure by default unless specific exemptions, subject to a public interest test.

EIR exceptions are reasons under the Environmental Information Regulations 2004 (EIR) that allow a public authority to withhold environmental information.

These exceptions are listed in Regulation 12(4) and 12(5) of the EIR and are subject to a public interest test, where the authority must demonstrate that the public interest in withholding the information outweighs the public interest in disclosure.

(4)

For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—

- a) it does not hold that information when an applicant's request is received;
- b) the request for information is manifestly unreasonable;
- c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
- d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or
- e) the request involves the disclosure of internal communications.

(5)

For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—

- a) international relations, defence, national security or public safety;
- b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;
- c) intellectual property rights;
- d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;
- e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
- f) the interests of the person who provided the information where that person—
 - i.
 - ii.
 - iii.

was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;

did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

has not consented to its disclosure; or

g) the protection of the environment to which the information relates.

Local Government (Access to Information) Act 1985

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person : or
 - b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the

prevention, investigation or prosecution of crime.

Public interest test

What is the public interest test?

The public interest test in Section 2 of the FOIA provides that the council must release the information unless, "in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

A public authority must do more than simply assert that the prevention of adverse effects to the interests of third-party information providers is in the public interest. It must demonstrate how, in a particular case, such prevention serves the public interest. For example, a particular disclosure may harm the relationship between the third party and the public authority and may undermine the ability of the authority to do business with that person, and/or with other parties, in the future.

Public interest in disclosure.

Public and local authorities (including local councils) cannot be defamed and cannot therefore sue. The House of Lords held that it is in the highest interest of the public to allow a council to be subject to scrutiny and criticism, and it would be contrary to such interest for local authorities to have any common law right to bring an action for defamation (*Derbyshire C.C. v The Times Newspapers Ltd* [1993] 1.AER.1011).

The information contained within this document has been obtained from publicly available sources.

D) MOTION

I (Cllr Stabler) have been approached by several local residents concerned that the cemetery gates are been left in the open position overnight when they should be closed. The Parish Council takes these concerns serious, to allay these concerns I move that signage is added to both the outside and inside of the cemetery wall advising those visiting the cemetery to close the cemetery gates upon departure. e.g. "Please keep gates closed at all times Thank you" (outside) and "Please close the gate behind you Thank you" (inside).