

## 2.5 Meetings From Which the Public Is Excluded

2.501 We receive a steady stream of enquiries and complaints about city, district, and regional councils that exclude the public from the whole or parts of meetings. The common concern expressed is that the council is thereby taking important decisions “behind closed doors” away from public scrutiny.

2.502 We have no power to take action on these enquiries, but we believe that it would be useful to outline the procedural requirements that a local authority must follow in order to exclude the public from a meeting.<sup>6</sup>

2.503 Local authority meetings are subject to Part VII of the Local Government Official Information and Meetings Act 1987. The tenor of Part VII broadly reflects the policy of official information legislation that information should be publicly available unless some good reason exists for withholding it. (Part VII spells out what are such good reasons in relation to meetings.) That is, the presumption is that meetings will be open to the public.

2.504 That position is consistent with the Local Government Act 1974 when it:

- says that one of the purposes of local government is to provide for the effective participation of local persons in local government<sup>7</sup>; and
- places an obligation on local authorities to ensure that their business is conducted in a manner that is comprehensible and open to the public<sup>8</sup>.

2.505 Nevertheless, the right to exclude the public from all or any part of a meeting recognises the balance that must be struck between:

- public participation and open government; and
- the need (in certain circumstances) to protect the public interest and personal privacy.

<sup>6</sup> The Ombudsmen are empowered to investigate and review decisions relating to exclusion (section 27, Local Government Official Information and Meetings Act).

<sup>7</sup> Section 37k.

<sup>8</sup> Section 223c(a).

- 2.506 The public can be excluded from the whole or a part of a meeting only by a resolution of the council or committee, put at a time when the meeting is open to the public. The text of the resolution must:
- be in the form prescribed by Schedule 2A to the Local Government Official Information and Meetings Act;
  - be available to any member of the public who is present; and
  - form part of the minutes of the meeting.<sup>9</sup>
- 2.507 The resolution is required to state:
- the general subject of each matter to be considered while the public is excluded;
  - the reason for the passing of the resolution in relation to that matter; and
  - the grounds for exclusion on which the resolution is based.
- 2.508 Even though excluded from the whole or a part of a meeting, the public may still (either before and/or after the meeting) be able to obtain information about the matter considered while the exclusion was in force.
- 2.509 Some information should be obtainable from the meeting agenda and associated reports that – as a rule – must be available for any member of the public to inspect (free of charge) within a period of at least two working days before the meeting.<sup>10</sup>
- 2.510 Any person can request the minutes of the meeting, or part of the meeting, from which the public has been excluded. The local authority has to treat the request as a request for official information and deal with it in the same manner as any other request for official information.<sup>11</sup> If the request is refused, the person can refer the matter to the Ombudsmen for review.

9 Section 48, Local Government Official Information and Meetings Act.

10 Section 46A, Local Government Official Information and Meetings Act. However, the chief executive may withhold reports that he or she reasonably expects to be discussed with the public excluded from the meeting.

11 Section 51(3)(a), Local Government Official Information and Meetings Act.

## 'Workshop' Meetings

- 2.511 We also continue to receive enquiries and complaints about local authority 'workshop' meetings. The concerns expressed are not only that information is unobtainable about what took place at the 'workshop' meeting, but also that considerable official business was apparently transacted at the meeting and the decisions taken then were effectively 'rubber-stamped' without further discussion or deliberation at a subsequent formal meeting.
- 2.512 We considered and reported on 'workshop' meetings in 1997.<sup>12</sup> We concluded then (and have no reason to change our opinion) that, because of the provisions of Part VII of the Local Government Official Information and Meetings Act, 'workshop' meetings, being meetings at which no resolutions or decisions are made, are not "meetings" for the purposes of that Act. Consequently, details of what happens during 'workshop' meetings are not subject to the disclosure requirements of Part VII of the Act.
- 2.513 We consider that 'workshops' are a useful means by which councillors can absorb, understand and exchange ideas on matters involving complex (and, often, voluminous) information, in an environment that is not as structured and controlled as a formal meeting. We also comment, however, that 'workshop' meetings should not be treated as a substitute for the discussion and deliberation that ought to take place in a meeting that is open to the public.



<sup>12</sup> *Second Report for 1997*, parliamentary paper B.29[97b], pages 73-74.