

Request for copies of unconfirmed minutes of Council's Standing Committees

Legislation	Local Government Official Information and Meetings Act 1987, s 17(d)
Agency	City Council
Ombudsman	Sir Brian Elwood
Case number(s)	W42042
Date	September 2000

Request for copies of unconfirmed minutes—status of unconfirmed minutes—application of s 17(d) of the Local Government Official Information and Meetings Act—requester's opportunity to participate in the Council's actions and decisions not detrimentally affected to a significant extent by the decision to decline the official information request

A Residents Association requested copies of unconfirmed minutes of a Council's Standing Committees. The Association wished to receive the information before the next meeting of the full Council to enhance its ability to participate effectively in the Council's actions and decisions. The request was refused under section 17(d) of the LGOIMA on the basis that the information requested would soon be publicly available.

The complaint raised as a preliminary issue the status of draft or unconfirmed minutes. Section 51 of LGOIMA authorises any member of the public to inspect and receive copies of minutes of any part of a meeting of a local authority from which the public was not excluded. The Council drew attention to section 114N of the Local Government Act 1974, which it had interpreted to mean that notes taken at a meeting do not become the official minutes of the meeting unless 'duly entered and authenticated'. No case law could be located on the point and to that extent the legal status of unconfirmed minutes is uncertain. The investigation proceeded on the basis that draft or unconfirmed minutes do not constitute a formal record of a meeting until such time as they have been duly entered as a true and correct record. Accordingly, the unconfirmed minutes are not required by the provisions of section 51 to be available for inspection and copying.

Consideration was then given to the Council's decision to decline to make the information available pursuant to section 17(d) of LGOIMA. Section 17(d) provides that a request may be refused where the information requested is or will soon be publicly available.

This section is not stated to be a *'good reason for withholding official information'* but is simply authority for refusing a request. Given that the principle of availability requires that information should be made available unless there is good reason for withholding it, section 17(d) should not be used if any of the purposes of LGOIMA would be undermined. The central issue was therefore whether the refusal had the effect of limiting the Association's effective participation in actions and decisions of the Council, as the Association contended.

The Council had a six week Committee/full Council meeting cycle. It seemed likely that a delay of six weeks in accessing the confirmed minutes would not usually prevent any concerns either being put to the following Council meeting or preclude the Council from addressing those concerns effectively.

Section 46A of the Act permits members of the public to inspect, at least two working days before every meeting of a local authority, all agendas and associated reports relating to the meeting circulated to members. As the Association had access to the same agenda papers as Councillors (with some exceptions such as items where the public is excluded), it was not apparent that its opportunity to participate in the Council's actions and decisions was detrimentally affected to a significant extent by the decision to decline the official information request.

In the circumstances, the view was formed that section 17(d) provided authority for declining to make available the information requested.

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