

The misuse of legal advice by the LLTNPA to reduce openness

Description

As a result of campaigning against the proposed camping byelaws, I have uncovered a number of failings in respect to how the LLTNPA operates, many of which concern a lack of openness and what I would describe as cover-ups. Today I received further proof of this. I hope you will bear with me while I explain and then suggest some changes which are needed to make LLTNA more accountable.

The agenda for the LLTNPA Board meeting in October 2015 included proposals to change the time Papers were published before Board Meetings from 7 days to 3. I emailed a letter to Linda McKay, the Convener of the Board, before the meeting objecting and stating why I thought this was not in the public interest [Letter Linda McKay 151023](#). I strongly suspected then – and still do – that the change was in part prompted by my discovery that the minutes of the April 2015 Board Meeting had been fiddled, with declarations of interest about ownership of property in the proposed camping management zones being added after the meeting. This was covered by Rob Edwards in the Sunday Herald

<http://www.robedwards.com/2015/06/row-over-loch-lomond-board-members-with-homes-in-camping-control-zone.html#more>

Although the Park's Chief Executive, Gordon Watson, accused me of “utter nonsense” at the time, the false declarations were eventually removed from the minute (although the Park has refused to explain who authorised the fiddling of the minute, a subject I will cover in a future post). The point here though is that if the minute had appeared just three days before the meeting, the chances of those of us who witnessed the April meeting spotting the fact they had been falsified would have been significantly reduced. Both the public and Board Members need time to check that minutes properly reflect meetings.

Linda McKay failed to refer to my letter at the October Board meeting, though it may well have been discussed at the secret business session that takes place before every Board Meeting. Cllr George Freeman did however raise a question about whether reducing timescales for publication of papers was reasonable but accepted the response of the legal and governance manager that the change was the result of legal advice – the implication being that Park staff had been told to change Standing Orders. Neither Cllr Freeman nor any other Board Member thought to ask what the legal advice actually said – strange you might think for people who are employed to scrutinise decision making.

So, after the Board meeting I wrote another letter to Linda McKay asking for the legal advice [Letter Linda McKay 151102](#) and recording what I had heard at the meeting. Linda McKay never responded but, as she and her Chief Executive now do as a matter of course, treated my questions as a Freedom of Information request [FOI 2015-051 Response changes to LLTNP standing orders](#). The Park then refused to disclose the information under FOI claiming an exemption for legal advice.

I appealed to the Freedom of Information Commissioner and today received a letter from the Park that they had decided to provide me with the information after all [FOI 2015-051 Appendix A – legal advice](#), along with what I can only describe as all sorts of nonsense about not setting a precedent [FOI 2015-051 Response160323](#)

The so-called legal advice was no such thing – purely some comments from a solicitor, written in the margins of the Standing Orders, which pointed out that the statutory requirements for production of minutes is in fact just 3 days. The law if my memory is right dates back to the 1970s but Government and technology has moved on and almost every public authority now publishes papers a week in advance. Even my own Local Authority, Glasgow City Council, which has dozens of meetings manages to do it. Yet this is apparently beyond the capability of a National Park that now only holds four meetings in public a year. Indeed it has decided to move in the opposite direction. This appears a deliberate decision to reduce openness through misrepresenting the legal advice that had been received.

What should happen to improve democratic accountability

I hope now that any members of the Board who were misled by the claim about what the legal advice said, call on this change to Standing Orders to be reversed and call for some other changes, as I suggested in my letter to Linda McKay, to make our National Park more open and democratically accountable:

1. The National Park should publish draft agendas for meetings and draft minutes of meetings as soon as these are agreed. This would usually be well before the publication date as set in Standing Orders which should revert to 7 days. This would increase transparency by enabling the public to find out what decisions had been made (instead of having to resort to FOI requests) and to ascertain if matters of interest to them were likely to be discussed at future Board meetings.
2. The Park should clearly state in Standing Orders when Board papers will be made available to Board members if this is different to their publication date.
3. The Park should start recording meetings and making these available as podcasts. This would I believe have helped prevent the subsequent falsification of the draft April Board meeting minute.

The public can watch sessions of the Scottish Parliament after the event on the Parliament TV. While not a legal requirement on public bodies, recording meetings would mean that the many people who were unable to attend Board Meetings might nevertheless hear how the Board operated and what individual Board Members said. Podcasts would be cheap and technically relatively straightforward to arrange.

Linda McKay, however, is at the very top of Government being a non-executive director of the Scottish Government Strategic Board <http://www.gov.scot/About/People/strategic-board> and the Environment Minister, Aileen McLeod, has never responded to this or any of the other governance matters I have referred to her. I suspect we will need a lot more people to start calling for our National Parks to become open and more democratically accountable before Board Members have the courage to make changes such as these.

Meantime, my sincere thanks to the staff at the Office of the Information Commissioner. I am certain the Park only released this information due to their intervention. There is more information the Park has withheld from me and I hope I will be able to make this public in due course.

Category

1. Loch Lomond and Trossachs

Tags

1. Freedom of Information
2. Governance
3. LLTNPA
4. secrecy

Date Created

March 23, 2016

Author

nickkempe