


Weightmans

Association of Democratic Services Officers Conference
Knowles on Local Authority meetings
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Wirral Metropolitan Borough Council

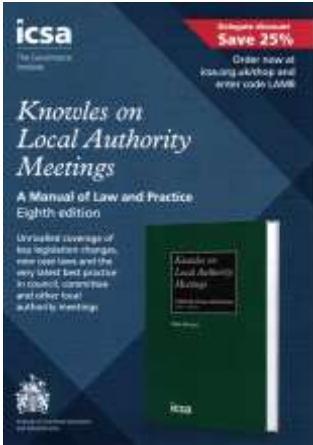


Interim Monitoring Officer

July 2017 - ?April 2018



P.4
WIRRAL PLAN 2020



A shameless plug

but ...



Today

- The starting point
- The big issue on my mind
- Knowles as it is
 - What’s right with it?
 - What’s wrong with it?
 - What could be done better?
- Questions



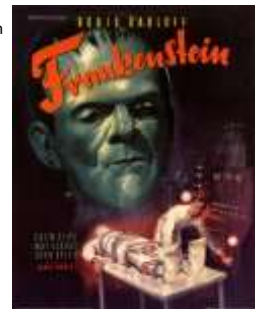
A local authority
- Where to begin?



A local authority
What is ‘a creature of statute’?

“Whenever a corporation is created by an Act of Parliament, with reference to the purposes of the Act, and solely with a view to carrying these purposes into execution, I am of the opinion not only that the objects which the corporation may legitimately pursue must be ascertained from the Act itself, but that the powers which the corporation may lawfully use in furtherance of these objects must either be expressly conferred or derived by reasonable implication from its provisions.”

Barroness Wenlock v. River Dee Co. (1885)





What is 'a creature of statute' – with new competencies?

- **Natural person**
You and I
– can do whatever we want unless forbidden by law
- **Legal person**
Statutory construct
– can only do what is permitted by law
- **Localism Act 2011 and the general power of competence**
Amends the Council's powers so that it can act like a normal person ... kind of
– Helps enormously, but doesn't change the fundamental principle ... or the likelihood of legal challenges!



A local authority – How does it work?

Constitution, procedures, regulations, standing orders, discretion, bias, pre-determination, duties, powers ...

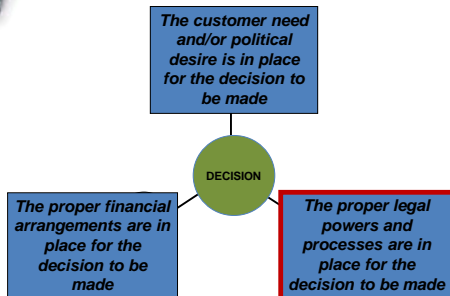
Council - Delegation to Committees, Sub-Committees or an officer
– Outside bodies

Code of Conduct, audit, targets, finance

Decisions ...



A local authority – The 'DNA' of any sound decision?



For another day, but... How to make a lawful decision?

Decision maker needs to ask themselves ...

- Do we have the authority from statute to make this decision?
- Is the decision going to be in furtherance of the policy and objectives of the statute?
- Do we have the authority from Council to make this decision?
- Have we performed our duties as required?
 - Provisions on meetings, fiduciary duty, reduction of crime & disorder, promoting equality, etc.
- **Have we followed the correct procedures?**
- Have we taken into consideration all of the relevant factors?
- Have we disregarded all of the irrelevant factors?
- Is our likely decision a proportionate balance between the necessary objectives and the civil rights effected?
- Have we exercised our discretion as required?



- Does it work?



The missing
'individual'
loophole?

The Local Authorities (Executive
Arrangements)
(Meetings and Access to
Information) (England)
Regulations 2012

The Openness of Local Government
Bodies
Regulations 2014



The Current Structure
of Knowles

- General Principles 1 – 115 (115 Pgs)
- Council Meetings 119 – 196 (77 Pgs)
- Committee Practice 203 – 290 (87 Pgs)
- Miscellaneous Meetings 293 – 334 (41 pgs)



It's been around a while





Structure

- Is that the right balance?
- Is it structured in the right way for your day to day working?
- Where is it too scant or too long to be useful?



Holes and blind alleys

- What's missing?
- What doesn't it answer?
- Or where does it answer questions that no one asks?



Perish the thought!

- What's wrong in it?



And finally

- What works and doesn't work for you?



Questions on our working life?



Thank you!

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