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To: CornwallALC Enquiries
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Dear All -

We have recently received the following Legal Bulletin November 2024 from the NAC Legal Team which may contain items of interest:

Can a parish or town council organise a demonstration?

We were asked if a parish or town council is eligible to exercise the general power of competence (GPC) could organise a demonstration to protest against a proposed highway closure, in this case, an A road closure.

We believe there is no specific ban on a parish or town council promoting a protest or demonstration, and a council eligible to exercise the GPC could do so. However, we questioned whether it was the best approach. National Highways could ignore a demonstration. A threat to judicially review their decision might make them reconsider. Media campaigns could also have more of a desired effect than a demonstration.

Can a parish or town council carry out works on land it does not own?

This question has come up a few times recently. Residents may feel they need more maintenance on land with no known owner and approach the council to see if they can help.

In the first instance, we advise parish and town councils to contact and check with their insurers. Ultimately, their view is relevant, and a council would not wish to do anything that invalidates its insurance policy. If council insurers do not object to such works, there are other considerations for councils. Suppose a council carries out works once (e.g. grass cutting, tree pruning, fence repairs). In that case, that may set an expectation that the council will continue to carry out such works and that it is responsible for maintaining the land and incurring the associated costs. Parish and town councils may contact us for further advice.

Risk assessments and insurance policies

We were asked if parish and town councils should ask their service providers for a sight of their risk assessments or include a provision in their contracts rather than asking to see a copy (e.g. "the award of this contract to the supplier is conditional upon the supplier having in place appropriate risk assessments and insurance").

We asked our partner, Clear Councils Insurance. Their reply was: "I recommend that [councils] obtain the risk assessment from the contractors before any work or contract is started. Even if the clerk hasn't got the technical skills to determine whether the risk assessment is satisfactory, it at least gets the contractor to carry out a risk assessment although I hope that contractors working on behalf of councils would already have, at least, a generic one to start off with. I also advise councils to check their contractor's insurance cover annually to ensure that cover is in place. All contractors are used to being asked for their certificates by their customers".

The Procurement Act 2023

The Procurement Act 2023 has been introduced to reform the public procurement regime in the UK. The Act came into force on 28 October. Most provisions largely come into force on 24 February 2025 through The Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) (Amendment) Regulations 2024. We are considering the guidance to issue to members. In the meantime, the government has issued [guidance](#).

Recent legal team activity

The legal team has been busy attending conferences and preparing for the new website. The team has also been working on the update to Local Councils Explained. As communicated in a previous chief executive's bulletin, we have reissued the [advice note on the protection of common land](#).

Legal manager Jane Moore attended the Local Government Association (LGA) Conference in Harrogate between 22 and 24 October 2024, the Labour Party Conference in Liverpool last month, and delivered a legal update for the Surrey Association of Local Councils on 17 October 2024.

Deputy prime minister Angela Rayner MP announced at the LGA Conference that the government would legislate to prevent the publication of the requirement for councillors' home addresses. From conversations with sector colleagues, we understand that many monitoring officers already take a pragmatic approach, and the announcement should comfort those concerned with adhering to the letter of the law. Angela Rayner MP also announced that the government will consult on changes to the councillor standards system and allow councils to use virtual attendance at council meetings. You can read more about this in LGA's [press release](#).

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Kind regards,

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