



**COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL**

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25-OMD-261

September 17, 2025

In re: Leslie Foley/London City Council

Summary: The London City Council (“the Council”) violated the Open Meetings Act (“the Act”) when it failed to issue a written response to a complaint within three business days. The Council did not violate the Act by conducting meetings that were not open to the public, by providing insufficient agendas, by holding a meeting at a location that was inconvenient to the public, or by not following the items on its agenda.

Open Meetings Decision

On August 27 and 28, 2025, Leslie Foley (“Appellant”) submitted two complaints to the Mayor of the City of London, in which she described several alleged violations of the Act.

In her first complaint, the Appellant made five allegations. First, she alleged a January 2025, phone call between three Council members amounted to a meeting of the Council that should have been open to the public. Second, she alleged the Council violated KRS 61.823(3) at its August 4, 2025, meeting by taking action not on its agenda. Third, she alleged the Council took different action in practice than was described at the August 4, 2025, meeting.¹ Fourth, she alleged that Council’s August 15, 2025, meeting was held in a location without adequate space in violation of KRS 61.840. Fifth, she alleged the agenda for the August 15, 2025, meeting did not give sufficient notice of the items to be discussed and action taken in violation of KRS 61.823(3). As a remedy, the Appellant proposed that the Council provide accurate agendas for special meetings, provide adequate space for its meetings,

¹ Specifically, she alleged the Council identified a different attorney as its newly retained legal counsel than the attorney who later acted on behalf of the Council.

refrain from holding private discussions outside of public meetings, and adequately identify its legal counsel.

In her second complaint, the Appellant made four allegations. First, she alleged the notice for the August 26, 2025, meeting did not give sufficient notice of the items to be discussed and action taken in violation of KRS 61.823(3). Second, she alleged an August 27, 2025, meeting violated the Act because the Council had attempted to cancel it and then held it without a quorum of its members. Third, she alleged that the Council took action outside its meeting by deciding on the location and presiding officer of an upcoming removal hearing. Fourth, she alleged the Council violated KRS 61.840 by holding special meetings at noon on weekdays. As a remedy, the Appellant proposed that the council provide accurate agendas for special meetings, that the Council comply with the Act when canceling meetings, that the Council refrain from scheduling practices that make attendance difficult for the public, and that all matters about upcoming meetings be decided in open meetings.

Having received no response to either complaint, the Appellant initiated two appeals related to each complaint.² The Office will address each portion of the Appellant's complaints according to the order in which they allegedly occurred.

Upon receiving a complaint alleging a violation of the Act, a "public agency shall determine within three (3) business days . . . after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision." KRS 61.846(1). On appeal, the Council does not address or justify its lack of response to the Appellant. Thus, the Office must conclude that the Council violated the Act.³

Turning to the merits of the complaints, the Office addresses first the general requirements of the Act. "All meetings of a quorum of the members of any public

² Because both complaints involve the Appellant and the Council, and because the alleged violations of the Act are interrelated, the Office has consolidated these two appeals. *See, e.g.*, 12-OMD-200.

³ The Office notes that several of the meetings complained about by the Appellant had to do with charges, brought by the Council, against the Mayor and his potential removal from office. *See* KRS 83A.040(9). The Office is satisfied that it has jurisdiction to consider the Appellant's appeal because she submitted her complaint to the individual who was London's Mayor at the time of her complaint. *See* KRS 83A.130(5) ("The mayor shall preside at meetings of the council."). Regarding the Council's non-response, it is unclear whether the Mayor forwarded the complaints to the Council or otherwise ignored them. However, because the Council has given no explanation as to whether it did or did not receive the Appellant's complaints, the Office can only conclude that a violation of the Act occurred when the Appellant did not receive responses to them.

agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times.” KRS 61.810(1). Thus, a meeting without a quorum of the members of the agency is not a “public meeting” subject to the requirements of the Act. There is, however, an exception to this rule. “Any series of less than quorum meetings, where the members attending one (1) or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of [the Act], shall be subject to the requirements of” the Act. KRS 61.810(2). This exception only applies when there has been a series of meetings in which the members participating, in the aggregate, constitute a quorum of the agency and when the meetings were held with the intent of avoiding the Act’s requirements.

Next, there are two types of meetings under the Act, regular meetings and special meetings. Under KRS 61.820(2), a public agency “shall provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by whatever other means may be required for the conduct of business of that public agency.” A meeting that was not previously scheduled under KRS 61.820(2) is a “special meeting,” and it is subject to additional notice requirements. KRS 61.823. Notice of a special meeting must be issued no less than 24 hours before the special meeting, and such notice must include a copy of the agenda because “[d]iscussions and action at the meeting shall be limited to items listed on the agenda in the notice.” KRS 61.823(3). However, this limitation does not apply to regular meetings. In fact, the statute does not even require an agenda for a regular meeting. Because public agencies are not required to provide an agenda for regular meetings, the Office has long held that public agencies do not violate the Act if they provide an agenda for a regular meeting but do not limit their discussion to the items listed on the agenda. *See, e.g.*, 11-OMD-132; 01-OMD-175.

The Office begins with the alleged January 2025 discussions between three Council members. The Appellant provides an audio recording in which an alleged Council member states that he has had discussions about actions to be taken in an upcoming meeting with two other Council members. She asserts that the referenced discussions amount to a public meeting of the Council at which public business was discussed and therefore was subject to KRS 61.810(1). The Council has not addressed this portion of the complaint. However, even accepting the Appellant’s assertion as true, she does not allege that a quorum of the Council discussed public business, either in a single meeting or a series of less than quorum meetings. The Council is made up of six members. However, only “a majority of a legislative body shall

constitute a quorum.” KRS 83A.060(6). Three of six members of the Council is not a majority, and therefore, is not a quorum. Accordingly, the alleged January discussions were not a meeting subject to KRS 61.810(1).

Next, the Appellant alleges the Council violated the Act by taking action not listed on its agenda at its August 4, 2025, meeting. However, the Council’s August 4, 2025, meeting was a regular meeting. Thus, because no agenda was even required for that meeting, the Council could not violate the Act by taking action not described by the agenda. Accordingly, the Council did not violate the Act at its August 4, 2025, meeting by taking action not listed on its agenda.

Regarding the Appellant’s assertion that it retained a different attorney than originally identified at its August 4, 2025, meeting, it is not clear what violation of the Act the Appellant believes occurred. The Act’s only requirement regarding accuracy is that an agency’s meeting minutes state “an accurate record of votes and actions at such meetings.” KRS 61.835. But here, the Appellant has not alleged that the August 4, 2025, meeting minutes are inaccurate. Accordingly, the Office cannot find a violation of the Act.

Next, the Appellant claims there was inadequate seating at the Council’s August 15, 2025, meeting. As support, she describes the large turnout at that meeting, and one Council member’s invitation for people to enter the room and watch along the wall, sit on the floor, or view the meeting online.⁴

When a public agency conducts a meeting under the Act, it is required to “provide meeting room conditions, including adequate space, seating, and acoustics, which insofar as is feasible allow effective public observation of the public meeting.” KRS 61.840. According to the Appellant, “[n]umerous members of the public were unable to enter the room,” and “there was inadequate space, seating, and acoustics to allow ‘effective public observation of the public meeting.’” The Appellant further stated that, after the Council’s presiding officer was notified of the alleged violation, her response was to “invite members of the public to enter the room to ‘stand along the wall’ and take a ‘seat on the floor.’”

The Supreme Court of Kentucky has held that the Act “does not impose upon government agencies the requirement to conduct business only in the *most* convenient locations at the *most* convenient times.” *Knox Cnty. v. Hammons*,

⁴ The substance of this complaint is identical to the complaint that was the subject of 25-OMD-260.

129 S.W.3d 839, 845 (Ky. 2004) (emphasis in original). In *Hammons*, the Court considered whether a meeting of a public agency violated KRS 61.840 “because it did not allow ‘effective public observation’ of the proceedings.” *Id.* at 844. Describing the meeting in question, the Court stated, “It is undisputed that numerous citizens were not able to enter the crowded district courtroom and observed the proceedings from the hallways.” *Id.* However, the Court ultimately held that the agency had not violated KRS 61.840 because “there is nothing on the record to indicate that persons wishing to attend or participate in the proceeding were effectively prevented from doing so.” *Id.* at 845. In so holding, the Court stated that the Act is “designed to prevent government bodies from conducting its business at such inconvenient times or locations as to effectively render public knowledge or participation impossible, not to require such agencies to seek out the most convenient time or location.” *Id.*

Here, the Appellant alleges the available seating in the meeting room had been exhausted and the additional space made available for observation in the meeting room, *i.e.*, standing along the wall or sitting on the floor, did not satisfy the requirements of the Act. However, even accepting the Appellant’s viewpoint as true, it appears the Council’s August 15 meeting was analogous to the meeting at issue in *Hammons*, insofar as citizens at both meetings “were not able to enter the crowded [room] and observed the proceedings from the hallway.”⁵ *Id.* at 844. In *Hammons*, the Court reasoned that, although the meeting room in question “might not have been the most convenient . . . location to hold the meeting, it certainly was not an inconvenient . . . location. *The fact that a large number of citizens did attend proves this point.*” *Id.* at 845 (emphasis added). Similarly, here, although the Council’s meeting room may not have been the most convenient location, the fact that a large number of citizens were able to attend the meeting demonstrates that it was not an inconvenient location.

At bottom, the record before the Office does not indicate that the Council’s meeting location was so inconvenient “as to effectively render public knowledge or participation impossible.” Accordingly, the Office cannot find that the Council’s August 15, 2025, meeting violated KRS 61.840.

The Appellant also alleges the agenda for the Council’s August 15, and August 27, 2025, meetings were insufficiently specific in violation of KRS 61.823(3). KRS 61.823(3) requires that “[t]he public agency shall provide written notice of the special meeting. The notice shall consist of the date, time, and place of the special

⁵ To the extent citizens were able to at least enter the August 15 meeting room, it appears they had a greater ability to view the proceedings than the citizens in the *Hammons* decision.

meeting and the agenda. Discussions and action at the meeting shall be limited to items listed on the agenda in the notice.” The Office has interpreted this statute to require that a special meeting agenda “give fair notice of the particular topics to be discussed or acted upon.” 19-OMD-160. Here, the Appellant complains that both agendas described the topic to be discussed or action taken as “[a]doption of resolution amending the charges against” the Mayor. The Appellant claims the agenda should have identified the particular charges that were being amended, dropped, or added. The Office disagrees. By stating that the topic to be discussed or acted upon was amending the charges against the Mayor, the Council gave fair notice of what would occur at the meetings. A list of the exact changes that might have been made is not required by the Act. According, the Council’s August 15 and 27, 2025, agendas did not violate KRS 61.823(3).

Next, the Appellant complains about the late cancellation of the Council’s August 27, 2025, meeting. She alleges the cancellation failed to comply with the notice requirements of KRS 61.823. The Appellant is incorrect. KRS 61.823 contains no notice requirements regarding the cancellation of a meeting. As such, the cancellation of the August 27, 2025, meeting could not violate the Act.

The Appellant alternatively complains that a meeting was held on August 27, 2025, that lacked a quorum. The Council did not contest the Appellant’s assertion. However, because there was not a quorum of the Council, there was no “public meeting” subject to the requirements of the Act. *See KRS 61.810(1)*. Accordingly, the Council did not violate the Act.

Next, the Appellant complains that the Council announced the location and presiding officer of the Mayor’s removal hearing without having taken official action in a public meeting to choose the location and hearing officer. She alleges the Council must have violated KRS 61.810(1) by making that decision in a meeting not open to the public. Under KRS 61.805(3), “action taken” means “a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body.” For purposes of the Act, the discussion of “public business” is “not simply any discussion between two officials of the agency,” but “the discussion of the various alternatives to a given issue about which the [agency] has the option to take action.” *Yeoman v. Commonwealth, Health Policy Bd.*, 983 S.W.2d 459, 474 (Ky. 1998).

The Council explains that it was preparing “a safe and suitable location” and its counsel was “working to secure a presiding officer” for the hearing in question, and

that it ultimately adopted a resolution selecting the location and hearing officer at its September 2, 2025, meeting. The Office has previously stated that discussions about when to schedule a meeting or setting the agenda are not discussions of “public business.” *See, e.g.*, 21-OMD-086 n.1; 20-OMD-072; 13-OMD-086; 00-OMD-171. It appears to the Office that any discussions about where to hold the meeting and who the presiding officer might be were not discussions of “public business.” Rather, they were administrative discussions had for the purpose of preparing for a future meeting. Moreover, the Council ultimately selected the meeting location and presiding officer at its September 2, 2025, meeting. Thus, the Council did not violate the Act by discussing public business or taking final action outside of a public meeting.

Finally, the Appellant complains that the Council holds its special meetings at noon on weekdays, which is not a time convenient to the public. The Act requires that public meetings must “be held at specified times and places which are convenient to the public.” KRS 61.820(1). However, the Supreme Court of Kentucky has recognized that public agencies are not required to conduct their meetings at the most convenient time and place. *See Hammons*, 129 S.W.3d at 845. Moreover, the Office has previously held that meetings held during the weekday do not violate the Act. *See, e.g.*, 21-OMD-026 (finding no violation when a public agency held its meetings at noon); 10-OMD-171; 95-OMD-106. Accordingly, the Council did not violate the Act by holding special meetings at noon.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.846(4)(a). The Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

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/s/ Zachary M. Zimmerer
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