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STATUTORY INSTRUMENTS

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**2009 No. 1919**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2009**

<i>Made</i>	- - - -	<i>16th July 2009</i>
<i>Laid before Parliament</i>		<i>20th July 2009</i>
<i>Coming into force</i>	- -	<i>12th August 2009</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 21E, 22, 22A and 105 of the Local Government Act 2000<sup>(1)</sup>:

**PART 1**

**PRELIMINARY**

**Citation, commencement and application**

**1.—**(1) These Regulations may be cited as the Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2009 and shall come into force on 12th August 2009.

(2) These Regulations apply in England only.

**Interpretation**

**2.—**(1) In these Regulations—

“the 1972 Act” means the Local Government Act 1972<sup>(2)</sup>;

“the 2000 Act” means the Local Government Act 2000;

“the 2007 Act” means the Local Government and Public Involvement in Health Act 2007;

(2) In these Regulations references to an overview and scrutiny committee include references to a sub-committee of such a committee.

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(1) [2000 c.22](#). Sections 21E, 22(12A) and 22A were inserted by sections 124, 122(2) and 121 respectively of the Local Government and Public Involvement in Health Act 2007 ([c.28](#)).

(2) [1972 c.70](#).

## PART 2

### OVERVIEW AND SCRUTINY COMMITTEES OF CERTAIN DISTRICT COUNCILS

#### **Interpretation of Part 2**

3. An expression used both in this Part and in section 21E of the 2000 Act (overview and scrutiny committees of certain district councils: functions with respect to partner authorities) has the same meaning in this Part as it has in section 21E of the 2000 Act.

#### **Provisions of executive arrangements of certain district councils relating to overview and scrutiny committees**

4.—(1) Executive arrangements<sup>(3)</sup> by a district council to which section 21E of the 2000 Act applies may enable any of their overview and scrutiny committees to make reports and recommendations to the related county council, or that council's executive, which relate to any local improvement target which—

- (a) relates to a relevant partner authority, and
- (b) is specified in a local area agreement of the county council.

(2) Where a report or any recommendation is made pursuant to such executive arrangements, regulations 5 to 7 shall have effect.

#### **Publication of reports and recommendations of overview and scrutiny committees**

5. The overview and scrutiny committee may publish the report or recommendations.

#### **Duties of overview and scrutiny committees, etc in relation to reports and recommendations**

6.—(1) Where the report or any recommendation relates to a local improvement target that relates to the district council by which the overview and scrutiny committee is established, the overview and scrutiny committee must by notice in writing require the related county council or, as the case may be, that council's executive—

- (a) to consider the report or recommendation,
- (b) to respond to the overview and scrutiny committee indicating what (if any) action the county council propose, or the executive proposes, to take, and
- (c) if the overview and scrutiny committee has published the report or recommendations under regulation 5, to publish the response,

and to do so within a period of two months beginning with the date on which the county council or its executive receives the report or recommendations or (if later) the notice.

(2) It is the duty of the related county council or, as the case may be, that council's executive, to which a notice is given under paragraph (1), to comply with the requirements specified in the notice.

#### **Reports and recommendations relating to local improvement targets of relevant partner authorities**

7. — Where a notice has been given under regulation 6(1) the overview and scrutiny committee may, by notice in writing, require any partner authority other than—

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(3) See section 10 of the 2000 Act for the definition of "executive arrangements" for the purposes of Part 2 of that Act.

- (a) the county council,
- (b) a National Health Service Trust,
- (c) an NHS foundation trust, or
- (d) a Primary Care Trust,

to which the local improvement target that is the subject of the report or any recommendation relates, to have regard to the report or recommendation in the exercise of its functions.

(2) A notice under paragraph (1) must be accompanied by a copy of the report or recommendation.

(3) It is the duty of the relevant partner authority to which a notice is given under paragraph (1) to comply with the requirement specified in the notice.

### **Publication etc of reports, recommendations and responses: confidential and exempt information**

8. Section 21D(4) of the 2000 Act (publication etc of reports, recommendations and responses: confidential and exempt information) shall apply to the publication or provision under this Part of a document or a copy of a document as it applies to the publication of a document under section 21B(5) of that Act (duty of authority or executive to respond to overview and scrutiny committee) or the provision of a copy of a document under section 21C(6) of that Act (reports and recommendations of overview and scrutiny committees: duties of certain partner authorities).

## **PART 3**

### **POWERS TO REQUIRE INFORMATION FROM CERTAIN PARTNER AND ASSOCIATED AUTHORITIES**

#### **Interpretation of Part 3**

9.—(1) In this Part—

“a local area agreement” has the meaning given by section 106 of the 2007 Act (duty to prepare and submit draft of a local area agreement); and

“local improvement target” has the meaning given by section 105 of that Act (“local improvement targets”: interpretation).

(2) An expression used both in this Part and in section 21C of the 2000 Act or for the purposes of subsection (4) of section 22A of that Act (overview and scrutiny committees of certain authorities in England: provision of information etc by certain partner authorities) has the same meaning in this Part as it has in section 21C or, as the case may be, for the purposes of subsection (4) of section 22A.

#### **Provision of information by relevant partner authorities and associated authorities**

10.—(1) Subject to regulation 15, a relevant partner authority shall provide to a relevant committee(7) such information as that committee may reasonably require in order to discharge its functions, being information which—

- (a) has been requested in writing,

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(4) Section 21D was inserted by section 122(1) of the 2007 Act.

(5) Section 21B was inserted by section 122(1) of the 2007 Act.

(6) Section 21C was inserted by section 122(1) of the 2007 Act

(7) “Relevant partner authority” and “relevant committee” are defined in section 22A(3) of the 2000 Act as having the meanings given by section 21C of the 2000 Act.

(b) relates to a local improvement target which—

(i) relates to the relevant partner authority, and

(ii) is specified in a local area agreement of the authority by which the relevant committee is established.

(2) Subject to regulation 15, an associated authority shall provide to a relevant district council committee<sup>(8)</sup> such information as that committee may reasonably require in order to discharge its functions, being information which—

(a) has been requested in writing;

(b) is relevant to a local improvement target which—

(i) relates both to the associated authority and to the authority by which the relevant district council committee is established, and

(ii) is specified in a local area agreement of the county council which is the responsible authority in relation to the district council by which the relevant district council committee is established.

### **Prohibitions on disclosure**

**11.**—(1) A relevant partner authority may not provide to the relevant committee and an associated authority may not provide to the relevant district council committee—

(a) information that was obtained by the authority from any other person where the provision of that information to the committee by the authority would constitute a breach of confidence actionable by any person;

(b) information the disclosure of which would, or would be likely to, prejudice the exercise of the functions of the authority or the legitimate interests of any person (including the authority holding it);

(c) personal information within the meaning of the Data Protection Act 1998<sup>(9)</sup>, unless the disclosure is permitted by or under that Act; or

(d) other information the disclosure of which is prohibited by or under any enactment.

(2) Where, but for this paragraph, the disclosure of information would be prohibited by paragraph (1)(c), the relevant partner authority or, as the case may be, the associated authority shall—

(a) revise it so that the individual concerned cannot be identified; and

(b) if satisfied that disclosure of the information in that revised form is permitted by or under the Data Protection Act 1998, and is not otherwise prohibited, disclose it.

### **General exclusion from duty to disclose**

**12.** Nothing in this Part shall require a partner or associated authority to provide information, or not to provide information, in respect of which provision may be made in exercise of the power conferred by—

(a) section 20(5)(c) or (d) of the Police and Justice Act 2006<sup>(10)</sup> (guidance and regulations regarding crime and disorder matters), or

(b) section 244(2)(d) or (e) of the National Health Service Act 2006<sup>(11)</sup> (functions of overview and scrutiny committees).

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<sup>(8)</sup> “associated authority” and “relevant district council committee” are defined in section 22A(6) of the 2000 Act.

<sup>(9)</sup> 1998 c.29.

<sup>(10)</sup> 2006 c.48. Section 20 was amended by sections 121, 126, 241 and schedule 18 of the 2007 Act.

<sup>(11)</sup> 2006 c.41. Section 244 was amended by section 121 of the 2007 Act.

## PART 4

### PUBLICATION ETC OF DOCUMENTS BY THE EXECUTIVE: CONFIDENTIAL AND EXEMPT INFORMATION

#### Interpretation of Part 4

**13.** In this Part—

“confidential information” has the meaning given by section 100A(3) of the 1972 Act (12)(admission to meetings of principal councils),

“exempt information” means information of any of the descriptions specified for the purposes of Part 5A of the 1972 Act (access to meetings and documents of certain authorities, committees and sub-committees)(13) and, in relation to any response to a report or recommendations of an overview and scrutiny committee which has functions under section 21(2)(f) of the 2000 Act, includes information falling within any of the descriptions of information specified in Schedule 17 to the National Health Service Act 2006(14), or in Schedule 11 to the National Health Service (Wales) Act 2006(15) (exempt information relating to health services), and

“relevant exempt information”, in relation to a response of the executive to a report or recommendations of an overview and scrutiny committee, means exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the 1972 Act(16) which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered.

#### Application of Part 4

**14.** This Part applies to—

- (a) the publication under section 21B of the 2000 Act by the executive of a local authority of any document comprising a response to a report or recommendation of an overview and scrutiny committee,
- (b) the provision under that section by such an executive of a copy of such a document, and
- (c) the publication under Part 2 of these Regulations by such an executive of any document comprising a response to a report or recommendation of an overview and scrutiny committee.

#### Exemptions from publication requirements, etc

**15.—**(1) In publishing the document the executive—

- (a) must exclude any confidential information, and
- (b) may exclude any relevant exempt information.

(2) In providing a copy of the document to a member of the local authority the executive may exclude any confidential information or relevant exempt information.

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(12) Section 100A(3) was inserted by section 1(1) of the Local Government (Access to Information) Act 1985 (c. 43).

(13) See section 100I and Schedule 12A. Section 100I was inserted by section 1(1) of the Local Government (Access to Information) Act 1985 (c. 43) and amended by S.I. 2008/88, article 3.

(14) 2006 c.41.

(15) 2006 c.42.

(16) Section 100A(4) was inserted by section 1(1) of the Local Government (Access to Information) Act 1985 (c. 43).

(3) Where information is excluded under paragraph (1) or (2), the executive, in publishing, or providing a copy of, the document—

- (a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and
- (b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.

(4) If by virtue of any of paragraphs (1) to (3) an executive, in publishing or providing a copy of the document—

- (a) excludes information, or
- (b) replaces part of the document with a summary,

it is nevertheless to be taken for the purposes of section 21B of the 2000 Act or, where the requirement to publish or provide a copy arises under Part 2 of these Regulations, that Part, to have published or provided a copy of the response.

Signed by authority of the Secretary of State for Communities and Local Government

*Rosie Winterton*  
Minister of State  
Department for Communities and Local  
Government

16th July 2009

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 21 of the Local Government Act 2000 (“the 2000 Act”) requires all local authorities operating executive arrangements to have one or more committees to scrutinise the actions of the executive and provide overview of matters affecting the authority, its area and its inhabitants (“overview and scrutiny” committees).

These Regulations, which apply in relation to England only, implement provisions of the 2000 Act relating to overview and scrutiny that were inserted by the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”). Broadly, the effect of the Regulations is to enable district councils in areas where there is also a county council to widen the role of their overview and scrutiny committees with respect to the scrutiny of local area agreements (“LAAs”), and to give all overview and scrutiny committees power to obtain information from LAA partners.

Part 5 of the 2007 Act provides for LAAs, which are agreements between local authorities and certain partner authorities, approved by the Secretary of State. The LAA is prepared by the “responsible authority” in consultation with partner authorities and others. The responsible authority and partner authorities co-operate with each other in determining a number of “local improvement targets” for the area to be included in the LAA. Under section 105 of the 2007 Act, a local improvement target will “relate” to a partner authority if the exercise of its functions can contribute to the attainment of that target, and the partner authority has agreed to the inclusion of that target in the LAA. District councils in areas where there is also a county council are not “responsible authorities” and thus do not prepare LAAs, but are partner authorities of the county council for their area.

Part 1 sets out preliminary matters and defines terms used in more than one Part of the Regulations.

The purpose of Part 2 is to give district councils in two-tier areas power to allow their overview and scrutiny committees to make reports and recommendations to the related county council on LAA matters. It also makes provision for partner authorities to be required to have regard to such reports and recommendations, similar to that made by section 21C of the 2007 Act for the reports and recommendations of the overview and scrutiny committees of other councils.

Regulation 3 provides that terms used in this Part have the same meaning as they do in section 21E of the 2007 Act.

Regulation 4 gives a district council in an area for which there is also a county council the power to make provision in its executive arrangements for its overview and scrutiny committee or committees to make reports and recommendations to the county council on LAA matters. Regulation 5 provides that such reports and recommendations may be published.

Regulation 6 provides that where a target that is the subject of such a report also relates to the district council in question, the overview and scrutiny committee must give the county council or, as the case may be, its executive notice in writing specifying the steps which it must take within two months of receiving the report or recommendations or, if later, the notice. These steps include responding to the report or recommendations and, if these documents have been published by the overview and scrutiny committee, publishing the response.

Regulation 7 provides that, where notice under regulation 6 has been given, the overview and scrutiny committee may also send a copy to any other partner authority to which a target that is subject of the report or recommendation relates and require it to have regard to the report or recommendations in the exercise of its functions.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 8 applies section 21D of the 2007 to the publication or provision of documents and copies of documents under this part. This contains rules on the exclusion of confidential and exempt information.

Part 3 is made under section 22A of the 2007 Act and sets out what information overview and scrutiny committees can obtain from certain other public bodies that are the partners of their authority or associates of their authority in the LAA.

Regulation 9 defines terms used in this part by reference to the 2007 Act.

Regulation 10 sets out the information that shall be provided by a relevant partner authority or an associate authority. Regulation 11 sets out the information that may not be provided.

Regulation 12 excludes certain crime and disorder and health related information from the provisions of this part. This is because separate arrangements for the scrutiny of such matters is provided for by the Police and Justice Act 2006 and the National Health Service Act 2006.

Part 4 deals with exclusion of exempt and confidential information when executives of local authorities publish their responses to reports and recommendations of overview and scrutiny committees. It is necessary because section 21D of the 2007 Act does not apply to publication or provision of documents by the executive. It also makes similar provision for responses to reports or recommendations under Part 2 of these regulations.

Regulation 13 defines terms used in Part 4.

Regulation 14 sets out the circumstances in which Part 4 applies.

Regulation 15 places a requirement on an executive to exclude confidential information when publishing a document or providing a copy of it to a relevant partner authority. Regulation 15 also gives a power to the executive to exclude any relevant exempt information.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.