
STATUTORY INSTRUMENTS

2012 No. 2089

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

PART 5

**Additional rights of members of the local authority
and of members of overview and scrutiny committees**

Additional rights of access to documents for members of local authorities

16.—(1) Subject to paragraphs (5) to (6), any document which—

- (a) is in the possession or under the control of the executive of a local authority; and
- (b) contains material relating to any business to be transacted at a public meeting,

must be available for inspection by any member of the relevant local authority.

(2) Any document which is required by paragraph (1) to be available for inspection by any member of the relevant local authority must be available for such inspection for at least five clear days before the meeting except that—

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph (1) in relation to that item, must be available for inspection when the item is added to the agenda.

(3) Subject to paragraphs (5) to (6), any document which—

- (a) is in the possession or under the control of the executive of the local authority; and
- (b) contains material relating to—
 - (i) any business transacted at a private meeting;
 - (ii) any decision made by an individual member in accordance with executive arrangements; or
 - (iii) any decision made by an officer in accordance with executive arrangements,

must be available for inspection by any member of the relevant local authority when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been made.

(4) Any document which is required by paragraph (3) to be available for inspection by any member of the relevant local authority must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

(5) Paragraphs (1) and (3) do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act (descriptions of exempt information: England).

(6) Notwithstanding paragraph (5), paragraphs (1) and (3) do require the document to be available for inspection if the information is information of a description for the time being falling within—

- (a) paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 12A to the 1972 Act.

(7) Where it appears to the proper officer that compliance with paragraph (1) or (3) in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph will not apply to that document or part.

(8) The rights conferred by paragraphs (1) and (3) are in addition to any other rights that a member of a local authority may have.

Additional rights of access to documents for members of overview and scrutiny committees

17.—(1) Subject to paragraph (3) a member of an overview and scrutiny committee of a relevant local authority is entitled to a copy of any document which—

- (a) is in the possession or under the control of the executive of that authority; and
- (b) contains material relating to—
 - (i) any business that has been transacted at a meeting of a decision-making body of that authority;
 - (ii) any decision that has been made by an individual member of that executive in accordance with executive arrangements; or
 - (iii) any decision that has been made by an officer of the authority in accordance with executive arrangements.

(2) Subject to paragraph (3), where a member of an overview and scrutiny committee requests a document which falls within paragraph (1), the executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the executive receives the request.

(3) No member of an overview and scrutiny committee is entitled to a copy—

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to—
 - (i) an action or decision that that member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

(4) Where the executive determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph (1) or (3), it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

Reports to the local authority where the key decision procedure is not followed

18.—(1) Where an executive decision has been made and—

- (a) was not treated as being a key decision; and
- (b) a relevant overview and scrutiny committee are of the opinion that the decision should have been treated as a key decision,

that overview and scrutiny committee may require the executive which is responsible for the decision to submit a report to the relevant local authority within such reasonable period as the committee may specify.

- (2) A report under paragraph (1) must include details of—
 - (a) the decision and the reasons for the decision;
 - (b) the decision maker by which the decision was made; and
 - (c) if the executive of the relevant local authority are of the opinion that the decision was not a key decision, the reasons for that opinion.

Executive reports to the local authority

19.—(1) The executive leader or elected mayor must submit to the relevant local authority at such intervals as may be determined by the relevant local authority a report containing details of each executive decision taken during the period since the last report was submitted to the authority where the making of the decision was agreed as urgent in accordance with regulation 11.

- (2) A report submitted for the purposes of paragraph (1) must include—
 - (a) particulars of each decision made; and
 - (b) a summary of the matters in respect of which each decision was made.
- (3) The executive leader or elected mayor must submit at least one report under paragraph (1) annually to the relevant local authority.