
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 44

The Local Government (Executive Arrangements)
Regulations (Northern Ireland) 2015

PART 5

Meetings and Access to Information

CHAPTER 1

Admission of public to meetings of council executives and their committees

Admission of the public to meetings of council executives and their sub-committees

19. A decision-making body may hold a meeting in public or in private.

Procedures prior to private meetings

20.—(1) A decision made by a decision-making body to hold a meeting in private is a prescribed decision for the purposes of section 35(5) of the 2014 Act (meetings and access to information etc.: further provision and regulations).

(2) At least 28 days before a private meeting, the decision-making body must—

- (a) make available at the offices of the relevant council a notice of its intention to hold the meeting in private; and
- (b) publish that note on the relevant council's website.

(3) A notice under paragraph (2) must include a statement of the reasons for the meeting to be held in private.

(4) At least five days before a private meeting, the decision-making body must—

- (a) make available at the offices of the relevant council a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the council's website.

(5) A notice under paragraph (4) must include—

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received by the decision-making body about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

(6) Where the date by which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from—

- (a) the chairperson of the relevant overview and scrutiny committee;

- (b) the chairperson of the relevant council, if the chairperson of the relevant overview and scrutiny committee is unable to act; or
- (c) the vice-chairperson of the relevant council, where there is no chairperson of either the relevant overview and scrutiny committee or of the relevant council available,

that the meeting is urgent and cannot reasonably be deferred.

(7) As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph (6) to hold a private meeting, it must—

- (a) make available at the offices of the relevant council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that note on the relevant council's website.

CHAPTER 2

Key decisions

Key decisions

21.—(1) In these regulations a “key decision” means a decision under executive arrangements, which is likely—

- (a) to result in the relevant council incurring expenditure which is, or the making of savings which are, significant having regard to the relevant council's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more district electoral areas in the local government district of the relevant council.

(2) In determining the meaning of “significant” for the purposes of paragraph (1) the council must have regard to any guidance for the time being issued by the Department in accordance with section 111 of the 2014 Act (guidance).

Publicity in connection with key decisions

22.—(1) Where a decision-making body intends to make a key decision, a document must be published, prior to that decision being made, in accordance with paragraph (2), which states—

- (a) that a key decision is to be made on behalf of the relevant council;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

(2) At least 28 clear days before a key decision is made, the document referred to in paragraph (1) must be —

- (a) open to inspection by the public at the offices of the relevant council; and
- (b) published on the relevant council's website.

(3) Where, in relation to any matter—

- (a) the public may be excluded under section 42(2) of the 2014 Act (admission to meetings of councils) from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not, because of regulation 32(2), be disclosed to the public, the document referred to in paragraph (1) must contain particulars of the matter but may not contain any confidential information or exempt information.

General exception

23.—(1) Subject to regulation 24, where the publication of the intention to make a key decision under regulation 22 is impracticable, that decision may only be made—

- (a) where the proper officer has informed the chairperson of the relevant overview and scrutiny committee or, if there is no such person available, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made;
- (b) where the proper officer has made open to inspection by the public at the offices of the relevant council, and published on the relevant council's website, a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after five days have elapsed following the day on which the proper officer made open to inspection by the public the notice referred to in sub-paragraph (b).

(2) Where paragraph (1) applies to any matter, regulation 22 need not be complied with in relation to that matter.

(3) As soon as practicable after the proper officer has complied with paragraph (1), the proper officer must—

- (a) make open to inspection by the public at the offices of the relevant council a notice setting out the reasons why compliance with regulation 22 is impracticable; and
- (b) publish that notice on the relevant council's website.

Cases of special urgency

24.—(1) Where the date by which a key decision must be made makes compliance with regulation 23 impracticable, the decision may only be made where the decision maker has obtained agreement from—

- (a) the chairperson of the relevant overview and scrutiny committee; or
- (b) if there is no such person, or if the chairperson of the relevant overview and scrutiny committee is unable to act, the chairperson of the relevant council; or
- (c) where there is no chairperson of either the relevant overview and scrutiny committee or of the relevant council available, the vice-chairperson of the relevant council,

that the making of the decision is urgent and cannot reasonably be deferred.

(2) As soon as reasonably practicable after the decision maker has obtained agreement under paragraph (1) that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must—

- (a) make open to inspection by the public at the offices of the relevant council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the relevant council's website.

CHAPTER 3

Recording of executive decisions and inspection of related papers and documents

Recording of executive decisions made at meetings

25.—(1) As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the proper officer, or if the proper officer was not present at the meeting, the person chairing, must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph (2).

(2) The statement referred to in paragraph (1) must include—

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, any note of dispensation granted by the Department.

(3) For the purposes of paragraph (1) “person chairing” means the person actually chairing or the person nominated to chair that meeting.

(4) Executive decisions made by decision-making bodies are prescribed decisions for the purposes of section 34(3) of the 2014 Act (meetings and access to information etc.).

Recording of executive decisions made by officers

26.—(1) As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer must produce a written statement which must include—

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by an executive member, who is consulted by the officer, which relates to the decision; and
- (e) in respect of any declared conflict of interest, any note of dispensation granted by the Department.

Inspection of documents following executive decisions

27.—(1) Subject to regulation 32, after a meeting of a decision-making body at which an executive decision has been made, or after an officer has made an executive decision, the proper officer must ensure that a copy of—

- (a) any records prepared in accordance with regulations 25 or 26; and
- (b) any report considered at the meeting or, as the case may be, considered by the officer and relevant to a decision recorded in accordance with regulations 25 or 26 or, where only part of the report is relevant to such a decision, that part,

must be made open to inspection by members of the public, as soon as reasonably practicable, at the offices of the relevant council, and on that council's website.

(2) Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under paragraph (1), those documents must be supplied for the benefit of the newspaper by the relevant council on payment by the newspaper to the council of postage, copying or other necessary charge for transmission.

CHAPTER 4

Additional rights of members of the council and of members of overview and scrutiny committees

Additional rights of access to documents for members of councils

28.—(1) Subject to paragraphs (5) and (6), any documents which—

- (a) are in the possession or under the control of the executive of a council; and
- (b) contain material relating to any business to be transacted at a public meeting,

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

(2) Any documents which are required by paragraph (1) to be available for inspection by any member of the relevant council must be available for such inspection for at least five 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) and (6), any document which—

- (a) is in the possession and control of the executive of the council; and
- (b) contains material relating to—

- (i) any business transacted at a private meeting; or
- (ii) any decision made by an officer in accordance with executive arrangements,

must be available for inspection by any member of the relevant council when the meeting concludes or, where an executive decision is made by 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 council 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 (descriptions of exempt information) of Schedule 6 (access to information: exempt information) to the 2014 Act.

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

- (a) paragraph 3 of Schedule 6 to the 2014 Act (access to information: exempt information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the council in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 6 to the 2014 Act.

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

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

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

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

(2) Subject to paragraph (3), where a member of a relevant 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 days after the executive receives the request.

(3) No member of a relevant overview and scrutiny committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information unless that information is relevant to —

- (a) an action or decision that that member is reviewing or scrutinising; or
- (b) any review contained in any programme of work of the relevant overview and scrutiny committee or sub-committee of that committee.

(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 relevant overview and scrutiny committee with a written statement setting out its reasons for that decision.

Reports to the council where the key decision procedure is not followed

30.—(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 is 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 council 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 council is of the opinion that the decision was not a key decision, the reasons for that decision.

Executive reports to the council

31.—(1) The cabinet-style executive or each streamlined committee must submit to the relevant council at such intervals as may be determined by the relevant council a report containing details of each executive decision taken during the period since the last report was submitted to the council where the making of the decision was agreed as urgent in accordance with regulation 24.

(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 cabinet-style executive or each streamlined committee must submit at least one report under paragraph (1) annually to the relevant council.

CHAPTER 5

General provisions relating to information

Confidential information and exempt information

32.—(1) Nothing in these Regulations is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

(2) Where an officer makes an executive decision in accordance with executive arrangements, nothing in these Regulations—

- (a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection, where the documents contain confidential information; or
- (b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the officer making the decision, give rise to the disclosure of exempt information.

Inspection and supply of documents

33.—(1) Any document required by any provision of these Regulations to be open to inspection by members of the public must be available for inspection—

- (a) at all reasonable hours at the offices of the relevant council;
- (b) on the relevant council's website; and
- (c) in the case of documents to be available for inspection pursuant to section 45 of the 2014 Act (inspection of background papers), on payment of a reasonable fee required by the relevant council by the person seeking to inspect the documents at the offices of the relevant council.

(2) Subject to paragraph (4), where a document is to be open to inspection by a person under any provision in these Regulations, the person may—

- (a) make a copy of the whole or part of the document;
- (b) require the person having custody of the document to supply the person requiring inspection with a copy of the whole or part of the document, on payment by the person requiring the copy to the relevant council of postage, copying or other necessary charge for transmission.

(3) Subject to paragraph (4), any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Regulations.

(4) Paragraphs (2) and (3) do not require or authorise the doing of any act which infringes the copyright of any work except that, where the owner of the copyright is the relevant council, nothing done pursuant to those paragraphs constitutes an infringement of copyright.

(5) Where any document required by these Regulations to be open to inspection by the public—

- (a) is supplied to, or available for inspection by, members of the public; or
- (b) is supplied for the benefit of any newspaper in pursuance of regulation 27(2),

the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.

(6) Any written record of an executive decision or any report required by regulation 27 to be available for inspection by members of the public, must be retained by the relevant council and made available for inspection by the public for a period of at least six years beginning on the date on which the decision, to which the report or record relates, was made.

(7) The rights conferred on any person by these Regulations to inspect, copy or be supplied with documents are in addition to any such rights that person may have apart from those under these Regulations.

Offences

34.—(1) A person who has custody of a document which is required by regulation to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person—

- (a) intentionally obstructs any person exercising a right conferred under these Regulations to inspect, or to make a copy of the whole or part of the document; or
- (b) refuses to supply a copy of the whole or part of the document in accordance with regulation 27(2) or 33(2).

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

CHAPTER 6

Publication etc. of documents by the executive: confidential and exempt information

Interpretation of Chapter 6

35. An expression used in this Chapter and in section 33 of the 2014 Act (publication etc. of reports, recommendations and responses: confidential and exempt information) has the same meaning in this Chapter as it has in section 34.

Application of Chapter 6

36. This Chapter applies to—

- (a) the publication by the executive of a council under section 32 of the 2014 Act (duty of council or executive to respond to overview and scrutiny committee) of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees; and
- (b) the provision by such executive under that section of copies of such responses.

Exemptions from publication requirements, etc

37.—(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 council the executive may exclude any confidential or relevant exempt information.

(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 the 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 32 of the 2014 Act (duty of council or executive to respond to overview and scrutiny committee) to have published or provided a copy of the response.

Status:

Point in time view as at 01/04/2015.

Changes to legislation:

There are currently no known outstanding effects for the The Local Government (Executive Arrangements) Regulations (Northern Ireland) 2015, PART 5.