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STATUTORY INSTRUMENTS

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**2000 No. 3272**

**The Local Authorities (Executive Arrangements)  
(Access to Information) (England) Regulations 2000**

**PART V**

**GENERAL PROVISIONS RELATING TO INFORMATION**

**Confidential information, exempt information and advice of a political adviser or assistant**

**21.**—(1) Subject to paragraph (3), nothing in these Regulations shall prevent the exclusion of the public from a meeting of a decision making body that is exercising an executive function where—

- (a) it is likely, in view of the nature of the business to be transacted or of the nature of the proceedings, that if members of the public were present during the transaction of an item of business, confidential information would be disclosed to them in breach of the obligation of confidence;
- (b) a resolution has been passed, by the decision making body concerned, excluding the public during the transaction of an item of business where it is likely, in view of the nature of the item of business, that if members of the public were present during the transaction of that item, exempt information would be disclosed to them;
- (c) a resolution has been passed, by the decision making body concerned, excluding the public during an item of business where it is likely, in view of the nature of the item, that if members of the public were present during the transaction of that item, the advice of a political adviser or assistant would be disclosed to them; or
- (d) a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

(2) A resolution under paragraph (1) (b) shall—

- (a) identify the proceedings, or part of the proceedings, to which it applies; and
- (b) state by reference to the descriptions in Schedule 12A to the 1972 Act (access to information: exempt information) the description of exempt information giving rise to the exclusion of the public.

(3) An exclusion of the public under sub-paragraph (a), (b) or (c) of paragraph (1) shall apply only to the part or parts of the meeting during which it is likely that confidential information, exempt information or the advice of a political adviser or assistant would be disclosed.

(4) Nothing in these Regulations shall authorise or require a local authority to disclose to the public or make available for public inspection a part of any document if, in the opinion of the proper officer, it is likely that confidential information, exempt information or the advice of a political adviser or assistant would be disclosed.

(5) Where a member of an executive or an officer makes an executive decision in accordance with executive arrangements, nothing in these regulations shall require documents relating to that decision to be disclosed to the public, or made available for public inspection where—

- (a) the documents contain confidential information;
- (b) in the opinion of the member or officer making the decision, disclosure of the documents would be likely to give rise to disclosure of exempt information; or
- (c) in the opinion of the member or officer making the decision, disclosure of the documents would be likely to give rise to disclosure of the advice of a political adviser or assistant.

(6) Nothing in these Regulations shall require a decision making body or decision maker to permit the taking of any photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.

### **Documents to be available for inspection at the offices of the local authority**

**22.**—(1) Any document required by regulation 5, 6 or 11 to be available for inspection by members of the public shall be available for inspection—

- (a) at all reasonable hours at the offices of the local authority; and
- (b) in the case of documents to be available for inspection pursuant to regulation 6, upon payment by the person seeking to inspect the documents of any reasonable fee required by the local authority.

(2) Subject to paragraph (3), where a document is to be available for 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; or
- (b) require the person having custody of the document to supply him with a copy of the whole or part of the document,

upon payment by the person requiring the copy of any reasonable fee required by the local authority.

(3) Paragraph (2) does not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the local authority, nothing done pursuant to that paragraph shall constitute an infringement of the copyright.

(4) 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, pursuant to regulation 11(7),

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

(5) Any written record of an executive decision or any report required by regulation 5 to be available for inspection by the members of the public, shall be retained by the local authority 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 record or report relates, was made.

(6) Any background papers required by regulation 6 to be available for inspection by members of the public shall be retained by the local authority and be available for inspection by the public for a period of at least four years beginning on the date on which the decision, to which the background papers relate, 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 he may have apart from those under these Regulations.

## **Offences**

**23.—(1)** A person who has custody of a document which is required by regulation 5, 6 or 11 to be available for inspection by members of the public commits an offence if, without reasonable excuse—

- (a) he 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) he refuses to supply a copy of the whole or part of the document in accordance with regulation 22(2).

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