

2012 No. 2089

LOCAL GOVERNMENT, ENGLAND

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

<i>Made</i>	- - - -	<i>10th August 2012</i>
<i>Laid before Parliament</i>		<i>15th August 2012</i>
<i>Coming into force</i>	- -	<i>10th September 2012</i>

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 9G, 9GA and 105 of the Local Government Act 2000(a), makes the following Regulations.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and come into force on 10th September 2012.

Interpretation

2. In these Regulations—

“the 1972 Act” means the Local Government Act 1972(b);

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

“background papers” in relation to a report or part of a report, means those documents other than published works, that—

(a) relate to the subject matter of the report or, as the case may be, the part of the report; and

(b) in the opinion of the proper officer—

(i) disclose any facts or matters on which the report or an important part of the report is based; and

(ii) were relied on to a material extent in preparing the report;

(a) 2000 c.22. Sections 9G and 9GA were inserted into the Local Government Act 2000 by section 21 of, and Schedule 2 to, the Localism Act 2011 (c.20). Schedule 2 to the Localism Act 2011 inserted Part 1A, applying to England only, into the 2000 Act. Section 105 is amended by section 100(3) of, and Schedule 3 to, the Local Government Act 2003 (c.26), by section 191(5) of the Local Government and Public Involvement in Health Act 2007 (c.28), and by paragraph 70 of Schedule 3 to the Localism Act 2011.

(b) 1972 c.70.

“confidential information” means—

- (a) information provided to the local authority by a government department on terms (however expressed) which forbid the disclosure of the information to the public; or
- (b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court,

and in either case, a reference to the obligation of confidence is to be construed accordingly;

“copy” in relation to any document includes a copy made from a copy;

“decision maker” means the decision-making body by which, or the individual by whom, an executive decision is made;

“the decision-making body” means—

- (a) the executive of a local authority;
- (b) a committee of a local authority executive;
- (c) a joint committee, where all the members of the joint committee are members of a local authority executive, which is authorised to discharge the function to which the executive decision relates in accordance with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012(a);
- (d) a sub-committee of a joint committee where all the members of the joint committee are members of a local authority executive, which is authorised to discharge the function to which the executive decision relates in accordance with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012; or
- (e) an area committee of a local authority executive, within the meaning of section 9E of the 2000 Act;

“document” means any report or background papers, other than that only in a draft form, taken into consideration in relation to an executive decision;

“executive decision” means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority;

“exempt information” has the meaning given by section 100I of the 1972 Act (exempt information and power to vary Schedule 12A);

“head of paid service” means a person designated as a head of paid service under section 4 of the Local Government and Housing Act 1989 (designation and reports of head of paid service)(b);

“information” includes an expression of opinion, any recommendations and any decision made;

“joint committee” means a committee appointed under section 102(1) of the 1972 Act (appointment of committees) in accordance with regulations made under section 9EB of the 2000 Act (joint exercise of functions)(c);

“key decision” has the meaning given in regulation 8;

“local authority” means a county council in England, a district council or a London borough council which is operating executive arrangements in accordance with Part 1A of the 2000 Act;

“newspaper” includes—

- (a) a news agency which systematically carries on the business of selling and supplying reports or information to the newspapers; and
- (b) any organisation which is systematically engaged in collecting news—

(a) S.I. 2012/1019.

(b) 1989 c.42; There are amendments to section 4 which are not relevant to these Regulations.

(c) Section 9EB was inserted into the 2000 Act by section 21 of, and Schedule 2 to, the Localism Act 2011 (c.20).

- (i) for sound or television broadcasts;
- (ii) for inclusion in programmes to be included in any programme service within the meaning of the Broadcasting Act 1990^(a) other than a sound or television broadcasting service within the meaning of Part 3 or Part 1 of that Act respectively; or
- (iii) for use in electronic or any other format to provide news to the public by means of the internet;

“political adviser or assistant” means a person appointed pursuant to section 9 of the Local Government and Housing Act 1989^(b) (assistants for political groups) or regulations made under paragraph 5 of Schedule A1 to the 2000 Act (regulations for mayor’s assistant);

“private meeting” means a meeting, or part of a meeting, of the decision-making body during which the public are excluded in accordance with regulation 4(2);

“proper officer” has the same meaning as in section 270(3) of the 1972 Act (general provisions as to interpretation);

“public meeting” means a meeting of the decision-making body which is open to the public in accordance with regulation 4(1);

“relevant local authority” means the local authority whose executive is responsible for the discharge of the function to which the executive decision relates;

“relevant overview and scrutiny committee” means an overview and scrutiny committee of the relevant local authority which has terms of reference including the power to review or scrutinise decisions made, or other actions taken, in connection with the discharge of the function to which the decision relates;

“report” in relation to an executive decision does not include a report in draft form.

PART 2

Admission of public to meetings of local authority executives and their committees

Meetings of local authority executives and their committees to be held in public

3. Subject to regulation 4, a meeting of a decision-making body must be held in public.

Admission of the public to meetings of local authority executives and their committees

4.—(1) A meeting of a decision-making body must be open to the public except to the extent that the public are excluded under paragraph (2).

(2) The public must be excluded from a meeting during an item of business whenever—

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

(3) A resolution under paragraph (2)(b) must—

- (a) identify the proceedings, or the part of the proceedings to which it applies, and

(a) 1990 c.42.

(b) 1989 c.42.

(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.

(4) The public may only be excluded under sub-paragraph (a) or (b) of paragraph (2) for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.

(5) Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the decision-making body is not to have the power to exclude members of the public from a meeting while it is open to the public.

(6) While the meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

Procedures prior to private meetings

5.—(1) A decision made by a decision-making body to hold a meeting in private is a prescribed decision for the purpose of section 9GA(5) of the 2000 Act (regulations requiring prescribed information about prescribed decisions).

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

- (a) make available at the offices of the relevant local authority a notice of its intention to hold the meeting in private; and
- (b) publish that notice on the relevant local authority's website, if it has one.

(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 clear days before a private meeting, the decision-making body must—

- (a) make available at the offices of the relevant local authority a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the relevant local authority's website, if it has one.

(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 chairman of the relevant overview and scrutiny committee; or
- (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the chairman of the relevant local authority; or
- (c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the vice-chairman of the relevant local authority,

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 local authority a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the relevant local authority's website, if it has one.

Procedures prior to public meetings

6.—(1) The decision-making body must give notice of the time and place of a public meeting by displaying it at the offices of the relevant local authority and publishing it on that authority's website, if it has one—

- (a) at least five clear days before the meeting; or
- (b) where the meeting is convened at shorter notice, at the time that the meeting is convened.

(2) An item of business may only be considered at a public meeting—

- (a) where a copy of the agenda or part of the agenda including the item has been available for inspection by the public as required by regulation 7 for at least five clear days before the meeting; or
- (b) where the meeting is convened at shorter notice, a copy of the agenda including the item has been available for inspection by the public from the time that the meeting was convened.

Access to agenda and connected reports for public meetings

7.—(1) Subject to paragraph (2), a copy of the agenda and every report for a meeting must be made available for inspection by the public—

- (a) at the offices of the relevant local authority; and
- (b) on the relevant local authority's website, if it has one.

(2) If the proper officer thinks fit, there may be excluded from the copy of any report provided pursuant to paragraph (1) the whole, or any part, of the report which relates only to matters during which, in the proper officer's opinion, the meeting is likely to be a private meeting.

(3) Any document which is required by paragraph (1) to be available for inspection by the public 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, a copy of the agenda and associated reports must be available for inspection when the meeting is convened; and
- (b) where an item which would be available for inspection by the public is added to the agenda, copies of the revised agenda and any report relating to the item for consideration at the meeting, must be available for inspection by the public when the item is added to the agenda.

(4) Nothing in paragraph (3) requires a copy of the agenda, item or report to be available for inspection by the public until a copy is available to members of the decision-making body concerned.

(5) Where by virtue of paragraph (2) the whole or any part of a report for a public meeting is not available for inspection by the public—

- (a) every copy of the whole report or of the part of the report, as the case may be, must be marked "not for publication"; and
- (b) there must be stated on every copy of the whole or the part of the report—
 - (i) that it contains confidential information; or
 - (ii) by reference to the descriptions in Schedule 12A to the 1972 Act, the description of exempt information by virtue of which the decision-making body discharging the executive function are likely to exclude the public during the item to which the report relates.

(6) Except during any part of a meeting during which the public are excluded, the relevant local authority must make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting.

(7) Subject to regulation 20, following a request made by a member of the public or on behalf of a newspaper and on payment being made of postage, copying or other necessary charge for transmission, a relevant local authority must supply to that person or newspaper—

- (a) a copy of the agenda for a public meeting and a copy of each of the reports for consideration at the meeting;
- (b) such further statements or particulars, as are necessary to indicate the nature of the items contained in the agenda; and
- (c) if the proper officer thinks fit in the case of any item, a copy of any other document supplied to members of the executive in connection with the item.

(8) Paragraph (2) applies in relation to copies of reports provided pursuant to paragraph (6) or (7) as it applies in relation to copies of reports made available for inspection pursuant to paragraph (1).

PART 3

Key decisions

Key decisions

8.—(1) In these Regulations a “key decision” means an executive decision, which is likely—

- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’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 wards or electoral divisions in the area of the relevant local authority.

(2) In determining the meaning of “significant” for the purposes of paragraph (1) the local authority must have regard to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the 2000 Act (guidance).

Publicity in connection with key decisions

9.—(1) Where a decision maker intends to make a key decision, that decision must not be made until a document has been published in accordance with paragraph (2), which states—

- (a) that a key decision is to be made on behalf of the relevant local authority;
- (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 document 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 made available for inspection by the public—

- (a) at the offices of the relevant local authority; and
- (b) on the relevant local authority’s website, if it has one.

(3) Where, in relation to any matter—

- (a) the public may be excluded under regulation 4(2) from the meeting at which the matter is to be discussed; or
- (b) documents relating to the decision need not, because of regulation 20(3), be disclosed to the public,

the document referred to in paragraph (1) must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

General exception

10.—(1) Subject to regulation 11, where the publication of the intention to make a key decision under regulation 9 is impracticable, that decision may only be made—

- (a) where the proper officer has informed the chairman of the relevant overview and scrutiny committee or, if there is no such person, 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 available at the offices of the relevant local authority for inspection by the public and published on the relevant local authority’s website, if it has one, a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).

(2) Where paragraph (1) applies to any matter, regulation 9 need not be complied with in relation to that matter.

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

- (a) make available at the offices of the relevant local authority a notice setting out the reasons why compliance with regulation 9 is impracticable; and
- (b) publish that notice on the relevant local authority’s website, if it has one.

Cases of special urgency

11.—(1) Where the date by which a key decision must be made, makes compliance with regulation 10 impracticable, the decision may only be made where the decision maker has obtained agreement from—

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

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 available at the offices of the relevant local authority a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the relevant local authority’s website, if it has one.

PART 4

Recording of executive decisions and inspection of related papers or documents

Recording of executive decisions made at meetings

12.—(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 presiding, 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, a note of dispensation granted by the relevant local authority's head of paid service.

(3) For the purposes of paragraph (1) "person presiding" means the person actually presiding or the person nominated to preside at that meeting.

(4) Executive decisions made by decision-making bodies are prescribed decisions for the purposes of section 9G(3) of the 2000 Act (duty to keep written records of private meetings).

Recording of executive decisions made by individuals

13.—(1) As soon as reasonably practicable after an individual member has made an executive decision, that member must produce or instruct the proper officer to produce a written statement of that executive decision 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 member when making the decision;
 - (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
 - (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

(3) Executive decisions made by individual members of local authority executives are prescribed decisions for the purposes of section 9G(4) of the 2000 Act (duty to keep a written record of decisions made by individual members of local authority executives).

(4) 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 any executive member who is consulted by the officer which relates to the decision; and

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

Inspection of documents following executive decisions

14.—(1) Subject to regulation 20, after a meeting of a decision-making body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the proper officer must ensure that a copy of—

- (a) any records prepared in accordance with regulations 12 or 13; and
- (b) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with regulations 12 or 13 or, where only part of the report is relevant to such a decision, that part,

must be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the relevant local authority, and on that authority's website, if it has one.

(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 local authority on payment by the newspaper to the local authority of postage, copying or other necessary charge for transmission.

Inspection of background papers

15. Subject to regulation 20, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with regulation 7 or 14, at the same time—

- (a) a copy of a list compiled by the proper officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and
- (b) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the offices of the relevant local authority and on that authority's website, if it has one.

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.

PART 6

General provisions relating to information

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

20.—(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) Nothing in these Regulations—

- (a) authorises or requires a local authority to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or may contain confidential information; or
- (b) requires a local authority to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

(3) Where a member of a local authority executive or 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 member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

(4) Nothing in these Regulations requires a decision-making body 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.

Inspection and supply of documents

21.—(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 local authority;
- (b) on the relevant local authority's website, if it has one; and
- (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the relevant local authority by the person seeking to inspect the documents at the offices of the relevant local authority.

(2) Subject to paragraph (4), 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 the person requiring inspection a copy of the whole or part of the document,

on payment by the person requiring the copy to the relevant local authority 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 in any work except that, where the owner of the copyright is the relevant local authority, nothing done pursuant to that paragraph constitutes an infringement of the 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 7(7) or 14(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 14 to be available for inspection by members of the public, must be retained by the relevant 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 report or record relates, was made.

(7) Any background papers required by regulation 15 to be available for inspection by members of the public must be retained by the relevant 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.

(8) 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

22.—(1) A person who has custody of a document which is required by regulation 7, 14 or 15 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 7(7), 14(2) or 21(2).

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

Revocations

23. The following Regulations are revoked—

- (a) the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000(**a**);
- (b) the Local Authorities (Executive Arrangements) (Access to Information) (England) Amendment Regulations 2002(**b**); and
- (c) the Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006(**c**).

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

Bob Neill

Parliamentary Under Secretary of State

Department for Communities and Local Government

10th August 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to county councils in England, district councils and London borough councils which are operating executive arrangements under Part 1A of the Local Government Act 2000. The Regulations make provision for public access to meetings and to information relating to decisions of local authority executives, and their committees. In addition, they provide for access to information relating to decisions made by joint committees of local authorities where these are solely comprised of executive members and are discharging executive functions. The Regulations also make provision for public access to documents where executive decisions are made by individual members or officers.

The general principle of the Regulations is for the public to have access to meetings and documents where a local authority executive, committee or individual is taking an executive decision, as defined by regulation 2.

Part 1 sets out preliminary matters and defines terms used in the Regulations.

(a) S.I. 2000/3272.

(b) S.I. 2002/716.

(c) S.I. 2006/69.

The purpose of Part 2 is to establish the presumption that meetings of local authority executives and their committees are to be held in public. Regulation 4 sets out the circumstances during which the public must be excluded from meetings. Regulation 5 sets out the formalities to be complied with before a private meeting is held. Regulation 6 sets out formalities to be complied with before a public meeting takes place. Rules relating to access to the agenda and reports for executive meetings are contained in regulation 7.

Part 3 provides for specific requirements relating to executive decisions which are key decisions. Regulation 8 sets out the meaning of key decision and regulation 9 sets out the publicity requirements in relation to key decisions. Regulations 10 and 11 allow exceptions to these requirements.

Part 4 deals with the recording of all executive decisions. In particular, regulations 12 and 13 require decisions to be recorded in a written statement. Regulations 14 and 15 set out the documents which must be made available for inspection by the public.

Members of the local authority and of overview and scrutiny committees are given additional rights to access documents in Part 5. Regulation 17 sets out additional rights of members of overview and scrutiny committees in relation to decisions that committee is scrutinising and in certain circumstances the committee can access exempt or confidential information.

An overview and scrutiny committee can require the executive to make a report to the local authority on matters which have not been dealt with as a key decision and which an overview and scrutiny committee consider should have been treated as such under regulation 18. Regulation 19 is a reporting requirement that the executive provides reports to the local authority on all matters which have been treated as urgent under regulation 11.

Part 6 makes general provision relating to information. In particular, regulation 20 sets out general principles applicable to the whole instrument relating to the non-disclosure of confidential, exempt information or the advice of a political adviser or assistant. Regulation 21 establishes the manner in which documents required to be available for inspection by the Regulations are to be held at the offices of the local authority. Regulation 22 sets out offences where documents have not been made available for inspection as required under these Regulations.

No impact assessment has been produced in relation to these Regulations because no impact on the private or voluntary sector is foreseen.

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