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STATUTORY INSTRUMENTS

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**2014 No. 2095**

**The Openness of Local Government Bodies Regulations 2014**

**PART 3**

Record of decisions and access to documents

**Interpretation of this Part**

**6.** In this Part—

“background papers” in relation to a decision which falls within regulation 7(2), means those documents other than published works, that—

- (a) relate to the subject matter of the decision or, as the case may be, part of the decision; and
- (b) in the opinion of the proper officer—
  - (i) disclose any facts or matters on which the decision or an important part of the decision is based; and
  - (ii) were relied on to a material extent in making the decision;

“confidential information” means—

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

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

“decision-making officer” means an officer of a relevant local government body who makes a decision which falls within regulation 7(2);

“exempt information” has the meaning given by section 100I(1) of the 1972 Act (exempt information and power to vary Schedule 12A);

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

“relevant local government body” means—

- (a) a district council,
- (b) a county council in England,
- (c) a London borough council,
- (d) the Greater London Authority,
- (e) the Common Council of the City of London in its capacity as a local authority or police authority,
- (f) [<sup>F</sup>the London Fire Commissioner],
- (g) Transport for London,

- (h) a joint authority established under Part 4 of the Local Government Act 1985 <sup>M1</sup>,
- (i) an economic prosperity board,
- (j) a combined authority,
- (k) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 <sup>M2</sup> or a scheme to which section 4 of that Act applies,
- (l) a National Park Authority for a National Park in England,
- (m) the Broads Authority,
- (n) the Council of the Isles of Scilly,
- (o) a parish council, or,
- (p) a parish meeting.

#### Textual Amendments

- F1** Words in [reg. 6](#) substituted (1.4.2018) by [The London Government \(London Fire Commissioner and Policing\) \(Amendment\) Regulations 2018 \(S.I. 2018/269\)](#), [reg. 1\(2\)](#), [Sch. para. 15\(2\)](#)

#### Marginal Citations

- M1** [1985 c. 51](#). Relevant amendments were made by the [Police and Magistrates' Courts Act 1994 \(c. 29\)](#), [section 93](#) and Schedule 9; the [Greater London Authority Act 1999 \(c. 29\)](#), [section 328](#), 423 and Schedule 34; the [Civil Contingencies Act 2004 \(c. 36\)](#), [section 32](#) and Schedule 2 and the [Local Transport Act 2008 \(c. 26\)](#), [section 77](#) and Schedule 4.
- M2** [2004 c. 21](#).

### Recording of decisions

7.—(1) The decision-making officer must produce a written record of any decision which falls within paragraph (2).

(2) A decision falls within this paragraph if it would otherwise have been taken by the relevant local government body, or a committee, sub-committee of that body or a joint committee in which that body participates, but it has been delegated to an officer of that body either—

- (a) under a specific express authorisation; or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to—
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

(3) The written record must be produced as soon as reasonably practicable after the decision-making officer has made the decision and must contain the following information—

- (a) the date the decision was taken;
- (b) a record of the decision taken along with reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where the decision falls under paragraph (2)(a), the names of any member of the relevant local government body who has declared a conflict of interest in relation to the decision.

(4) The duty imposed by paragraph (1) is satisfied where, in respect of a decision, a written record containing the information referred to in sub-paragraphs (a) and (b) of paragraph (3) is already required to be produced in accordance with any other statutory requirement.

### **Decisions and background papers to be made available to the public**

**8.—**(1) The written record, together with any background papers, must as soon as reasonably practicable after the record is made, be made available for inspection by members of the public—

- (a) at all reasonable hours, at the offices of the relevant local government body;
- (b) on the website of the relevant local government body, if it has one; and,
- (c) by such other means that the relevant local government body considers appropriate.

(2) On request and on receipt of payment of postage, copying or other necessary charge for transmission, the relevant local government body must provide to the person who has made the request and paid the appropriate charges—

- (a) a copy of the written record;
- (b) a copy of any background papers.

(3) The written record must be retained by the relevant local government body and made available for inspection by the public for a period of six years beginning with the date on which the decision, to which the record relates, was made.

(4) Any background papers must be retained by the relevant local government body and made available for inspection by the public for a period of four years beginning with the date on which the decision, to which the background papers relate, was made.

(5) In this regulation “written record” means the record required to be made by regulation 7(1) or the record referred to in regulation 7(4), as the case may be.

#### **Modifications etc. (not altering text)**

- C1** [Reg. 8](#) modified (4.4.2020) by [The Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020 \(S.I. 2020/392\)](#), regs. 1, **17** (with [reg. 2\(4\)](#))

### **Confidential and exempt information**

**9.—**(1) Nothing in this Part is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

(2) Nothing in this Part—

- (a) authorises or requires a relevant local government body to disclose to the public or make available for public inspection any document or part of a 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 relevant local government body to disclose to the public or make available for public inspection any document or part of a document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information.

## Offences

**10.—(1)** A person who has custody of a document which is required by regulation 8 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 this Part in relation to inspecting written records and background papers; or
- (b) refuses any request under this Part to provide written records or background papers.

(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.

**Changes to legislation:**

There are currently no known outstanding effects for the The Openness of Local Government Bodies Regulations 2014, PART 3.