

Report to Cabinet

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

Date: 11 October 2012

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Wards Affected

Not applicable.

Purpose

To notify Cabinet of the introduction of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and raise awareness of the implications in relation to executive decision-making.

Key Decision

This is not a Key Decision.

Background

- 1.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 ("the Regulations") were laid before Parliament on 15 August 2012 and came into force on 10 September 2012. They repealed the previous legislation and changed the rules relating to executive decision making. The Regulations **do not** apply to non-executive decisions. These are matters relating to functions which are the responsibility of the Council and its Committees (i.e. Planning Committee, Environment and Licensing Committee, Appointments and Conditions of Service Committee etc.).
- 1.2 A summary of the main provisions in the Regulations appears at Appendix 1. Cabinet's attention is specifically drawn to the requirement that all Cabinet decisions must be recorded in a written statement which includes details of: the decision and the date it was made; the reasons for it; any alternative options considered and rejected; any conflicts of interests declared and any dispensations granted in respect

of any declared conflict. The format of the Cabinet reports has been changed to enable this written statement to be prepared.

Proposal

- 2 It is proposed that Cabinet note the contents of the report.

Alternative Options

- 3 There are no Alternative Options. The Council is under an obligation to comply with the Regulations.

Financial Implications

- 4 Any procedural changes will have to be met within existing staffing resources.

Appendices

- 5 Appendix 1 – Summary of main provisions in the Regulations.

Background Papers

- 6 None identified.

Recommendation(s)

It is recommended **THAT** Cabinet note the contents of the report.

Reasons for Recommendations

- 7 To alert the Executive to the introduction of the legislation and raise awareness of the implications in relation to executive decision-making.

APPENDIX 1

Summary of main provisions contained in the new regulations:

- There is a requirement that all meetings of “a decision-making body” are to be held in public unless an exception applies. A “decision-making body” includes Cabinet. If a meeting is open to the public, the regulations require that any person attending the meeting for the purpose of reporting proceedings should be afforded reasonable facilities for taking their report.
- There is a provision to enable the public to be excluded from a meeting of Cabinet if confidential information is likely to be disclosed or if a resolution has been passed to exclude the public because exempt information is likely to be disclosed or if a lawful power is used to exclude members of the public in order to maintain orderly conduct or prevent misbehaviour.
- If it is intended that any part of a Cabinet meeting is to be held in private, there is a requirement for at least 28 clear days notice to be given. The notice must include the reasons for the meeting to be held in private. It must be made available at the Council’s offices and published on the website. During the notice period, members of the public may make representations about why the meeting should be held in public. At least five clear days before the private meeting, another notice must be made available at the Council’s offices and published on the website which includes the reasons for the meeting to be held in private, details of any representations received about why the meeting should be held in public, and the response to the representations. If the need for a meeting is so urgent that it is impracticable to comply with these requirements, a meeting may be held in private if this has been agreed by the chair of the relevant overview and scrutiny committee. In those circumstances, a notice must be published explaining why the meeting is urgent and cannot reasonably be deferred.
- The obligation to give at least five clear days notice of the time and place of the Cabinet meeting remains (unless the meeting is convened at shorter notice). The agendas and reports for such meetings must also be made available to the public as we do now.
- The Council must publish a document publicising key decisions it intends to make at least 28 days before the decision is to be made. As well as explaining that a key decision is to be made, the document must include the following details: the matter in respect of which the decision is to be made; where the decision-maker is an individual their name and title and where the decision-maker is a body its name and members; the date on or period within which the decision will be made; the documents to be considered before the decision is made; the address from which those documents are available; confirmation that other documents may be submitted to the decision-maker, and the procedure for requesting details of such documents as they become available.
- If it is impracticable to comply with the publication requirements 28 days

before a key decision is made because of reasons of urgency, the decision may be made if: the proper officer has given written notice of the matter to the chair of the relevant overview and scrutiny committee; the proper officer has made that notice available for public inspection at the Council's offices and on the website if it has one, and five clear days have elapsed after the day on which the proper officer made the notice available. In cases of special urgency, where even compliance with this amount of prior publication is impracticable, a key decision may be made if the decision-maker has the agreement of the chair of the relevant overview and scrutiny committee to proceed. As soon as reasonably practicable after obtaining such agreement, a notice setting out the reasons for urgency must be published.

- There is an obligation for the Leader to submit to Council reports containing details of each executive decision taken since the submission of the last report where the making of the decision was agreed as urgent.

- There is an obligation for any Cabinet decision to be recorded in a written statement which includes details of: the decision and the date it was made; the reasons for it; any alternative options considered and rejected; any conflicts of interests declared and any dispensations granted in respect of any declared conflict.

- There are also obligations for the recording of executive decisions made by individual members or officers. As soon as reasonably practicable after an individual member has made an executive decision, that member must produce a written statement, which must include details of: the decision and the date it was made; the reasons for it; any alternative options considered and rejected; any conflicts of interests declared by any executive member consulted by the individual member and any dispensations granted in respect of any declared conflict. As soon as reasonably practicable after an officer has made an executive decision, that officer must produce a written statement, which includes details of: the decision and the date it was made; the reasons for it; any alternative options considered and rejected; any conflicts of interests declared by any executive member consulted by the officer and any dispensations granted in respect of any declared conflict.

- If an executive decision is not treated as a key decision and a relevant overview and scrutiny committee believes that it should have been, that committee may require the executive to submit a report to Council. That report must include details of: the decision; the reasons for the decision; the decision maker, and if the executive of the local authority are of the opinion that the decision was not a key decision, the reasons for that opinion.

- Offences are introduced, which are committed if, without reasonable excuse, a person who has custody of a document which is required to be available for inspection by members of the public intentionally obstructs any person exercising a right to inspect or copy the document or part of it or refuses to supply a copy.