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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 358**

**The Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016**

**PART 3**

**Procedure for Determination**

**Determination without further procedure**

6. Where the local authority considers that the review documents provide sufficient information to enable it to determine the review, it may determine the review without further procedure.

**Decision as to further procedure**

7.—(1) Where the local authority does not determine the review without further procedure, the local authority may determine the manner in which the review is to be conducted.

(2) The local authority may determine at any stage of the review—

- (a) that further representations should be made or further information should be made available or provided to enable the review to be determined; and
- (b) how such further representations or further information should be made available or provided.

(3) Where the local authority considers that further representations should be made or further information should be made available or provided by means of—

- (a) written submissions, regulation 8 applies;
- (b) a hearing session, the Hearing Session Rules apply.

(4) Notices given under regulation 8(1) or rule 1(1) of the Hearing Session Rules may be given separately or combined into a single notice.

**Written submissions**

8.—(1) Where the local authority has determined that further representations should be made or further information should be provided by means of written submissions, the local authority may request such further representations or information and is to do so by giving written notice to that effect to—

- (a) the community transfer body; and
- (b) any other person from whom the local authority wishes to receive further representations or information.

(2) The notice given under paragraph (1) is to—

- (a) set out the matters on which such further representations or information is requested;

(b) specify the date by which such further representations or information are to be sent to the local authority; and

(c) provide the name and address of any person to whom the notice is given.

(3) Any further representations made or information provided in response to the notice given under paragraph (1) (“additional material”) are to be sent to the local authority on or before the date specified for that purpose in the notice and a copy of any additional material is to be sent on or before that date to any other person to whom the notice was given.

(4) Within a period of 10 working days beginning with the date of receipt of a copy of the additional material, any person to whom the notice under paragraph (1) was given—

(a) may send comments to the local authority in respect of the additional material; and

(b) must, when doing so, send a copy of such comments to any other person to whom the notice was given under paragraph (1).

(5) A copy of any additional material or any comments required to be sent to a person under this regulation is to be sent to the person at the address stated for that person in the notice given under paragraph (1).

(6) In this regulation “additional material” has the meaning given in paragraph (3).

#### **Time period for decision**

9. The period prescribed for the purposes of section 86(7)(b)(i) of the Act is the period of 6 months beginning with the date on which the application for review under section 86(2) of the Act is made.

#### **New evidence**

10.—(1) If, after the conclusion of any further procedure conducted by virtue of regulation 7, the local authority proposes to take into consideration any new evidence which is material to the determination of the review, the local authority must not reach a decision on the review without first affording the community transfer body and any other relevant party an opportunity of making representations on such new evidence.

(2) In this regulation “relevant party” means—

(a) where the new evidence relates to a specified matter considered at a hearing session, any person entitled to appear at that hearing session;

(b) where the new evidence relates to matters in respect of which further written representations or information was sought by a notice under regulation 8(1), any person to whom such notice was sent.