
DRAFT STATUTORY INSTRUMENTS

2016 No.

The Combined Authorities (Overview and Scrutiny Committees,
Access to Information and Audit Committees) Order 2016

PART 3

Key decisions

Key decisions

11.—(1) In this Order—

- (a) a “key decision” means a decision of a decision maker, which in the view of the overview and scrutiny committee for a combined authority is likely—
 - (i) to result in the combined authority or the mayor incurring significant expenditure, or the making of significant savings, having regard to the combined authority’s budget for the service or function to which the decision relates; or
 - (ii) to be significant in terms of its effects on persons living or working in an area comprising two or more wards or electoral divisions in the area of the combined authority;
- (b) “decision maker” includes a mayor or a person exercising functions pursuant to arrangements under section 107D(3)(a) or (b) of the 2009 Act.

(2) Where a decision maker intends to make a key decision, that decision must not be made until a notice has been published which states—

- (a) that a key decision is to be made in relation to the discharge of functions which are the responsibility of the combined authority;
- (b) the matter in respect of which the decision is to be made;
- (c) the decision maker’s name, and title if any;
- (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 under article 8(2), 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.

(3) At least 28 clear days before a key decision is made, the notice referred to in paragraph (2) must be—

- (a) published—
 - (i) if the combined authority has a website, on its website; or

- (ii) otherwise, in such manner as it thinks is likely to bring the notice to the attention of persons who live in its area; and
- (b) made available for inspection by the public at the offices of the combined authority.
- (4) Where, in relation to any matter—
 - (a) the public may be excluded under section 100A of the Local Government Act 1972 from the meeting at which the matter is to be discussed; or
 - (b) documents relating to the decision need not, because of article 8 (confidential information), be disclosed to the public,

the notice referred to in paragraph (2) must contain particulars of the matter but may not contain any confidential information or exempt information or particulars of the advice of a political adviser.

(5) In paragraph (4), “confidential information” and “exempt information” have the meanings given by article 8(6).

General exception

12.—(1) Subject to article 13, where the publication of the intention to make a key decision under article 11 is impracticable, that decision may only be made—

- (a) where the proper officer has informed the chair 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 to the public at the offices of the combined authority for inspection by the public and published on the combined authority’s website, if it has one, a copy of the notice given pursuant to sub-paragraph (a); and
- (c) after 5 clear days have elapsed following the day on which the proper officer made available the copy of the notice referred to in sub-paragraph (b).

(2) Where paragraph (1)(a) or (b) applies to any matter, article 11 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 to the public at the offices of the combined authority a notice setting out the reasons why compliance with article 11 is impracticable; and
- (b) publish that notice on the combined authority’s website, if it has one.

Cases of special urgency

13.—(1) Where the date by which a key decision must be made makes compliance with article 12 impracticable, the decision may only be made where the decision maker has obtained agreement from—

- (a) the chair of the relevant overview and scrutiny committee; or
- (b) if there is no such person, or if the chair of the relevant overview and scrutiny committee is unable to act, the chair of the combined authority; or
- (c) where there is no chair of either the relevant overview and scrutiny committee or of the combined authority, the vice-chair of the combined 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 to the public at the offices of the combined authority a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the combined authority's website, if it has one.