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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations apply to county councils and district councils in England, and to London borough councils, which are operating executive arrangements under Part II of the Local Government Act 2000. They make provision relating to public access to meetings of local authority executives and their committees. They also deal with access to information relating to decisions made by joint committees of local authorities where these are solely comprised of executive members and are discharging an executive function. As, under executive arrangements individual members and officers will be able to make executive decisions the Regulations also make provision in respect of access to documents where executive decisions are made by individual members or officers.

The general principal of the Regulations is for the public to have access to meetings, documents and decisions where a local authority executive, a committee or an individual is to take a “key” decision. The factors which make a decision a key decision are set out in regulation 8.

Part I of the regulations contains introductory material and definitions of terms used in the regulations.

Part II contains general matters which relate to all executive decisions. In particular regulations 3 and 4 provide that executive decisions must be recorded. Where an executive decision is recorded a note must be made of the reasons for the decision, any alternatives considered when the decision was made and details of any conflict of interest. The provisions concerning recording apply to collectively made executive decisions, decisions made by individual members and key decisions made by officers.

Part III provides for additional requirements in respect of key decisions. Under regulation 7, generally a meeting must be held in public where a key decision will be made or where there will be discussion of matters relating to a key decision to be made subsequently. Where a meeting is to be held in public there must be advance publication of agendas, reports and background papers for the meeting and this is dealt with in regulations 10, 11 and 12. Likewise, where key decisions are to be made by individuals the documents relating to these decisions must be available to the public (regulation 9).

The public must also have a longer term advance notification of key matters that are to be dealt with under executive arrangements. Regulations 12, 13 and 14 provide that a forward plan detailing the key decisions to be made over the following four months must be published by the authority. The authority must also publish details about the forward plan, and its availability in a local newspaper annually.

As the executive will not know about every key decision far enough in advance for it to be included on the forward plan there is provision in regulation 15 for a decision to be made without it being on the forward plan. The regulation sets out the procedure for the making of such a decision which includes informing the relevant overview and scrutiny committee chairman. Regulation 16 provides for cases of real urgency where a decision can be taken at short notice but only with the agreement of the chairman of the relevant overview and scrutiny committee or chairman of the authority.

Members of local authorities are given additional rights in relation to access to information in part IV. The common law position of “the need to know” is preserved. Regulation 18 sets out additional rights of members of overview and scrutiny committees in relation to decisions that they are scrutinising. In certain circumstances these members can have access to exempt or confidential information.

Where a matter has not been treated as a key decision and an overview and scrutiny committee are of the opinion that it should have been treated as such, the overview and scrutiny committee can

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

require the executive to make a report to the local authority on the matter (regulation 19). Regulation 20 requires that the executive reports to the local authority quarterly on all matters which have been treated as urgent under regulation 16.

Part V contains general provisions relating to information. Regulation 21 sets out where matters should not be made public due to confidentiality or where making the matter public would involve disclosure of exempt information. In addition the regulation provides that the advice of a political adviser or assistant does not have to be disclosed. Regulation 22 sets out the manner in which documents have to be available at the offices of the authority. Regulation 23 creates offences.