



The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the Regulations”) (Regulation 9)

NOTICE OF CONSIDERATION OF A CONFIDENTIAL KEY DECISION THAT HAS NOT BEEN INCLUDED ON THE FORWARD PLAN AS SUCH

CABINET 7 SEPTEMBER 2021

The reason why the decision is urgent and cannot reasonably be deferred is that East Suffolk Council needs to consider an exempt key decision report about the Freeport East Outline Business Case. The Outline Business Case must be submitted by East Suffolk Council to the Ministry of Housing, Communities and Local Government (MHCLG) by 10 September 2021 and the next Cabinet meeting is scheduled for 5 October 2021.

In accordance with the General Provisions (Paragraph 10) of the Local Authorities (Executives Arrangements (Meetings and Access to Information) England) Regulations 2012 (the Regulations), a key decision that has not been included on the Forward Plan can still be taken provided that:

- a) It is impractical to defer the decision until it has been included on the next Forward Plan.
- b) The Chairman of the Scrutiny Committee has been informed.
- c) The Proper Officer has made available to the public copies of the notice given to the Chairman of the Scrutiny Committee at the offices of the Council and its website.
- d) At least five clear days have elapsed since the Proper Officer complied with b) and c) above.

Where the date by which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chairman of the Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. This is also reflected in the Access to Information Rules (ATIR) which form part of the Council’s Constitution.

As soon as reasonably practicable after the decision-making body has obtained agreement to hold a private meeting, it must make available at the offices of the local authority a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred and publish that notice on the local authority’s website.

The Forward Plan (FP) contains details of all the matters likely to be the subject of Key Decisions and confidential and exempt decisions which will be taken by the Cabinet. The FP is updated on a monthly basis or as required, ensuring that all Key Decisions and confidential/exempt decision that are due to be taken are included in the FP. The FP is published at least 28 days before the start of the period covered

by the FP.

The report seeks approval for the Freeport East Outline Business Case, which will set out the next phase in the delivery of Freeport East. This will involve the completion of an Outline Business Case (OBC) for the Ministry of Housing, Communities and Local Government (MHCLG) which sets out how Freeport East will deliver the environmental, economic and innovation benefits described in the successful Freeport bid. The report also sets out the proposed approach for managing retained business rates from the Freeport Tax Sites and the process for awarding rate relief for eligible businesses.

The report needs to be exempt because the OBC will contain confidential financial and commercial information relating to the Council and a number of private sector organisations involved in delivering and operating the Freeport.

The reason that the report cannot be delayed is that the deadline for the submission of the OBC to the MHCLG is the 10 September and the next Cabinet meeting is on 5 October.

It is deemed important that Cabinet considers this decision as soon as possible.

Regulation 10 of the Regulations (General Exception) allows for a key decision to be made if it is impracticable for notice of the intention to take a key decision under Regulation 9 to be given 28 clear days in advance of the taking of the decision.

Regulation 10 sets out the actions required to be taken in those circumstances which includes setting out the reasons for General Exception.

This Notice has not provided the relevant 28 days. However, in accordance with Regulation 5(6) of the Regulations where the Chairman of the Scrutiny Committee considers that there is urgency which dictates that this decision is urgent and cannot be reasonably deferred to allow compliance with Regulation 5 the decision may still be taken.

The Chairman of the Scrutiny Committee has been notified that the making of the key decision in private detailed below is urgent and cannot reasonably be deferred and has agreed for it to proceed. The reason for this is as set out below.

The reason why the matter is to be considered in private is that it includes information relating to the financial or business affairs of any particular person (including the authority holding that information) (Paragraph 3 – Schedule 12A of the Local Government Act 1972).

Nicola Wotton
Deputy Democratic Services Manager
23 August 2021