



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

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

The reason why the decisions are urgent and cannot reasonably be deferred is that East Suffolk Council needs to consider an exempt decision report about the East Suffolk Services Business Plan Quarterly Update which is to be considered by the Shareholder Reference Group (SRG) at its meeting on 5 September 2023.

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 and exempt decision, that has not been included on the Forward Plan as exempt, 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 Chair of the Scrutiny Committee has been informed.
- c) The Proper Officer has made available to the public copies of the notice given to the Chair 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 Chair 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 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 Forward Plan 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 Forward Plan. The Forward Plan is published at least 28 days before the start of the period covered by the Forward Plan.

The report which will be presented to the Shareholder Reference Group at its meeting on 5 September 2023 relates to East Suffolk Services performance against the East Suffolk Services Business Plan. It is important that the Shareholder Reference Group considers the report on 5 September 2023, as delaying the report to the next scheduled Shareholder Reference Group meeting on 5 December 2023 would mean

that the information would be significantly out of date, which would impede the Members of the Shareholder Reference Group from analysing the progress of the East Suffolk Services Business Plan, to ensure the best value for the constituents of East Suffolk.

In the light of the above we wish to expedite the Cabinet process and avoid having to delay a decision until the 5 September 2023 Cabinet meeting.

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

Regulation 10 of the Regulations (General Exception) allows for an exempt and 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 Chair 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 Chair of the Scrutiny Committee has been notified that the making of the key decision in private is urgent and cannot reasonably be deferred and has agreed for it to proceed. The reason for this for considering this report in confidential session is set out below.

The exempt information consists of financial information in relation to ESC and its companies. Therefore, it is considered that the public interest in not disclosing the exempt information outweighs the public interest in disclosing the information.

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)).

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23 August 2023