



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

NOTICE OF CONSIDERATION OF AN EXEMPT KEY DECISION THAT HAS NOT BEEN INCLUDED ON THE FORWARD PLAN

In accordance with Part 3 of the Local Authorities (Executives Arrangements (Meetings and Access to Information) England) Regulations 2012 (the Regulations), an exempt 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 Chair of the Overview and 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 Overview and 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 Overview and 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.

One exempt key decision will be taken by the Shareholder Reference Group (SRG) at its meeting on 3 March 2026 relating to authorising ESSL to set up a subsidiary Local Authority Trading Company (LATCo) to allow ESSL to trade commercially without Teckal compliance restrictions.

This item needs to be considered as an exempt item of business and considered during the closed part of the SRG meeting agenda because it contains exempt information as defined in Paragraphs 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

The reason this decision cannot be included in the Forward Plan for 28 clear days is because the matter needs to be heard before the start of the new financial year. ESSL would like to have the company

incorporated from the start of the new financial year. 2026/27 is when ESSL anticipate generating additional commercial income and by having the subsidiary it will help manage ESSL's Teckal compliance, which will be audited in April 2026.

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 10, paragraph (a), sub-paragraph (1), the Chair of the Overview and Scrutiny Committee has been notified that the making of the decision cannot reasonably be deferred and has agreed for it to proceed.

Lorraine Fitch
Democratic Services Manager
5 February 2026