The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 came into force on 10th September 2012, bringing in new transparency requirements for all local authority executive decisions.

Amongst the requirements, the Regulations detail new procedures to be carried out prior to meetings held in private, including a requirement to provide a notice 28 days prior to the meeting notifying the intention to hold a private meeting.

The provision that seems set to be the most onerous to implement is the requirement that ‘executive decisions’ taken by FOI Officers are recorded in a written statement. The statement must include the decision, its date and reasons for it, any alternative options considered and rejected by the Officer, any conflict of interest declared by any Executive Member consulted by the Officer in relation to the decision and any “note of dispensation granted by the relevant authority’s head of paid service” in respect of any declared conflict of interest.

Concerns have been raised that as all decisions of an authority could potentially be considered ‘executive decisions’, the burden may be excessive.

Barrister at 11KBW, Clive Sheldon QC, advises local authorities to implement the recording requirement in relation to decisions that are ‘closely connected with’ the discharge of an executive function, rather than all decisions including those that are remotely connected. In his view, this would take out purely administrative decisions.

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