



Report To: Civic Affairs Committee
Lead Officer: Legal and Democratic Services Manager

25 September 2014

The Openness of Local Government Bodies Regulations 2014

Purpose

1. This report sets out the implications of the Openness of Local Government Bodies Regulations 2014 that were enacted on 5 August 2014.

Recommendations

2. That the report be noted.
3. That Council be recommended to set the level for officer decisions considered as 'materially affecting the Council's financial position' at Level 4 in the Council's Financial Regulations and above, i.e. at present values, over £50,000.

Reasons for Recommendations

4. To inform Members of the implications of the introduction of the Openness of Local Government Bodies Regulations 2014 and to ensure that a threshold is set for officer decisions considered in the Regulations as 'materially affecting the Council's financial position', details of which the Council would be obliged to publish.

Background

5. The Openness of Local Government Bodies Regulations 2014, published on 4 August 2014, were enacted on 5 August 2014 and build on the Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations which sought to provide greater openness and transparency in decision making for Cabinet/Executive functions.
6. The new Regulations mean that Councils are now required to make changes, if necessary, to permit the filming, photographing, recording, broadcasting and blogging of any meeting of the Council which is open to the public, including the use of social media.
7. The Regulations also place an obligation on Councils to record and publish certain non-executive decisions made by officers under delegated authority.

Considerations

Filming and reporting of public meetings

8. The Council considered allowing members of the public to film public meetings at its meeting on 26 September 2013, where it agreed:

- to allow members of the public to film its public meetings in accordance with guidance published by the Department of Communities and Local Government entitled “Your Council’s Cabinet – going to its meetings, seeing how it works”;
- that Standing Order 21.4 of the Council’s Constitution (Recording of Business) be amended to read:

“The recording in any format of any meeting of the Council, the Executive, or any committee or sub-committee of the Council or the Executive, is permitted, except:

- where the Chairman or person presiding the meeting, rules that filming is being undertaken in such a way that it is disruptive or distracting to the good order and conduction of the meeting;
- where the public have been excluded from the meeting in accordance with the Council’s Access to Information Procedure Rules (Rule 10) during the consideration of exempt or confidential information.

9. This decision by Council on 26 September 2013 means that no further decision is required in order to comply with the Openness of Local Government Bodies Regulations 2014 with regard to the filming and reporting of the Council’s public meetings.

Decisions made by officers under delegated authority

10. The Openness of Local Government Bodies Regulations 2014 set out new obligations about non-executive decisions made by officers under delegated authority and apply to those decisions made by officers that are a specific express authorisation, or under a general authorisation, to take such decisions and the effect is to:

- grant a permission or license;
- affect the rights of an individual;
- award a contract or incur expenditure which, in either case, materially affects the Council’s financial position.

11. A written record must be produced and published as soon as reasonably practicable after the decision has been made and must contain the following information:

- the date the decision was taken;
- a record of the decision taken along with reasons for the decision;
- details of alternative options, if any, considered and rejected;
- any background papers.

12. New guidance has now been issued alongside the new Regulations entitled “Open and Accountable Local Government – a guide for the press and public on attending and reporting meetings of local government”. This replaces the guidance quoted in paragraph 8 above.

13. The guidance makes reference to the fact that officers take many administrative and operational decisions in undertaking their day to day work at the Council and makes it clear that these decisions do not need to be recorded. Examples of decisions that do not need to be recorded may include:

- routine administrative and organisational decisions, such as giving permission to a local society to use the authority's premises;
 - decisions on operational matters such as day to day variations in services;
 - decisions to give business relief to individual traders;
 - decisions to review the benefit claims of an individual applicant;
 - decisions taken in response to requests under the Data Protection Act 1998 or the Freedom of Information Act 2000.
14. A number of decisions made routinely by officers under delegated authority that fall within the criteria set out in paragraph 10 above, not including financial decisions as referred in the third bullet point of that paragraph, have been identified in the following service areas:
- Planning;
 - Licensing;
 - Building Control.
15. Details relating to the planning decisions taken by officers under delegated authority are already published on the Council's website, which can be accessed via the following link:
- <http://plan.scamb.gov.uk/swiftlg/apas/run/Wchweeklylist.displayPlanningLists>
16. Details relating to licensing applications and permissions granted by officers under delegated authority are already accessible via the Council's licensing webpage on the Personal Register or Premises Register, which can be viewed using the following link:
- <https://www.scamb.gov.uk/content/licensing-act-2003>
17. Details relating to the decisions taken by officers in Building Control will very shortly be available on the Council's Access to Information page. Testing is being undertaken to ensure that the information required by the new Regulations can be published automatically via the APAS system currently used by Building Control.
18. The new Regulations place an obligation on the Council to publish decisions made by officers where they result in the award of a contract or incur expenditure which, in either case, materially affects the Council's financial position. In accordance with the guidance, 'what constitutes the material threshold is a judgement that should be made by individual bodies'. The Civic Affairs Committee is therefore requested to make a recommendation to Council on the amount that should be set as a threshold for those decisions made by officers that are considered to materially affect the Council's financial position.
19. The Committee may wish to recommend the threshold at one of the levels already set out in the Council's procurement process as part of its' Financial Regulations. Level 4, for example, includes the awarding of contracts between the value of £50,001 and £120,000. A breakdown of the number of decisions made by officers over the last two years, and the respective values, for levels 4 and above is outlined in the below table:

| Level | 4 | 5 |
|-------------------------|---------------------|--|
| Value | £50,001 to £120,000 | £120,001 to EU Value (Currently £172,000 goods and services and £4.2 million for works) |
| No. of contracts | 15 | 8 |
| Value | £1,248,450 | £4,137,428 |

20. It is recommended that the threshold for these decisions be set at over £50,000, which equates to anything above Level 3 in the Council's Financial Regulations.
21. Details of these financial decisions made by officers under delegated authority, in accordance with the agreed threshold, will also be published on the Council's Access to Information page of its website.
22. There may be other decisions taken by officers under delegated authority not covered in the categories set out in paragraph 14 or 18 above that fall within the requirements of the new Regulations. In such circumstances these will be published via the Council's Modern.Gov document management system as and when necessary.
23. Officers are currently investigating better ways to collate and publish information relating to the decisions taken by officers under delegated powers, so the Access to Information pages of the Council's website referred to in this report may be subject to change.

Options

24. The Civic Affairs Committee could opt to recommend a higher or lower threshold for the amount considered as 'materially affecting the Council's financial position' in respect of those decisions taken by officers under delegated authority.
25. However, any other amount would not be consistent with the approval level for Cabinet, as set out in paragraph 27 below.

Implications

26. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

Financial

27. The threshold recommended for officer decisions taken under delegated authority considered as 'materially affecting the Council's financial position' (Level 4 and above) is consistent with the amount that Cabinet is authorised to spend or commit the Council to within approved policy. Cabinet must seek approval from Council if it wishes to spend or commit, after opportunities for virement have been exhausted, in-year supplementary revenue and capital estimates above level 3 (£50,000).

Legal

28. The changes proposed in this report are necessary in order for the Council to be compliant with the Openness of Local Government Bodies Regulations 2014.

Risk Management

29. The Council's Executive Management Team has been briefed on the implications of the changes required as part of the new Regulations. Senior managers across the Council have also been made aware of the new requirements, particularly with regard to the recording and publication of officer decisions made under delegated powers, to ensure that they understand their obligations so that the Council is fully compliant with the Regulations.

Consultation responses (including from the Youth Council)

30. No consultation on the content of this report has been undertaken.

Effect on Strategic Aims

Engagement – we aim to engage with residents, parishes and businesses to ensure we deliver first class services and value for money

31. The implications of the Openness of Local Government Bodies Regulations 2014 will assist South Cambridgeshire District Council in delivering the above strategic aim by providing greater public access to information relating to decisions made by officers under delegated authority.

Background Papers

32. The following background papers were relied upon in the writing of this report:

Openness of Local Government Bodies Regulations 2014:
<http://www.legislation.gov.uk/uksi/2014/2095/contents/made>

'Open and Accountable Local Government' – a guide for the press and public on attending and report meetings of local government:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/343182/140812_Openness_Guide.pdf

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