



East
Northamptonshire
Council

Policy and Resources Committee – 15 September 2014

Publication of Officer Decision Reports

Purpose of report

To present to councillors a draft publication policy for officer decisions following the enactment of the Openness Regulations Statutory Instrument.

Attachment(s)

Appendix A – Draft Web-Page for Officer Decisions.

1.0 Background

1.1 On 5 August this year the Secretary of State implemented the Openness of Local Government Bodies Regulations 2014. These regulations included the requirement to allow filming at council and committee meetings, which this council anticipated with appropriate amendments to the Constitution in January 2014. Less well publicised has been the new requirement for certain officer decisions to be formally recorded and reported on the council's website. This report highlights the requirements for such reporting and outlines the council's proposed response to this requirement.

2.0 Requirement of the Regulations

2.1 The regulations require that the council now has to publish and record any officer decisions that are made under a specific or general delegation to that officer where the decision is to:

- grant a permission or licence;
- affect the rights of an individual; or
- award a contract or incur expenditure that materially affects that relevant government body's financial position.

2.2 The regulations do not provide for the publication of reports on all decisions and to some extent allow for each council to determine what will be published. The related guidance (available at <https://www.gov.uk/government/publications/open-and-accountable-local-government-plain-english-guide>) gives the following examples of decisions that should be published as including:

- Decisions to issue tree preservation orders
- Building control decisions and notices
- Decisions to give listed building consents

2.3 Decisions that the guidance does not envisage being published to be covered includes:

- Routine administrative and organisational decisions
- Decisions on operational matters such as changes to services and charges
- Decisions to give business rates relief to individual traders
- Decisions to review the benefit claims of an individual applicant

2.4 Using these above example decisions it would appear that if only the rights of an individual or business are affected then the decision isn't covered but if there is a wider public impact/interest in the action then it is e.g. TPOs in theory could interfere with the right of a landowner to do what they want but there is also a wider public interest in the amenity value of the tree hence the decision report should be published.

2.5 The record of the decision must record:

- The decision taken and date
- The reasons for the decision
- Any alternative options considered and rejected
- Any background documents

The decision record must be kept for inspection and placed on the council's website as soon as reasonably practical after the date. (Please note that the requirement to publish is not retrospective.)

2.6 For the majority of the types of decisions covered by these regulations, decision reports are already produced (e.g. environmental health prosecutions) but in only a few cases are these currently published on the council's website (e.g. Delegated Planning Decision Reports).

2.7 The decisions identified so far as likely to be covered by the regulations are:

- Delegated decisions to grant or refuse planning permission for outline, full, listed building consent or certificate of lawful development
- Delegated decisions in respect of tree preservation or hedgerow reinstatement or high hedge appeals
- Development Control Enforcement and Stop Notices, including s215 notices
- Delegated decisions in relation to Building Control applications
- Building Control Enforcement Notices including dangerous structures and demolition
- Licensing and Environmental Health issuing of licenses, authorisations, notices and commencement of enforcement
- Designation of Asset of Community Value under Community Right to Bid

3.0 Publication Proposal

3.1 It is proposed to create an "Officer Decision" page on the council's website, accessible either via the A-Z or search feature. This would list the decisions for which this council will publish decision reports and include explanations of what is published and how to find it (including links). The draft content can be found at Appendix A.

3.2 The relevant reports, like Committee Reports, must be kept on the council's website for 6 years. Any background reports referenced by the reports must be kept for 4 years. These background papers are not required to be published on the website but would be available on request or via a Freedom of Information Request.

3.3 The council is not required to publish confidential information as part of any report. Each case will have to be considered on its own merits to determine if the decision report should be published in a redacted form or an alternative statement is published to record that a decision has been made.

4.0 Equality and Diversity Implications

4.1 There are no equality and diversity implications arising from this paper as it is largely governed by legislation. Any individual equality and diversity decisions will be considered at the time the decision in relation to each item requiring publication is made.

5.0 Legal Implications

5.1 Failure to comply with the Regulations could result in the council being exposed to legal challenge of its decisions, with possible financial or reputational implications. The proposals in this paper will reduce this potential risk.

6.0 Risk Management

6.1 Although guidance has been produced to accompany the regulations, there is still some room for variations in interpretation in terms of what decisions should be

published and it is possible that legal challenges may increase the number and range of decisions that have to be published in the future

6.2 The risk of legal challenge to the decision not to publish a specific decision is assessed as low as information on the decision can be made available via Freedom of Information Regulations. However, there is an increased risk that individual decisions may be challenged as a result of the information being more readily available in the public domain.

7.0 Financial Implications

7.1 There are no direct financial implications from these regulations although it will marginally increase the workloads of some staff. Any financial implications of individual decisions will be considered at the time the decision. It is anticipated the majority of these implications will be within the Policy & Budget Framework for the Council and as such are unlikely to have a material impact on the council's financial position. If the financial implications of any delegated decision is outside of this, approval will be required in accordance with the Council's Financial Procedure Rules.


8.0 Corporate Outcomes

8.1 The proposed approach would contribute to the Corporate Outcome of Effective Management – Compliance with Legislation.

9.0 Recommendation

9.1 The Committee is recommended to endorse the proposed approach in paragraph 3 to the reporting of officer decisions.

[Reason: To enable to the Council to meet the requirements of the Openness of Local Government Bodies Regulations 2014.]

Legal	Power: Local Audit and Accountability Act 2014			
	Other considerations: Statutory Instrument 2014:No 2095 The Openness of Local Government Bodies Regulations 2014.			
Background Papers:				
<ul style="list-style-type: none"> Open and accountable local government: A guide for press and public on attending a reporting meetings of local government. Amendments to the Constitution – Report to (full) Council January 2014. 				
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Date: 3/9/14				
CFO 3/9/14		MO		CX

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Draft Web Page for Officer Decisions

Officer Decisions

In addition to decisions being made by councillors via committee or council meetings, officers of the council make many decisions as part of their day to day work. Many of these are routine administrative decisions or organisational decisions such as appointing staff or assessing benefit claims. Others are specifically delegated to officers by the council via the [Scheme of Delegation](#) in the council's constitution.

You can view the following officer decisions by using the links below.

Planning Portal:

Here you can find decision reports relating to

- The determination of applications to develop land or buildings. Reports are produced for decisions delegated to officers in a similar way to those determined by Development Control Committee. on outline, reserved matters full and listed building consent applications and certificate of lawful development
- Conservation Notices - Officer decisions to:
 - Make Tree Preservation Orders
 - Determine Tree Works Applications and Notifications
 - Determine Hedgerow Removal Notifications
- Development Control Enforcement and Stop Notices, including s215 notices and High Hedge Applications

Building Control Applications :

This page covers:

- Delegated decisions in relation to Building Control applications
- Building Control Enforcement Notices including dangerous structures and demolition

Environmental Services:

Details of Licensing and Environmental Health decisions in relation to the issuing of licenses, authorisations, notices and commencement of enforcement action .

Community Right to Bid (link required):

Decisions relating to nominations and appeals for Assets of Community Value made by the Executive Director and Chief Executive can be accessed from this page.