

DRAFT RESPONSE TO DCLG: OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

There are two overriding matters referenced in the Draft Regulations

The first concerns the proposed amendments to the 1960 Act; the 1972 Act and the 2012 Regulations all deal with the same wording – which would be to allow “any person” in an open meeting of the Merseyside Fire and Rescue Authority or its Committees (MFRA) to film, photograph, audio record or use any other means (which would no doubt involve the use of social media) to enable other people not at that meeting to see or hear the proceedings as they take place or later.

This would include according to the definitions in these draft Regulations, “...reporting or providing commentary on proceedings of a meeting, orally or in writing ...”

This Authority is committed to openness and transparency and the press, as required by law, are provided with all the papers for each meeting as well as the Agenda and regularly attend meetings and report on the same. In addition all papers and Agendas as well as Minutes of meetings are published on the Authority’s website 5 working days before each meeting. The Authority has a Facebook and Twitter account and members of the public may post on these if they wish to. The Authority therefore considers that it has many processes in place to ensure its transparency. However there are concerns about some of the issues that these draft Regulations raise:

1. Inaccurate; deliberately misleading or mistaken reporting could take place. This could potentially lead to allegations of libel.
2. Out of context reporting could take place which could lead to unfounded complaints or damage to reputation.
3. The reporting proposals and timing could lead to damaging accusations appearing widely in social media before a meeting has finished and any final decisions made or out of context comments made mid debate before a final decision has been made or any vote taken.
4. Complainants could use these reporting rights instead of going through the correct procedure which could create confusion.
5. Even when meetings are open other bodies may be referred to in debate and again could be misrepresented.
6. There could be disruption to meetings, particularly if proceedings are filmed or there is oral reporting.

We consider that Local Government should be trusted to be open and we suggest respectfully that these Regulations could have the opposite effect by constraining elected Members in their debates due to the concerns expressed above.

The second issue with the draft Regulations is that of delegations of authority to officers to make certain decision. The draft Regulations propose that written records of some detail must be made in the case of both specific express authorisation or in general authorisations

(which we take as meaning those contained within the Scheme of Delegation) which have an effect on the grant of licences; the rights of individuals, the award of contracts or the incurring of expenditure materially affecting the financial position of the Authority

Local Government must have a Scheme of Delegation in order for the Council or other body to operate efficiently and effectively. This scheme is carefully considered and approved by MFRA every year. Any additional delegation which is not placed within the scheme must be separately approved and a Minute of any such decision is taken and published.

It would be an unnecessary administrative burden to record each and every decision delegated that is proposed by the draft Regulations as many decisions delegated to officers are concerned with contracts and financial issues. The Officers are qualified and experienced in taking these decisions and always report back to elected Members at a later stage. It therefore seems to be stretching resources to make written records when a Scheme of Delegation already exists and other delegations are already recorded in Minutes.

The effect of these Regulations could potentially be to constrain Members in granting delegations to officers which in turn would slow down the decision making process and delay operational decisions generally.

Finally there are a number of inconsistencies

1. The Regulations (e.g. 1A, 7A (a) of the LGA 1972) provide that “any persons who attend meetings With the aim of reporting... may use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities”
2. The Regulations provide for a written record of delegated decisions where the effect of that decision is to “materially affect ...the body’s financial position”. There is no definition of “materially affect”.
3. The Regulations refer to subsection 9 (LGA 1972) however there is no subsection 9. Does this refer to the definition of “reporting”?
4. LGA 1972 proposed 3A provides that a local government body **are** permitted...Does this mean “*is*” permitted?

We would look forward to discussing our concerns in more detail as the Consultation period has been extremely short.