

4.3: ACCESS TO INFORMATION PROCEDURE RULES

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1. SCOPE

- 1.1** These rules apply to all meetings of the Council, the Policy Development Group, the Audit and Governance Committee, meetings of the Cabinet and other groups (together called “meetings”).

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1** These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

- 3.1** Members of the public may attend all meetings subject to the exceptions in these rules.

4. NOTICES OF MEETING

- 4.1** The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Council Offices, Coalville (“the designated office”).
- 4.2** Where a meeting will include the taking of a confidential executive decision or a key decision, the Council will give at least 28 clear days notice of the intention to take the decision together with details of the meeting at which such a decision will be made.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1** The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Council's website at least five clear days before the meeting except:
- 5.1.1** Where the meeting is convened at shorter notice, copies of the agenda and report(s) shall be open to inspection from the time the meeting is convened, and
- 5.1.2** Where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (and of the revised agenda) and copies of any reports for the meeting relating to that item, shall be open to inspection from the time the item is added to the agenda.
- 5.1.3** Where Rule 14 – 23 applies in relation to confidential executive decisions and/or key decisions.

6. ITEMS OF BUSINESS

- 6.1** An item of business may not be considered at a meeting unless either:
- 6.1.1 A copy of the agenda including the item (or a copy of the item) is open to inspection by a member of the public for at least five clear days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened, or
 - 6.1.2 By reason of special urgency, which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 6.2** “Five clear days” excludes the day of the meeting, the day on which the meeting is called, weekends and bank holidays.
- 6.3** “Special urgency” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item of report could not have been available for inspection for five clear days before the meeting.
- 6.4** Where the item of business relates to an executive decision Rules 14-17 will apply.

7. SUPPLY OF COPIES

- 7.1** The Council will in the first instance direct an interested person to the Council’s website and offices where such information is available, but where copies are required the Council will supply copies of:
- 7.1.1 any agenda and reports which are open to public inspection;
 - 7.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - 7.1.3 any other documents not exempt or excluded in connection with an item to any person on payment of a charge for postage and any other costs.

8. ACCESS TO MINUTES, ETC AFTER THE MEETING

- 8.1** The Council will make available at its offices and on its website copies of the following for six years immediately after a meeting of a decision making body at which a decision is made:
- 8.1.1 Records of all decisions taken by Cabinet.-

- 8.1.2 Any report considered by the decision maker in making the decision excluding any part which discloses exempt or confidential information.

9. BACKGROUND PAPERS

9.1 List of Background Papers

- 9.1.1 The Proper Officer will set out in every report a list of those documents (background papers) relating to the subject matter of the report which in his/her opinion:
- disclose any facts or matters on which the report or an important part of the report is based; and
 - which have been relied on to a material extent in preparing the report;
 - but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11).

9.2 Public Inspection of Background Papers

- 9.2.1 Where a report is made available to the public a list of the background papers connected to the report will also be available together with at least one copy of each of those papers. The documents will also be available on the Council's website.

10. SUMMARY OF PUBLIC'S RIGHTS

- 10.1 A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council Offices, Coalville.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

11.1 Confidential Information - Requirement to Exclude the Public

- 11.1.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

11.2 Exempt Information - Discretion to Exclude the Public

- 11.2.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

- 11.2.2 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

11.3 Meaning of Confidential Information

- 11.3.1 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

11.4 Meaning of Exempt Information

Exempt information means information falling within any of the following categories as defined by Schedule 12A of the Local Government Act 1972 (as amended).

(The definition of "the authority" has been slightly abbreviated as it relates to committees and subcommittees)

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
		Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992
1. Information relating to any individual		Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
2. Information which is likely to reveal the identity of an individual		Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the <u>financial</u> or <u>business affairs</u> of any particular person (including <u>the authority</u> holding that information)	<u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined <u>Financial or business affairs</u> includes contemplated, as well as past or current activities <u>Registered</u> in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of the Act)	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be <u>registered</u> under - (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Society Act 1992 (d) the Industrial and Provident Societies Act 1965 to 1978 (e) the Building Societies Act 1986

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
		(f) the Charities Act 1993
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any <u>labour relations matter</u> arising between <u>the authority</u> or a Minister of the Crown and <u>employees</u> of, or <u>office holders</u> under, the authority	<u>The authority</u> is reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined <u>Employee</u> means a person employed under a contract of service <u>Labour relations matter</u> means: (a) any of the matters specified in paragraphs (a) to (g) of Section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of the Act); or (b) any dispute about a matter falling within paragraph (a) above	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
	(applies to trade disputes relating to office holders as well as employees) <u>Office holder</u> in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings		Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that <u>the authority</u> proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or	<u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
(b) to make an order or direction under any enactment		
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime		Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 12.1** If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

13. APPLICATION OF RULES TO THE CABINET

- 13.1** Rules 14-23 apply to the Cabinet, a Cabinet member and its groups. If the Cabinet, a Cabinet member or one of its groups meet to take a decision then it must also comply with Rules 1-11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is defined in Article 13.03 of this Constitution.
- 13.2** If the Cabinet or one of its groups meets to discuss a confidential or key decision to be taken collectively, with an officer (other than a political assistant) present, then it must also comply with Rules 1-11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members where no decision is taken.

14. PROCEDURE BEFORE TAKING EXECUTIVE DECISIONS

14.1 Subject to Rule 16 (general exception) and Rule 17 (special urgency), an executive decision may not be taken unless:

14.1.1 A notice (called here An Executive Decision Notice) has been published in connection with the matter in question at the Council offices and on its website;

14.1.2 The relevant Executive Decision Notice has come into effect; and

14.1.3 The requirements of Section 100B of the Local Government Act 1972 (Access to Agenda and Connected Reports) have been complied with.

15. THE EXECUTIVE DECISION NOTICE

15.1 Period of the Executive Decision Notice (“The Notice”)

15.1.1 The Notice will be prepared by the Leader to cover decisions that are to be taken no sooner than 28 days following publication of the Notice.

15.1.2 The Notice must be published at least 28 days before the proposed executive decision is taken. If an item is not on the Notice, the decision cannot be taken unless Rules 16 or 17 apply. Any outstanding matters from the previous Notice will be included in the latest Notice.

15.1.3 The most recent Notice shall be taken to have superseded any earlier Notice, or as the case may be, each earlier Notice.

15.2 Contents of Executive Decision Notice

15.2.1 The Executive Decision Notice will contain matters which the Leader has reason to believe will be subject of an executive or key decision to be taken by the Cabinet, or one of its groups, or officers, or under joint arrangements, in the course of the discharge of an executive function during the period covered by the Notice. It will also contain notice of decisions to be taken confidentially. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

(a) the matter in respect of which a decision is to be made;

(b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;

- (c) the date on which, or the period within which, the decision is to be made;
- (d) the procedure for requesting documents connected to the decision;
- (e) that other documents can be submitted;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter about which the decision is to be made; and
- (h) the address where documents are available.

15.2.2 Additional Requirements for Key Decisions

- (a) The Executive Decision Notice must specify if a decision to be taken is a key decision
- (b) Where a decision maker intends to make a key decision, that decision must not be made until a notice of the key decision has been published on the Executive Decision Notice which contains:
 - (i) that a key decision is to be made;
 - (ii) the matter in respect of which the decision is to be made;
 - (iii) where the decision maker is an individual, the name of the individual;
 - (iv) where the decision maker is a body, its name and a list of its members;
 - (v) a list of the documents submitted for consideration;
 - (vi) the address from which copies or extracts of documents are available;
 - (vii) that other documents may be submitted for consideration; and
 - (viii) the procedure for requesting documents.
- (c) The Notice specifying what key decisions are to be taken must be published at least 28 clear days before the decision is to be taken.

- (d) The public may be excluded from the meeting at which a key decision is to be taken if information is likely to be disclosed which is confidential or exempt under Schedule 12A.

15.2.3 Additional Requirements for Private Meetings

- (a) The Executive Decision Notice must specify if a meeting or any part of the meeting at which an executive decision is to be taken will be in private.
- (b) The steps any person might take who wishes to make representations to the decision-making body or decision taker about whether the matter should be held in public and the date by which those steps must be taken.
- (c) At least five clear days before a private meeting, the decision making body must:
 - (i) confirm or not the decision to hold the meeting in private;
 - (ii) make available at the Council Offices a further notice of its intention to hold the meeting in private or public if appropriate; and
 - (iii) publish that notice on the Council's website.
- (d) The notice must include:
 - (i) a statement of reasons for the meeting to be held in private;
 - (ii) details of any representations received by the decision making body about why the meeting should be open to the public; and
 - (iii) a statement of its response to any such representations.
- (e) Where the date by which a meeting must be held makes compliance with section (d) impracticable, the meeting may only be held in private where the decision making body has obtained agreement from:
 - (i) the chairman of the Policy Development Group; or
 - (ii) if the Chairman of the Policy Development Group is unable to act, the Chairman of the Council; or
 - (iii) where there is no Chairman of the Policy Development Group or of the Council, the Deputy Chairman of the Council that the meeting is urgent and cannot reasonably be deferred.

- (f) As soon as reasonably practicable after the decision making body has obtained agreement to hold a private meeting, it must:
 - (i) make available at the Council Offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
 - (ii) publish that notice on the Council's website.
- (g) Members of the Cabinet or its groups will be entitled to receive 5 clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

15.3 Publicity

15.3.1 The Head of Legal and Support Services will make available a copy of the Executive Decision Notice ("the Notice") and publish the Notice on the Council's website. The Notice will state:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) the particulars of the matters on which decisions are to be taken;
- (c) the Notice will contain details of the key decisions to be made by or on behalf of the Executive, no sooner than 28 days after publication;
- (d) that each Notice will be available for inspection at reasonable hours free of charge at the Council Offices, Coalville;
- (e) that each Notice will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the Notice;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Notice is available;
- (g) that other documents may be submitted to decision takers; and
- (h) the procedure for requesting details of documents (if any) as they become available.

15.4 Exempt information need not be included in the Executive Decision Notice and confidential information cannot be included.

16. GENERAL EXCEPTION

16.1 Where the publication of the intention to make an executive decision is impracticable, that decision may only be made where:

16.1.1 The Head of Legal and Support Services has informed the chairman of the Policy Development Group, by notice in writing, of the matter about which the decision is to be made or where the Chairman is not available, each member of the Policy Development Group;

16.1.2 The Head of Legal and Support Services has made copies of that notice available to the public at the Council Offices and on the website for inspection;

16.1.3 At least 5 clear days have elapsed since the Head of Legal and Support Services complied with 16.1.1 and 16.1.2.

16.1.4 Where such a decision is taken collectively, it must be taken in public, unless it involves consideration of exempt or confidential information.

16.1.5 As soon as reasonably practicable, the Head of Legal and Support services must:

(a) make available at the Council Offices a notice setting out the reasons why it was impracticable to defer the decision until it has been included on the next Executive Decision Notice; and

(b) publish that notice on the Council's website.

17. SPECIAL URGENCY

17.1 If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, has obtained the agreement of the chairman of the Policy Development Group that the taking of the decision cannot be reasonably deferred. If the chairman of the Policy Development Group is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Deputy Chairman will suffice.

17.2 As soon as reasonably practicable, the Head of Legal and Support Services must:

(a) make available at the Council Offices a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred: and

(b) publish that notice on the Council's website.

- 17.3** The Leader will submit a quarterly report to the Council on the executive decisions taken under this Rule in the preceding three months. The report will include the number of decisions taken and a summary of the matter about which each decision was made.

18. REPORT TO COUNCIL

18.1 When the Policy Development Group Can Require a Report

- 18.1.1** If the Policy Development Group thinks that a key decision has been taken which was not:

- (a) included in the Executive Decision Notice; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Policy Development Group Chairman or the Chairman/Deputy Chairman of the Council under Rule 16;

the Policy Development Group may require the Cabinet to submit a report to the Council within such reasonable time as the body specifies. The power to require a report rests with the Policy Development Group, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Policy Development Group when so requested by the Chairman of the Policy Development Group or any 5 members of the Policy Development Group. Alternatively the requirement may be raised by resolution passed at a meeting of the Policy Development Group.

18.2 Cabinet's Report to Council

- 18.2.1** The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the body, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

19. ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET

- 19.1** All members of the Cabinet will be served notice of all private meetings of groups of the Cabinet, whether or not they are members of that group.

- 19.2** All members of the Cabinet are entitled to attend a private meeting of any group of the Cabinet and be allowed to speak with the consent of the Chairman of that group.
- 19.3** Notice of private meetings of the Cabinet and its groups will be served on all non-executive members, at the same time as notice is served on members of the Cabinet.
- 19.4** Where a matter under consideration at a private meeting of the Cabinet, or a group of it, is within the remit of a monitoring body any member may attend that private meeting and speak with the consent of the person presiding.
- 19.5** The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its groups. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- 19.6** A private meeting of the Cabinet may not take any decisions unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, or their nominees, are present or have waived their entitlement to attend. A private Cabinet meeting may only take a decision if there is an officer present with responsibility for recording and publicising the decisions.

20. RECORD OF DECISIONS

20.1 Executive Decision Making at Meetings

As soon as is reasonably practicable, after a meeting of a decision making body at which an executive decision has been made, whether held in public or private, the Head of Legal and Support Services shall ensure that a written statement is produced in respect of every executive decision made at that meeting including:

- 20.1.1 A record of the decision including the date it was made;
- 20.1.2 A record of the reasons for the decision;
- 20.1.3 Details about any alternative options considered and rejected at the meeting by the decision making body when it made the decision;
- 20.1.4 A record of any conflict of interest declared by any member of the decision making body which made the decision; and
- 20.1.5 A note of any relevant dispensations granted by the Head of Paid Service.

Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken unless the Chief Executive or his or her nominee is present.

20.2 Executive Decisions Made by Individual Members of the Cabinet (the Cabinet currently takes all decisions collectively but if decisions are delegated to individual members of the Cabinet the following rules will apply) or by Individual Officers

- 20.2.1 All decisions taken individually by members of the Cabinet or by officers must be based on written reports setting out key legal, financial, service and corporate implications and may not be taken unless the Chief Executive (or an officer nominated by him/her) is present.
- 20.2.2 When an officer prepares a report which is to be given to an individual member for decision, he/she must first give a copy of that report to the Chief Executive (or an officer nominated by him/her).
- 20.2.3 The Chief Executive will publish the report to the monitoring bodies, the Chief Finance Officer and the Monitoring Officer. The report will be made publicly available as soon as reasonably practicable.
- 20.2.4 Individual decisions may only be made by members of the Cabinet in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee (unless they waive that requirement) and the officer (or an officer nominated by him/her) whose responsibility it is to record the decision.
- 20.2.5 The individual decision maker may not make any executive decision until the report has been available for public inspection for at least 5 clear days before the decision is made unless Rule 15.2.2 or 15.2.3 apply.
- 20.2.6 As soon as is reasonably practicable after an individual member or officer has made an executive decision he or she shall produce, or cause to be produced, a written statement including:
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected at the time by the member when he or she made the decision;
 - (d) a record of any conflict of interest declared by any Cabinet member who was consulted by the member about the decision; and

- (e) a note of any relevant dispensation granted by the Head of Paid Service.

20.2.7 A copy of the written statement setting out the decision must be sent to the Head of Legal and Support Services. All decisions of the Cabinet must be published and will be subject to call-in as set out in Part 4 (Section 4.5).

20.2.8 Nothing in these rules relating to the taking of the decision by individual members or officers shall require them to disclose confidential or exempt information.

21. POLICY DEVELOPMENT GROUPS' ACCESS TO DOCUMENTS

21.1 Subject to Rule 22.2 below, the Policy Development Group will be entitled to copies of any document which is in the possession or control of the Cabinet or its groups and which contains material relating to any business transacted at a public or private meeting of the Cabinet or its groups no later than 10 clear days after the Executive receives the request.

21.2 The Policy Development Group will not be entitled to:

- (a) any document that is in draft form;
- (b) any document containing advice provided by a political advisor;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or intend to review;
- (d) where the Executive determine that a member of the Policy Development Group are not entitled to copy documents in accordance with sub paragraph 21.1, it must provide a written statement setting out its reasons.

22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

22.1 Material Relating to Previous Business

22.1.1 All members are entitled to inspect any document which is in the possession or under the control of the Cabinet or any of its groups and contains material relating to any business previously transacted at a public or a private meeting. Where the document contains exempt information falling within paragraphs 1 to 6 of the categories of exempt information the members will be required to sign a register kept for the purpose of such requests.

22.2 Material Relating to Executive Decisions

22.2.1 All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or one of its groups which relates to any executive decision at least 5 clear days before a public meeting at which the decision is to be taken. If it contains exempt information falling within paragraphs 1 to 6 of the categories of exempt information the members will be required to sign a register kept for the purpose of such requests.

22.2.2 All members of the Council will be entitled to inspect any document in the possession or under the control of the Cabinet or one of its groups which relates to any executive decision taken in private when the meeting concludes or immediately after the decision is taken.

22.3 Nature of Rights

22.3.1 These rights of a member are additional to any other rights of access to information a member may have.

23. WHERE RULES 13 – 22 APPLY

23.1 Reference to 5 clear days means 5 full and complete days not including the day of the notice, the day of the meeting or weekends or bank holidays.

23.2 Reference to 28 clear days means 28 full and complete days not including the day of the notice or the day of the meeting but including weekends and bank holidays.

(The above definitions are based on legal advice regarding the interpretation of the 2012 Regulations).