

EU Policy Review

Analysis of recent EU legislation and policy for local and regional government

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LEGISLATION

Access to Information on the Environment Regulations 2007

Local authorities are now required to make available to the public the full spectrum of information that they hold on the environment, following the introduction of stricter freedom of information rules. Legislation on access to such information has existed in the EU and Ireland since 1998. However, the Access to Information on the Environment Regulations (AIE) 2007 introduce several new provisions which will have implications for the collection, management and dissemination of environmental information by local authorities. In particular:

- The AIE regulations broaden the scope of what counts as environmental information;
- They require local authorities proactively to ensure the widest possible dissemination of environmental information; and
- They introduce a formal appeals procedure for access to information on the environment.

The AIE provisions differ from standard Freedom of Information (FOI) rules in two key respects:

- A wider range of public authorities is covered by the AIE regulations than the FOI legislation; and
- The grounds under which access to information can be refused in the two pieces of legislation is different.

Duties of Local Authorities

The key objective of the regulations is 'to guarantee the right of access to environmental information held by or for public authorities'. This requires local authorities to:

- Inform the public of their rights and provide information and guidance on exercising those rights; and
- Make all reasonable efforts to maintain environmental information in a form that is readily reproducible and accessible.

The Regulations include various conditions under which these duties must be carried out. A local authority must:

- Maintain a presumption in favour of the disclosure of information, and seek to respond positively and promptly to requests;

- Offer assistance to members of the public to enable them to formulate requests, with particular regard to individuals who may have literary or other difficulties or disabilities;
- In the event that the environmental information sought is held by another public authority, transfer the application to that body. In this event, the applicant should be informed accordingly or be supplied with details of where the information is held and to whom the request should properly be made;
- Update their available information regularly to ensure that it is accurate and comparable
- Designate Information Officers and establish systems and structures to register and process all requests within the relevant time limits,
- Ensure that their staff are aware of the provisions of the AIE Regulations.

Definition

The definition of environmental information is deliberately broad and extremely comprehensive, encompassing all forms of information on the environment, held in a wide range of forms (eg written, visual, aural and electronic) It has also been extended to include human health, conditions of human life and aspects of the built environment in as far as they may be affected by the state of the environment. It also includes information held by other bodies on behalf of the local authority. Types of data that are covered include:

- Information on the 'state of the elements of the environment' (eg air, water and soil quality);
- Information on 'factors' that might affect these elements, such as energy, noise, waste etc.; and
- Information on policies, projects and plans that could affect the items mentioned above.

Responding to Requests

The new rules set out the manner in which an applicant should submit his or her application for information. The applicant is not required to state an interest in the request, but must:

- State that the application is being made under the AIE Regulations and submit it in writing or electronic form;
- Provide their contact details; and
- State, in terms that are as specific as possible, the environmental information required, and specify the form and manner of access desired.

Applicants are required to invoke the AIE code in making a request under these Regulations so that, in circumstances where parallel systems to access information exist (AIE and FOI), public authorities can be clear about the code under which the information is sought.

If an applicant makes a request without invoking the code, a local authority will be expected to inform the applicant of the possibility of applying under the AIE regulations and offer him or her assistance in making such an application. However, it is always possible to simply provide the information required outside of the AIE Regulations if that is the preferred option of both parties.

Once a request has been submitted, the following conditions apply to the processing of the request:

- The applicant must receive a response to (i.e. a decision on) a request as soon as possible and at the latest within one month of having received a request;
- Where, due to the complexity or volume of information required, a local authority is unable to reply to the applicant within one month, they should write to the applicant within that time frame setting out the reasons why they are unable to do so. The authority should also inform the applicant of the date by which they will respond (i.e. deal with and decide on the application), and this date should not be more than two months from the receipt of the original request;
- Where an applicant requests information in a particular format or manner, local authorities should provide the information in that format or manner unless it is already publicly available in another form or manner;
- Where the information requested is not held by or for the local authority concerned, the authority should inform the applicant of this. If the authority is aware that the information requested is held by another authority they should transfer the request to that authority and inform the applicant;
- In cases where a request is formulated in too general a manner, the local authority must, within one month, inform the applicant accordingly and provide advice and assistance to the applicant in reformulating the request.

Reporting Requirements

The designated information officers will be responsible for putting in place systems to collate appropriate annual statistics, including information on the following:

- The number of requests for information received relating to access to information on the environment,
- The number of cases under which the information was either fully disclosed, partially disclosed or refused in full
- In cases where access to information was refused, the reasons for refusal or the exceptions under which it was refused,
- The number of cases referred for internal review, and
- The number of cases in respect of which a charge was imposed for the release of environmental information, and the amounts involved.

These statistics will feed in to the Department of the Environment, Heritage and Local Government's report to the European Commission on implementation, the first of which will be submitted in 2009.

Exemptions

Refusal to grant access to information can be made only in the following cases:

- *Personal information:* Where the confidentiality of personal information is protected by law
- *Material supplied by a third party:* Where material has been supplied by a third party who is not under obligation to publicise information and has not consented to its publication there is no requirement to provide access;
- *Legal proceedings:* The AIE regulations state that their provisions will not apply to a public authority 'when acting in a judicial or legislative capacity'. This includes for example, any cases where an authority is involved in making regulations, orders and bye-laws, or when legal processes are open to the hearing of submissions from different parties;
- *Confidentiality of the proceedings of local authorities:* Where the confidentiality of these proceedings are protected by law, such as information exempt from disclosure under FOI acts;
- *Discussions of meetings at Government; and*
- *Material whose disclosure could harm the environment to which it pertains.*

It is clear that these new regulations will require the establishment of effective systems, not only in terms of responding to requests, but more generally as regards the compilation and management data. It will also be crucial that all staff are made aware of their obligations to provide the public with such information and to respond to requests in an appropriate manner. All of these requirements will be dealt with in an IPA training seminar for local government on the new Regulations, to be held in mid-November.

The Regulations can be found at:

<http://www.environ.ie/en/AboutUs/AccessstoInformationontheEnvironment/PublicationsDocuments/FileDownload.2479.en.pdf>

POLICY INITIATIVES AND ANNOUNCEMENTS

Green Paper on Urban Transport

The European Commission has published a Green Paper outlining policy options for EU, national and local action to promote urban mobility, following a Europe-wide consultation. The paper is a response to the negative impacts of urban congestion on people's wellbeing. The Commission notes that over 60% of the population in Europe lives in urban areas, and suffers a wide range of ill effects from the ever-increasing traffic in these areas. Aside from the obvious issues of air and noise pollution, congestion leads to road traffic accidents, climate change due to CO₂ emissions and the degradation of the built environment. According to the Commission, the annual costs of these consequences amount to over 100 billion Euro, or 1% of the EU's GDP.

At the core of the paper is the Commission's goal of fostering a new 'culture of mobility' to reduce traffic and improve its associated impacts. This guiding aim is underpinned by 5 objectives:

1. Free-flowing towns and cities;
2. Greener towns and cities;
3. Smarter urban transport;
4. Accessible urban transport, and
5. Safe and secure urban transport.

While stressing that the above objectives can be achieved most effectively through action at the local level, the Commission recognizes that local authorities cannot face them alone. The Green Paper aims to identify a range of policy measures that could be taken at EU level to add value to local action, rather than proposing concrete actions. Nonetheless, many of the ideas outlined in the report hint at the type of measures that are likely to be in the Action Plan, a number of which will have a strong bearing on local authorities. For example, the Commission states that its role could include establishing minimum standards, simplifying existing legislation and removing or introducing legislation. Softer EU measures flagged in the report include establishing a data observatory, promoting the sharing of good practices across borders, fostering better co-ordination and cooperation and providing financial support.

Free-flowing Towns and Cities

Better urban mobility requires a major shift in public perceptions away from car dependency towards other transport options, the Commission says. Key actions identified to promote this change include education, training and awareness raising activities, as well as the development of new knowledge, collection of data and monitoring of trends. The Green Paper notes that many stakeholders consulted believed that the Commission could play a key role in all these areas, in particular by facilitating the organisation of staff training and exchange actions in a systematic way and through central data management.

The Green Paper highlights a range of possible actions to make alternatives to private car use attractive and safe. These include:

- Improving connections between modes;
- Developing parking facilities outside city centres;
- Better traffic management and information systems;

- Support for carpooling and carsharing schemes;
- Using green procurement to support the development of new and clean technologies;
- "virtual mobility" ie tele-working and tele-shopping;
- Flexible and multiple use of infrastructure, such as in the Barcelona model (which employs flexible bus-lanes, flexible loading zones and parking places). A number of responses to the consultation requested that the Commission develop guidance on the development of Green Zones in towns with restrictive measures, such as pedestrianisation and speed restrictions.

In addition, the Commission indicates its support for the introduction of road charging for all types of vehicles and infrastructure, and announces its intention to develop a harmonised methodology, by mid-2008, for the calculation of external costs in transport.

In terms of urban development, the Commission suggests that developers could be encouraged to prepare a site-specific mobility plan as part of the procedure for obtaining planning permission. The idea of a "mobility impact assessment" for large scale infrastructure developments was also proposed by stakeholders in the consultation.

Greener Towns and Cities

The Green Paper notes that local authorities are facing serious problems in meeting EU requirements on air quality, such as the limits of particulates and nitrogen oxides in ambient air. Reducing the number of cars on the road is clearly one means of addressing the problem, but this goal should be supplemented by the development of cleaner technologies as a vital means of promoting greener towns and cities.

In this respect, the EU expects public bodies to lead the way by favouring clean and energy efficient vehicles in their procurement processes. The Commission is committed to supporting green procurement through its inclusion of environmental criteria in the procedure for selecting tenderers. In the Green Paper it notes its intention to publish harmonised minimum performance standards for the operation of vehicle incentives for the purchase and operation of clean and energy efficient vehicles by public authorities. It suggests that its approach could be based on the internalisation of external costs by using life-time costs for energy consumption, CO₂ emissions, and pollutant emissions linked to the operation of the vehicles to be procured as award criteria, in addition to the vehicle price. A proposal is expected on this by the end of 2007.

The Commission also stresses that joint procurement of clean and energy-efficient vehicles by public authorities could help to ensure the economic viability of new technologies and ensure their economic viability. A number of pilot projects on joint procurement are currently taking place, and if these are successful, the Commission is likely to provide funding for such initiatives on a wider scale.

Data provision is another area where the EU believes EU action could be helpful. It proposes establishing an observatory to provide policy-makers and the general public with the necessary data and improve knowledge on urban mobility. The Commission could also serve as an information provider and exchange platform for best practices.

Finally, the Commission says that it would consider taking more action to reduce noise by tightening EU standards for noise emissions from road and rail vehicles and from tyres.

Smarter Urban Transport

The Green Paper stresses that Intelligent Transport Systems are currently underused, and could play more of a role in improving the efficiency and attractiveness of public transport. As well as continuing to fund research and development projects in this area, the Commission proposes to assist with the wider dissemination of good practice.

Looking towards the future, the key issues in Intelligent Transport Systems are to ensure that standards are interoperable between transport modes, between various functions (such as transport-related payments, non-transport services, parking, and customer loyalty schemes) and ultimately between countries across Europe.

Accessible Urban Transport

The Green Paper starts from a two-fold definition of accessible transport, meaning both:

- The easy access of people with reduced mobility, disabled people, elderly people, families with young children, and the young children themselves; and
- The quality of access that people and business have to the urban mobility system, made up of infrastructure and services.

The Commission stresses that the key obstacle that prevents people shifting from private to public transport is often the low quality of service, poor connections and unreliability of public transport. The Commission also notes the negative impacts of urban sprawl, which makes public transport provision less viable, leading to increased car dependency and social isolation. The Green Paper reflects on the need to improve coordination between urban and interurban transport and land use planning, and stresses that cooperation is needed between the various stakeholders.

Finally, the Commission flags the idea of a European Charter on rights and obligations for passengers using collective transport, with a particular focus on passengers with reduced mobility

Safe and secure urban transport.

In terms of security, the Commission focuses both on road users/pedestrians, and the personal safety of passengers on buses and trains.

As far as road safety is concerned, the Commission suggests that it could further promote best practices and engage in a more intensive and structured dialogue with local and regional stakeholders, notably on new technologies. Special road safety campaigns and special initiatives for training young persons could be organised and the use of bicycle helmets encouraged. It is also suggested that the EU could support activities to increase the use of enforcement devices in towns and cities for all road users.

Next steps

The Green Paper marks the start of a new consultation phase. The Commission invites responses from citizens and organisations until 15 March 2008 on a range of questions raised in the paper.

More information on the Green Paper and the consultation process can be found at:

http://ec.europa.eu/transport/clean/green_paper_urban_transport/index_en.htm

Action Plan on an Integrated Maritime Policy for the EU

The European Commission has adopted a report outlining an Integrated Maritime Strategy for the EU, which will provide an overarching framework for a range of policy areas including maritime spatial planning, Integrated Coastal Zone Management and port development. It was published alongside a detailed action plan setting out a work programme for the years ahead.

Currently, maritime policies at European level are dealt with in a sector by sector manner, and the Commission believes that this limits the EU's potential to cope with major changes such as globalisation, climate change, marine pollution and technological development. The Strategy is intended to ensure that maritime policy is developed in a coherent and comprehensive manner in order to better equip the EU to respond to these new challenges and opportunities.

The report and accompanying action plan list a range of actions to be launched in the coming months and years. These actions cover a wide spectrum of issues ranging from maritime transport to the competitiveness of maritime businesses, employment, scientific research, fisheries and the protection of the marine environment. They include:

- A European Maritime Transport Space without barriers
- A European Strategy for Marine Research;
- National integrated maritime policies to be developed by Member States;
- An integrated network for maritime surveillance
- A Roadmap towards maritime spatial planning by Member States;
- Elimination of pirate fishing and destructive high seas bottom trawling;
- Promotion of a European network of maritime clusters; and
- A European Marine Observation and Data Network.

Four areas in particular will be of interest to coastal local authorities: data management, Integrated Coastal Zone Management, quality of life in coastal areas, and port development. The key actions foreseen in each of these areas are outlined below.

Data Management

In light of the obvious cross-border nature of maritime policy, it is important that local policy-makers have access to a wide range of natural and human-activity data from across Europe. The Commission therefore plans to establish a comprehensive marine data and information infrastructure as a tool for better decision-making and sustainable maritime development. In addition, the Commission stresses the value of cooperation between maritime regions in different EU countries, and proposes to establish a network of EU maritime clusters of regions. These clusters would be invited to exchange best practice and develop common actions.

Maritime Spatial Planning and Integrated Coastal Zone Management (ICZM)

Following an EU recommendation in 2002, Integrated Coastal Zone Management (ICZM) has been increasingly used as a tool to address the challenges that emerge from the competing uses of the sea, such as maritime transport, fishing, aquaculture, leisure activities, off-shore energy production and other forms of sea bed exploitation. Although responsibility for decision-making in the area of spatial planning remains at the national, regional and local levels, the Commission maintains that flexible common principles and guidelines at EU level can facilitate the process and ensure that regional marine ecosystems that transcend national maritime boundaries are respected. The Commission draws attention in the report to the fact that existing planning frameworks in EU countries have a largely land-based focus and often do not address how coastal development may affect the sea and vice-versa.

Despite an increased awareness of the need for ICZM among planners in Ireland, the Heritage Council maintains that local authorities have been slow to incorporate the concepts of ICZM into their County Development Plans. This is attributed in part to the lack of local authority powers in sea use planning, but is also affected by a lack of guidelines and a lack of specific expertise in coastal management and coastal processes. Although it will not be binding, the additional EU guidance in this area will therefore be of interest to planners in coastal authorities.

Concrete actions planned include:

- In 2008, the development of a roadmap to facilitate the development of maritime spatial planning.
- In 2009, the Commission will also set up of a system for the exchange of best practice among authorities in maritime spatial planning and ICZM.

Quality of Life in Coastal Areas

The Commission notes that coastal communities have particular difficulties in reconciling economic development, environmental sustainability and quality of life due to tourism and population growth, particularly acute in these regions. It also notes that these communities are particularly vulnerable to the effects of climate change.

In this respect, the Commission plans to:

- Promote coastal and maritime tourism through a forthcoming tourism initiative;
- Prepare a data-base of EU funding available for maritime projects and coastal regions, and develop by 2009 a database of socioeconomic data for maritime sectors and coastal regions; and
- Propose an EU Disaster Prevention Strategy highlighting the risks to which coastal regions are exposed.

Finally, the Commission announces that it will propose the celebration of an annual European Maritime Day from 2008 in order to raise the visibility of maritime affairs and promoting links between maritime heritage organisations, museums and aquaria.

Port Development

The Strategy highlights that 90% of Europe's external trade and close to 40% of its internal trade passes through its ports. However, it notes that port development takes place against a background of increasing competition for space in and around ports and must be carried out in a way that is compatible with environmental and competitiveness goals.

Concrete actions planned by the Commission include:

- In October 2007, the publication of a new ports policy taking account of the multiple roles of ports and the wider context of European logistics;
- Proposals to reduce the levels of air pollution from ships in ports, namely by removing tax disadvantages for shore side electricity;
- Guidelines on the application of the relevant EU environmental legislation to port development;
- Pilot actions to reduce the impact of and adapt to climate change in coastal zones.

Next Steps

As the proposals outlined above make clear, the Commission will publish a series of reports on the various policy areas covered by the strategy in the coming months. On the basis of Commission guidelines, national governments will then be invited to draw up national integrated maritime policies in 2008, working closely with local authorities in coastal areas. As of 2009, the Commission will publish annual reports on the actions taken by each country to implement the strategy.

The strategy and action plan can be found at the following address:

http://ec.europa.eu/maritimeaffairs/index_en.html

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