

Circular 5/2013 Schemes of Delegation and Local Reviews

24. All matters that the applicant intends to raise in the review should be set out in or accompany the notice of review, as should all documents, material and evidence on which the applicant intends to rely.
25. Section 43B restricts the ability of parties to introduce new matters at the review stage unless they are material to the determination of the case. This restriction does not apply to information on matters that were before the appointed officer at the time of the decision on the application or a notice of review relating to its non-determination .
26. Regulation 9(5) makes it clear that, apart from information in the notice of review and accompanying documents, the applicant will only be able to raise matters or submit further documents to the extent permitted by the Regulations. That is either where the local review body request further written evidence or where requested as part of a hearing session. These requirements are intended to ensure that the relevant matters and items of information are provided efficiently at the start of the review process, rather than at varying points throughout the process.
27. Regulation 18 sets out that withholding information from a notice of review which the applicant considers to be national security sensitive does not invalidate that notice. This is subject to the requirement that a written statement is included explaining that this national security consideration (as defined in regulation 18) is the reason for not submitting the information. If the local review body are unable to determine the review without the withheld information, then the case could be called in for determination by Scottish Ministers, and special procedures for dealing with national security sensitive information applied.

Local review body

28. Regulation 7 requires that a review case is to be conducted by a committee of the planning authority comprising at least three members of the authority. The Regulations do not define an upper limit on the number of members that should comprise the local review body: the size will be for the planning authority to determine. In cases where the local review body comprise a small number of elected members, the authority should ensure a larger pool of elected members is available to provide cover where appropriate.
29. Regulation 7 requires that any meeting of the local review body considering how the review, or stages of it, should be conducted and the review itself must be in public. Consistent with the approach on appeals made to Scottish Ministers, the decision on the procedure of how a case should be reviewed will be for the local review body, although the applicant and planning authority can indicate their preferences. While meetings are to be held in public, this does not itself confer any entitlement on the applicant or others to make representations, either orally or in writing. After the initial request for review has been made, it is for the local review body to determine, in accordance with the Regulations, whether and how any further representations or information should be given.