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## **FILMING OF COUNCIL MEETINGS**

To: **Standards Committee – 4 September 2013**

Main Portfolio Area: **Business, Corporate and Regulatory Services**

By: **Democratic Services Manager**

Classification: **Unrestricted**

Wards: **All Wards**

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**Summary:** **This report sets out future options for the recording of meetings.**

### **For Decision**

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#### **1.0 Introduction and Background**

1.1 As part of the report “Review of Policies and Procedures – Probity and Reputation - recommendations from Cabinet and request by the Standards Committee to re-establish the Standards Working Party” that was considered by Council at its meeting on the 11 July 2013 it was agreed to look again at the issue of the filming of meetings and the definition of accredited media organisations. The following resolution was adopted by Council:

THAT the Constitutional Review Working Party be requested to review the rules concerning the audio and visual recording of Council meetings;

1.2 In addition to the report considered by Council, the Department for Communities and Local Government recently published a document titled: “Your Council’s Cabinet – going to its meetings, seeing how it works - guidance” (the Guidance Document’) which, amongst other things, sets out the Secretary of State’s views on the recording of Council meetings. That document is attached at Annex 1 to this report.

1.3 As these two documents relate closely to the same issue and have direct implications on each other, it was viewed as appropriate for them to be considered together within one report.

1.4 This report and the Guidance Document were both considered by the Constitutional Review Working Party at its meeting on 21 August 2013. Their views are shown at paragraph 6.1 of this report.

#### **2.0 The Guidance Document**

2.1 The Guidance Document was published on 14 June 2013 and relates to the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 published last year (‘the 2012 Regulations’). Consequently, the main purport of the document is a guide to the public on how the Cabinet system operates in the light of the 2012 Regulations. However it also includes a section on the filming of Council meetings which is as follows:-

*'The rules require councils to provide reasonable facilities for any member of the public to report on meetings. Councils should thus allow the filming of councillors and officers at meetings that are open to the public.'*

- 2.2 However, no attempt is made to reconcile this advice with the corresponding provisions of the 2012 Regulations (which the Guidance Document is meant to explain), which at Regulation 20(4) provides:-

*'Nothing in these Regulations requires a decision-making body to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place'.*

- 2.3 Consequently, the Guidance Document substantially misrepresents what the statutory Regulations actually say in relation to the recording and filming of Council meetings - which is that the Council has a complete legal discretion in this regard.

### **3.0 Current Constitution**

- 3.1 The Council's Constitutional requirements on the recording of Council meetings by members of the public is contained within the Council Procedure Rules and is set out below:-

#### **"34.0 Use of mobile telephones during public meetings**

- 34.1 Council Members, Officers and accredited journalists must ensure that their mobile communications devices are switched to silent during all public meetings of the Council.
- 34.2 No audio or visual recordings shall be made at meetings except for official recordings by the clerk or recordings agreed by the Chairman to be made by accredited media organisations.
- 34.3 That members of the public must switch their mobile communication devices to silent during all public meetings."

- 3.2 The current procedure for recording meetings of the Council is that all Council meetings are recorded using the Council's own recording equipment; they are then published on the Council's website for a two week period as soon as possible after the date of the meeting.

### **4.0 The Options**

#### **4.1 Option One**

- 4.1.1 One of the options available to the Council is to relax the Council's current rules on the filming of meetings. Instead of only allowing accredited media organisations to film the Council's meetings with the permission of the Chairman, the Council could allow anyone to film the meeting providing they did not cause a disturbance to the meeting.
- 4.1.2 This would be a significant departure from the Council's existing constitution although the adoption of this option would be closest to the spirit of the Guidance Document. Adopting a more laissez-faire approach to the filming of meetings would also make

administering the rules on recording easier to manage as the only decision that would need to be made would be to stop filming in the event that anyone recording was causing a disturbance.

- 4.1.3 However it would increase the possibility of those people who have recorded a meeting using that recording in any way they saw fit. A recording could then be edited and published in such a way as to portray a different impression of what occurred and there would not be any redress for the Council as there would be if only accredited media organisations were permitted to film.
- 4.1.4 The Guidance Document also suggests that if a member of the public is present to speak at a meeting, they should be asked whether they give their consent to be filmed as part of the meeting. If permission were not given by the individual, then there could potentially be an issue if anyone were allowed to film, in that ensuring that everyone had switched off their recording device could be difficult to enforce. However, this issue could be adequately addressed by prohibiting the recording or filming of meetings of the regulatory committees (Licensing, Planning, Governance & Audit and Standards) whilst permitting the recording or filming of all other meetings to which the press and public have a right of access.

## **4.2 Option Two**

- 4.2.1 Another option that could be considered is an amended version of the existing rules on the filming of meetings. Firstly for the purposes of clarity, what the Council means by an 'accredited media organisation' could be expressly defined and added to the Constitution. Secondly, consideration could be given to reserving the decision on whether to permit the filming of a meeting by an accredited media organisation to the meeting as a whole instead of the Chairman.
- 4.2.2 It is suggested that the definition of an accredited media organisation that is included within the Council's Constitution is: "a media organisation or individual that holds a National Press Card and is registered with the Press Complaints Commission (or its successor) or a similar regulated body with a code of conduct and associated complaints process through which the Council could take recourse".
- 4.2.3 This definition retains the Council's right to take recourse with a journalist or body if it thinks that it has been misrepresented in order to protect the Council's interests.
- 4.2.4 Currently the decision as to whether to allow filming by an accredited media organisation rests with the chair of the meeting in question. In practice, some chairs have made the decision whether or not to permit filming without reference to their committee members whereas others have adopted a more collegiate approach and sought the views of committee, either in advance of the meeting or at the beginning of the meeting itself. Although one possibility would be to recommend that the decision is taken by the meeting as a whole as this would allow for a more representative decision, one of the advantages of the decision remaining with the chair is that accredited media organisations can seek permission in advance via the corporate communications team and this gives the chair time to consider his or her decision and seek the advice of officers if required.
- 4.2.5 It is important to note that this approach would still retain the element of Option one in that the recording or filming of meetings of the regulatory committees (Licensing, Planning, Governance & Audit and Standards) would still remain prohibited.
- 4.2.6 On balance therefore, if this option is preferred it is recommended that the revised definition of accredited media organisations set out in paragraph 4.2.2 above is

adopted but that the decision whether or not to permit filming remains with the chair of the meeting.

### **4.3 Option Three**

- 4.3.1 A third option would be to prohibit all filming of all meetings on the grounds that the Council would routinely record and publish on the Council's web site the open part of all meetings of full Council, the Cabinet and the Overview & Scrutiny Panel
- 4.3.2 These recordings would remain as original as possible; the only editing of them would be to remove any recording from before the meeting started and after it closed, to remove any recordings of when there is an adjournment or to remove any potentially defamatory remarks which may not be protected by qualified privilege.
- 4.3.3 If the Council were to pursue this option then there would be additional resource requirements and it could incur costs as a result. Currently a Communications Officer will condense the video and check for the items outlined in paragraph 4.3.2. This takes the officer approximately half a day to complete for the Council meetings that are currently published. If the Council increased the number of meetings that it displayed on its website to include all Cabinet and Overview and Scrutiny Panel meetings this would mean an additional 14 meetings and approximately an additional week's work for a Communications Officer. There would obviously be an "opportunity cost" for the Communications team if more meetings were to be put on the Council's website in the sense that this additional work would prevent them from doing other things.
- 4.3.4 In addition to the need for additional Officer time, there could also be a need for additional bandwidth (i.e. the maximum amount of data that can be transferred from the council's website to another computer) for the Council's website. By including more recordings on the Council's website, bandwidth usage will increase; this will particularly be the case if the Council posts a recording that is particularly popular. This is entirely feasible as the Council is currently dealing with a number of controversial issues. The council's current bandwidth allowance is 800GB per month and it currently uses approx. 200GB per month. This could potentially increase significantly with the addition of more large files to the website and an increased number of viewers. However on current estimates there would be enough bandwidth for approximately 6000 additional views of a three hour meeting before the Council would exceed its bandwidth. Over the past year (3 June 2012 – 3 June 2013) there have been 589 unique page views of Council meetings and the average time spent on the page has been 2.3 minutes.
- 4.3.5 This gives the Council two options; it could either buy additional bandwidth, which given the estimates would probably be inappropriate in the short term or it could maintain the current level of bandwidth. The risk of maintaining the current level of bandwidth is penalty costs from its broadband supplier if the Council exceeds its limit. These costs would grow for each visitor to the website, the Council would effectively be writing a blank cheque to its broadband supplier, however this would be low risk due to the excess bandwidth the Council currently has. However it would be very important to monitor the level of bandwidth the Council uses going forward in order to ensure that it is not fined.
- 4.3.6 If the Council exceeds the monthly bandwidth limit in its current contract, the charges are as follows:
- Additional usage 0 GB – 999 GB = £0.35 / GB
  - Additional usage 1000 GB – 1999GB = £0.33 / GB

- Additional usage 2000 GB – 2999 GB = £0.30 / GB
- Additional usage 3000 GB – 3999 GB = £0.28 / GB
- Additional usage 4000 GB + = £0.25 / GB

4.3.7 To avoid “excess” charges, the Council could change the current contract in order to offer a higher fixed allowance each month. The costs of this would be as follows:

- Bandwidth increase from your inclusive amount 800GB to 1200GB (increase of 400GB) would be an extra £140.00 per month (.35 per GB)
- Increase to 1600GB (increase of 800GB) would be an extra £280.00 per month (.35 per GB)
- Increase to 2000GB (increase of 1200GB) would be and extra £396.00 per month (.33 per GB)

4.3.8 One on reading, this option may seem some way off the spirit of the Guidance Document. However, the Guidance Document is about the proper functioning of the Cabinet and this option does propose the routine recording and publishing of all the open parts of every Cabinet meeting. It will therefore be very difficult to argue the Cabinet is not conducting its business in an open transparent an accountable manner; ditto full Council and the Overview & Scrutiny Panel.

#### **4.4 Option Four**

A fourth option would be to amend the existing constitution as the Standards Committee see fit; this could be amendments to an option outlined above or an entirely new option. If there were costs associated with the new option then an assessment by Financial Services would have to be included when the recommendation was forwarded on to Council.

#### **5.0 The View of Senior Management Team**

5.1 The issue of filming Council meetings was discussed at Senior Management Team where the options contained within this report were formulated. Option 2 as set out in this report, with the Chairman of the Committee deciding in advance on whether a meeting should be recorded, was their preferred option. A protocol on how Option 2 would work in practice has been included at Annex 2 to the report for the Working Party’s information. If the Working Party decide on either Option one or Option three then an amended protocol can be created.

#### **6.0 View of the Constitutional Review Working Party**

6.1 When this report was considered by the Constitutional Review Working Party at its meeting on 21 August 2013, the working party recommended Option 2 and concurred with the view of the Senior Management Team that the Chairman of the Committee should decide in advance on whether a meeting should be recorded.

#### **7.0 Options**

7.1 The Standards Committee can choose any of the four options outlined within the report, or it could choose not to make a recommendation.

## **8.0 Corporate Implications**

### **8.1 Financial and VAT**

- 8.1.1 As outlined above, possible financial implications include additional officer time if more meetings are to be broadcast on the Council's web site. However, it is suggested that this cost could be contained within existing budgets by redirecting some of the work undertaken within the communications team.
- 8.1.2 Although upon the basis of current and projected usage this option does not seem necessary, the costs of increasing the fixed bandwidth limit of the Council's web site are set out in section 4.3.7 above.
- 8.1.3 Again, it seems unlikely that the Council would exceed the current bandwidth of its web site of 800GB, but should it do so, the potential costs are outlined in section 4.3.6 above.

### **8.2 Legal**

- 8.2.1 The Council is not required to permit the filming or recording of any of its meetings nor is the Guidance Document statutory guidance to which the Council is required to have regard.
- 8.2.2 The Council's constitution sets out the rules governing the Council's business, only full Council has the right to amend the constitution.

### **8.3 Corporate**

- 8.3.1 Enabling the public to view the proceedings of Council meetings encourages transparency and makes the Council more open and accountable to the local community.

### **8.4 Equity and Equalities**

- 8.4.1 There are no equity and equalities issues.

## **9.0 Recommendation(s)**

- 9.1 That the Standards Committee recommend to Council:

- a) That the Protocol for the Filming of Council meetings as attached at Annex 2 of the report be agreed and included at Part 5 of the Councils' Constitution.
- b) That Paragraph 34.2 "No audio or visual recordings shall be made at meetings except for official recordings by the clerk or recordings agreed by the Chairman to be made by accredited media organisations." be removed from the Council's constitution to be replaced by a new Paragraph 35.0 as shown:

### **"35.0 Audio and Visual recordings of Council Meetings**

- 35.1 No audio or visual recordings shall be made at meetings except for official recordings by the clerk or recordings agreed by the Chairman in advance in accordance with the "Protocol for Filming of Council Committee meetings" which is included at Part 5 of this constitution."

## 10.0 Decision Making Process

10.1 Any recommendations by the Standards Committee will be referred to full Council for final decision.

Future Meeting if applicable: Council:	Date: 3 October 2013
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Reporting to:	Glenn Back, Democratic Services and Scrutiny Manager, ext 7187

### Annex List

Annex 1	Department for Communities and Local Government (DCLG) – “Your council’s cabinet – going to its meetings, seeing how it works – A guide for local people”
Annex 2	Protocol for the Filming of Council meetings based on Option two.

### Background Papers

Title	Details of where to access copy
<i>None</i>	

### Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager & Deputy S151
Legal	Harvey Patterson, Corporate & Regulatory Services Manager