
CHANGES TO THE COUNCILS FILMING PROTOCOL

To: **Standards Committee – 16 September 2014**

By: **Glenn Back, Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Summary: To recommend changes to the Council’s constitution in order to facilitate filming under the terms of the “Openness of Local Government Bodies Regulations 2014”.

For Decision

1.0 Introduction and Background

- 1.1 On the 6th August the new “Openness of Local Government Bodies Regulations 2014” came in to force. This statutory instrument outlined significant changes to the way that the public were allowed access to Council meetings in order to film the proceedings.
- 1.2 The Council must now amend its current filming policy, within the Council’s constitution, in order to comply with the new statutory instrument.
- 1.3 To support the new statutory instrument the Government also published “Open and Accountable Local Government – A guide for the press and public on attending and reporting meetings of local government.” The guide is attached at Annex 1 to the report.

2.0 The Statutory Instrument

- 2.1 The statutory instrument regarding the recording of meetings covers a number of areas including the ways that a meeting can be recorded, who can attend meetings to record proceedings, the types of meeting people can record, facilities for recording and what counts as disruptive behaviour when filming.
- 2.2 It also covers the publication of decisions notices for executive and regulatory decisions made by officers. These changes to the way the Council produces such “decision notices” are currently under review so will not be covered within this report.
- 2.3 The information (and definitions) set out below are largely taken directly from the statutory instrument, as well as the guidance issued by the Department for Communities and Local Government (DCLG), entitled “Open and Accountable Local Government– A guide for the press and public on attending and reporting meetings of local government”.
- 2.4 Questions and Answers from the Regulations/Guidance

i) Why is there new national legislation?

We now live in a modern, digital world where the use of modern communication methods such as filming, tweeting and blogging should be embraced for enhancing the openness and transparency of local government bodies.

ii) Who does this new legislation help?

These rules help any members of the press and public who want to know about, view or report the work of local government bodies. The “press” is defined in the widest terms – including traditional print media, filming crews, hyper-local journalists and bloggers. The new regulations have increased rights to film, audio-record, take photographs, and use social media such as tweeting and blogging to report the proceedings of all local authority meetings that are open to the public.

iii) Can meetings be filmed or audio-recorded?

Councils and other local government bodies are required to allow any member of the public to take photographs, film and audio-record the proceedings, and report on all public meetings. No prior permission is required to carry out this activity. Local government bodies are required to provide “reasonable facilities” for any member of the public to report on meetings. There is no legal requirement for councils to webcast their meetings, but where councils and other local government bodies webcast any of their public meetings, they should, as a matter of good practice, notify the public. As previously, all meetings are to be open to the public unless they are held private due to the application of an exemption. These rules have not changed. The Council may choose not to allow filming to take place in private meetings, and refuse permission for recording or filming equipment to be left in the room when a private meeting is taking place.

iv) Can a council or local government body meeting be tweeted or blogged?

The new legislation allows for reporting of meetings via social media of any kind. Therefore bloggers, tweeters, and for example, Facebook, YouTube users and individuals with their own website, should be able to report meetings.

v) What sort of facilities will the Council or local government body have to provide?

Councils or local government bodies are required to provide “reasonable facilities” to facilitate reporting. This should include space to view and hear the meeting, seats, and ideally a desk.

vi) Are there any limits to what can be said in a tweet or video that is published?

The law of the land applies – including the law of defamation and the law on public order offences.

vii) Are there other limits that the Council should be aware of?

The Council or local government body should consider adopting a policy on the filming of members of the public, and ensure that they protect children, the vulnerable and other members of the public who actively object to being filmed, without undermining the broader transparency of the meeting.

viii) Can someone be asked to leave a meeting because they are taking photographs, filming or audio-recording the meeting or using social media?

Generally, people attending public meetings must be readily able to film, audio-record, take photographs or use social media. Councils and other local government bodies must take steps to ensure this is the case. However, those undertaking these activities must not act in a disruptive manner, and this could result in expulsion.

ix) How does this sit alongside the Council's Standing Orders?

It is a legal duty for the Council to follow the new provisions. If a local government body's existing Standing Orders are not fully in line with the new legislation, the relevant

provisions of those old Standing Orders should be waived, in the short term. Steps should then be taken to update formally the Council's Standing Orders. The Council has been waiving the current Council Procedure Rule (CPR) 35 to enable filming to take place as outlined in the Regulations since 6 August, and will continue to do so until the constitution is amended by full Council on 2 October 2014.

3.0 What Changes do the Council need to take?

3.1 The "Protocol for Filming of Council Committee meetings", as referred to in CPR 35, would need to be significantly amended in order to comply with the new statutory instrument. However, no changes are needed in respect of tweeting, blogging and so on, because such activities are not precluded by the current filming protocol.

3.2 There are a number of key areas that will be central to the amended filming protocol that are not defined in detail either within the regulations themselves or in the accompanying guidance. That will be for each local authority to make a judgement on. The CRWP should take a view on these issues which are outlined in paragraphs 3.4 to 3.8.

3.3 Democratic Services have provided suggested solutions to these issues and these are included in the amended Filming of Council Committee Meetings Media Protocol attached at Annex 3, subject to Standards Committee approval. The amended protocol also includes the amendments recommended by the Constitutional Review Working Party.

3.4 Not filming members of the public without their permission

3.4.1 The guidance document as referred to in paragraph 2.3 vi) above says that the Council should consider taking measures to protect children, the vulnerable and those members of the public that object to being filmed.

3.4.2 As a result of this Democratic Services have included in the protocol, which Standards Committee may wish to amend, the reading of a formal statement at the beginning of each meeting (similar to the standard paragraph on Exemption of Press and Public). There are two reasons for the reading of this statement; the first would be to advise members of the public who are there to film to make strenuous efforts to avoid the filming of children and those objecting to being filmed as per the requirements of the regulations. Secondly this would also inform members of the public that filming was taking place and give them an opportunity to leave the meeting, should they not wish to be filmed or recorded. This is included at paragraph 3.2 of the amended protocol attached at Annex 3.

3.5 Filming that causes Disruption

3.5.1 Both the statutory instrument and the guidance explicitly state that those attending to record the meeting should not act in a disruptive manner. This could result in them being excluded from the meeting.

3.5.2 The guidance defines being disruptive as "any action or activity which disrupts the conduct of meetings or impedes other members of the public being able to see, hear or film etc. the proceedings." It then lists the following examples:

- moving to areas outside the areas designated for the public without the consent of the Chairman,
- excessive noise in recording or setting up or re-siting equipment during the debate/discussion;
- intrusive lighting and use of flash photography; and
- asking for people to repeat statements for the purposes of recording.

3.5.3 Democratic Services would suggest that as providing oral commentary on a meeting is prohibited under the regulations then it should be added to the list of examples of

disruptive behaviour. Whilst this list is not exhaustive, having examples of disruptive behaviour will be a help to chairmen during meetings, however this would not preclude a Chairman from taking action to exclude a person filming the meeting if their disruptive behaviour was not on the list of examples.

- 3.5.4 Democratic Services have added this list of examples at paragraph 3.6 to the amended Filming Protocol attached at Annex 3. Standards Committee may add or remove criteria as they see fit.

3.6 Amendments to Council Procedure Rules

- 3.6.1 In addition, Council Procedure Rules 30 and 35 will have to be amended to allow the removal of members of the public and Councillors from all meetings of the Council if they engage in disruptive behaviour. The amended wording is shown below:

“30.00 Application to Committees and Sub-Committees

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.4, 4, 7–11, 14, 16–28 (but not 22.2 or 27.1) and Rules 30, ~~and 34 and 35~~ apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 24, ~~27.3 - 27.5, 28, and 34 and 35”~~

“35.0 Audio and Visual recordings of Council Meetings

- 35.1 ~~No~~ Audio or visual recordings shall be ~~allowed~~ ~~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 and Recording of Council meetings” which is included in Part 5 of this constitution.”

3.7 **Definition of Reasonable Facilities**

- 3.7.1 There is no definition provided of reasonable facilities within the regulations or the guidance. It could be argued that the following factors should be taken into account when deciding upon reasonable facilities: amount of public funds available to make alterations to the Council Chamber; Health and Safety concerns; and minimising disruption to the meeting.

- 3.7.2 With these factors in mind Democratic Services have included the following facilities to be included in the amended Filming Protocol:

- That persons attending to report meetings should be advised of the availability of WIFI to assist in this process;
- That seats with a view of proceedings are provided and that those present should remain seated, unless permission has been given to operate recording equipment that requires the user to stand up;
- That, in order to avoid accidents, it will not be possible for them to use electric sockets for their equipment;
- That if they intend to use a tripod, they should ensure that it does not cause a trip hazard or in any other way disrupt the meeting;

- 3.7.3 This list is included in paragraph 4.0 of the amended filming code attached at Annex 3.

- 3.7.4 Wider issues surrounding the layout of the Public Gallery and Press desk will be dealt with as part of the Council’s accommodation review in late autumn.

3.8 Members of the Public attending Council Meetings to speak

- 3.8.1 Members of the public attend various Council meetings to speak for a number of different reasons. This includes speaking for or against a planning application, asking a question at Full Council, presenting a petition or objecting or supporting a licensing application. As a result of the new regulations, recording or filming of these members of the public is now allowed.
- 3.8.2 When a Member of the public attends to speak at a meeting, but objects to being filmed, the Chairman of the meeting will request that those present do not record the person undertaking public speaking. However, whilst the Chairman can ask those present not to film certain members of the public, if those present refuse to refrain from filming them, there is nothing that can be done to stop them under the new regulations.
- 3.8.3 In order to alert members of the public who are attending in order to speak that they may be filmed, the Council will include notification of this fact in the letters written to members of the public when they are given the opportunity to speak. The letter could give Members of the public, if they object to being filmed, the opportunity to appoint a substitute to speak on their behalf. If this was the case then further amendments to the constitution in particular Council Procedure rule 13.7 and the Council's petition scheme would need to be made, to afford members of the public this opportunity.

4.0 Amended Filming of Council Committee Meetings Media Protocol

- 4.1 Due to the number of changes necessary to the Filming Protocol, the current protocol is attached at Annex 2 to the report and the amended Filming Protocol, including the amendments as a result of the changes recommended by the Constitutional Review Working Party as referred to at paragraph 6.2 below is attached at Annex 3.

5.0 Future Review of Filming and Recording Protocol

- 5.1 The Filming and Recording Protocol will be reviewed in a years' time. This will allow Democratic Services to monitor the situation and to review how the first year of filming and recording has gone. It will also be an opportunity to amend the protocol (within the limitations of applicable law) based on the experience gained in the first year.

6.0 Views of the Constitutional Review Working Party

- 6.1 The Constitutional Review Working Party discussed the issue at its meeting on 2 September 2014. The report was discussed in some depth, the Chairman expressing the view that the statutory instrument did seem to restrict the rights of those people who didn't want to be filmed. In addition the Working Party requested that the information from the guidance document regarding tweeting and blogging should be included in the amended protocol.
- 6.2 The Constitutional Review Working Party recommends to Standards Committee that:
- 6.2.1 The amended Filming and Recording of Council Meetings Media Protocol be approved subject to the addition of the information under the "if I am a Councillor, can I tweet and blog during Council meetings?" section of the "Open and Accountable Local Government – A guide for the press and public on attending and reporting meetings of local government" document.
- 6.2.2 Council Procedure Rules 30 and 35 are amended as follows:

"30.00 Application to Committees and Sub-Committees

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.4, 4, 7–11, 14, 16–28 (but not 22.2

or 27.1) and Rules 30, ~~and 34 and 35~~ apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 24, ~~27.3 - 27.5, 28, and 34 and 35~~”

“35.0 Audio and Visual recordings of Council Meetings

35.1 ~~No~~ Audio or visual recordings shall be **allowed** ~~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 and Recording of Council meetings” which is included in Part 5 of this constitution.”

6.2.3 A review of how the new filming protocol has worked should be undertaken a year after the protocol has come in to effect.

6.2.4 That any consequential changes to the Council’s constitution needed as a result of these recommendations are made.

7.0 Options

7.1 The Standards Committee could concur with the recommendations of the Constitutional Review Working Party.

7.2 The Standards Committee may wish to amend or make alternative recommendations on any of the issues contained within the report.

7.3 The Committee should also consider the issue of allowing Members of the public to appoint a substitute if they object to being filmed as raised at paragraph 3.8.3 of the report.

8.0 Corporate Implications

8.1 Financial and VAT

8.1.1 There are no direct financial implications to this report. However there may be a cost to the possible amended facilities provided to facilitate filming, as a result of the accommodation review in late autumn, but this would be covered within the cost of that review.

8.2 Legal

8.2.1 The Legal implications are outlined within the report, which complies with the Openness of Local Government Bodies Regulations 2014.

8.3 Corporate

8.3.1 The regulations are intended to encourage more people to take an interest in local democracy and Council meetings will potentially have a much wider audience, although it is uncertain at this stage what the level of interest from the public will be.

8.4 Equity and Equalities

8.4.1 None arising directly from the report.

9.0 Recommendation(s)

9.1 The Constitutional Review Working Party recommends to Standards Committee that:

9.2.1 The amended Filming and Recording of Council Meetings Media Protocol be approved subject to the addition of the information under the “if I am a Councillor,

can I tweet and blog during Council meetings?” section of the “Open and Accountable Local Government – A guide for the press and public on attending and reporting meetings of local government” document and a link to the previously agreed guidance on the use of social media.

9.2.2 Council Procedure Rules 30 and 35 are amended as follows:

“30.00 Application to Committees and Sub-Committees

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.4, 4, 7–11, 14, 16–28 (but not 22.2 or 27.1) and Rules 30, ~~and 34 and 35~~ apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 24, ~~27.3 - 27.5, 28, and 34 and 35”~~

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9.2.3 A review of how the new filming protocol has worked should be undertaken a year after the protocol has come in to effect.

9.2.4 That any consequential changes to the Council’s constitution needed as a result of these recommendations are made

10.0 Decision Making Process

10.1 Recommendations of the Standards Committee are referred to Council for final decision.

Future Meeting if applicable: Council	Date: 2 October 2014
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Reporting to:	Paul Cook, Interim Director of Corporate Resources

Annex List

Annex 1	Open and Accountable Local Government – A guide for the press and public on attending and reporting meetings of local government
Annex 2	Current Filming of Council Committee Meetings Media Protocol
Annex 3	Amended Filming of Council Committee Meetings Media Protocol

Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	Matthew Sanham – Corporate Finance Manager
Legal	Steven Boyle – Interim Legal Services Manager and Monitoring Officer
Communications	Hannah Thorpe – PR and Publicity Manager