

RECORDING AND THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

Governance Committee – 18 September 2014

Report of Chief Officer Legal and Governance

Status: For consideration and decision

Also considered by: Council – 4 November 2014

Key Decision: No

Executive Summary: Following Full Council being successfully recorded on a trial basis the Governance Committee is asked to consider and recommend to Council the roll out of recording all meetings of Full Council, Development Control and Licensing Hearings. Following the implementation of The Openness of Local Government Bodies Regulations 2014 the public are now allowed to report all meetings via social media of any kind such as tweeting, blogging or via Facebook including the filming of meetings. The Regulations also require the Council to make publicly available a ‘decision record’ of certain decisions which officers have taken on behalf of their council.

This report supports the Key Aim of Effective Use of Council Resources

Portfolio Holder Cllr. Fleming

Contact Officer(s) Mrs Christine Nuttall – Chief Officer Legal and Governance

Recommendation to Governance Committee: That it be recommended to Council that

- (a) following Full Council being successfully recorded on a trial basis the recording of all meetings of Full Council, Development Control Committee and Licensing Hearings now takes place;
- (b) that Officers have discretion to record such other public meetings of the Council, the Cabinet and their committees, sub-committees or joint committees as they see fit; and
- (c) following the implementation of The Openness of Local Government Bodies Regulations 2014 amendments to the Constitution together with a Protocol on Reporting Meetings as set out at Appendix B be approved.

Recommendation to Full Council:

- (a) that following Full Council being successfully recorded on a trial basis the recording of all meetings of Full Council, Development Control Committee and
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Licensing Hearings now takes place;

- (b) that Officers have discretion to record such other public meetings of the Council, the Cabinet and their committees, sub-committees or joint committees as they see fit; and
- (c) following the implementation of The Openness of Local Government Bodies Regulations 2014 amendments to the Constitution together with a Protocol on Reporting Meetings as set out at Appendix B be approved.

Reason for recommendation: With present technology and the new Openness of Local Government Bodies Regulations 2014 people's rights to report council meetings in digital and social media are enhanced resulting in the need for the Council to have a true record of what was said in the event of an edited version being produced. There is a need for a Protocol to make sure that recording especially filming takes place safely and without obstruction to the meeting.

Introduction and Background

- 1 On 13 March 2014 the Governance Committee considered a report recommending to Full Council that their meetings be recorded on a trial basis and if successful Full Council ratify the roll out of recording all meetings of Full Council, Development Control Committee and Licensing Hearings.
- 2 This recommendation came following the Department for Communities and Local Government encouraging the public to report on meetings, allowing the filming of councillors and officers at meetings that are open to the public including the social media reporting of meetings.
- 3 As a result of this information the Governance Committee Working Group looked into the benefits of recording Council meetings which were concluded to be as follows:
 - with present technology anyone can record any meeting undetected which opens the possibility of challenge as to what was said at the meeting; and
 - the Council will have a true record of what was said in the event of an edited version being produced.
- 4 Following successful recording of Full Council on 1 July 2014 the Governance Committee is now asked to recommend to Council the recording of all meetings of Full Council, Development Control Committee and Licensing Hearings.

The Openness of Local Government Bodies Regulations 2014

- 5 The Openness of Local Government Bodies Regulations 2014 (the Regulations) came into force on 6 August 2014. Under the Regulations any member of the press or public has the right to film, blog, tweet or use any other type of social media to report any public meeting of their local government bodies, including, committees, sub-committees and joint committees.

- 6 The Department for Communities and Local Government (DCLG) has now issued a draft Plain English guide to the regulations that explains what these new rules mean for the public attending local authority meetings, including meetings of a body's committees, sub-committees and any joint committees involving two or more bodies. The guide also covers meetings of a Council's executive, including any committees and sub-committees of the executive. The guide is set out at Appendix A to this report.
- 7 The Regulations allow any person to attend a public meeting of a "relevant local government body" (which includes District Councils and Parish Councils) for the purposes of reporting, and allow any persons with the aim of reporting to use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities, during or after the meeting. However, oral reporting or commentary is prohibited.
- 8 'Reporting' is defined as:
- filming, photographing or audio recording of proceedings
 - using any other means for enabling persons not present to see or hear proceedings of a meeting as it takes place or later, and
 - reporting or providing commentary on proceedings of a meeting, orally or in writing
- 9 The changes do not affect the current circumstances in which a private meeting may be held or a person may be excluded (for example, where exempt information would be disclosed or in the case of disorderly conduct).

Implications for the Council

- 10 In relation to the requirement in the Regulations to allow reporting, the Council's Constitution currently needs updating as the Constitution currently does not permit filming at its meetings and photography and recording of meeting can only take place with the consent of the Members. As a result the Constitutional amendments are set out in red within Appendix B along with a Protocol for members of the public wishing to report on meetings which will form an Appendix to the Constitution.
- 11 The Protocol takes into account Health and Safety considerations and informs the public in relation to the Council's expectations on how reporting will take place in order that meetings are not disrupted.
- 12 Given the right for members of the public to record public meeting, it is recommended that Officers be given clear permission to record any meeting themselves. This would allow the Council to hold its own, unedited recording of proceedings.

Recording of decisions and access to documents

- 13 The Regulations also:

- require a written record to be made of any decision that has been delegated to an officer of the relevant local government body under a specific express authorisation, or under a general authorisation where the effect of the decision is to grant permissions or licences, affecting the rights of individuals, award contracts or incur expenditure which materially affects the body's financial position
- require that the written records are made available to the public at the relevant body's offices, on their website if they have one, by post if requested and on receipt of payment for copying and postage, and through any other means thought appropriate by the local government body
- require the written record to be available for public inspection for at least six years, and any supporting documentation for at least four years.

14 The Guide provides examples of decisions that should be recorded:

- decisions about awarding contract above specified individual/total values (the values will vary according to the relevant council or local government body)
- a decision to carry out major road works
- decisions to issue tree preservation orders
- building control decisions and notices
- decisions to give listed building consents

15 The Guide goes on to provide examples of decisions that need not be recorded:

- routine administrative and organisational decisions
- decisions on operational matters such as changes to services and charges
- decisions to give business relief to individual traders
- decisions to review the benefit claims of an individual applicant

16 The above examples, are stated to be illustrative and not exhaustive but gives some insight into the difficulties of interpreting the requirement.

17 As a result of these changes, Appendix A of the Constitution 'Access to Information Procedure Rules' needs to be updated as set out in red within Appendix B of this report.

Key Implications

Financial

There are no direct financial implications. However, there may be some additional costs associated with complying with the provisions in the Regulations although these will be indirect costs, such as additional officer time.

Legal Implications and Risk Assessment Statement.

Through the Local Audit and Accountability Act 2014, the Government is committed to opening up council meetings in England to digital and social media. The new Regulations are accompanied by a new guide for the Press and the public on attending and reporting on local government meetings which is attached at Appendix A. Although the new guidance does not have legal status it does accompany the Regulations and should be read in conjunction with the Regulations.

There is a risk that inaccurate or misleading information may be published before approved Minutes are available which could create difficult problems. However, the recording of Full Council, Development Control Committee and Licensing Hearings will mean that for those meetings the Council will have an accurate record of what took place. In addition, it may be possible to identify and record other particularly problematic committee meetings that may be taking place in the future.

There is a criminal penalty for non-compliance with the access to documents part of the Regulations whereby a person who has custody of documents which should be available for inspection, will commit an offence if that person refuses to disclose or intentionally obstructs the disclosure of such documents under the Regulations. The penalty for the offences is a fine not exceeding level 1 on the standard scale which is currently £200.

The Regulations have been brought in quickly without the usual form of consultation. As a result the DCLG recognises that a Council's existing Standing Orders might not be fully in line with the new requirements. If this is the case the DCLG have suggested that in the short-term, any provisions in our Standing Orders which could be taken to inhibit the new reporting rules should be waived. As soon as practical thereafter the Council should formally update their Standing Orders.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	Persons who are unable to attend Council Meetings because of disability or age will benefit from the changes taking place which enhances the ability to access information under the governments transparency agenda.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	Yes	

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

Conclusions

The new rules help any members of the press and public who want to know about, view or report the work of local government bodies.

The new national rules increase the public's rights to film, audio-record, take photographs and use social media such as tweeting and blogging to report the proceedings of all such meetings that are open to the public.

The Council is required to provide reasonable facilities for any member of the public to report on meetings. The Protocol sets out a policy to ensure public safety and that disruption does not take place and takes into account those members of the public who do not want to be filmed.

Following Full Council being successfully recorded on a trial basis Council is requested to approve the roll out of routine recording of Full Council, Development Control Committee, and Licensing Hearings.

Appendices

Appendix A – DCLG Guide for the Press and the public 'Open and accountable local government'.

Appendix B – Amendments to the Constitution.

Background Papers:

DCLG letter to Chief Executives of Principal Local Authorities in England from Paul Rowsell dated 6 August 2014

Bevan Brittan publication Council meetings – lights, cameras, action!

The Openness of Local Government Bodies Regulations 2014

Sevenoaks District Council Constitution

Christine Nuttall
Chief Officer for Legal and Governance