



**Sevenoaks**  
DISTRICT COUNCIL  
Despatched: 10.09.14

**GOVERNANCE COMMITTEE**  
**18 September 2014 at 7.00 pm**  
**Conference Room, Argyle Road, Sevenoaks**

**AGENDA**

**Membership:**

Chairman: Cllr. Pett Vice-Chairman: Cllr. McGarvey  
Cllrs. Ms. Chetram, Mrs. Clark, Fittock, London and Walshe

	<b><u>Pages</u></b>	<b><u>Contact</u></b>
<b>Apologies for Absence</b>		
1. <b>Minutes</b> To agree the Minutes of the meeting of the Committee held on 10 July 2014, as a correct record.	(Pages 1 - 4)	
2. <b>Declarations of Interest</b> Any interest not already registered		
3. <b>Actions arising from the last meeting</b> (if any)		
4. <b>Governance Review</b>	(Pages 5 - 8)	Christian Everett Tel: 01732 227243
5. <b>Governance Arrangements</b>	(Pages 9 - 42)	Christine Nuttall Tel: 01732 227245
6. <b>Recording and The Openness of Local Government Bodies Regulations 2014</b>	(Pages 43 - 86)	Christine Nuttall Tel: 01732 227245
7. <b>Work Plan</b>	(Pages 87 - 88)	

**EXEMPT ITEMS**

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

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**The Democratic Services Team (01732 227241)**

**GOVERNANCE COMMITTEE**

Minutes of the meeting held on 10 July 2014 commencing at 7.00 pm

Present: Cllr. Pett (Chairman)

Cllr. McGarvey (Vice Chairman)

Cllrs. Ms. Chetram, Mrs. Clark, Fittock, London and Walshe

Cllr. Grint was also present.

1. Minutes

Resolved: That the Minutes of the meeting of the Governance Committee, subject to the addition of Cllr. Walshe's apologies, be approved and signed as a correct record.

2. Declarations of Interest

Councillor McGarvey declared an interested in Minute 4 that he had been involved in the Badgers Mount working party and had previously been the clerk to Shoreham Parish Council.

3. Actions arising from the last meeting

There were none.

CHANGE IN ORDER OF AGENDA ITEMS

With the Committee's agreement the Chairman brought forward consideration of agenda item 7 to take place after agenda item 5.

4. Community Governance Review - Badgers Mount Order

The Chief Officer Legal and Governance presented a report that detailed the completed draft Order to create the new Council for the Parish of Badgers Mount on 1 April 2015 in time for the Parish and Town Council Elections on 7 May 2015.

Members were informed that there was a typographical error under Citation and Commencement item 1 and that the Order was for 2014 not 2013 and this would be corrected. They were also advised that item 1, 3 a, and b would come into force on the 1 December 2014 to ensure the calculation of the budget and to enable the election of parish councillors. The map attached to the draft Order showed the boundary of the new Parish. Paragraph 5 of the draft Order set out the figure on which the precept would be calculated. Shoreham Parish Council would transfer £10,000 to the new Parish Council which would form initial reserves. The new Parish Council would have 5 Councillors and the Monitoring Officer would convene the Council's first meeting after the elections.

## Agenda Item 1

### Governance Committee - 10 July 2014

Meetings had taken place with all interested parties who were agreeable to the terms of the draft Order.

#### Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council to establish the Parish Council for the Parish of Badgers Mount on and from 1 April 2014 in the terms of the Established Order.

#### 5. Changes to the Council's Constitution

The Chief Planning Officer presented a report that advised Members that the District Council could be a consultee on planning applications. It was identified that the current constitution did not sufficiently involve Members in the preparation of the Council's response and did not contain provision for Members to call consultation responses to Development Control Committee for their consideration.

The report presented two amendments which allowed for the responses to be called to Development Control Committee if there was time or for the Chief Planning Officer to seek the Local Ward Member, Leader and other relevant portfolio Holders and Deputies views if requested by a Member.

Members discussed whether this would apply to other consultations such as the change in status of a school or the re naming of a school, and if Development Control Committee was the appropriate committee for a decision of this type. It was mooted as to whether it would be a Portfolio Holder Decision or whether it would go to Cabinet to decide and then recommend to Council. It was agreed that officers should investigate and report back to the committee and report the consequences of the issue to Cabinet.

It was agreed by Members that the second amendment needed to specify that it was when time frames did not allow and therefore the wording, 'when timeframes do not allow' needed to be included after the closed bracket.

#### Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council, subject to the additional wording in the second paragraph, that the proposed amendments to the Constitution be agreed.

#### 6. Community Governance Review

In accordance with Section 100B (4) of the Local Government Act 1972, the Chairman advised the Committee he had agreed to accept an urgent matter- 'Community Governance Review'.

The report needed to be considered at this meeting in line with the agreed timetable at the meeting of the Governance Committee on 13 March 2014, so that a decision could be made at Full Council on 22 July 2014 and the Council's draft proposals could be published by the end of July. The deadlines needed to be kept in order for any changes to parish arrangements to take effect at the publication of the register of electors by 1 December 2014 and at next May's local elections.

The Electoral Services Manager presented the report which advised Members that the Council was required to keep parish council governance under constant review. Submissions had been received from the Parish Councils of Shoreham and Chevening and representations in support had been received during the consultation period. As per the timetable agreed at the 13 March 2014 Governance Committee meeting the draft proposal would allow an opportunity for further consultation.

#### Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That it be recommended to Council that

- (a) a new Romney Street Ward be created in the Parish of Shoreham;
- (b) the number of parish councillors for the Romney Street Ward, the Shoreham Ward and The Well Hill Hundreds Ward of the Parish of Shoreham be 1,6,1 respectively; and
- (c) the boundary between the parishes of Chevening and Sevenoaks Weald be amended to the area of Bowzell Green.

#### 7. Work Plan

It was agreed that the results of the draft proposals from the Community Governance Review and a report on the recording of meetings would be brought to the September 2014 meeting. The Chairman asked Members if there were other areas that the Committee should include on the work plan. Members discussed the possibility of looking into the Committee system to provide the results for new Members in May 2015. The advantages and disadvantages of a Committee system were discussed. It was agreed that Councillors London and Walshe would look at other Council's who were using the Committee system and report back to the September meeting.

THE MEETING WAS CONCLUDED AT 7.40 PM

CHAIRMAN



**COMMUNITY GOVERNANCE REVIEW**

**Governance Committee – 18 September 2014**

Report of Chief Officer for Legal and Governance

Status: For Decision

Also considered by: Council - 4 November 2014

Key Decision: No

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**Portfolio Holder** Cllr. Fleming

**Contact Officer(s)** Christian Everett – ext. 7243

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**Recommendation to Governance committee:** That

- (a) following consultation on the District Council's draft recommendation, a Romney Street Ward be created in the Parish of Shoreham;
- (b) following consultation on the District Council's draft recommendation, the number of parish councillors for the Romney Street Ward, the Shoreham Ward and The Well Hill Hundreds Ward of the Parish of Shoreham be 1, 6 and 1 respectively; and
- (c) following consultation on the District Council's draft recommendation, the boundary between the parishes of Chevening and Sevenoaks Weald be amended in the vicinity of Bowzell Green.

**Recommendation to Council:** That

- (a) following consultation on the District Council's draft recommendation, Council confirms the creation of a new Romney Street Ward in the Parish of Shoreham;
- (b) following consultation on the District Council's draft recommendation, Council confirms the number of parish councillors for the Romney Street Ward, the Shoreham Ward and The Well Hill Hundreds Ward of the Parish of Shoreham to be 1, 6 and 1 respectively; and
- (c) following consultation on the District Council's draft recommendation, Council confirms amendment to the boundary between the parishes of Chevening and Sevenoaks Weald in the vicinity of Bowzell Green.

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**Reason for recommendation: representations have been received from Shoreham Parish Council to create a new Ward of the Parish and from Chevening Parish Council to amend its boundary.**

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## Agenda Item 4

### **Introduction**

- 1 The District Council's draft recommendations for changes to the warding of Shoreham Parish and a change to the boundary between the parishes of Chevening and Sevenoaks Weald were published on 30 July 2014.
- 2 The consultation period closed on 29 August 2014. No representations have been received.

### **The Representations**

- 3 None

### **Recommendation – Parish of Shoreham**

- 4 There has been no opposition to the proposals submitted by Shoreham Parish Council (previously reported to Governance Committee) to create a new ward of Romney Street (in accordance with the map supplied to Governance Committee previously) and it is recommended that this change takes effect at the 7 May 2015 election.

### **Recommendation – Parishes of Chevening and Sevenoaks Weald**

- 5 This is a minor proposal from a handful of residents which has the support of the two parish councils involved. It is recommended therefore that the boundary between Chevening and Sevenoaks Weald Parishes be amended in the vicinity of Bowzell Green (in accordance with the map supplied to Governance Committee previously) with effect at the 7 May 2015 election.

As previously reported to Governance Committee, the consequential change to the Brasted, Chevening & Sundridge and Seal & Weald Wards of the District Council will be dealt with by The Boundary Commission to come into effect at the joint District Council and Parish Councils elections on 7 May 2015.

### **Key Implications**

#### Financial

There are no cost implications for the District Council in conducting a community governance review apart from staff resources.

#### Legal Implications and Risk Assessment Statement.

District Councils are required to keep parish council governance under review. Opportunity has been taken to review these two matters before the next scheduled parish council elections.

#### Equality Impacts

Part of the purpose of the Local Government and Public Involvement in Health (LGPIH) Act 2007 is to ensure that from time to time a review of boundaries is undertaken to bring about better local democracy and fair representation within communities. The review therefore has a positive contribution of promoting equality.

**Conclusions**

The proposals emanating from Shoreham Parish Council and from residents of Bowzell Green have merit and support. The next stage of this review is for the District Council to publish its final recommendations by the end of November 2014 (in accordance with the Terms of Reference agreed previously). The effective date of the changes to parish boundaries and electoral arrangements will be 7 May 2015.

**Appendices**

None

**Background Papers:**

[Local Government and Public Involvement in Health Act 2007](#)

[Guidance on community governance reviews \(published jointly by the Department for Communities and Local Government and the Electoral Commission\) – April 2008](#)

**Christine Nuttall**  
**Chief Officer for Legal and Governance**

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**GOVERNANCE ARRANGEMENTS**

**Governance Committee – 18 September 2014**

Report of                      Chief Officer Legal and Governance

Status:                        For Consideration

Key Decision:                No

**Executive Summary:** Following a recommendation of Council on 1 April 2014, the Governance Committee is tasked with continuing to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.

**Portfolio Holder**        Cllr. Fleming

**Contact Officer(s)**     Christine Nuttall Ext. 7245

**Recommendation to Governance Committee:** that following Council’s recommendation on 1 April 2014, that the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance, this committee considers the information and research taken place to date as set out in this report.

**Reason for recommendation:** The Governance Committee is tasked with continuing to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.

**Introduction and Background**

- 1        Prior to 2000, decisions in all English local authorities were taken through council committees. These committees were governed by the Local Government Act 1972 and had power delegated to them directly from Full Council and also had power to arrange the discharge of their functions through sub-committees or officers. They were required to be politically proportionate, meaning that seats on committees had to be allocated to each political group in the same proportion to the number of seats held by each of those groups on the Council.
  
- 2        The Local Government Act 2000 gave effect to the Government’s plans to change the way that local authorities made decisions. The central feature of the new system was a division between executive elected members, who would make decisions and non-executive elected members who would scrutinise those decisions. The aim of separating the roles of executive and non-executive elected members was to improve efficiency, transparency and accountability. The Government gave local authorities three main alternative decision-making models:

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- a directly elected mayor and cabinet;
- a leader and cabinet; or
- a directly elected mayor and council manager

Sevenoaks District Council adopted the leader and cabinet model.

- 3 The Localism Act 2011 (“the 2011 Act”) gives Councils greater freedoms over their governance arrangements allowing them to choose which governance system they operate from the following options:
  - Leader and Cabinet Executive;
  - Mayor and Cabinet Executive;
  - a Committee System;
  - other arrangements approved by the Secretary of State.
- 2 The Secretary of State has power to approve alternative forms of governance arrangements on request from local authorities, provided that they demonstrate that the proposed arrangements would be an improvement on the current arrangements, they would ensure efficient, transparent and accountable decision making and that they would be appropriate for all local authorities, or a particular type of local authority. In September of last year the Monitoring Officer spoke to the Department for Communities and Local Government (“DCLG”) who informed her that no Councils in England had put forward proposals to the Secretary of State to consider any alternative form of governance arrangements. Even if proposals passed the initial requirements test set by the Secretary of State there would still need to be House of Commons approval and House of Lords approval to any alternative form of governance arrangements.
- 3 The Act is clear that a local authority with committee based governance arrangements may appoint one or more committees as the authority’s overview and scrutiny committee or committees and so any desire to return to the Committee system of governance could include the elements of an authority’s current scrutiny system.
- 4 A decision as to whether or not to return to a committee system is a decision for Full Council. In considering the arrangements the following factors have been identified by other authorities considering change:

### **Advantages and Disadvantages of the Committee System and the Leader and Cabinet System**

#### The Committee System

##### Advantages

- All councillors have a broader role as members of several committees and are directly involved in taking decisions provided wider representation of local interests.
- Themed committees enable more Members to become specialists in subject/service areas.
- Style of Leadership is consensual and all committees have cross-party membership.

### Disadvantages

- Resources – the ongoing costs to support a committee system have been estimated to be higher by those authorities that have already looked into changing. There would also be a need for considerable officer and member time to be spent in preparing for and implementing a new committee system.
- If the Council agrees to move to a committee system and passes a resolution to this effect the change would take effect from the next Annual Council meeting that follows the resolution and then the local authority may not pass another resolution changing back to the Cabinet system until the end of the period of 5 years beginning with the date the original resolution was passed. As a result the present administration would be committing a new administration to a different form of governance upon which they would not have been given the opportunity to choose.
- Operating under a committee system will mean that the Independent Remuneration Panel (IRP) would need to review the new arrangements and make proposals for changes to Members Allowances.
- Operating under a committee system is a very different model of decision making as compared with executive arrangements. As a result the authority would need to review how it engages with and supports Members. New arrangements will need to be implemented which adequately support Members to operate effectively under the committee system.
- The speed of decision making can be slower.
- Committees are subject area based which could create silos with less strategic overview and involvement from other parts of the council.
- Potential increase in Member and Officer workload to reintroduce and support the committee system

### Leader and Cabinet System

#### Advantages

- The system is more aligned to the Cabinet and Select Committee system of governance operated by central government which could make it more easily understandable to members of the public.

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- A Cabinet can look at issues in the round and prevent decisions being taken in 'silo'
- Decision making is allocated to a relatively small group of councillors. This allows clarity of accountability and speed of decision-making. It also tends to mean that individual decisions are often subject to greater Member consideration by portfolio holders and collectively by the Cabinet informally than in a committee system.

### Disadvantages

- Decision making powers are allocated to a relatively small group of councillors and it excludes other councillors from any real decision making except in regulatory functions and where major decisions have to be taken in Full Council.
- There is a perception that it is less democratic as not all councillors have the opportunity to be involved in decision making.
- There is also a perception that it is less consultative with scrutiny unable to successfully influence Cabinet decision making.

### Other Councils

- 5 The leader cabinet system is seen in most English authorities and is the standard approach which the majority of councils currently operate.
- 6 All Councils in Kent are working under some form of cabinet governance model. Only Tandridge District Council over the border in Surrey is working under the Leader and Committee System as a result of their population falling under the threshold for the previous requirement to change to the Cabinet system of governance. However, Canterbury City Council passed a resolution on the 24<sup>th</sup> July 2014 to return to the Committee system at the next Annual Council meeting 2015.
- 7 A number of Councils in Kent including Sevenoaks District Council (SDC) have adopted a hybrid model which overcomes some of the disadvantages associated with the cabinet model. This is still a leader cabinet model and so does not require Secretary of State approval.
- 8 The system in SDC was implemented following concerns with the previous structure. These concerns were as follows:
  - Perception of remoteness/inaccessibility of portfolios; feeling of disengagement from the influence and decision-making; lack of training and development (succession planning for future Cabinet members); and the need to streamline the system to match the resource available.
- 9 As a result a Hybrid model based on Cabinet Advisory Committees was adopted. The new system under went a year long review following its introduction in May 2013. The review comprised extensive Member consultation and resulted in some changes being approved by Full Council in April 2014 with implementation at Annual Council in May 2014.

- 10 The present system broadly comprises 5 Cabinet Advisory Committees with 12 members including the relevant Cabinet and Deputy Cabinet members on each of the Cabinet Advisory Committees. The Deputy Cabinet members do not have Cabinet decision making powers. Members can sit on more than 1 Cabinet Advisory Committee and the Advisory Committees are able to choose their own chair.
- 11 The Scrutiny Committee has a fixed membership of 9 members plus a Chairman and Vice Chairman with all members of the Committee being independent of the Cabinet Advisory Committees.
- 12 It was also resolved by Full Council in April 2014 that the Governance Committee would continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.
- 13 The Local Government Association has produced guidance entitled “Rethinking governance” which gives practical steps for councils considering changes to their governance arrangements. The guidance is attached as an Appendix to this report.
- 14 The guidance illustrates those Councils who moved to a Committee system in May 2013/2012 and those which adopted hybrid arrangement in 2012 or 2013. The guidance also sets out Councils who considered changing governance arrangements to move to a committee system but decided not to.

### **Key Implications**

#### Financial

It is likely that there will be additional net cost implications if a change of governance to the committee system were to take place. At this point in time no quantification of such costs has been made and there would be additional costs of preparing detailed proposals for which financial provision would need to be allocated.

#### Legal Implications and Risk Assessment Statement.

These are incorporated in the body of the report.

#### 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	No adverse impact can be identified to any protected groups in making a change in governance arrangements
b. Does the decision being made or recommended through this paper have the potential to promote equality of	No	Not at this stage

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

### Conclusions

The Governance Committee through its working group has undertaken work to look at the practicalities and appropriateness of moving to the Committee System or a Hybrid model. The Hybrid model over the Committee System was chosen as the most appropriate system to overcome the concerns that had been previously expressed by Members (Please refer paragraph 8 of the report).

Once the Hybrid model had been adopted at Annual Council in May 2013 a year long review took place which involved lengthy Member consultation which resulted in changes being made to the Hybrid model at Annual Council in May 2014.

Annual Council in May 2014 also resolved that the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance which this report aims to explore.

### Appendices

Appendix - Local Government Association Guidance entitled "Rethinking governance"

### Background Papers:

Localism Act 2011

Review of New Governance Arrangements –  
Governance Committee – 13 March 2014

**Christine Nuttall**

**Chief Officer Legal and Governance**

# Rethinking governance

Practical steps for councils  
considering changes to their  
governance arrangements



### Introduction

The availability of the committee system as a governance option for all councils in England has led a number of councils to consider changing their governance arrangements. Whichever system councils are thinking about moving from, or to, there are some common themes or issues that should be considered.

This guide sets out a “thinking toolkit” of the types of issues that councils, both members and officers, should think when considering governance change. It does not aim to set out the legal and procedural steps which you will need to undertake to do it (which are for the most part set out in legislation<sup>1</sup>), but it will provide you with the tools to think about the challenge.

It derives from previous Local Government Association (LGA) research on this matter, the experiences of councils who have changed their governance arrangements recently<sup>2</sup> and research carried out in 2012 by the Centre for Public Scrutiny (CfPS) on councils moving to the committee system<sup>3</sup>.

This guide is not intended to nor does it constitute legal advice. Councillors and officers will need to obtain their own independent legal advice on any matters of a legal nature.

### The importance of good governance

The difficult funding situation for local government means that councils are increasingly having to make decisions that will have profound, far-reaching implications both for the way that they and their partners deliver services, and on the lives of local people. These changes will involve a permanent shift in people’s expectations of what local government does, and does not, do. They will also involve a shift in the way that councils work with others in their areas. Whether this is by an expansion in commissioning, pooling and aligning of budgets with partners, decommissioning of services, major transformation or all of these, local people need the confidence to know that decisions made in their name are high-quality, evidence based and considered openly and accountably.

This is why, now more than ever, good governance is vital. Councils have a responsibility to ensure that decision-making is as effective as it can be: decision making should critically benefit from the perspective of all councillors, but also be accountable, and involve the public.

Many councils are making informal changes to their governance arrangements including tightening up existing processes, making sure that avenues exist for all members to get involved in the policy development process (for example, through overview and scrutiny) and putting in place consultation arrangements for particularly contentious decisions. Some councils have decided to go a step further, and revisit their formal governance arrangements, looking at the different decision-making models available to them and taking steps to make a legal change to a different governance system.

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1 Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011) sets out the legal arrangements in detail.

2 Detail from this research is provided in the appendices

3 Available online at: <http://tinyurl.com/ck6b2qa>

### Changing governance under the Localism Act

The Localism Act 2011 (the Act) expanded the number of decision-making systems that councils could adopt<sup>4</sup>. Since that Act was passed there are three main models to choose from. Councils wishing to move from one to another must make a formal decision to do so, using a resolution of full council. In some instances a referendum will also be required:

- **Leader and cabinet.** This system was brought in by the Local Government Act 2000 and is the governance system that most councils operate. In some councils, individual members of the cabinet have decision-making powers; in others, decisions have to be made by the whole cabinet. Cabinet is led by a leader, who is elected by full council for a term determined by the council itself or on a four yearly basis<sup>5</sup> (and will usually be the leader of the largest party on the council). These councils must have at least one overview and scrutiny committee.
- **Mayoral system.** These councils have a directly-elected executive mayor with wide decision-making powers. The mayor appoints a cabinet made up of other councillors, who may also have decision-making powers. These councils must also have at least one overview and scrutiny committee.
- **Committee system.** Since the Localism Act this option is now available to all councils. Previously it was available only to district councils with populations under 85,000. Committee system councils make most decisions in committees, which are made up of a mix of councillors from all political parties. These councils may have one or more overview and scrutiny committees but are not required to.

There are variations for each of these models that can lead councils to adopt hybrid approaches; most commonly this is a hybrid between leader/cabinet and the committee system (with such an approach usually seen legally as being a modified version of the leader/cabinet system, and therefore not requiring a formal change under the Act). Councils also have the option of suggesting an approach of their own to the Secretary of State. No detailed criteria have been set out for how the Secretary of State will come to a decision about whether or not to approve any option suggested under this part of the Act.

A change in formal governance arrangements must occur at a specified “change time”, which is at the council’s Annual General Meeting (AGM). Prior to the change time, the council needs to have resolved formally to make a governance change. There is no minimum period of time between the resolution and the change time, but there does need to have been enough time for the council to formally publish the proposal and consult on it. For practical purposes this means that a resolution passed at council AGM itself, or at a special meeting a few days beforehand, is unlikely to be enough.

No one governance system is intrinsically better than another and no system is more or less expensive to operate; however some systems allow more members to be directly involved in voting on decisions. It is important to note that activity at committee level is not the same as member involvement in policymaking. Member involvement in policymaking is a longer-term, more involved process and can happen under any governance option.

4 The Local Government Act 2000 made available four governance options for councils – leader/cabinet, executive mayor, mayor and council manager and a ‘streamlined’ committee system for shire districts with populations of less than 85,000. Subsequently, the mayor and council manager option was removed, leaving most councils in England with only two governance options.

5 As enacted in Part 1A of the Local Government Act 2000 (inserted by Sch.2 to the Localism Act 2011) and reg.2 of the Localism Act 2011 (Local Authority Governance Transitional Provisions) (England) Order 2012. This required a council to make provisions for setting the term of office for a leader as soon as reasonably practicable after the regulations came into force on 30 March 2012; until a Council adopted new arrangements, the old four year term (or balance of four year term) arrangements continued to apply.

## How to go about it – the “thinking toolkit”

- Step 1 Plan your approach, and assess your current position
- Step 2 Consider some design principles
- Step 3 Think of ways to meet these objectives and put a plan in place
- Step 4 Make the change
- Step 5 Return to the issue after a year and review how things have gone

This process assumes that you only start looking at the design of new structures at step three. It is not about looking at the pros and cons of different structures, or considering structural options and developing a post hoc justification for them. Most important is obtaining a real understanding of the underlying political and cultural issues which, between them, may be driving the apparent need to change the way the council does business. However, we recognise that councils might be entering this process from a variety of situations, arising from political or strategic necessity. We hope that the questions at each stage will prove useful regardless of where you enter the process.

## Step 1: plan your approach and assess your current position

### Planning

CfPS has developed a framework called ‘Accountability Works for You’ which can be used to evaluate your current position<sup>6</sup>.

The first thing to do will be to establish the purpose of the work: why do you want and need to change your governance arrangements? A variety of people in your council may have different views of what this purpose is; this is why it is important to set down what those (potentially differing) views are at the outset. This will give you a baseline on which to build, and judge, the rest of your work. As you need to operate within the framework of the Act you should seek advice from your monitoring officer, who has a statutory responsibility for making sure council’s comply with the law.

The next step is to establish a scope for the work – where you want it to lead and how you will get there – which will be based on the work’s purpose. This is a scope for the review of governance itself, not for the change in governance.

The scope might consider the following issues:

- How will the authority ensure that this work – from the consideration of options, to the implementation and review of new arrangements – will be led by elected members?
- How will we make sure that this review of governance gets the views of all interested parties?
- How wide should we look? Is this a review just of internal council decision-making, or are there knock-on impacts on partners, who may need to be involved?
- How can we ensure that the broad democratic expectations of local residents are built in to this study?
- Who will lead the review?

<sup>6</sup> Available online at: [www.cfps.org.uk/AW4U](http://www.cfps.org.uk/AW4U)

## Agenda Item 5

The tools of appreciative inquiry<sup>7</sup> can provide a good way to approach this issue. Having this general discussion at the outset will set some broad parameters for the work, and it will also help to manage expectations of what can, and cannot, be achieved through governance change.

### **Assessment**

Assessing how you currently make decisions is not just about drawing a map of your systems or processes, or looking at individual bits of your governance arrangements separately. It is about taking an approach to the way you make decisions which recognises that the systems you adopt for member decision-making have an impact on everything you do. It is also about considering how you engage a wide range of stakeholders in that decision-making process.

If you are considering a significant change such as a formal shift in your governance arrangements, which could lock you in to a new decision-making structure for five years<sup>8</sup>, you need to have carried out this fundamental exercise beforehand. It is potentially intensive, but will have benefits that reflect that good governance is not just about democratic services or even the internal workings of the council; it is also about the relationship between your authority, its elected members, partners and the public.

Some of the things that you might want to consider will include:

- How do we involve all members – not just in the way that decisions are made, but in the way that policy is developed?
- How is the public voice integrated in the way decisions are made – at neighbourhood and authority-wide level?
- What decisions are currently delegated to officers, and what decisions (under leader/cabinet and mayor/cabinet) are currently delegated to individual cabinet members?
- How are members involved in the evaluation and review of decisions once they are made (in particular, in-year performance management and budget monitoring)?
- How can we improve our forward planning arrangements to open out decision-making, and policy development? Are there ways in which we can make things like background papers more easily accessible?

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<sup>7</sup> You can find more in the CfPS publication *Appreciative scrutiny* (2012) available at: <http://tinyurl.com/pzdfeyu>

<sup>8</sup> Unless a second resolution following a referendum has been approved.

## Step 2: consider some design principles

If you have undertaken an initial assessment you will have identified some strengths (practice and ways of working that you want to keep) and some weaknesses (ways of working that you want to stop or change substantially).

These strengths and weaknesses might reflect the attitudes and behaviours of council decision-makers (both members and officers), partners, the public and others, as well as reflecting structural issues. Some examples include:

- **Strengths and weaknesses in the member/officer relationship.** This might look like, for example, a commitment to involve all members in the policy development and decision-making process, through scrutiny, area committees, partnership boards and cabinet decision-making as appropriate, or conversely an officer-led process where only cabinet members are seen to have any stake in decision-making and non-executives are relegated to the position of passive spectators.
- **Strengths and weaknesses in the way that forward planning/work programming occurs.** This might look like, for example, clarity and consistency in the way that officers approach policy development and decision-making, with plans being kept to and important, strategic decisions identified, or conversely a muddled plan composed of a mixture of operational and strategic decisions which reveals little about the priorities of decision-makers, or the way in which they formulate decisions.
- **Strengths and weaknesses in the way that information about decisions (including background papers) are published and used.** This might look like, for example, proactive efforts to publish background papers as they are produced, and attempts made to respond positively when the assumptions in those background papers are challenged by others, or conversely an opaque system whereby attempts are not made to justify decisions and engagement is tightly controlled through consultation processes that are wholly divorced from the formal decision-making cycle.
- **Strengths and weaknesses in the way that the council involves the public in major decisions.** This might look like, for example, a commitment on major policy changes to engage those most affected by those changes<sup>9</sup>, or conversely a more defensive attitude that sees members or senior officers exerting control over the agenda for fear that the public will derail necessary decisions.

These strengths and weaknesses, and others like them, are not strengths and weaknesses in the various governance options per se. They are strengths and weaknesses in the way that your existing governance arrangements work in your council.

You can use this to develop some design principles. These should not be vague, general aspirations such as making the council operate more democratically or enhancing transparency. They should be tangible aims that you can return to in future to help you to come to a judgment on whether your new systems are working or not. For example, you could state that any new governance system should:

- involve all councillors in the development of key policies
- identify key evidence sources for major decisions and demonstrate how they are being used to inform the substance of that decision

<sup>9</sup> This is likely to become of increased importance, especially as a “duty to consult” may be introduced as part of the Deregulation Bill.

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- focus member involvement on strategic decision-making; design officer delegations to focus on operational decisions – design the budget and policy framework to reflect this fundamental principle
- provide a key role for councillors in performance management and in-year financial monitoring that takes account of their unique perspective as elected politicians.

These are just examples to demonstrate the clarity you need in your objectives; there may well be others that are particularly important for your council.

### Step 3: think of ways to establish a system that meets the requirements of these principles and put a plan in place

How will you get there? What changes to the way you work might be necessary in terms of both culture and structure?

Some issues to think about that relate to culture and attitudes include:

- How to establish clearer, more consistent and less arbitrary rules to define what does and does not go on the forward plan as a key decision.
- How to ensure that the procedure for dealing with key decisions contains provision for involving all members and members of the public.
- Whether such provision can be made under your existing arrangements (assuming that you operate the leader/cabinet model). This would involve consideration of whether moving to a new governance option (for example, the committee system) would provide members with the assurance that they will be involved in making decisions on strategic issues.
- How to tighten up (in terms of methodology) and open out (in terms of transparency) performance management systems – including the potential for more member involvement. Greater transparency for the public is a useful by-product of such an approach.

Different design principles, and different approaches to meeting the requirements of those principles, will require different structural solutions, for example:

- minor changes to the constitution to strengthen the existing forward plan
- more major changes to schemes of delegations, financial procedures, performance management systems and/or systems used to engage with the public, within your existing governance option
- formal changes to member decision-making structures that stop short of a formal governance change – for example, the adoption of a hybrid system
- an all-out change from one governance option to another under the Local Government Act 2000.

You may find that your objectives and design principles can be met without a formal change in governance. You may, for example, be able to meet them by bolstering the role that councillors play through the overview and scrutiny process. As part of this process, you may find it useful to consider the risks in taking either formal or informal action to change governance arrangements, and to establish how you will seek to mitigate those risks.

### Consider the different structural options available

In the CfPS publication 'Musical chairs' we suggested that there was a spectrum of different governance options available to councils.

If your exercise leads you to consider that structural change may be appropriate, you will need to decide which of these options will make it easiest for you to achieve your design principles. This is not an exhaustive list of options, nor is intended to set out the pros and cons of any one approach. The pros and cons will vary for every council based on the political and organisational context, and councils must take their own independent legal advice on the implications of any proposed option.

- **A leader-cabinet system with individual cabinet member decision-making** (as seen in most English authorities) is the standard approach which the majority of councils currently operate.
- **A mayor, with various different approaches to cabinet autonomy** (as seen in Hackney, Bristol, and Hartlepool before 2013); different mayors take different approaches to the appointment of their cabinets, and the amount of powers those cabinets have.
- **A traditional committee system** (as seen in Nottinghamshire) which will have a relatively large number of service committees which will often align fairly closely with council departments. There may or may not be a coordinating policy and resources committee to knit together work programmes. This approach will usually require frequent meetings to deal with cross-cutting issues and, hence, careful planning by officers.
- **A streamlined committee system** (as seen in Brighton and Hove) will consist of two or three service committees, which may be supplemented by one or more overview and scrutiny committees. This was the common approach taken in what were formerly known as fourth option councils, those shire district councils who opted to retain the committee system between 2000 and 2012.
- **A hybrid system** (as seen in Kent) whereby a cabinet ratifies decisions made by a number of cabinet committees. This requires a political assurance by the leadership that such ratification will happen.
- **A leader-cabinet system with collective cabinet decision-making** (as seen in Sutton before 2012) has collective decision-making at cabinet, with a leader who chooses to act accordingly. Under this model the cabinet does not delegate power to individual cabinet members to make decisions, although delegated decision-making by senior officers will still happen in consultation with lead members.

### Weighing up a formal change

This part of the exercise will be the point at which members actually decide whether formal governance change is necessary. Having a clear rationale for this is critical. It is therefore not a decision you should attempt to make at the beginning of the process. However, a situation might occur where this decision has been taken at an earlier point in the process and you will need to think about how the ideas outlined in earlier steps can be brought into the implementation of a new system.

Your rationale should identify how and why a change will help you to strengthen governance in a way that would not be possible through other means. For example:

- It may be a means of embedding a new culture of decision-making, where the protection afforded by the law and the constitution are seen as a backstop.

## Agenda Item 5

- It may be seen as a necessary component in a wider approach to improving the way decisions are made; for example, more effective partnership decision making or the devolution of decision-making responsibilities to a ward or divisional level.
- It may provide a means of signaling within the authority, and to those outside it, of a break with past practice and a commitment to do things better; however it will not achieve these improvements on its own.

The fundamental judgement – why make this change? – is something that will be different for every authority. The political and organisational context within which your council sits will affect the changes you make. For example some changes that, in another council, might be seen as requiring formally moving from one governance option to another to be fully embedded, in your instance may not be seen as demanding such a change.

It is important to be self-critical at this point in the process. This is the final stage before you start to undertake work to implement the change itself and an opportunity to challenge assumptions and to set out the fundamental reasoning behind your decision.

### Step 4: making the change

The following are the various different council processes and systems that may need to be looked at when you are amending your decision-making arrangements, and any relevant legal issues should also be considered. You will need to think about the way you design these changes, and the way that members make decisions on their implementation (which will usually be at full council):

- financial procedures, including the operation of audit
- access to, and publication of, performance scorecards and quarterly financial monitoring information
- the forward plan and corporate work programme
- changes to committee structures (which can happen at a time other than at Council AGM)
- formal changes in governance, which incorporates all of the above changes.

It is important that the way in which these changes are made itself reflects the design principles which you have established for your new governance system. You might also want to consider a risk plan so that you can be aware of issues or situations that could negatively affect your proposed arrangements.

The formal move from one governance option to another will take effect following the council's AGM, with a resolution of full council having to have been made beforehand. This earlier resolution needs to be made in good time, to allow for the council to undertake any necessary consultation with notice requirements set out in the Act.

### Step 5: return to the issue and review how things have gone

It is important to evaluate how things have gone after a year or so, in order to see whether the resources you have expended in making the change in governance have made the difference you hoped.

This need not be a complicated bureaucratic exercise – just a short assessment of the position, informed by insight from councillors and any other interested parties. Doing this at the time of council AGM gives you the opportunity to make any necessary tweaks to the constitution.

If the changes have not resulted in the outcome you were trying to achieve, there are ways and means of addressing that. The detailed work carried out the previous year to plan and deliver the new governance arrangements will help with this. It may have been that your plan was too ambitious, or there may have been factors – internal or external – that were not taken into account, or that were difficult to predict (political issues, for example). If you developed a risk plan it will be much easier to identify and act on any failings.

You can review the likely reasons for the failure and take action to address them.

### Managing this exercise in a political environment

It is important to recognise that the amendment or change of governance arrangements – whether or not it involves formally moving from one governance option to another – is likely to be politically contentious. In such situations the rationale must be carefully thought through as it may lock your council in to a new governance system for five years<sup>10</sup>.

Instances exist where party political reasons have influenced a council's decision to change systems. These have included:

- the leader of a large majority group viewing another governance option (for example the committee system) as a way to better control his/her own political group on the council
- the leader of a minority administration viewing the committee system as a way of garnering support from other parties represented on the council
- the council's leadership being lobbied by councillors who believe that changing governance arrangements would improve the council's decision-making culture.

Although such instances have occurred, introducing a structural solution will not resolve issues which may have underlying political causes.

However if a decision to change governance arrangements is made under such circumstances, it is important to ensure that there is buy in from all parties and independent councillors, alongside a commitment to investigate governance options based on evidence. Actions that can be taken under such circumstances to support the process include:

- Formal, independent, cross-party discussions led by someone who will be perceived as having a non-party political approach. This may be someone entirely outside the authority or a highly-regarded local councillor.
- A transparent and evidence-based approach to establishing what the aims and objectives of governance change should be.

This is a more formal approach than that which we have outlined elsewhere in this document. However, in a challenging political environment, such formality can help to defuse disagreements, and can provide a framework in which it will be safer for councillors to challenge their own assumptions about governance change, and the assumptions of their peers.

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<sup>10</sup> Unless a second resolution following a referendum has been approved.

# Case studies

## Cornwall (unitary authority, South West)

Cornwall undertook an independent review of governance arrangements over the course of 2011 and 2012. This was a comprehensive exercise, chaired by an independent person, which took evidence from a wide range of sources. It should be seen in the context of Cornwall's creation as a unitary authority in 2009, which gave rise to a need to consider how governance would operate across a very large geographical area.

A member panel was established to lead the review, assisted by an external panel of experts from outside the council. The panels took evidence from a wide range of stakeholders from within the county, and from experts nationally, which they used to formulate a set of recommendations.

Transparency of decision-making was seen as a high priority, as was the need to ensure that decision-making was connected to people at local level through structures such as Community Network Panels and parish councils. The role of non-executive members was considered – in the context of their scrutiny role and engagement with the policy development process, as well as their training and development.

The member panel recommended no formal changes to the council's existing governance arrangements (that is, that the council remain under the leader-cabinet model) but did recommend changes to that model. In particular, changes were recommended around the role of those members in formal "cabinet support" positions, the engagement with the council with community structures and the strengthening of overview and scrutiny. The Panel felt that improvements to decision-making and governance were not necessarily predicated on a formal change to governance models.

## Cambridgeshire (county council, East of England)

Following the May 2013 elections, a resolution was put to the council's AGM to adopt the committee system of governance, on the basis that the committee system was "the most democratic and representative form of governance". Originally it was planned that this would take effect from 2013 but advice was given that this would not be permitted under the Localism Act. As such the decision was made to change in 2014.

Proposals have been developed over the course of 2013, with detailed plans having been submitted to members for examination in October 2013. Members agreed to the creation of a small number of service committees, with a General Purposes committee to act as a "clearing house" to coordinate the role of those service committees.

Changes will also be made to officer delegation arrangements, whereby some decisions will be made in consultation with members, as well as the more traditional classes of decisions

## Agenda Item 5

reserved for members, and those delegated entirely to officers. There is also provision for the retention of a form of call-in, with the possibility – under strictly limited circumstances – of issues to be passed up for decision at full council.

### Stroud (district council, South West)

Following debate, the council resolved to move to the committee system in November 2012, following an executive-led commitment to pursue it in May 2012. A cross-party member working group was established to consider how such a change would happen, which resulted in formal proposals being put to council in April 2013.

Some design principles were established, submitted to council in November 2012 as part of a report on the relative features of the different systems, and used to develop the final arrangements, submitted to council in April 2013.

Delegations to committees and delegations to officers were looked at very carefully as part of these arrangements although ultimately no significant amendments to delegations were made.

The result has been a streamlined committee structure without a separate overview and scrutiny function.

### Nottinghamshire (county council, East Midlands)

An undertaking was given in the 2009 election manifesto of the Conservative group that they would take steps to adopt the committee system when the legislation allowed. They started taking formal steps to change before the Localism Act was enacted, and formally changed in May 2012.

Nottinghamshire's approach was based on the presumption that a committee system would be a more open, democratic and transparent approach to member decision-making. The council has taken its pre-2000 committee structure as a model for its current approach. Officer delegations have not, however, been subject to any alterations. The council resolved that it would only undertake any change on the basis of that change being cost-neutral; there is no additional cost to the operation of their committee system over and above that of the leader-cabinet system.

Originally, Nottinghamshire planned not to have a separate overview and scrutiny committee, but since May 2012 the decision has been made to establish one, principally to carry out the authority's health overview and scrutiny functions (which cannot be carried out by its health committee, which acts as the county Health and Wellbeing Board).

## Kent (county council, South East)

Kent operates what have been termed hybrid arrangements. While the council still operates legally under the leader-cabinet model, cabinet decision making is supplemented through cabinet committees, which are the de facto decision-making bodies. Committees receive officer reports and make recommendations, which are submitted to the executive for ratification. This system's success rests on the assurance by the executive that they will ratify recommendations made to them by committees; as long as that assurance exists, this ratification is purely a procedural matter and the decision is made in the committee itself.

### Where to go for further help

The CfPS published a guide in 2012 for councils considering the adoption of the committee system. This guide, called 'Musical Chairs', is available on the CfPS website: [tinyurl.com/ptydhno](http://tinyurl.com/ptydhno)

The LGA has carried out wider work on governance, democracy and the role of elected councillor. This can be found on their website: [tinyurl.com/o9b72b4](http://tinyurl.com/o9b72b4)

INLOGOV, the Institute of Local Government at the University of Birmingham, have carried out research on local authority governance models and have held a number of seminars for councils considering governance change.

A number of councils have considered changes in their governance in the last few years. The LGA and CfPS are currently engaged in building up networking arrangements between these authorities. A full list of authorities who have made changes to their governance arrangements, or are planning to in the next year, can be found in the appendix to this report.

#### **For more direct advice, please contact:**

##### **Ed Hammond**

Research and Information Manager, Centre for Public Scrutiny

Telephone: 020 7187 7369

Email: [ed.hammond@cfps.org.uk](mailto:ed.hammond@cfps.org.uk)

##### **The Localism team**

Local Government Association

Telephone: 020 7664 3000

Email: [localism@local.gov.uk](mailto:localism@local.gov.uk)

# Appendix

These tables provide further information on councils who have:

- councils who moved to a committee system in May 2013
- councils who moved to a committee system in May 2012
- recently made other changes to their governance arrangements
- are considering a governance change in the near future
- have considered a governance change but have decided against it.

Where councils were not participants in the original research undertaken by CfPS, information is not included for May 2012.

**Table 1: Councils who moved to a committee system in May 2013**

Council	Type of council	Region	In May 2012	In May 2013
<b>Hartlepool</b>	Unitary	North East	Expected to hold a referendum in November to move to a committee system in May 2013.	<p>Committee system adopted in May 2013, involving creation of five service committees.</p> <p>The statutory scrutiny functions around crime and disorder, and health, will sit within the remit of the Audit and Governance committee, which is chaired by a non-majority group councillor.</p> <p>Resolved to continue to publish a forward plan of key decisions.</p>
<b>Newark</b>	District	East Midlands	Envisaged moving to a committee system in 2013, but it would have to be something that meshed with its aim of being a commissioning council. A separate overview and scrutiny function was not envisaged.	Moved to a committee system in May 2013.

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Council	Type of council	Region	In May 2012	In May 2013
<b>Reading</b>	Unitary	South East		<p>Moved to the committee system in May 2013; changed arrangements only to apply to the authority's executive decision making structure – creation of four new Standing Committees.</p> <p>No overview and scrutiny committee, with functions exercised by each committee with regard to its services. Policy committee to cover scrutiny across council services covered by more than one committee.</p>
<b>Stroud</b>	District	South West		<p>Moved to the committee system in May 2013 following a resolution in November 2012. The new constitutional arrangements were developed through a cross-party member working group.</p> <p>There is no separate scrutiny function. The community safety scrutiny functions of the authority are transacted by the Community Services committee.</p>

**Table 2: Council who moved to a committee system in May 2012**

Council	Type of council	Region	In May 2012	In May 2013
<b>Brighton</b>	Unitary	South East	<p>Adopted committee arrangements in 2012, with significant cross-party support. Planned to review and revise after one year.</p>	<p>Arrangements have now been reviewed with some minor changes (mainly in the remit of committees) being brought in from May 2013.</p> <p>Some partnership decision-making arrangements (principally around relationships with Clinical Commissioning Groups) have been tweaked – mainly to integrate, where possible, such partnership structures within the committee system.</p> <p>It has been proposed to appoint certain members to take lead responsibility for certain policy areas, to augment the role played by committee chairs.</p>
<b>Kingston upon Thames</b>	London borough	London	<p>This council adopted a hybrid-style arrangement for a transitional period in 2011 with a view to adopting the committee system in 2013.</p> <p>Under the transitional arrangements committees made decisions which are then ratified by the executive. There is no individual cabinet member decision-making.</p>	<p>The council decided by a resolution on 17 April 2012 to adopt the committee system in May 2012.</p> <p>No significant amendments made to constitution or working practices in May 2013.</p>

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Council	Type of council	Region	In May 2012	In May 2013
<b>Nottinghamshire</b>	County	East Midlands	Put in place a committee system closely reflecting pre-2000 structure, with no separate scrutiny committee.	A separate Health Scrutiny committee was established almost immediately following the establishment of the new structure in May 2012.
<b>South Gloucestershire<sup>11</sup></b>	Unitary	South West	Made the decision to move to a committee system in March 2013.	No significant amendments made to constitution or working practices in May 2013.
<b>Sutton</b>	London borough	London	Committee system adopted in May 2012, based on very clear objectives in development since 2010. The new system included one scrutiny committee, and featured significant changes to financial regs and schemes of delegation. Plans were to review arrangements after six months.	No significant amendments made to constitution or working practices in May 2013.

11. In Musical chairs we erroneously stated that South Gloucestershire, which was originally anonymised as Council N, was a shire district; it is in fact a unitary.

**Table 3: Councils which adopted hybrid arrangements in 2012 or 2013**

Council	Type of council	Region	In May 2012	In May 2013
<b>Cheshire East</b>	Unitary	North West	A member working group was convened to establish whether governance change should be pursued.	In December 2013, moved to a hybrid-style system in which policy development groups, mapped to cabinet portfolios, support executive decisions making, supported by an overview and scrutiny function which focuses on corporate and external issues.
<b>Cornwall</b>	Unitary	South West	A council in an area involved in local government reorganisation in 2009 that established a member level group to consider proposals in more detail. The council has a large number of members, many of which wished to see councillors taking a more active part in decision-making.	Established an independent governance commission which looked at the proposals in more detail. This has resulted in proposals to adopt an approach which looks more like a hybrid system.
<b>Kent</b>	County	South East	Moved to a hybrid system in May 2012. This saw a number of cabinet committees being established. Decisions go to cabinet committees, where recommendations are made to cabinet. Cabinet then ratifies the recommendations.	Some minor changes in May 2013 but no substantive alterations.

Council	Type of council	Region	In May 2012	In May 2013
<b>Sevenoaks</b>	District	South East		In May 2013 a hybrid governance system was adopted.
<b>Tunbridge Wells</b>	District	South East		<p>There is no ambition to move to a committee system, but a hybrid system has recently been adopted. There is a cabinet with three advisory committees beneath it.</p> <p>The system is designed to promote more consensus, as opposed to a culture of adversarialism which had previously existed.</p> <p>Overview and scrutiny has been retained.</p>
<b>Wandsworth</b>	London borough	London	Has operated a hybrid-style committee structure since 2000, with committees passing decisions to cabinet for ratification.	No proposals to change these arrangements for the time being.
<b>Wirral</b>	Metropolitan district	North West		Considering adoption of the committee system or, more likely, a hybrid model; a governance working party has been established to set out the options and agree a way forward.

**Table 4: Councils who considered changing governance arrangements to move to a committee system but decided not to**

Council	Type of council	Region	In May 2012	In May 2013
<b>Basildon</b>	District	East of England		A task and finish group was set up to consider the potential for changes in governance arrangements, but ultimately recommended the retention of the leader and cabinet system.
<b>Bristol</b>	Unitary	South West	One of the twelve core cities, in which a referendum for a mayor was held. Some were considering that a “no” vote in the referendum could result in more concrete moves to adopt a committee system.	Referendum resulted in a “yes” vote, so potential moves to a committee system were not investigated further.

**Table 5: Councils which may adopt different arrangements in 2014 or thereafter**

Council	Type of council	Region	In May 2012	In May 2013
<b>Barnet</b>	London borough	London		A resolution was passed by full council in January 2013, setting out a potential approach to move to a committee system in 2014.
<b>Cambridgeshire</b>	County	East of England		Movement by some members to adopt the committee system at council AGM in May 2013, but as no resolution had been made beforehand, conclusion reached that this would not be in accordance with the Act. At council AGM the decision was made to adopt the committee system from May 2014.
<b>Kensington and Chelsea</b>	London borough	London	There had been significant enthusiasm for a change, although it was felt likely that such change would be to a hybrid model rather than a formal shift to the committee system. Despite enthusiasm, in 2012 no formal instructions had been given to officers.	Although no formal commitment has been made it is likely that this council will move to the committee system in 2014.  There is currently no indication about whether this is likely to affect joint working arrangements with London boroughs of Hammersmith and Fulham and Westminster.

Council	Type of council	Region	In May 2012	In May 2013
<b>Norfolk</b>	County	East of England		Following the May 2013 elections, the council resolved to take steps to adopt the committee system in May 2014.
<b>Northumberland</b>	Unitary	North East		Members have asked for further information about the different governance options available; there is an interest in considering alternatives but no formal plans at present.
<b>Nottingham</b>	District	East Midlands		Members have expressed an interest in understanding the options and officers have provided papers explaining changes. As yet, no formal decision has been made.
<b>Wokingham</b>	District	South East		A member working group was established in 2012 with a view to recommending a change to council in 2013. However, the decision has been taken that due to the potential complexity, and different options available, the working group will continue to meet with a view to adopting new arrangements in 2014.







Local Government Association  
Local Government House  
Smith Square  
London SW1P 3HZ

Telephone 020 7664 3000  
Fax 020 7664 3030  
Email [info@local.gov.uk](mailto:info@local.gov.uk)  
[www.local.gov.uk](http://www.local.gov.uk)

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**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

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**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.

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**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

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**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.

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**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.

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### **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:

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- 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	

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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**



Department for  
Communities and  
Local Government

## Open and accountable local government

A guide for the press and public on attending and reporting meetings of local government

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Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

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August 2014

ISBN: 978-1-4098-4301-6

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## About this Guide

The national rules<sup>i</sup> have been changed to make councils, including parish and town councils<sup>ii</sup>, and other local government bodies such as fire and rescue authorities, more transparent and accountable to their local communities. A full list of bodies to which the rules apply is at **annex A**.

This plain English Guide<sup>iii</sup> gives practical information about what these new rules mean for members of the public attending meetings of local government bodies, including meetings of a body's committees, sub-committees and any joint committees involving two or more bodies. The Guide also covers meetings of any council's executive (i.e. the council's cabinet<sup>iv</sup>), including any committees and sub-committees of the executive.

In particular, this Guide gives practical information about how members of the public can use modern technology and communication tools to report on meetings they are attending, and about how to access information on decisions taken by a body's officers or individual members. This Guide will also help the public to know when they can attend meetings of local government bodies, and what documents and information are available to them. It should also help councillors and officers to comply with the new rules.

As the Guide explains, different rules apply to different meetings, particularly meetings of a parish council or parish meeting, and the meetings of a council's executive, its committees or sub-committees.

- **Part 1** focuses on the use of various communication tools for reporting the proceedings of any meeting of a local government body which is open to the public.
- **Part 2** explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers.
- **Part 3** explains how the public can access all other meetings of a local government body, other than parish and town councils, and records of certain other decisions taken by officers.
- **Part 4** explains how the public can access meetings of parish and town councils, parish meetings and the Council of the Isles of Scilly, and records of certain decisions taken by those councils' officers.
- **Part 5** focuses on other rights that the public have to access information.

This Guide now replaces the Guide titled "Your council – going to its meetings, seeing how it works" that the department issued in June 2013.

All footnotes are listed at the end of the Guide.

# Part 1 Your rights to attend and report meetings

This part of the Guide applies to all the local government bodies listed at annex A.

## **Why are there new national rules?**

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. This will ensure we have strong, 21<sup>st</sup> century, local democracy where local government bodies are genuinely accountable to the local people whom they serve and to the local taxpayers who help fund them.

## **Who do these rules 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 national rules<sup>v</sup> have increased your 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.

## **Are all meetings of a local government body open to the public?**

All meetings must be open to the public except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public – see Part 2 for the rules for a council’s executive, Part 3 for the rules for other local government bodies, other than parish and town councils, and Part 4 for the rules for parish and town councils.

## **Can I film or audio-record the meeting?**

Yes, 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. While no prior permission is required to carry out this activity, it is advisable that any person wishing to film or audio-record a public meeting let their local government staff know so that all necessary arrangements can be made for the public meeting. This is important because the rules require local government bodies only to provide reasonable facilities for any member of the public to report on meetings.

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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.

### **Do I need to have advance permission to report the meeting?**

No. Whilst we would encourage people to contact staff in advance if they want to film or record, equally, we would discourage any system which “vetted” journalists or restricted reporting to “approved” journalists. Councils should support freedom of the press within the law and not seek to restrict those who may write critical comments.

### **Can I film or audio-record a private meeting<sup>vi</sup>?**

The rules on the use of communication methods, such as filming and audio-recording, only require local government bodies to allow the reporting of meetings open to the public. The relevant council or local government body may not allow you to film or audio-record its private meetings. You may also not be allowed to leave recording equipment in the room where a private meeting is held for the purpose of reporting on the meeting.

### **Can I tweet or blog a council or local government body meeting?**

Yes, the new rules<sup>vii</sup> allow 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. You should ask your council for details of the facilities they are providing for reporting.

### **If I am a councillor, can I tweet or blog during council meetings?**

The national rules do not prevent councillors from tweeting and blogging at meetings, so they should be able to do so provided it is not disruptive and does not detract from the proper conduct of the meeting. Whilst councillors are expected to comply with their body’s code of conduct, this should not prevent councillors from tweeting or blogging when appropriate.

### **What sort of facilities will my council or local government body 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. Councils and local government bodies should use their common sense to determine the range of reasonable facilities they can actively provide to support the free press in all its forms.

To facilitate public scrutiny and public reporting, local authorities should not conduct their meetings in foreign languages.

**Will I be allowed to film, tweet, blog or audio-record the meetings of other bodies not listed in annex A?**

The Government message is that all public bodies should adopt maximum openness and transparency. This is also essential for bodies or groups making decisions for their local area because they are expected to be open and transparent in their decision-making. While the new national rules do not apply to some local groups such as neighbourhood forums and Local Enterprise Partnerships, such groups are encouraged, when having public meetings, to embrace the use of modern technology and should allow the same filming, audio-recording, taking of photographs, tweeting and blogging as applied to local government bodies, particularly if they are in receipt of public funds. This will give local people the opportunity to see how decisions are being made that affect their community.

**Are there any limits to what I can say in a tweet or video I publish?**

The law of the land applies – including the law of defamation and the law on public order offences (see the Crown Prosecution Service guidance on social media<sup>viii</sup>).

Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.

**Are there other limits that I 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.

**Will I be able to provide commentary during the meeting?**

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. The new rules do not permit oral commentary to be provided during a meeting as this would be disruptive to the good order of the meeting.

**Can I be asked to leave a meeting because I'm 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, which could result in being excluded from the meeting.

### **What is disruptive behaviour?**

Essentially, this could be 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. Examples can include:

- moving to areas outside the areas designated for the public<sup>ix</sup> 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.

You may be excluded from a meeting if you act in a disruptive manner.

### **Can I leave recording equipment in a public meeting room and record without being present?**

There is no legal prohibition, however, under the national rules, the local government body may require any such recording to stop if at any stage the meeting becomes a private meeting.

### **But the local authority says reporting is a breach of its Standing Orders?**

It is a legal duty for the local government body to follow the new provisions. If a local government body's existing Standing Orders are not fully in line with the new legislation, in the short-term, we recommend they simply waive the relevant provisions of those old Standing Orders which could be taken to inhibit the new reporting rules, and then take steps to update formally its Standing Orders.

## Part 2 Access to meetings and documents of a council's executive

This Part explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers. A council's executive (i.e. the council's cabinet) is its main decision making body consisting of an elected mayor or leader and a number of councillors. This Part applies to councils with either a leader and cabinet or elected mayor and cabinet. It does not apply to councils operating the committee system or other local government bodies listed in Annex A.

### **What are the national rules for access to meetings and documents of a council's executive?**

The national rules are principally provided by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which introduced significantly greater transparency and openness into the meetings of a council's executive, its committees and sub-committees. The rules also strengthen the rights of councillors to access information about items to be discussed at a public or private meeting of their council's executive.

### **Who can make an executive decision in my council?**

The decision maker can be the executive, its committees and sub-committees, joint committees, joint sub-committees, individual councillors, and officers who have delegated responsibility from the executive to make executive decisions. Your council may have local rules<sup>x</sup> that will explain who may make a decision.

## Attending the meetings of your council's executive

### **How will I know about a forthcoming public meeting of my council's executive?**

Your council must give a notice of the meeting at least 5 clear days before it takes place. The details of the meeting must be published at your council's offices and on its website where practicable. The agenda must be published with any background papers. No item can be considered if the item is not available for inspection by the public with 5 clear days' notice.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda, public report and background papers must be published as soon as the item is added to the agenda. In some circumstances, the whole or part of a

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report may not be available for public inspection because it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

### **Can I obtain a copy of the agenda and other relevant papers for a public meeting of my council's executive?**

Yes, your council must provide you with a copy of the agenda, and other relevant papers once you have made payment of postage and/or copying charge. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

### **Can a council's executive choose to meet in private?**

All meetings of an executive including meetings of its committees or sub-committees must be open to the public, except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public.

The rules require a meeting of an executive to be closed to the public in two specific circumstances:

- If the presence of the public is likely to result in the council breaching a legal obligation to third parties about the keeping of confidential information; or
- a lawful power is used to exclude the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

In addition, a meeting can also be closed to the public where the executive so decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the executive if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement forcing councils to discuss exempt information in private.

### **What is confidential information?**

Confidential information means:

- information provided to the council by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

### **What is exempt information?**

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

### **Can I be asked to leave a public meeting?**

Yes. As a member of the public you can be asked to leave a meeting so that the executive, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained.

### **How will I know about a private meeting of my council's executive?**

Prior to holding a private meeting, your council must have published on its website and at its offices at least 28 clear days' notice of its intention to consider a matter in private and the reasons for the private meeting. This is to ensure that members of the public have reasonable opportunity to make representations as to why the proposed private meeting should not be held in private.

At least 5 clear days before the meeting, your council must confirm its intention to go ahead with the private meeting through another notice on its website and at its offices. This second notice has to include details of any representations received and the council's response to them.

### **Can a private meeting of my council's executive be held if 28 days' notice is not given to the public?**

A private meeting can only be held without 28 days' notice after the agreement of the Chairman of the Overview and Scrutiny Committee has been obtained that the meeting is urgent and cannot reasonably be delayed. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or, in their absence, the Vice Chairman) must be obtained. If this agreement is granted the council must publish a notice about why the meeting is urgent and cannot be deferred. This notice must be available at its offices and on their website. If agreement is not given then the meeting must either be held in public, or the council must comply with the 28 day notice requirements.

### **Can I attend an executive's pre-briefing meeting with local authority officers?**

No. The rules apply only to when councillors meet as a decision making body to exercise their statutory executive responsibilities. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

## Recording of decisions of public meetings

### **If I am not at the meeting, how will I know of any decisions made?**

The fact that you are unable to attend a public meeting of your council's executive, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require a council to keep records of any executive decisions<sup>xi</sup> made as soon as reasonably practicable after any public meeting. The written records must reflect the following information:

- Details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest of an executive member of the decision-making body; and
- a note of dispensation granted by the Head of Paid Service in respect of any declared conflict of interest.

You can then inspect the records and any reports considered at the meeting at your council's offices and on the council's website if it has one. All of these documents can be inspected for six years beginning from the date of the meeting apart from background papers which can be inspected for four years beginning from the date of the meeting. These records may be kept in electronic format.

### **Apart from information about meetings, are there other means of knowing about decisions likely to be made by a council's executive, its committees and sub-committees?**

Yes. The national rules require a council to publish its intention to make a key decision<sup>xii</sup> in a document at least 28 clear days prior to when the decision is intended to be made. The notice has to include details of the individual or executive body that will make the decision, the matter that is subject to a decision, other documents to be considered, and where these other documents are available. This notice document must be available at the council's offices and on its website before the decision is made.

This allows you to have sufficient knowledge in advance of those decisions that will be of genuine concern to you and your local communities.

**Can a key decision of a council's executive<sup>xiii</sup> be made without giving the 28 days' notice?**

Yes, provided the following requirements are met:-

- the relevant Overview and Scrutiny Committee Chairman is informed in advance and in writing (or all the members of the Overview and Scrutiny Committee) about what the decision is concerning;
- a notice about the key decision to be made is made available for inspection at the council's offices and published on the website; and
- 5 clear days elapse following the day a notice is published about the key decision to be made.

If there is a case of special urgency, for example an urgent decision on a negotiation, expenditure or contract, the decision must only be made if the agreement of the Overview and Scrutiny Committee Chairman is received. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or in their absence the Vice Chairman) must be obtained. If agreement is given, a notice explaining why the decision is urgent and cannot reasonably be deferred, must be published and should be available at the council's offices and on its website as soon as reasonably practicable.

**Can 28 days' notice of a key decision also provide 28 days' notice required for a council executive's private meeting?**

It is up to your council to decide whether the 28 day key decision document should contain the details required for a private meeting notice. Where there is an intention to make a key decision at a private meeting, your council must comply fully with all the national rules.

**Can my council's executive make key decisions and not follow the national rules?**

No. Councils must comply with all the national rules since they are prescribed by law. Should a decision be made without applying the key decision rules because the council thinks that the decision is not a key decision, but subsequently the Overview and Scrutiny Committee decides the decision is a key decision, the executive may be asked to submit a report to the full council.

## Executive decisions by an individual member or officer

### **Can an individual member or an officer of a council's executive take decisions on matters that are the executive's responsibility?**

Yes, where the rules of your council allow this. Decision makers can be individual councillors, and officers who have delegated responsibility from the executive to make executive decisions.

### **How will I know about an executive decision taken by a member or officer?**

When a member or officer takes a decision on matters that are the responsibility of the council's executive, this must be recorded in writing. The form of the written record is for the council to decide, but the following should be included:

- details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest declared by any executive member consulted in relation to the decision; and
- a note of dispensation granted in respect of any declared conflict of interest.

### **Are all decisions made by councils' officers to be so recorded?**

No. The requirement to record decisions extends only to "executive decisions". Executive decisions can sometimes be defined in your council's rules. Decisions which are taken by officers under specific delegations from a meeting of their council's executive are clearly executive decisions. However, many administrative and operational decisions officers take on how they go about their day to day work will be delegated within the council's rules and are not in this "executive decisions" category; as such they do not need to be recorded.

The decisions that should be not recorded might include the following examples:

- Decisions to allocate social carers to particular individuals, or for example, to provide walking aids;
- decisions to allocate a social housing unit to an applicant or to send someone to carry out repairs;
- decisions to review the benefit claims of an individual applicant and
- decisions to allocate market stalls to individual traders.

Where officers have been empowered to act on behalf of their council's executive, examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values;
- decisions to exercise powers of Compulsory Purchase;
- decisions on disposal of and/ or provision of allotment land and green spaces;
- awarding of Discretionary Rate Relief
- the opening hours of local libraries; and
- the holding of car boot sales/markets on council-owned land.

*This is not intended to be an exhaustive list, rather a series of examples to illustrate that, in the interests of maximum transparency, these Regulations require more than just key decisions to be recorded.*

*Ultimately it is for local decision makers to decide what information should be recorded on the basis of the national rules.*

### **How can I see any records of decisions taken by executive members or officers?**

Once a record of executive decisions taken by an executive member or officer has been made, you should be able to inspect the record at the council's offices and on its website as soon as reasonably practicable.

However you will not be able to see some of the information if it is considered to be either confidential or exempt information.

### **Can I ask for a copy of any records of executive decisions?**

Yes. You can ask for a copy of any documents relating to executive decisions and your council should supply the information once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

## Your rights as a councillor

### **If I am a councillor, do I have any right to access meeting documents?**

As a councillor, you can inspect any document that contains material to be discussed at least 5 days before a public meeting is held. In case of a private meeting or decision made by an individual executive member or officer, you can inspect the document within 24 hours of the conclusion of the meeting or the decision being made.

In addition, if you are a member of an overview and scrutiny committee, you can ask for any document that contains business transacted at a meeting of the executive, its committees or sub-committees or officer of the authority. The executive must provide the

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document within 10 days after it (the executive) receives the request. In an instance where the executive cannot release the whole or part of the document, the executive must provide you with a written explanation.

### **What other rights do councillors have to inspect documents of their councils?**

In addition to the rights conferred on councillors by these Regulations in relation to executive decision making, councillors also have statutory rights to inspect documents of the council and its committees under Part 5A of the Local Government Act 1972. Councillors may also request information held by their council under the Freedom of Information Act 2000 (or the Environmental Information Regulations 2004 in relation to environmental information). Councillors may have rights under the common law to inspect such documents held by their council as are reasonably necessary for them to perform their duties.

### **What happens if documents relating to executive decisions are not made public?**

It is a criminal offence if, without a reasonable excuse, a person who has in his or her custody a document<sup>xiv</sup>, which the national rules require to be made available to the public, refuses to supply the whole or part of the document or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she can be fined up to £200<sup>xv</sup>.

## Part 3 Access to non-executive meetings and documents of a local government body, other than parish and town councils

This Part explains how the public can access all meetings (other than those of a council's executive) of a council or other local government body, other than parish and town councils. These meetings include those of a body's committees, sub-committees and any joint committees involving two or more local government bodies. It also explains how to access the records of certain non-executive decisions taken by the officers of local government bodies, other than parish and town councils.

### Attending the meetings

#### **How will I know about a forthcoming meeting of my council or local government body which will be open to the public?**

Your council or local government body must give a notice of the meeting at least 5 clear days before a public meeting is held. The details of the meeting, such as the time and place, must be published at your council or local government body's offices. The notice may also be published on the body's website where practicable. You can also inspect the agenda and any background papers at least 5 clear days before the meeting.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda and background papers must be published as soon as the item is added to the agenda.

An item that is not on the agenda can only be considered in special circumstances if the chairman is of the opinion that the item should be considered at the meeting as a matter of urgency. Any such special circumstances should be specified in the minutes.

#### **How can I obtain a copy of the agenda and other relevant papers for a public meeting?**

If you are representing a newspaper, your council or local government body must provide you with a copy of the agenda and any background upon payment of postage and/or copying charge. Councils and local government bodies are encouraged to provide a similar service to other members of the public upon request and payment of postage and/or copying charge.

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In some circumstances, the whole or part of a report may not be available for public inspection if it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

### **Can a meeting be held in private?**

The rules require a meeting of a council or local government body to be closed to the public in two circumstances:

- If the presence of the public is likely to result in the council or local government body breaching a legal obligation to third parties about the keeping of confidential information; and
- if the council or local government body decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the council or local government body if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement compelling the body to discuss exempt information in a private meeting.

The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine misbehaviour at a meeting.

### **What is confidential information?**

Confidential information means:

- information provided to the council or local government body by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

### **What is exempt information?**

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

**Can I be asked to leave a public meeting?**

Yes. As a member of the public you can be asked to leave a meeting so that the council or local government body, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained. The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

**How will I know about a private meeting of my council or local government body?**

The rules do not require your council or local government body to notify the public if a meeting will be held in private. However, where part of a public meeting will be held in private, it should be explained when the public is notified of the meeting.

**Can I attend a pre-briefing meeting with local authority officers?**

No. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

## Recording of decisions of public meetings

**If I am not at the meeting, how will I know of any decisions made?**

The fact that you are unable to attend a public meeting of your council or local government body, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the council or local government body to make the following documents available for inspection after a public meeting:

- a copy of the minutes;
- a summary of the proceedings, where applicable;
- a copy of the agenda;
- a copy of any report for the meeting as relates to any item during which the meeting was open to the public; and
- a copy of a list of the background papers for any report for the meeting.

You can then inspect the records and any reports considered at the meeting at your council or local government body's offices and on the council or local government body's website if it has one. All of these documents can be inspected for six years, apart from background papers which can be inspected for four years beginning from the date of the meeting.

## Decisions by officers

### **Can an officer take decisions on matters that are the council or local government body's responsibility?**

Yes, where the council or local government body's rules<sup>xvi</sup> allow this.

### **How will I know about decisions made by officers?**

The new national rules require the recording of certain decisions<sup>xvii</sup> taken by officers acting under powers delegated to them by a council or local government body, its committees or sub-committees or a joint committee. The written record must be available for inspection at the council or local government body's offices and on the website if it has one<sup>xviii</sup>, as soon as reasonably practicable, and should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

Where a decision is taken under a specific express authorisation, the names of any member of the council or local government body who has declared a conflict of interest must be recorded.

The relevant council or local government body must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

### **Can I see all decisions made by my council or local government body's officers?**

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation and to only three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to "grant a permission or licence"; that "affect the rights of an individual" (i.e. to change an individual's legal rights)<sup>xix</sup>; or to "award a contract or incur expenditure which, in either case, materially affects<sup>xx</sup> that relevant local government body's financial position".

Officers take many administrative and operational decisions about how they go about their day to day work within the council's or local body's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential or exempt information.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values (the values will vary according to the relevant council or local government body);
- a decision to carry out major road works;
- determination of licencing applications, building control decisions and notices; and
- decisions to give listed building consents.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published includes the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as giving permission to a local society to use the authority's premises;
- decisions on operational matters such as day to day variations in services;
- decisions to give business relief to individual traders;
- decisions to review the benefit claims of an individual applicant; and
- decisions taken in response to requests under the Data Protection Act 1998 or the Freedom of Information Act 2000.

*These are a few selected examples and not an exhaustive list. It is for the council or local government body to decide what information should be recorded on the basis of the national rules.*

### **Can I ask for a copy of any records of decisions taken by an officer of my council or local government body?**

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council or local government body.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

### **What happens if documents relating to decisions are not made public?**

It is a criminal offence if, without reasonable excuse, a person with custody of a document<sup>xxi</sup> (which is required by the national rules to be made available to the public),

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refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200<sup>xxii</sup>.

## Part 4 Access to meetings and documents of parish and town councils

As a member of the public, you have the right to attend the annual parish and town meeting, as well as the meetings of parish and town councils<sup>xxiii</sup>, and of the Council of the Isles of Scilly. This Part explains how the public can access meetings of these councils and records of certain decisions taken by those council's officers.

### **Attending meetings of parish councils and the Council of the Isles of Scilly**

#### **How will I know about a forthcoming meeting of a parish or town council or the Council of the Isles of Scilly which is open to the public?**

Parish and town councils and the Council of the Isles of Scilly must give notice of their meeting at least 3 clear days before it takes place. Where a parish meeting<sup>xxiv</sup> is called, at least 7 clear days' notice must be given.

Notice of the meeting specifying the business to be discussed must be placed in a central conspicuous place within the parish or area at least 3 clear days before the meeting. These councils are also encouraged to place copies of the agenda, meeting papers and notice of meetings at offices and on their website, if they have these facilities.

#### **Can a parish or town council or the Council of the Isles of Scilly choose to meet in private?**

All meetings of these councils must be open to the public, except in limited defined circumstances. These councils can only decide, by resolution, to meet in private when discussing confidential business or for other special reasons where publicity would be prejudicial to the public interest.

#### **What is confidential information and publicity prejudicial to the public interest?**

Though not an exhaustive list, we expect this to cover matters such as discussing the conduct of employees, negotiations of contracts or terms of tender, or the early stages of a legal dispute.

#### **Can I be asked to leave a public meeting?**

Yes. As a member so the public you can be asked to leave a meeting so that the council can discuss matters in private, but only in the limited circumstances described above. The rules also do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

## Recording of decisions of public meetings

### **If I am not at the meeting, how will I know of any decisions made?**

The fact that you are unable to attend a public meeting of your parish and town council, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the parish and town councils to make a copy of the minutes available for inspection after a public meeting.

You can inspect the minutes at your council's offices and on the council website if it has one.

## Decisions by officers

### **Can an officer take decisions on matters that are the parish or town council's responsibility?**

Yes, where the parish or town council's rules allow this.

### **Are there means of knowing about decisions made by individuals?**

Yes. The rules require the recording of certain decisions<sup>xxv</sup> taken by officers acting under powers delegated to them by a parish or town council, its committees or sub-committees or a joint committee. The written record should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

You can see these records of decisions made by officers along with any other background papers because they have to be available for inspection at the council's offices and on its website as soon as is reasonably practicable after the decisions are made<sup>xxvi</sup>.

The relevant parish or town council must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

**Can I see all decisions made by my parish or town council's officers?**

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation, and only to three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to “grant a permission or licence”; that “affect the rights of an individual”(i.e. to change an individual's legal rights)<sup>xxvii</sup>; or to “award a contract or incur expenditure which, in either case, materially affects<sup>xxviii</sup> that relevant local government body's financial position”.

Officers take many administrative and operational decisions on how they go about their day to day work within the council's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential information or any other information, which its publicity would be prejudicial to the public interest.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual/total values (the values will vary according to the relevant parish or town council); and
- decision to renew a lease to an Allotment Association.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published has the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as the purchase of office supplies or repairs;
- a decision to sign an allotment tenancy agreement;
- decisions to allocate burial plots; and
- decisions to book rooms or sports grounds; and decisions to approve works undertaken by a contractor.

*These are a few selected examples and not an exhaustive list. It is for the council to decide what information should be recorded on the basis of the national rules.*

**Can I ask for a copy of any records of decisions taken by an officer of my parish or town council?**

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage,

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copying or any other necessary charge for transmission which will be determined by your parish or town council.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

### **What happens if documents relating to decisions are not made public?**

It is a criminal offence if, without reasonable excuse, a person with custody of a document<sup>xxix</sup> which is required by the national rules to be made available to the public, refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200<sup>xxx</sup>.

## Part 5 Your other rights of access to information

### **Are there other rights I can exercise?**

The Local Government Transparency Code sets out the minimum datasets that your local authority should publish. These include spending transactions valued over £500, salaries of senior staff, organisational charts, contracts and the location of public land and assets. The Code applies to local authorities, including parish councils with annual income or expenditure (whichever is the higher) over £200,000<sup>xxxi</sup>. Local authorities with annual income or expenditure of above £6.5m will soon be statutorily required to comply with Part 2 of the Code when the relevant regulations are in place. You can obtain further information on this from:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/308185/Local\\_Government\\_Transparency\\_Code\\_2014\\_Final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308185/Local_Government_Transparency_Code_2014_Final.pdf)

You can inspect a council's detailed financial accounts, ledgers and records under section 15 of the Audit Commission Act 1998. In addition, the Accounts and Audit (England) Regulations 2011<sup>xxxii</sup> cover checking not just the accounts, but also "all books, deeds, contracts, bills, vouchers and receipts related to them". More information on this right is available at: <https://www.gov.uk/government/policies/making-local-councils-more-transparent-and-accountable-to-local-people/supporting-pages/peoples-rights-to-see-council-accounts>

Also, you have the right to request information held by your council by submitting a Freedom of Information Act request to your council (a similar regime exists in relation to environmental information under the Environmental Information Regulations 2004). Information on the Freedom of Information Act and data protection is available on the Information Commissioner's Office website at: <http://ico.org.uk/>

You have certain rights to re-use for your own purposes documents held by the council under the Re-use of Public Sector Information Regulations 2005. These Regulations provide that any request for re-use must be in writing, and where possible and appropriate the council must make the document concerned available for re-use by electronic means. More information is available at:

<http://www.legislation.gov.uk/ukxi/2005/1515/introduction/made>

### **Where can I find the legislation relating to access to local government bodies' and council's executive meetings and information?**

The relevant legislation about access to local government body meetings and information is in Section 40 of the Local Audit and Accountability Act 2014. The relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2014/2/section/40>

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The detailed provisions on how any person can report on the meetings of a local government body are in The Openness of Local Government Bodies Regulations 2014 which can be found at:

<http://www.legislation.gov.uk/id/uksi/2014/2095>

The legislation relating to access to information regarding decisions made by council executives, and their committees, sub-committees and joint committees is Part 1A of the Local Government Act 2000 – see sections 9G and 9GA. This part was inserted as a result of amendments made by the Localism Act 2011 and the relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2011/20/schedule/2/part/1>

The detailed provisions on the rights to attend meetings and obtain information of an executive are in the secondary legislation made under the 2000 Act, that is the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which can be found at:

<http://www.legislation.gov.uk/uksi/2012/2089/contents/made>

The legislation relating to access to meetings and documents of a council and other local government bodies can be found in Part VA of the Local Government Act 1972, available at the following link:

<http://www.legislation.gov.uk/ukpga/1972/70/part/VA>

The legislation relating to access to meetings of a parish or town council can be found at section 1 the Public Bodies (Admission to Meetings) Act 1960, available at the following link:

<http://www.legislation.gov.uk/ukpga/Eliz2/8-9/67/section/1>

## Annex A – Description of the local government bodies that are covered by the new rules

- (a) a district council,
- (b) a county council in England,
- (c) a London borough council,
- (d) the London Assembly (Greater London Authority),
- (e) the Common Council of the City of London in its capacity as a local authority or police authority,
- (f) the London Fire and Emergency Planning Authority,
- (g) Transport for London,
- (h) a joint authority established under Part 4 of the Local Government Act 1985,
- (i) an economic prosperity board,
- (j) a combined authority,
- (k) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (l) a National Park Authority for a National Park in England,
- (m) the Broads Authority,
- (n) the Council of the Isles of Scilly,
- (o) a parish council, and
- (p) a parish meeting.

The new national rules also apply to the committees, sub-committees and joint committees of these local government bodies.

## Annex B – Descriptions of Exempt Information

The exempt information set out at Schedule 12A to the Local Government Act 1972 Act is as follows:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The qualifications to the list of exempt information are as follows:

**A.** Information falling within number 3 above is not exempt information by virtue of that paragraph if it is required to be registered under--

[the Companies Acts (as defined in section 2 of the Companies Act 2006)];  
the Friendly Societies Act 1974;  
the Friendly Societies Act 1992;  
the *Industrial and Provident Societies Acts 1965* [Co-operative and Community Benefit Societies and Credit Unions Acts 1965] to 1978;  
the Building Societies Act 1986; or  
[(f) the Charities Act 2011.

**B.** Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

**C. Information which—**

falls within any of numbers 1 to 7 above; and  
is not prevented from being exempt by virtue of number A or B above,

is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- <sup>i</sup> The new national rules are in The Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...) and The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 (S.I. 2012/2089).
- <sup>ii</sup> A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- <sup>iii</sup> The Guide should not be taken as providing any definitive interpretation of the statutory requirements on councils, members, officers, or of public rights: those wishing to address such issues should seek their own legal advice.
- <sup>iv</sup> A council's cabinet is its main decision making body, consisting of an elected mayor or leader and a number of councillors.
- <sup>v</sup> Part 2 of the Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...)
- <sup>vi</sup> "Private meeting" is a meeting or part of a meeting during which the public are excluded for limited and certain circumstances described in the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012
- <sup>vii</sup> Regulation 4 of The Openness of Local Government Bodies Regulations 2014
- <sup>viii</sup> [http://www.cps.gov.uk/legal/a\\_to\\_c/communications\\_sent\\_via\\_social\\_media/](http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/)
- <sup>ix</sup> Any area designated for the public should be appropriate for filming, audio-recording and photographing.
- <sup>x</sup> Each council has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- <sup>xi</sup> An "executive decision" means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority.
- <sup>xii</sup> "key decision" means an executive decision which, is likely—  
to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or  
to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- <sup>xiii</sup> All references to 'a council executive' should be construed to include the executive's committees and sub-committees, joint committees, and joint sub-committees.
- <sup>xiv</sup> A document can be the written record of executive decisions made by an executive member or officer or any other background papers.
- <sup>xv</sup> This fine could change to reflect any future changes in legislation and/or national policy.
- <sup>xvi</sup> Each council or local government has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- <sup>xvii</sup> Regulation 7(2) of the 2014 regulations.
- <sup>xviii</sup> If a local government body does not have offices or a website, other appropriate means should be used to allow you to access these documents, such as publishing the information on a website of another local authority body in the area.
- <sup>xix</sup> These decisions do not include decisions taken pursuant to an existing framework of rights.
- <sup>xx</sup> As the financial position of bodies affected by these rules varies, what constitutes the material threshold is a judgement that should be made by individual bodies.
- <sup>xxi</sup> A document can be the written record of decisions made by an officer, or any background papers.
- <sup>xxii</sup> This fine could change to reflect any future changes in legislation and/or national policy.
- <sup>xxiii</sup> A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- <sup>xxiv</sup> A parish meeting is a meeting for all of the local government electors of the parish. This can be in the case of an annual meeting in an area where there is a separate parish council, or any meeting of local government electors where there is no separate parish council.
- <sup>xxv</sup> Regulation 7(2) of the 2014 regulations.
- <sup>xxvi</sup> If a parish or town council does not have offices or a website, other appropriate means should be used to make the papers accessible to the public, such as publishing the information on the website of the local principal authority.
- <sup>xxvii</sup> These decisions do not include decisions taken pursuant to an existing framework of rights.
- <sup>xxviii</sup> As the financial position of bodies affected by these rules varies, what constitutes the 'material threshold' is a judgement that would be made by individual bodies.
- <sup>xxix</sup> A document can be the written record of decisions made by an officer, or any background papers.
- <sup>xxx</sup> This fine could change to reflect any future changes in legislation and/or national policy.

<sup>xxxi</sup> The government has recently consulted on a new transparency code for certain authorities with a turnover not exceeding £25,000 pa, which will act as a substitute for routine external audit. The draft code is available at: <https://www.gov.uk/government/consultations/draft-transparency-code-for-parish-councils>

<sup>xxxii</sup> Under the new Audit framework, this right is restated in Section 26 of the Local Audit and Accountability Act 2014. The Government will be consulting shortly on draft regulations in relation to the new arrangements. Some changes are proposed to the framework for exercising public rights, but broadly the aim is to simplify and clarify arrangements. The intention is for the regulations to be in place for the accounting period 2015-16.

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10.8 ~~Local p~~ People’s rights to information and to participate are explained in more detail in the Access to Information Procedure Rules. (Appendix A - Access to Information Procedure Rules)

10.9 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 the authority including committees, sub-committees and joint committees. Reference Appendix Z of the Constitution entitled “Protocol on Reporting Meetings”

Local Peoples’ Responsibilities

10.910 ~~Local p~~ People must not be violent, abusive or threatening to Members or Officers and must not wilfully damage things owned by the Council, Members or Officers.

10.1011 ~~Local p~~ People are asked that:

- they treat Council Officers and Members with respect;
- that they provide all the relevant information to help the Council deal with their request efficiently
- they do not verbally or physically abuse Council Officers and Members.
- they do not attend the Council offices under the influence of alcohol or drugs

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**29. Disturbance by Public**

29.1 Removal of Member of the Public - If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

29.2 Clearance of Part of Meeting Room - If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

29.3 Photography and Recording of Meetings - ~~The consent of Members present at any meeting shall be required before any person may record, broadcast or photograph proceedings at the meeting. Any recording, broadcasting or photography shall be conducted in a manner to be directed by the Chairman and shall cease immediately if either:~~  
~~Members so resolve; or~~

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~~the chairman so directs.~~

The Council will provide reasonable facilities to facilitate the audio/visual reporting of meetings. The public is welcome to record, by any means, meetings of the Council and its Committees using suitable non-disruptive methods.

29.4 The Chairman of the meeting has the discretion to halt any recording if the recording causes disruption to the meeting.

29.5 Oral reporting or commentary at the meeting is prohibited. More information is contained within the Protocol entitled "Reporting Meetings" set out at Appendix Z.

### **Appendix A: Access to Information Procedure Rules**

#### **25. Decisions by Officers**

25.1 Certain decisions made by officers must be captured in a written record. These are decisions that have been delegated to an officer of the Council under a specific express authorisation, or under a general authorisation where the effect of the decision is to:

- grant permissions or licences,
- affect the rights of individuals,
- award contracts or incur expenditure which materially affects the body's financial position.

25.2 The written record is made available to the public at the Council Officers, on the Council's website, by post if requested and on receipt of payment for copying and postage.

25.3 The written record will be available for public inspection as soon as reasonably practicable for at least six years, and any supporting documentation for at least four years. These can be kept in electronic format.

#### **APPENDIX Z: Protocol on Reporting Meetings**

1. Members of the press and public are entitled to report on any public meeting of Sevenoaks District Council including Council, Committees, sub-committees and Cabinet, except in circumstances where the public have been excluded as permitted by law. Reference Appendix A of the Constitution entitled "Access to Information Procedure Rules" in relation to exclusion to Access by the Public to Meetings.

2. Reporting means:-

Filming, photographing or making an audio recording of the proceedings of the meeting;

Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later such as tweeting and blogging or other means of social media.

3. Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. Oral commentary cannot be provided during a meeting as this would be disruptive to the good order of the meeting.
4. In order to assist preparations, anyone attending a meeting is asked where possible to advise Democratic Services staff at least two working days before the meeting on 01732 227247 or email [democratic.services@sevenoaks.gov.uk](mailto:democratic.services@sevenoaks.gov.uk) if they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively. The request should include the following information:
  - which meeting this request refers to;
  - the name, organisation (if applicable) and contact details of the person making the request;
  - what equipment it is intended will be used (e.g. camera/audio recorder/video camera/ laptop)
5. Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand. If members of the public do need to stand or to enter/leave the room they are asked to do so quietly and discreetly with respect to the meeting and those observing it.
6. You may be excluded from a meeting by the Chairman if you act in a disruptive manner. Disruptive behaviour would include:
  - 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 purpose of recording
  - Or any other behaviour considered by the Chairman to be disruptive.
7. For meetings held in the Council Offices, the public are welcome to use the Council's Wi-Fi facilities which can be accessed by selecting "SDC-GUEST"
8. In order to avoid accidents, the Council regrets that it is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.

## Agenda Item 6

9. Where possible, it is asked that recording equipment be set up before the meeting starts.
10. If during the meeting a motion is passed to exclude the press and public, because confidential or exempt information is likely to be disclosed, then all rights to report the meeting are removed.
11. If the meeting for which agreement is given to report is adjourned by the Chairman then any reporting should stop at the point at which the meeting is adjourned.
12. Anyone filming a meeting is asked to only focus on those actively participating.
13. Members of the public may be filmed or recorded whilst attending a council meeting and attendance at the meeting signifies a member of the public's agreement to this.
14. Any request made by the Chairman of the meeting regarding respecting the public's right to privacy should be complied with.
15. Members of the public should abide by any instruction given to them by a Council staff member in the event of the fire alarm sounding
16. Photographs, audio, and visual recording should not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being recorded in a way that may ridicule or show lack of respect.

If as a member of the public you do not wish to be photographed, filmed or recorded please inform the Democratic Services Officer in attendance at the meeting or the Chairman of the relevant committee when notice that a request to photograph, record or film has been received is given and we will try to assist, where reasonably possible.

**Governance Committee Work Plan 2014/15**

<b>18 September 2014</b>	<b>25 November 2014</b>	<b>26 February 2015</b>	<b>June 2015</b>
Community Governance Review  Recording of meetings  Committee System		Training program for new Members following the elections in May 2015  Any Constitutional updates that may be necessary	

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