

<b>CABINET</b> <b>28 JULY 2015</b>
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<b>*PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>  <b>7</b>
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**TITLE OF REPORT: RECORDING OF COUNCIL MEETINGS**

REPORT OF THE ACTING CORPORATE LEGAL MANAGER  
PORTFOLIO HOLDER: COUNCILLOR MRS L.A. NEEDHAM

**1. SUMMARY**

- 1.1 Members are asked to adopt a protocol for how the Council will deal with recording of Council meetings, following guidance from Central Government concerning the right of the public to record (including film) the meetings of the Council.
- 1.2 In order to replace the existing microphone system in the Council Chamber, and facilitate the Council taking recordings of its meetings, indicative costs of different technologies have been obtained.

**2. RECOMMENDATIONS**

- 2.1 It is recommended that Cabinet adopts the protocol, as set out at Appendix A, which would be placed on the Council website.
- 2.2 That Cabinet consider the information obtained on costs of recording meetings and decide whether or not officers pursue this option and if so, the level of service required.
- 2.3 That should Cabinet decide on a level of service, that the relevant amount be included in the capital programme for 2015/2016.
- 2.4 That Cabinet requests the Monitoring Officer report to Full Council with any necessary consequential amendments to the Council Procedure Rules in the Constitution, following the adoption of this Protocol.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1 To ensure that the Council has a consistent approach and complies with its legal requirements.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could have no procedure note for the recording of Council meetings and simply rely on the legislation and guidance, however this is not advisable for ensuring consistency of approach.
- 4.2 The Council could web stream all meetings in order to provide an alternative to people who might otherwise film meetings.

## 5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 Inclusion of a reference to filming Council meetings was included in the 2013 Constitution review on which Members were consulted (see section 7 below).
- 5.2 The Leader of the Council had been consulted on the proposals.

## 6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

## 7. BACKGROUND

- 7.1 The issue of the public filming Council meetings has been raised a number of times by the Government in recent years to encourage (or not prevent) Citizen Journalism. On 23 February 2011 the Department for Communities and Local Government wrote to Council Leaders and Monitoring Officers encouraging that “a welcoming approach” be adopted to those seeking to film, blog or tweet about Council meetings.
- 7.2 On 14 June 2013 the DCLG published guidance titled “Your council’s cabinet: going to its meetings, seeing how it works - a guide for local people” which provides the following:-

### ***Can I film the meeting?***

*Council meetings are public meetings. Elected representatives and council officers acting in the public sphere should expect to be held to account for their comments and votes in such meetings. The rules require councils to provide reasonable facilities for any member of the public to report on meetings. Councils should thus allow the filming of councillors and officers at meetings that are open to the public.*

*The Data Protection Act does not prohibit such overt filming of public meetings. Councils may reasonably ask for the filming to be undertaken in such a way that it is not disruptive or distracting to the good order and conduct of the meeting. As a courtesy, attendees should be informed at the start of the meeting that it is being filmed; we recommend that those wanting to film liaise with council staff before the start of the meeting.*

*The council should consider adopting a policy on the filming of members of the public speaking at a meeting, such as allowing those who actively object to being filmed not to be filmed, without undermining the broader transparency of the meeting.*

- 7.3 With a view to the Government’s approach on filming meetings the following was incorporated in the Council’s constitution when it was substantially reviewed in 2013 and subsequently adopted in September 2013:-

*3.2.1(c)(ii) The Council operates openly and transparently and recognises that citizens may wish to utilise social media during meetings (including filming meetings). These methods of communicating are welcomed, provided that Council business is not disrupted or disturbed.*

- 7.4 On 5 August 2014 the Openness of Local Government Bodies Regulations 2014 (which amended relevant parts of the Local Government Act 1972) came in to force which allows any person attending a meeting of a Council to report on the meeting. Reporting includes filming, photographing or making an audio recording of proceedings. It should be noted that the legislation does not require Council’s to allow oral reporting or oral commentary from a meeting. The regulations do state that where

the public are excluded from a meeting (ie part 2 items) the Council may prevent methods which record the meeting despite the public's absence.

- 7.5 The 2014 regulations were accompanied by further DCLG guidance titled "Open and accountable local government – A guide for the press and public on attending and reporting on meetings of local government" (relevant extract at Appendix C). The guidance includes:-

***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.*

***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.*

- 7.6 Whilst the draft protocol was being prepared the Council has received, and responded to, an enquiry from a resident as to its approach to recording meetings and why it had not formally adopted a policy to date. This enquiry led to a complaint which was not upheld.
- 7.7 In mid-May Shropshire Council received media coverage after a full Council meeting on 14 May at which the authority confiscated cameras due to "disruptive behaviour by a small number of people". It was reported that the protestors were told they required prior permission before filming [note – the legislation does not allow for this]. The Council stated their existing policy was that photographs and footage taken at council meetings should be for personal use only [note – again, not allowed for in the legislation; also completely unenforceable] but that they were reviewing their policy to ensure compliance with the national guidance.
- 7.8 Officers are also aware that a Chairman of an Area Committee has asked that all that Committee's meetings are recorded.
- 7.9 Please note that whilst the Regulations and Guidance do not specifically cover the right of Councillors to record Council meetings (ie Full Council, Cabinet, Cabinet, Committees and all Sub-Committees), the national rules do not prevent Councillors from tweeting and blogging at meetings, provided it is not disruptive and does not detract from the proper conduct of the meeting. It is proposed that elected Members would have the same rights that a member of the public would have to record those meetings. Amendments to Council Procedure Rules would be desirable to ensure this is clear.

## **8. ISSUES**

### **Draft Protocol**

- 8.1 The approach taken in the Council's Constitution is entirely consistent with the Regulations and Guidance. Indeed the Guidance explicitly recognises that Council's can exclude individuals where the filming/reporting is disruptive, as we state in the Constitution, and gives examples of such behaviour.
- 8.2 The approach the Government has taken means that Members and Officers should have no expectation of privacy (eg under the Data Protection Act or similar) when appearing at a public Council meeting. However members of the public may still have such expectations, even though there is no legal right to privacy. The Council will ask that an individual is not recorded if requested, however, this cannot be guaranteed. It would be advisable to ensure that a notice is placed on the meeting room door to notify those entering that filming, recording or photography may take place. A proposed notice is attached at Appendix B. Note that where exempt information is considered, filming (or recording generally as defined under the Regulations) will not be permitted.
- 8.3 The Council will therefore need to take steps to ensure that meetings of the Council are recorded in a way that:-
- a. Limits the disruption to meeting being recorded (particularly when there is filming).
  - b. Ensures that members of the public recognise that they may be inadvertently filmed.
  - c. Ensures that the individual undertaking filming of the meeting avoids filming members of the public who are not participating in the meeting (however this cannot be eliminated completely).
  - d. Ensures that exempt information is not recorded.
- 8.4 In order to provide consistency of approach and ensure compliance with the legislation it is proposed that a protocol be adopted setting out how the Council will deal with requests to record meetings. The protocol can be viewed as a procedure rather than a policy because it does not alter the Council's current meeting protocols, it simply provides guidance for officers. The proposed protocol is also consistent with the Council's Constitution and therefore is not a new approach. However for reasons of transparency and clarity of approach the protocol is being referred to Cabinet for consideration.

### **Costs of the Council Recording Meetings**

- 8.5 During consultation on the proposed approach to the protocol, officers were asked to investigate the cost of the Council broadcasting meetings on its website, as were the Council to take that step it might affect the number of public requests to film. Additionally officers were asked to investigate the cost of recording meetings so that the Council would have its own record in the event that someone attending a meeting took a recording and used the material selectively or out of context. This request was passed to the IT team to investigate.
- 8.6 It should be noted that the current microphone system in the Council Chamber (which has a recording facility) is beyond its lifespan and requires replacing. The installation of any replacement equipment will take into account the forthcoming refurbishment of the District Council Offices and the timing as to which elements are installed, and when, will factor this into account.

8.7 Initial enquiries as to the options available to the Council led to three quotes ranging from £69 to £89K for the initial capital cost. This was for a “Rolls Royce” service which would include:

- New microphone system
- Voting buttons
- Camera facility, which pans on to a speaker when the microphone is pressed
- Proceedings published on to the web site
- 2 x large (60 inch) screens

It was decided that other options be considered and the IT team have made further enquiries across three different service levels – Audio only (ie a replacement of the existing system); Audio/Visual without streaming; and Audio/Visual with streaming.

8.8 The costs for the 3 different options are:

### **Audio Only**

This would include:

- 62 New Microphones
- Hard of hearing IR System
- 62 USB Chargers for power to support Tablets etc.
- 40W Audio System (this is to provide sound within the room)
- Installation and Configuration
- Electronic Voting Buttons, including Digital Software for capturing Audio only

Cost: £50,000 including all installation

This is the nearest equivalent to replacing the existing system and includes additional functionality to what is currently in the Council Chamber.

### **Audio & Visual for showing Presentations, Documents etc**

This includes all the above plus:

- Screen (and PC) showing the Chair who has requested to Speak
- AV Equipment to show PPT's, Videos etc., including 4 x 60” Screens

This includes the 60” screens for showing presentations and documents etc but does not include filming of proceedings.

Cost: £60,000

This option would allow for Committee meetings to more easily receive presentations and, in particular, for those attending the Planning Committee (Members and the public) to receive more visual information on the applications being considered.

### **Audio & Visual including Filming of Proceedings**

This includes all of the first two options plus:

- Automated Camera's x 3 to capture Images which will be stored on the PC's Hard drive
- Camera Control Software

The filmed recordings are stored on a PC and can then be exported to the web site for publication if required.

Cost: £64,000

This option would also allow the flexibility to broadcast meetings from the Council Chamber to Committee Room 1 on occasions when the Council Chamber is full. It would also enhance the ability to conduct other activities in the Council Chamber, for example training.

The option on whether to film proceedings or not can be made on the basis of each Committee Meeting and filming can be turned on or off at any time.

### **Web Streaming**

- 8.9 There is also the option to have hosted live streaming of proceedings directly on to the web site, which is currently charged at £2.50 per minute. To give some recent examples Full Council on 9 April 2015 lasted an hour, which would have cost £150; Cabinet on 16 June 2015 lasted 2 hours (£300) and on 24 March 2015 lasted 1 hour 54 minutes (£285). If web streaming is to be considered further calculations would need to be made as to the likely cost of providing that service, based on which meetings would be streamed and the typical length of those meetings.

### **Portable Recording Device**

- 8.10 The above proposals would only cover the Council to record its meetings if they were held in the Council Chamber. This approach would limit the Council, as meetings are often held in other Committee Rooms, or around the District. Therefore in order to allow for the option of audio recording of these meetings the cost of a portable recording device has been investigated. There are various devices on the market today ranging from £90.00 to £2,500, however the prices reflect the quality of the audio being captured. If Cabinet wish to proceed with this option, IT would recommend a device called Denon 500R Portable recording device with 2 microphones so meetings in rooms with 1 – 20 participants can be captured with high quality recordings. This device is very portable and not intrusive. The cost of each device is £1,500.

### **Possible Changes to Council Constitution**

- 8.11 There have been a number of requests to record meetings recently, either by individuals taking their own recording, or by Councillors requesting that the Council take a recording of the meeting. All of these requests have been facilitated. If the Council decides to routinely record its meetings (irrespective of whether any party is taking their own recording) then it is suggested that this corporate approach be reflected in the Standing Orders in the Constitution. There is advantage to maintaining such a record (in addition to dealing with the concern set out at 8.5 above), as in the event there is a query on the minutes or a complaint as to conduct at a meeting, there would be a recording of proceedings to refer back to. The cost of storing such digital recordings would need to be factored into the cost indications above and is still being investigated. If the recordings were held on CD then the cost would be minimal, whereas if the recordings were held on servers there might be additional cost. The

service level required (eg quality, retention time) will also be a factor as well as the cost.

8.12 Possible changes to the Constitution could include:-

- Defining what would be considered disruptive behaviour when recording meetings (suggested approach would be to use the list in the DCLG guidance)
- Specifying which meetings the Council will record for its own purpose to retain a record
- Specifying whether the Council's own recording will extend to Part 2 proceedings
- Specifying the type of recording that will be taken (ie audio or audio and visual)

If the Council recorded Part 2 proceedings as part of its own record then it would need to be mindful of the potential for FOI requests for that recording, presumably considering the same grounds that made it Part 2 in order to decide whether to refuse disclosure. In accordance with the legislation, as set out in the protocol, individuals recording meetings will be required to stop recording in Part 2 in order to maintain the confidentiality of that part of the meeting.

8.13 Cabinet is asked to identify the changes it considers are needed, for the Monitoring Officer to then take forward to Full Council for approval.

## **9. LEGAL IMPLICATIONS**

9.1 The relevant legislation is set out within the report. Failure to comply with the legislation (or indeed the guidance) could be grounds for a complaint against the Council, including negative publicity.

9.2 The procedure is within Cabinet's terms of reference to adopt.

## **10. FINANCIAL IMPLICATIONS**

10.1 There are no financial implications as a result of the protocol, however there will be capital costs if the Council installs recording equipment and revenue costs from its use and if the Council webcasts all or some of its meetings. The costs are set out within the report.

10.2 There is currently no earmarked budget for this proposed expenditure and consequently Cabinet is asked to support the recommendation at 2.3 that this be included in the capital programme for this year.

## **11. RISK IMPLICATIONS**

11.1 There is a potential risk of reputational damage to the Council if meetings are disrupted or negative press results from an attempt to film at meeting that was not handled appropriately.

11.2 There is also a risk that recorded footage may be used in manner that takes it out of the context in which it was filmed (ie an edited version is published by a third party which provides an incomplete record of events). This risk is mitigated if the Council has its own recording of the meeting.

11.3 There is a risk that the Council is blamed by a third party who is inadvertently filmed during a Council meeting. It is legal to inadvertently film a third party whilst filming in a

public place for a legitimate reason. Therefore people attending meeting should be made aware that they may be filmed inadvertently at some point.

## **12. EQUALITIES IMPLICATIONS**

- 12.1 The Equality Act 2010 came into force on the 1<sup>st</sup> October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5<sup>th</sup> April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.3 The procedure is inclusive so it would not fall foul of the Equality Act 2010. The reminder to users of flash photography to be mindful of its use in meetings is also helpful, as it can potentially impact attendees to that meeting who may have photosensitive epilepsy or similar condition, since the use of the flash can trigger such attacks.

## **13. SOCIAL VALUE IMPLICATIONS**

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 12.

## **14. HUMAN RESOURCE IMPLICATIONS**

- 14.1 Officers speaking at meeting will need to be aware that they may be recorded, this cannot be avoided due to the effect of the Central Government legislation and guidance. There will be communications provided to make relevant staff aware of this.
- 14.2 Relevant officers should be trained on the procedures adopted so that they are aware how to deal with requests to record meetings.

## **15. APPENDICES**

- 15.1 Appendix A – Draft Protocol.
- 15.2 Appendix B – Draft Notice.
- 15.3 Appendix C – Extract from DCLG Guidance “Open and accountable local government: A guide for the press and public on attending and reporting meetings of local government”; August 2014.

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