

Agenda item:

Title of meeting: Scrutiny Management Panel

Date of meeting: 7 February 2014

Subject: Consideration of notice of motion referral from Full Council concerning Transparency and Openness (Filming of meetings)

Report by: Local Democracy Manager

Wards affected: N/A

Key decision: No

Full Council decision: Yes

1. Purpose of report

The purpose of the report is to provide information to the Scrutiny Management Panel following the Notice of Motion referral from the Council Meeting held on 10 December 2013.

2. Recommendations

RECOMMENDED that the Panel is asked to apprise Full Council on the legislative position set out in the report concerning the matters arising through the Notice of Motion, with a view to Members being notified once the necessary Regulations and accompanying Guidance are in place, at which time members will be asked to make the necessary constitutional changes to facilitate compliance.

3. Background

The Full Council on 10 December 2013, resolved that the issues raised in the below notice of motion be considered by Scrutiny Management Panel for report back to Council at a later date (by 18 March 2014 meeting).

"The Council supports the principles of openness and transparency and encourages filming, recording and the taking of photographs at council meetings that are open to the public. It also welcomes the use of social networking websites (such as Twitter and Facebook) and micro-blogging to communicate with people about what is happening, as it happens at council meetings.

The Council instructs the Chief Executive to prepare a report for the next Governance and Audit and Standards Committee meeting on how the terms of this motion can best be implemented."

Photographing, broadcasting and reporting

Photographing, filming, recording or broadcasting of local authority meetings cannot take place unless the local authority gives permission, although it is not obliged to do so (section 100A(7), LGA 1972)

In September 2012, the Government implemented the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations (LAR 2012) aimed at introducing greater openness in Cabinet meetings.

However Regulation 20 (4) states that nothing in these Regulations requires a decision-making body to permit the taking of any photographs of any proceedings or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.

Subsequently, the Department for Communities and Local Government (DCLG) published a guide (applicable to Cabinet related meetings only) confirming that the intention of 2012 Executive Arrangements Regulations was to encourage openness and scrutiny of local government, which includes allowing the public to film or report on the proceedings in local authority meetings. The guide also encourages local authorities to establish guidelines for those wishing to film or report on meetings.

DCLG guidance states that the rules require councils to provide reasonable facilities for any member of the public to report on meetings. It goes on to say Councils should thus allow the filming of Councillors and Officers at meetings that are open to the public.

The Guidance advises that there can be social media reporting of meetings.

The Guidance states that the Data Protection Act does not prohibit **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.

The guidance adds that Councils should adopt a policy on filming 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.

The Secretary of State has advised that many Councils are not following the Department's Guidance, which in any event as stated only relates to Executive arrangements. Therefore he intends to pursue the inclusion of these reporting rights for all public meetings of Councils within legislation through the Local Audit and Accountability Bill (**see relevant extract below**). This Bill has completed all the stages in both the House of Lords and the House of Commons and is likely to receive Royal Assent in Spring 2014.

Should the Bill be enacted, the Secretary of State may, by subsequent Regulations, require Councils to allow persons to film, photograph or sound record any public meetings of the Council. It is assumed that the precise detail of how this would be expected to operate in practice and the inherent safeguards that would need to be in place would be addressed in those Regulations, such as the law on defamation.

Clearly any such change would in due course, once the detail was known and published, require amendments to the Council's Constitution and Standing Orders.

Relevant Extract from the Local Audit and Accountability Bill

"Access to local government meetings and documents

- (1) The Secretary of State may by regulations make provision for and in connection with allowing persons—
 - (a) to film, photograph or make sound recordings of proceedings at a meeting of a body to which this section applies, or of a committee or sub-committee of such a body;
 - (b) to use other means for enabling persons not present at such a meeting to see or hear proceedings at the meeting, as it takes place or later;
 - (c) to report or provide commentary on the proceedings at such a meeting, orally or in writing, so that the report or commentary is available, as the meeting takes place or later, to persons not present at the meeting.

- (2) Regulations under subsection (1) may in particular make provision—
 - (a) for allowing persons to make available to the public or a section of the public using any medium (including the internet) things produced as a result of activities within that subsection;
 - (b) about the facilities to be made available by bodies to which the regulations apply to enable persons to carry on such activities;
 - (c) about the steps to be taken by persons before carrying on such activities;
 - (d) about the circumstances in which persons may not carry on such activities, including for enabling a person specified in the regulations to prevent them from doing so in the circumstances specified in the regulations."

4. Conclusion

Clearly until the Bill is enacted and the subsequent Regulations and accompanying guidance is drafted and published, it is difficult to predict its implementation, application and operation.

5. Equality impact assessment (EIA)

An equality impact assessment is not required as the recommendation does not have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

6. Legal Implications

These have been taken into account In the preparation of this report.

7. Finance Comments - None

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Signed by:

Appendices: None

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
DCLG Guidance	DCLG Website
2012 Executive Arrangement Regulations	