

Report of City Solicitor

Report to General Purposes Committee

Date: 28th October 2013

Subject: Facilities to be made available for reporting on council committee meetings

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

In June 2013 DCLG published 'Your council's cabinet – going to its meetings, seeing how it works – A guide for local people'. DCLG see the guide as a tool to help the public know when they can attend meetings of a council's executive and what documents and information are available to them and in this respect is a practical guide to the revised Executive Arrangements Regulations made in August 2012.

The new guide for local people has raised expectations concerning the recording of council meetings – the presumption from Government being that requests to record will be looked at positively by Councils. As a result of the new guide a number of requests have been made to record committee meetings – each of which have been put to the meeting concerned for determination. Some of those requests have been granted whilst others have not been supported. Members have asked that a protocol be prepared to:

- Outline the framework within which requests to record can be made and then determined;
- Set out the range of facilities made available by the Council to those wishing to report on the council's committees, boards and panels.

Recommendations

General Purposes Committee is asked to consider and approve the draft protocol attached at Appendix A and ask for a further report, on the experiences of the practical application of the arrangements, in May 2014.

1 Purpose of this report

1.1 The purpose of this report is to;

- Outline the framework within which requests to record can be made and then determined;
- Set out the range of facilities made available by the Council to those wishing to report on the council's committees, boards and panels.

2 Background information

2.1 In June 2013 DCLG published 'Your council's cabinet – going to its meetings, seeing how it works – A guide for local people'. DCLG see the guide, as a tool to help the public know when they can attend meetings of a council's executive and what documents and information are available to them and in this respect is a practical guide to the revised Executive Arrangements Regulations made in August 2012.

2.2 In all respects Leeds complies with the 2012 Regulations. However, in two respects, the guide for local people has extended the public's reasonable expectations relating to meetings; particularly concerning the recording of council meetings.

2.3 Firstly the presumption from Government being that requests to record will be looked at positively by Councils. Whilst the guide is specifically in relation to meetings of a council's cabinet – aspects of the guide refer more generically to 'council meetings' or 'meetings that are open to the public'.

2.4 The second aspect is what appears to be DCLGs extended interpretation of Regulation 4 (6) of the 2012 Regulations. This Regulations states that while the meeting is open to the public, any person attending the meeting for the purposes of reporting, is so far as is practicable, to be afforded reasonable facilities for taking their report. DCLG has identified one aspect, relating to filming meetings, which is significant, and warrants further consideration. In DCLGs view :

"Council meetings are public meetings and as such 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 filming of councillors and officers at meetings that are open to the public"

2.5 DCLG are NOT suggesting that Councils satisfy this requirement by themselves providing webcasts of all meetings, rather the suggestion is that, facilities are made available for citizens to film for themselves. DCLG acknowledge that:

"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"

2.6 And DCLG recommend that:

“those wanting to film liaise with council staff before the start of the meeting”

“Council should consider adopting a policy for members of the public speaking at a meeting, such as allowing those who actively object to be being filmed to be not filmed, without undermining the broader transparency of the meeting”

3 Main issues

3.1 Since the DCLG guide has been published a number of requests to audio record have been made to council committees, and one to video record. Each of these requests has been put to the committee meeting in question for consideration and determination.

3.2 Not all requests to record have been granted. A significant concern expressed by members has been that little assurance has been provided that recordings would not be used out of context or edited in such a way as to not represent an accurate record of proceedings – particularly in circumstances where decisions might be more prone to appeal, judicial review or public inquiry. Members have commented that the guidance issued by DCLG has not sufficiently explored these issues (indeed the guidance has only been issued in relation to meetings of the Executive) and, until further detailed consideration has been given to them by DCLG, there should be no permissions granted to record regulatory committee meetings.

3.3 Other observations made have been as follows;

- Allowing recording of executive meetings is compatible with the council's value of being open, honest and trusted and should be seen positively and as a logical extension to existing webcasting facilities; helping to demystify council processes.
- Video recording of officers who undertake enforcement activities (e.g. those who might appear at licensing or planning meetings) might undermine those activities.
- Audio recordings of meetings may present less of a problem/concern.
- Where a permission to record is granted those attending the meeting after the permission is granted should be made aware that proceedings are being recorded.
- The council has a duty of care to employees, where an officer objects to being video recorded then that officer should not be recorded.
- Where committees have facilities for members of the public to speak (particularly meetings of Planning and Licensing), members of the public might not reasonably expect, or feel comfortable with their comments being recorded by a third party.
- Where committee proceedings go into exempt session, all personal items of those excluded from a meeting need to be removed to reduce the risk of clandestine recording.

- Concerns surrounding the intellectual property of video recordings and the persons featured in that recording and the ability of the council to regularise use when taken by a third party.
- Recording (particularly video recordings) may be distracting or otherwise disruptive to the proceedings of the committee.
- Members/others speaking at committees may feel inhibited from speaking at meetings if those meetings are being recorded.
- Further training opportunities need to be considered for members.
- Arrangements should be trialled for a period of 6 months, with a further report, on the practical application of the protocol, presented to Members for further consideration.

3.4 Given the views expressed, the attached protocol (at appendix A) does not provide for a blanket permission to record all council meetings. It does though set out the facilities available for those wishing to report on the proceedings of the Council's Committees Boards and panels.

3.5 In respect to third party recording of meetings, the protocol sets out that requests made to Executive Board to audio record meetings will be routinely granted, but that requests to film meetings be not granted as there is the inherent likelihood, due to the restrictions of room layout and public accessibility to the meeting, of filming being disruptive or distracting to the meeting.

3.6 In addition, it is proposed to utilise existing audio recording facilities in committee room 6/7 to record meetings of the Executive Board. This will enable the authority to retain a record of proceedings for future purposes (as might be necessary).

3.7 At this time the protocol does not extend in principle permission to permit the recording of regulatory committees such as Planning and Licensing for the reasons set out in paragraph 3.2. It is proposed that these concerns be brought to the attention of DCLG and, until such time as a response is received, future requests to record be not granted.

4 Corporate Considerations

4.1 Consultation and Engagement

- Consultation on the draft protocol has taken place with the Leader of Council, the Executive Member with responsibility for Democratic Services, Leaders and whips of political groups and the chairs of committees.
- As officers are affected, particularly those who present or advise committees, the Trade Unions have also been consulted on the proposals.
- The Chief Executive, City Solicitor and Chief HR Officer have also been consulted and are content with the proposals set out.
- The views collated during the consultation are summarised in section three of this report. At the time of writing this report the views were still being collated; where further comments are received these will be presented verbally at General Purposes Committee.

4.2 Equality and Diversity / Cohesion and Integration

- There are no specific equality and diversity or cohesion and integration issues arising from this report.

4.3 Council policies and City Priorities

- There are no specific implications for council policies or city priorities.

4.4 Resources and value for money

- There are no implications for resources or value for money arising from this report.

4.5 Legal Implications, Access to Information and Call In

- DCLG's publication 'Your council's cabinet – going to its meetings, seeing how it works – A guide for local people' is a guide to citizens; it is not statutory guidance that Local Authorities are required to comply with, although, rightly, the authority should consider the implications of it.
- The Executive Board must operate in accordance with different regulations, these being the Local Authority (Executive Arrangements) (Meetings and Access to Information) (England). These regulations have slightly different requirements for the facilities that local authorities must make available and it is in relation to these Regulations that DCLG issued their guide to local people. Of particular relevance is Regulation 4(6) which states that;

‘while the meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as is practicable, to be afforded reasonable facilities for taking their report’.

4.6 Risk Management

- The DCLG publication is not statutory guidance to the local authority although it is reasonable that the council have regard to it. The publication is specifically related to meetings of councils' executives and the attached protocol deals specifically with these meetings at Leeds City Council and the Regulations governing those meetings.

5 Recommendations

- 5.1 General Purposes Committee is asked to consider and approve the draft protocol attached at Appendix A and ask for a further report, on the experiences of the practical application of the arrangements, in May 2014.

6.0 Background documents¹

- 6.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.