

CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**4 SEPTEMBER 2014**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

**Leader of the Council – Councillor Cook  
Corporate Management and Finance – Lead Cabinet Member – Councillor D  
Harrington**

**THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

1. Summary

To update Cabinet regarding the new requirements relating to (1) the public reporting and commentating on public meetings of local government bodies, and (2) the written records to be kept of certain decisions taken by officers of those bodies.

2. Recommendations

It is recommended that Cabinet:-

1. Consider the report and
2. Subject to Members' views, approves the protocol for use in relation to future public meetings of Cabinet.

3. Reasons for Recommendations

To ensure compliance with the requirements of the Openness of Local Government Bodies Regulations 2014, and to provide appropriate guidance for Members, Officers and the public in that respect.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

### **Disclosable Pecuniary Interests**

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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**SUMMARY**

To update Cabinet regarding the new requirements relating to (1) the public reporting and commentating on public meetings of local government bodies, and (2) the written records to be kept of certain decisions taken by officers of those bodies.

**RECOMMENDATIONS**

It is recommended that Cabinet:-

1. Consider the report and
2. Subject to Members' views, approves the protocol for use in relation to future public meetings of Cabinet.

**DETAIL**

1. The Openness of Local Government Bodies Regulations 2014 ("the Regulations") came into force on the 6 August 2014.
2. The Regulations are concerned with two main issues:-
  - (i) Allowing the public to report and commentate on public meetings of local government bodies (which includes principal councils like Stockton, and Town/Parish Councils); and
  - (ii) Requiring written records to be kept of certain decisions taken by officers of such bodies.

**Public reporting on Council Meetings**

3. The Regulations require persons attending meetings of Councils (meaning a meeting of the (full) Council, the executive (Cabinet), or of a committee or sub-committee, such as a Planning or Licensing Committee), to be permitted to report on those meetings.
4. "Reporting" means:-
  - Filming, photographing or making an audio recording of proceedings at a meeting.
  - Using any other means of enabling persons not present to see or hear proceedings at the meeting as it takes place or later, or

- Reporting or providing commentary on proceedings at the meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present.
5. Oral reporting or oral commentary on a meeting as it takes place, if the person reporting or providing the commentary is present at the meeting, does not have to be permitted.
  6. Reasonable facilities must, so far as practicable, be afforded to persons attending a meeting for the purpose of reporting on the meeting.
  7. Any communication method can be used by the person reporting on the meeting, including the internet, to publicise, post or otherwise share the results of the person's reporting activities.
  8. Publication and dissemination of the results can take place at the time of the meeting or after the meeting.
  9. Where the public are excluded from a meeting, they may be prevented from reporting on the meeting employing methods which can be used without the person's presence at the meeting, and which enable persons not present to see or hear the proceedings as they take place or later.

#### **Record of decisions and access to documents**

10. The Regulations also require Officers making certain delegated decisions, to produce a written record of those decisions.
11. The decisions concerned, are ones which would otherwise have been taken by the (full) Council itself, a committee or a sub-committee, but which have been delegated to an Officer either:-
  - Under a specific, express authorisation; or
  - Under a general authorisation to officers to take such decisions and, the effect of the decision is to:-
    - (i) Grant a permission or licence;
    - (ii) Affect the rights of an individual; or
    - (iii) Award a contract or incur expenditure which, in either case, materially affects the Council's financial position.
12. The written record must be produced as soon as reasonably practicable after the decision has been made, and must contain the following:-
  - (a) the date the decision was taken;
  - (b) a record of the decision and the reasons for it;
  - (c) details of (any) alternative options considered and rejected; and
  - (d) where the decision is made under a specific express authorisation, the names of any Members who declared a conflict of interest in relation to the decision.

13. The written record, together with any related background papers, must as soon as reasonably practicable after the record is made, be made available for public inspection by the public:-
  - (a) at all reasonable hours at the offices of the Council;
  - (b) on the Council's website; and
  - (c) by such other means considered appropriate by the Council
14. Copies of written records and background papers must be provided on request, and after payment of any charge.
15. The requirements regarding written records exclude confidential and/or exempt information.
16. It is an offence for anyone who has custody of a written record and/or background paper, without reasonable excuse, to intentionally obstruct anyone exercising a right to inspect or to refuse to provide copies of the same.

## **Next Steps**

### **Public reporting on Council Meetings**

17. The Government has provided a Plain English Guide for the public and practitioners regarding the Regulations. A copy is available at <https://www.gov.uk/government/publications/open-and-accountable-local-government>. This advises Councils to adopt a policy on filming of Members of the public. This also suggests the need for a general policy or protocol for the benefit of members, officers and those wishing to exercise their rights under the Regulations.
18. A working draft protocol has been in use since the Regulations came into force. A copy of the proposed protocol for Cabinet's approval. A copy of the proposed protocol for Cabinet's approval is attached to this report at the **Appendix**.
19. A copy of the Protocol is also being submitted to Council for its approval in relation to full Council meetings and meetings of Committees and Sub-Committees.

### **Record of decisions and access to documents**

20. Appropriate advice and guidance has been prepared for all Services regarding the decision recording and public inspection requirements detailed in the Regulations.
21. A similar approach to that adopted in relation to the Local Authorities' (Executive Arrangements) Meetings and Access to Information (England) Regulations 2012 (regarding meetings and decisions of Cabinet and decisions of Officers using executive powers) has been adopted.

### **Recording and Web Broadcasting of its meetings by the Council**

22. At its meeting on 13 March 2014 Cabinet asked the Members' Advisory Panel to consider issues relating to the possible recording and web-broadcasting by the Council of its own meetings, and to report the findings to a future Cabinet meeting.
23. A report is being prepared in this respect for a Panel meeting (on the 5 September).
24. The Panel's findings will be reported to the next Cabinet meeting.

### **The Constitution**

25. The Council's Constitution will need to be reviewed and revised, where necessary and/or appropriate, to reflect the Regulations, particularly individuals' rights to report on Council meetings and the requirements to provide written records of certain Officer-decisions, as well as providing details of the approved protocol.

### **FINANCIAL AND LEGAL IMPLICATIONS**

#### **Financial**

26. There are no financial implications at this stage. Costs may arise as a result of fulfilling the requirement to afford (so far as reasonably practicable) those wishing to report on Council meetings reasonable facilities for doing so. There will also be costs involved if the Council decides to record and/or web broadcast its own meetings.

#### **Legal**

27. The Regulations require arrangements to be put into place to facilitate the reporting of and commentary on Council public meetings, and to ensure the written recording of certain Officer decisions.

### **RISK ASSESSMENT**

28. As appropriate guidance is being provided and reasonable facilities will be afforded for the reporting on meetings, the risks arising from the requirements of the Regulations can be categorised as low to medium.

### **COUNCIL PLAN IMPLICATIONS**

29. Organisational and operational effectiveness and strong local democracy.

### **EQUALITY IMPACT ASSESSMENT**

30. The Regulations have been the subject of their own statutory assessment. A further assessment is not necessary. Should the Council decide to record or broadcast its own meetings an assessment will be carried out at the appropriate time if thought necessary.

### **CONSULTATION**

31. Members have been provided with information regarding the requirements of the Regulations and the draft protocol on permitting the reporting of Council meetings.

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Background Papers: None  
Ward(s) and Ward Councillors: Not Ward Specific  
Property Implications: Not applicable