

AGENDA ITEM
REPORT TO COUNCIL
17 SEPTEMBER 2014
REPORT OF CORPORATE
MANAGEMENT TEAM

THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

SUMMARY

The report updates Council 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 Council:-

1. Considers the report and
2. Subject to Members' views, approves the protocol for use in relation to future public meetings of Council, its Committees and Sub-Committees and that it be reviewed after six months operation.

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 Council's approval is attached to this report at **Appendix 1**.
19. A copy of the Protocol was submitted to Cabinet on 4 September for its approval in relation to its meetings. Cabinet's decision is attached at **Appendix 2**.
20. At its meeting on the 5 September, the Members Advisory Panel also considered the draft protocol. The Panel recommended the protocol be approved subject to the requirement that all those wishing to report or commentate on the Council's meetings should inform Democratic Services in advance of the day of the meeting. The draft protocol has been amended to take account of this recommendation. Some typographical changes have also been made.
21. In addition the Panel suggested that the Protocol should be reviewed six months after its approval, in order to ascertain whether any changes might be required.

Record of decisions and access to documents

22. Appropriate advice and guidance has been prepared for all Services regarding the decision recording and public inspection requirements detailed in the Regulations.

23. 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

24. 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. This work is ongoing.

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 commentating on Council public meetings, and to ensure the written recording of certain Officer decisions. This is being done, as indicated in this report.

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.

Director of Law and Democracy

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Background Papers:

None

Ward(s) and Ward Councillors:

Not Ward Specific

Property Implications:

Not applicable