

County Council

23 July 2014



The Openness of Local Government Bodies Regulations 2014

Report of Colette Longbottom, Head of Legal and Democratic Services

Purpose of the Report

1. To advise Council of the implications for the Council following draft regulations relating to the openness of Local Government Bodies having been laid before Parliament, and to present a protocol for reporting of meetings for approval.

Background

2. On the 7 April 2014, the Secretary of State laid the Openness of Local Government Bodies Regulations 2014 ("the Regulations") before Parliament under section 43 of the Local Audit and Accountability Act 2014. The Regulations will come into force on the day they are made.
3. The Regulations allow reporting at meetings which are open to the public, be it the Council, Cabinet, committee or subcommittee meetings where the public are not excluded.
4. The Regulations do not require a Council to permit oral reporting or commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting.
5. Any person attending a meeting must, so far as is practicable, be afforded reasonable facilities for reporting and may use any communication method, including the Internet, to publish, post or otherwise share the results of their reporting activities. Publication and dissemination may take place in the meeting or afterwards.
6. Reporting means:-
 - filming, photographing or making an audio recording of proceedings at a meeting;
 - using any other means for enabling a person who is not present to see or hear proceedings at a meeting as it takes place or later; or

- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.
7. The Regulations also make provision for the recording of decisions. Decisions made by officers are not limited to those made under Delegation by the Executive and must be recorded, whether made by an officer or on behalf of another committee/subcommittee or joint committee, in which the authority participates where the decision has been delegated to an officer either under a specific delegation or under a general authorisation and the effect of the decision is to:
 - grant a permission or license;
 - affect the rights of an individual;
 - award a contract or incur expenditure which in either case, materially affects relevant Local Government Bodies financial position.
 8. Background papers are to be made available to the public as soon as reasonably practicable after the decision is made, at all reasonable hours at the offices, on the website and by such other means the Council considers appropriate. The Regulations also contain obligations to provide copies subject to the payment, postage, copying or other necessary charges for transmission. If a request is appropriately made, a copy of the written record and any background papers must be provided.
 9. Written records must be retained and available for inspection for six years with background papers being retained for four years.
 10. The provisions relating to the provision of decisions does not affect confidential or exempt information.
 11. Anyone who has custody of a document which is required to be produced and without reasonable excuse, intentionally obstructs or refuses access, commits an offence.

Implications for the Council

12. In relation to decision records, the Monitoring Officer oversees the process of posting Officer Decisions with reports on the website (if allowed under the access the Procedure Rules). To avoid the website becoming too large and difficult for the public to use, Committee Services attach the report supporting the decision on the website and include on the database, information taken from a pro forma "Delegated Decision" form. Any documents which are necessary as background papers should, under the procedure, be provided to Committee Services so that they can be placed on a separate server. The current arrangements together with the procedures and guidance supporting them may require some review to enable the Council to be compliant with the Regulations

13. In relation to the requirements in the Regulations to allow reporting, the Council Constitution currently does not permit filming of its meetings. Once the Regulations come into operation, that constitutional provision will need to be amended and persons attending meetings with the intention of reporting on them, must be afforded reasonable facilities for those reporting.
14. There is no definition provided as to the definition of reasonable facilities. It is arguably reasonable to facilitate reporting allowed by the Regulations without committing significant public funds at this time of austerity and without disrupting the business of the meeting. Health and Safety considerations should also be taken into account. With these factors in mind it is proposed that the arrangements should be as follows:-
 - That persons attending to report meetings should be advised of the availability of WIFI to assist in this process;
 - That they should remain seated;
 - That, in order to avoid accidents, it will not be possible for them to use electric sockets for their equipment;
 - That they be reminded that they cannot carry out oral reporting during the meeting or disrupt the meeting in any way.
15. On 30 June 2014, the Constitution Working Group agreed to recommend that Council approve the protocol appearing at Appendix 2.

Recommendations and reasons

16. It is recommended that Council:
 - (i) Note the report;
 - (ii) Approve of the protocol at Appendix 2.

Appendix 1: Implications

Finance - none specific in this report

Staffing - none specific in this report

Risk - none specific in this report

Equality and Diversity / Public Sector Equality Duty - none specific in this report

Accommodation - none specific in this report

Crime and Disorder - none specific in this report

Human Rights - none specific in this report

Consultation - none specific in this report

Procurement - none specific in this report

Disability Issues - none specific in this report

Legal Implications - none specific in this report

Appendix 2: Protocol for members of the public wishing to report on meetings of Durham County Council.

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place, is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 03000 269 714, or email democraticservices@durham.gov.uk that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

For meetings held in County Council Buildings, members of the public are welcome to use the Council's Wi-Fi facilities which can be accessed by selecting 'PublicInternet' from the list of available networks on your device. You must ensure that you have enabled the wi-fi on your device. Occasionally, meetings take place in venues not run by the County Council and in such circumstances members of the public are advised to check with the venue whether Wi-Fi is available.

In order to avoid accidents, the Council regrets that it is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.