



AGENDA ITEM: 16

SUMMARY

Report for:	Cabinet
Date of meeting:	16 September 2014
PART:	1
If Part II, reason:	

Title of report:	The Openness of Local Government Bodies Regulations 2014
Contact:	Cllr Neil Harden, Portfolio Holder for Residents and Regulatory Services Steve Baker, Assistant Director Chief Executive's Unit. Jim Doyle, Group Manager Democratic Services.
Purpose of report:	To advise Members of the implications for the Council of the regulations relating to the Openness of Local Government Bodies Regulations and to present a protocol for the reporting on meetings by members of the public for approval.
Recommendations	<p>1. That Council be recommended that paragraph 17.4 'Record of Proceedings' of the Procedure Rules for the Council and its Committees contained in Part 4 of the Constitution be amended so as to read as follows –</p> <p style="text-align: center;"><i>17.4 Recording and Reporting of Proceedings</i></p> <p style="text-align: center;"><i>Those present may make a written record of the proceedings and while a meeting is open to the public, any person attending is to be permitted to report on the meeting in accordance with the Council's 'Protocol for Members of the Public Wishing to Report on Meetings'.</i></p> <p>2. That Council be recommended that the Cabinet Procedure Rules contained in Part 4 of the Constitution be amended by the insertion of a new paragraph 6 –</p> <p style="text-align: center;"><i>6. Recording and Reporting of Proceedings</i></p> <p style="text-align: center;"><i>Those present may make a written record of the proceedings and while a meeting is open to the public, any person</i></p>

	<p><i>attending is to be permitted to report on the meeting in accordance with the Council's 'Protocol for Members of the Public Wishing to Report on Meetings'.</i></p> <p>The existing paragraph 6 shall remain and become paragraph 7.</p> <p>3. That Council be recommended to adopt the 'Protocol for Members of the Public Wishing to Report on Meetings' as set out in this report and that it be included in the Constitution as an annex to the Rules of Procedure in Part 4 of the Constitution.</p>
Corporate objectives:	<p>Dacorum Delivers:</p> <ul style="list-style-type: none"> • <i>Transforming our approach to encourage a more customer focused and efficient service</i> • <i>Decision Making made more transparent</i>
Financial/ Value for Money Implications:	None specific to this report
Risk Implications:	Members and Officers should acknowledge the possibility of all Council public meetings being recorded and act accordingly to safeguard those viewing or listening and so protect the reputation of the Council.
Equalities Implications:	None specific to this report.
Health and Safety Implications:	None specific to this report
Monitoring Officer/S.151 Officer Comments	<p>Monitoring Officer: No further comments to add to the report.</p> <p>Deputy S.151 Officer: No comments to add except that any expenditure will be met from existing budgets.</p>
Consultees:	
Abbreviations:	DCLG Department for Communities and Local Government
Background Papers:	<ul style="list-style-type: none"> • The Openness of Local Government Bodies Regulations 2014 http://www.legislation.gov.uk/ukxi/2014/2095/contents/made • Open and accountable Local Government (DCLG Guidance) https://www.gov.uk/government/publications/open-and-accountable-local-government-plain-english-guide

BACKGROUND

1. The Openness of Local Government Bodies Regulations 2014
 - 1.1 The Openness of Local Government Bodies Regulations 2014 (“the Regulations”) came into force on 6th August 2014. Local authorities now have to make arrangements for public meetings being filmed, tweeted or blogged.
 - 1.2 The new rules cover all meetings of the Council, Cabinet, Committees and Sub-Committees where the public are not excluded.
 - 1.3 The Council is not required to allow oral reporting or commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting.
 - 1.4 Any person attending a meeting must, so far as is practicable, be provided with 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.
 - 1.5 “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 to persons not present.
 - 1.6 The Regulations allow for reporting of meetings via social media of any kind, such as tweeting, blogging or via Facebook;
2. Reasonable facilities
 - 2.1 The Regulations state that a member of the public who wishes to report on a meeting must be provided with reasonable facilities to do so. The Regulations themselves do not define what constitutes reasonable facilities. The guidance from the Department for Communities and Local Government (DCLG) explains that “reasonable facilities” should include space to view and hear the meeting, seats, and ideally a desk. The guidance states that local government bodies should use their common sense to determine the range of reasonable facilities they can actively provide to support the free press in all its forms.
 - 2.2 The Council will have to consider the provision of WIFI in the Council Chamber and in Committee rooms to enable compliance with the Regulations and this will need to be factored into any future consideration being given to the provision of this service across the Civic Centre and in the new Council offices.
 - 2.3 The guidance also stresses that meetings should be conducted in English.

3. As far as our partner organisations are concerned, the new rules do not apply to groups such as neighbourhood forums and Local Enterprise Partnerships. However, such groups, particularly those in receipt of public funds, are encouraged, when having public meetings, to embrace the use of modern technology and should allow the same filming, audio-recording, taking of photographs, tweeting and blogging as apply to local government bodies.
4. There is no legal requirement for councils to webcast their meetings.
5. The Regulations do not contain any restrictions on what can be said in a tweet or video. The law of the land applies, including the law of defamation and the law on public order offences.
6. The guidance states that councils should consider adopting a policy on the filming of members of the public, and ensure that they protect children, the vulnerable and other members of the public who actively object to being filmed without undermining the broader transparency of the meeting.
7. Written Record of Delegated Decisions
 - 7.1 The Regulations also require a written record to be made of any decision that has been delegated to an officer under a specific or general authorisation, where the effect of the decision is to grant a permission or licence, affects the rights of an individual, award a contract or incur expenditure which, in either case, materially affects the Council's financial position.
 - 7.2 The written record of the decision and any 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 Council's 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. A person who has custody of a document which is required to be produced and without reasonable excuse, intentionally obstructs or refuses access, commits an offence.
 - 7.3 Written records must be retained and made available for inspection for six years with background papers being retained for four years. These particular instructions present little difficulty for the Council as our existing practices for publishing and posting agenda and decisions can, with some minor alterations, be adapted to make the Council compliant with the regulations.
 - 7.4 The requirement to make written records of delegated decisions and background papers available to the public does not apply to confidential or exempt information.

8 Procedural implications

- 8.1 At the moment Dacorum Borough Council's Constitution (Part 4: Rules of Procedure) - section 17.4, Minutes and Record of Proceedings - currently prohibits the recording or filming of meetings without an application in writing and the permission of the Mayor or the Chair of the committee. Consequently, the Council's Standing Orders will need to be updated to bring them into line with the new legislation.

- 8.2 It is also suggested that the current rules surrounding Public Participation should be updated and amended to enable any person wishing to film or audio-record a public meeting to notify the proper officer beforehand (through Member Services) so that all necessary arrangements can be made and the required "reasonable facilities" provided. The Public Participation scheme and the guidance on our website for those attending meetings will now need to warn members of the public that if they are attending a Council meeting they may be filmed.

9 Disruptive or unruly behaviour

- 9.1 Sections 20 and 21 of the Council's present Rules of Procedure in the Constitution sets out guidance on dealing with disruptive or unruly behaviour at meetings and these instructions may also need to be updated to include the protocol at annex A, to cover those persons whose tweeting or filming causes disruption.

- 9.2 It is proposed that persons attending to report meetings should be advised:-

- 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.

10 Conclusion

- 10.1 In practice it should be possible to facilitate the reporting of public meetings by the public without incurring significant expenditure. It is possible to foresee that members of the public may want to exercise this new right to report on public meetings when matters of particular public interest or controversial issues are under consideration. To help avoid the potential for disruption it is advisable to have in place a protocol so that the Council can exercise some degree of control of the exercise of this right and to enable the person chairing the meeting to deal appropriately with any situations that may arise.

Annex 1

Protocol for members of the public wishing to report on meetings of Dacorum Borough 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 to persons 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 Member Support on 01442 228***, or email member.support@dacorum.go.uk if they wish to report on the meeting and how they want to do so. This is to enable officers to guide anyone choosing to report on proceedings an appropriate place from which to be able to report effectively.

Anyone filming the proceedings is reminded that other members of the public will be attending the meeting and they are requested to be sensitive to the rights of minors and vulnerable adults and those members of the public who have not consented to being filmed.

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.

The Council regrets that it is unable to facilitate members of the public using electric plug sockets in meetings for their recordings.