
Subject: ARRANGEMENTS FOR THE BROADCASTING AND RECORDING OF MEETINGS

Meeting and Date: GOVERNANCE COMMITTEE – 7 JULY 2022
COUNCIL – 20 JULY 2022

Report of: MONITORING OFFICER

Classification: UNRESTRICTED

Purpose of the report: To seek Council approval for the necessary Constitutional amendments to provide for the online broadcasting and recording of specified Executive, Council and Committee meetings.

Recommendation:

Governance Committee:

- (a) That it be recommended to the Council that the Constitutional amendments to enable the continued broadcasting of meetings and the use of the electronic voting system set out in Appendix 1 of this report be approved and incorporated into the Council's Constitution (Issue 24).
- (b) That the Governance Committee express a view on the recording of meetings for consideration by the Council.

Council:

- (a) That the Constitutional amendments to enable the continued broadcasting of meetings and the use of the electronic voting system set out in Appendix 1 of this report be approved and incorporated into the Council's Constitution (Issue 24).
- (b) That the Council determine if it wishes to retain recordings of broadcast meetings and the retention period of the recordings as per the options set out in the report.

1. Summary

- 1.1 This report seeks approval from the full Council for the permanent introduction of broadcasting meetings of the Executive, Council and Committees following a successful trial of the new system installed in the Council Chamber. As part of this, several Constitutional amendments are required.
- 1.2 The report also asks Members to determine if they wish to start recording and retaining the broadcast meetings and the retention period for these recordings. As part of this, a number of options have been considered.

2. Introduction and Background

- 2.1 Under the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 the Council introduced the live broadcast of Executive, Council and Committee meetings that would in normal circumstances be open to the public. This was the first time that the Council had broadcast its meetings and during lockdown resulted in levels of public viewing that exceeded the Council Chamber's rated public seating capacity.

- 2.2 A sunset clause in the Regulations meant that remote meetings ended on 6 May 2021 and with it the Constitutional grounds used for the broadcast of in-person meetings. The Council at an Extraordinary meeting held on 19 May 2021 agreed a six-month trial period for testing the live broadcast of Executive, Council and some Committee meetings. This trial was subsequently extended for a further period following supplier delays with the installation of new broadcast system.

Trial Period of Meeting Broadcasts

- 2.3 The trial period has allowed Democratic Services to develop internal operational procedures and identify needed Constitutional adjustments to accommodate not just the broadcast of meetings but also the operation of the new electronic voting system.
- 2.4 The new processes in place have also been assessed against equalities requirements and GDPR compliance. This has included matters such as the use of colours on the voting screen that are suitable for those with visual impairments or colour blindness and a change to the layout of seating in the public gallery to ensure that faces of members of the public are not broadcast.

Meetings that will be broadcast

- 2.5 The proposals following the trial period are that meetings of the following bodies will be broadcast:
- Council
 - Cabinet
 - Dover Joint Transportation Advisory Board (not included in the trial)
 - Electoral Matters Committee (not included in the trial)
 - General Purposes Committee
 - Governance Committee
 - Planning Committee
 - Overview and Scrutiny Committee
- 2.6 The Council will not broadcast any exempt or confidential business or any meetings that are not open to the public.
- 2.7 In respect of Project Advisory Groups (PAG), these meetings are not covered by the provisions of Part VI of the Local Government Act 1972, The Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 so as to require its meetings to be open to the public. It is therefore not proposed to broadcast these meetings except in instances where Democratic Services in consultation with the Chairman of the relevant Project Advisory Group feel that there is a benefit to do so, and it will only be in instances where the substantive business to be transacted by the PAG is not exempt or confidential.
- 2.8 The following meetings will not be broadcast as they are likely to contain significant personal information from and about applicants, objectors and customers, some of which (for the regulatory function committees) may be in dispute.
- Appointments Committee
 - Licensing Committee
 - Licensing Sub-Committees
 - Regulatory Committee
- 2.9 It is also the view of the Solicitor to the Council & Monitoring Officer and the Head of Governance & HR that the Council cannot make a decision to broadcast meetings for the Licensing Committee as it is responsible for its own arrangements under the Licensing Act 2003 and the Gambling Act 2005. However, for reasons set out at paragraph 2.8, it is not recommended that these meetings be broadcast.

Data Protection

- 2.10 The capturing, broadcasting and recording of the images and audio of persons present at meetings involves the processing of personal data and is subject to the requirements of UK GDPR and the Data Protection Act 2018. A Data Privacy Impact Assessment of the broadcasting and recording of meetings has been undertaken and the Data Protection Officer is satisfied that risks associated data protection laws can be adequately mitigated.
- 2.11 There are several considerations around the broadcasting of persons present at meetings, and the processing of personal data that will need to be considered within the context of data protection. Particular emphasis should be given to members of the public and staff. It is considered that the likelihood of these groups seeking to exercise rights relating to the processing of their personal data is greater than is the case of elected members, whose expectation of privacy is likely to be lower.
- 2.12 It is the view of the Data Protection Officer that the Council would not normally expect to rely on consent as the legal basis for processing personal data under article 6(1)(a) UK GDPR, although it may have its role to play. To rely on consent alone would be problematic in that consent may be withdrawn at any time, without reason. It would also be too onerous on the Council as a data controller when more appropriate bases are available. Rather, reliance would be placed on the legal basis for processing contained in Article 6(1)(e) and (f) of UK GDPR. These are 'public task' and 'legitimate interests' respectively. These legal bases are still subject to the rights of individuals to restrict processing but allow for the consideration of balance between the rights of the Council to process data and the rights and freedoms of individuals.
- 2.13 Data protection considerations have a particular impact in respect of public speaking at committees and during the trial period Democratic Services have had the opportunity to test the processes put in place to comply with data protection requirements. All members of the public who register to speak through the website are required to indicate whether they wish to be broadcast or not and the cameras have been configured to minimise the amount of the public gallery that is in camera shot. The current technical processes also permit the withholding of the public speaker's image and/or audio without impacting on their ability to speak in person to the members of the relevant committee and this has been successfully trialled on a number of occasions.
- 2.14 The Council has not to date made or kept recordings of meetings. The recording of meetings and the subsequent making them available for viewing gives rise to further considerations, particularly in practical terms. It can be anticipated that whilst some participants in the meeting will be content for the ephemeral broadcast of their image they may be rather more inclined to seek to exercise their data protection rights in respect of recordings that are available to public viewing for a period of time. Members are reminded that the quality of the Council's broadcasting equipment and the way it is set up results in high definition images of individual participants which are quite capable of allowing for the identification of individuals – these are not low definition 'long shots' (as used by some councils) which show little detail.
- 2.15 The data protection issues raised by retaining recordings of meetings are considered further below under the heading "On what grounds can the Council record and retain broadcasts?"

Delegations to Manage the Broadcast of Meetings

- 2.16 In developing these proposals, it has been identified that while the presumptive position is that those meetings that meet the criteria to be broadcast will be broadcast

there could be circumstances where the Council would not want to broadcast a meeting, will need to suspend the broadcasting of a live meeting, or through technical issues be unable to broadcast.

- 2.17 The reasons for suspending a live broadcast would include cases such as disruption to meetings that cause proceedings to be halted or where something has occurred that is not suitable for broadcasting, such as an outburst from a member of the public making unfounded personal allegations against a member, officer or another member of the public or a medical incident.
- 2.18 The delegation to the Monitoring Officer, Head of Governance & HR (who is also the Deputy Monitoring Officer) and the Democratic and Corporate Services Manager enables decisions to be made in respect of the broadcast of meetings in response to circumstances as they arise.

Recording and Retention of Broadcasts

- 2.19 The original proposals were not to record or retain any of the broadcasts. However, following feedback from Members this issue has been re-examined and this report sets out a number of proposals for the recording and retaining of meeting broadcasts.
- 2.20 If Members choose not to record and retain meeting broadcasts, then the broadcast will only be viewable live. This would be in keeping with the position adopted by the Council during the broadcast of remote meetings under The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.
- 2.21 In drafting this report, extensive examination of the arrangements of other local authorities has taken place. Where possible best practice has been incorporated into the proposals set out in this report. However, it should be noted that the practices employed in some instances examined were not such that we could recommend to the Council. We have worked to ensure that the proposals in this report are compliant with all appropriate regulatory requirements.
- 2.22 In developing proposals to record and retain broadcasts, discussions have been held with Democratic and Corporate Services, Digital Services, the Design Team and the Data Protection Team.

Why record and retain broadcasts?

- 2.23 The current live broadcast arrangements allow for those not present in the Council Chamber to view proceedings remotely as they happen. The proposal to record and retain broadcasts would be for the purpose of enabling individuals who were unable to attend the meeting or watch the live broadcast be able to view proceedings at a reasonable later date, to suit their convenience. This would likely include local and potentially national or international media outlets as well as local residents.

On what grounds can the Council record and retain broadcasts?

- 2.24 In deciding to record and retain broadcasts, UK GDPR requires the Council to identify a lawful basis for processing, which includes the broadcasting, recording and retention of personal data. The six lawful bases for processing personal data (names, images, audio, etc.) are set out in Article 6(1) of UK GDPR and are as follows:
- (a) Consent
 - (b) Contract
 - (c) Legal Obligation
 - (d) Vital Interests
 - (e) Public Task
 - (f) Legitimate Interests

- 2.25 In respect of both the broadcast and the recording/retention of broadcasts, the Council would usually seek to rely on the following lawful bases (although 'consent' may have a role to play):
- (e) Public Task (a council, cabinet or committee meeting is a function of the council and the broadcast of that meeting could be seen as also a function of the council); and
 - (f) Legitimate Interests (the recording of a council, cabinet or committee meeting to enable review within a reasonable period)

2.26 The lawful bases used is important as this affects the right of individuals in respect of the processing of their personal data.

	Right to Erasure	Right to Restrict Processing	Right to Portability	Right to Object
Public Task	✘	✔	✘	✔
Legitimate Interests	✔	✔	✘	✔

2.27 It should be noted that with the lawful grounds of public task and legitimate interests, an individual has the right, included but not limited to the right to object to the processing of their personal data (image, audio, name, etc.) From knowledge gained from the trial period this Right has been exercised on several occasions and it may be that if meetings are recorded there will be an increase in the exercise of these rights.

2.28 The justification under which the Council would seek to process personal data through the recording and retention of meeting broadcasts, is that it would enable those who were not able to attend the meeting or watch the live meeting broadcast the opportunity to view it for a reasonable length of time following the meeting.

What would be the consequences of recording and retaining broadcasts?

2.29 The main consequence of recording and retaining broadcasts is that the Council would be holding significant personal data (image, audio, names, etc.) that would need to be processed in accordance with the Council's governance arrangements, furthermore additional processing activity and operations Recordings would be subject to the Freedom of Information Act 2000, Subject Access Requests (under data protection legislation), the right to object to the council continuing to process an individual's personal data, the right to restrict processing, and the right to erasure (the right to be forgotten), again under data protection legislation.

2.30 In respect of Freedom of Information and Subject Access Requests, there would be a need for officers in the Corporate Services team to be able to view the recordings and extract data as required. The resource impact of this is difficult to quantify at this time and would need to be monitored. Requests also have to be treated on a case-by-case basis taking into consideration the data of the requestor, other individuals and the legislative requirements. Therefore, if requests were received in any other than minimal volume, the resource requirement could be considerable.

2.31 In respect of the right to erasure, the right to restrict processing and the right to object to the processing of an individual's personal data, this would require the editing of the meeting recording to remove the appropriate section or sections. Depending on how involved the person in question was to the proceedings this could have a significant impact on what is remaining after the appropriate redactions have been made.

- 2.32 In order to ensure transparency, the Council will insert a card into the recording that states that information has been removed from the original broadcast due to the exercise of rights in relation to personal data.

As noted at paragraph 2.23 above, the purpose of recording meetings would be to enable members of the public who are unable to attend a meeting or watch a live broadcast to view it later at their convenience. This is primarily intended to facilitate those with a genuine legitimate interest in viewing the workings of local democracy. That having been said, the point needs to be made that the technologies in operation are such that the recordings would be viewable by anyone, anywhere in the world at all times whilst the recording is available and irrespective of the motives of the viewer. As with the broadcasting of meetings it is possible that a third party could reuse the data broadcast for other purposes outside the control of the Council. The possibility is greater with recording and making that recording available online. As noted earlier in this report, the recordings are of very high quality and the possibility of the facility being used to capture footage and reuse it for purposes which are unkind, malevolent, and even unlawful should not be overlooked. Sadly, officers are aware of instances elsewhere where Council images have been used for improper purposes, although fortunately these are rare.

How would broadcasts be recorded and retained?

- 2.33 If Members wished to record and retain broadcasts this would be undertaken using the Microsoft Teams system for the live broadcast and creating the recording. Following the broadcast, the recording would be extracted from the Teams system and passed to the Design Team for uploading to YouTube. The reason for uploading the recording to YouTube is that while the recording is held in the Teams system it cannot be easily edited if required. The option of having the unedited recordings in Teams and the edited recordings in YouTube was discounted as it was felt that this would present administrative issues. The option of a single location for viewing the recordings after the meeting had concluded was more advantageous even if it involved slightly more work.

What is the proposed retention period?

- 2.34 If Members wish to proceed with recording and retaining meeting broadcasts and make those broadcasts available for public viewing, it is recommended that a retention period of 30 days from the date of the meeting be set.
- 2.35 It is felt that this retention period is defensible in keeping with the lawful bases for processing personal data. It should be long enough to allow legitimate interest in the recording to be satisfied and mitigate the data protection issues arising from longer term retention and misuse.
- 2.36 At the end of the retention period the recording would be irrecoverably deleted and neither the public nor anyone else would be able to access it.

Electronic Voting

- 2.37 The meeting broadcast system has a facility for electronic voting. This displays on the main screen in the Council Chamber how each of the Members present has voted.
- 2.38 The electronic voting system has been tested at previous council meetings, backed up with a show of hands count in the first trial of the system. These trials have demonstrated that the electronic vote takes slightly longer to undertake than a show of hands for full Council although this may speed up slightly as Members and Democratic Services become more used to the system. However, the basic principle of electronic voting has been successfully tested and shown to be a viable option.

- 2.39 It should be noted that it is not possible by default for the system to display the results of the voting online as it does with the cameras. The only potential option that exists currently would be to point a camera at the display screen during a vote, but this has a number of drawbacks primarily that the image would be blue-shifted and the names and voting intent would be quite small on the broadcast image.
- 2.40 The colours used to display the outcome of a vote on the main screen in the Council Chamber have been determined based on information provided by Corporate Services in respect of colour blindness and visual impairment to provide an outcome that is viewable by the widest spectrum of people. This would be undermined for those online with a blue-shifted image. Instead, it is proposed that the Chairman and/or clerk clearly state the outcome of a vote so that those watching remotely are clear on the outcome.
- 2.41 The use or not of the electronic voting system does not affect the rights of an individual Member to ask for their own vote to be recorded in the Minutes in accordance with Council Procedure Rule 18.5 (Right to require individual vote to be recorded) or for any six Members to request a recorded vote on a matter in accordance with Council Procedure Rule 18.4 (Recorded Vote).
- 2.42 The constitutional amendments set out in Appendix 1 seek to incorporate electronic voting into the Council Procedure Rules as a third voting option rather than as a replacement for the two existing voting methods (show of hands or by the affirmation of the meeting).
- 2.43 For full Council meetings electronic voting is not a significant impediment to the flow of decision-making due to the number of Members present and the time it would take to count votes, so it is proposed to move to electronic voting (with the exception of recorded votes) for all Council meetings in future.
- 2.44 In respect of other meetings, with the possible exception of the 10-member Planning Committee and Overview and Scrutiny Committee, the use of electronic voting would, on the basis of the experience of full Council, slow the decision-making process. It is therefore not proposed to use electronic voting for the smaller committees, although the necessary constitutional provisions will permit electronic voting as an option for all meetings.
- 2.45 In addition, the use of the electronic voting system has additional resource implications with a second officer in addition to the clerk needing to be present to operate the system.
- 2.46 It is proposed that the Democratic and Corporate Services Manager will consult with the Chairman of the Planning Committee and the Chair of the Overview and Scrutiny Committee to ascertain their views on the use of electronic voting for their committees should this report be approved.
- 2.47 It is not proposed to use electronic voting for Recorded Votes. The current system of the roll call vote for Recorded Votes enables the public (both present and watching online) to be able to clearly identify how each Members has voted.

Constitutional Arrangements for the Broadcast of Meetings

- 2.48 There are a number of constitutional amendments required to facilitate the broadcast of meetings beyond the trial period and utilise the features of the new meeting broadcast system (such as electronic voting). These are set out in appendix 1.

3. Identification of Options

3.1 Option 1: Broadcast of Meetings Only

To approve the arrangements to allow for the broadcast of meetings to continue beyond the trial period and to make the proposed constitutional amendments to support this. This option would not make any provision for the recording of meetings.

3.2 Option 2: Broadcast and Recording of Meetings with 30-day retention period
To approve the arrangements to allow for the broadcast of meetings and introduce arrangements for the recording and retention of meetings for a period of 30-days.

3.3 Option 3: Broadcast and Recording of Meetings with different retention period.

4. To approve the arrangements to allow for the broadcast of meetings and introduce arrangements for the recording and retention of meetings for a period different from 30-days.

4.1 Option 4: To not broadcast or record meetings

This would revert arrangements to those prior to the trial for the broadcast of meetings. The public would only be able to view meetings by attending meetings at the Council Offices.

5. **Evaluation of Options**

5.1 Option 1: This is the recommended option if Members wish to broadcast meetings but not record and retain them. It allows for the introduction of formal arrangements to continue the broadcast of Executive, Council and Committee meetings and makes the necessary changes to the Constitution.

5.2 Option 2: This is the recommended option if Members wish to both broadcast meetings live and record and retain them for subsequent public viewing. As part of this option, Members could opt to extend the trial period rather than approve the broadcast and recording of meetings on an on-going basis. This is not the recommended option given the work undertaking to upgrade the Council Chamber's technical infrastructure to a standard that is suitable for broadcasting and recording meetings. It is however recommended that Council should review the practice of recording meetings after (say) a period of six months in order to assess its usefulness and the practical implications of recording meetings.

5.3 Option 3: This option is the same as Option 2, with the exception of a different retention period for the recordings to be publicly viewable. A period longer than 30-days is not recommended, an increase in retention period could be more difficult to justify in terms of the data protection principles enshrined in Article 5 of UK GDPR. Furthermore, the resource implications in managing access to the recordings, and the possible increase in the exercise of rights by individuals are likely to increase if the retention period is extended.

5.4 Option 4: As part of this option, Members could opt to extend the trial period rather than approve the broadcast of meetings on an on-going basis or choose not to broadcast meetings. This is not the recommended option given the work undertaking to upgrade the Council Chamber's technical infrastructure to a standard that is suitable for broadcasting meeting.

6. **Resource Implications**

6.1 As the technical infrastructure for the broadcasting of meetings has already been installed the residual resource implications relate to staffing for Democratic and Corporate Services and the Information Governance Team. As a general principle, the more functions of the broadcast infrastructure in use (presentations, voting, further personal data processing, etc.) the more officer support that is required.

6.2 It is proposed that this be managed within current resources, but this may be subject to review if the situation changes.

7. **Climate Change and Environmental Implications**

7.1 The use of broadcast meetings via the internet reduces the need for members of the public to have to travel to the council offices to watch meetings in person with the resultant reductions in emissions.

8. Corporate Implications

8.1 Comment from the Director of Finance (linked to the MTFP): Accountancy has been consulted and has no further comments. (JS)

8.2 Comment from the Head of Governance & HR: The Head of Governance & HR has been consulted during the preparation of this report and has no further comment to make.

8.3 Comment from the Equalities Officer: The report states that consideration has been given to those with visual impairments or colour blindness in relation to the new electronic voting system. In discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

9. Appendices

Appendix 1 – Constitutional Amendments to permit the broadcast of meetings and electronic voting

10. Background Papers

None.

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