

Protocol for Audio Recording of Council Meetings

Report by John Blair, Director, Resources

1 Purpose of Report

This report invites the Council to (a) consider making publicly available audio recordings of business transacted in public at Council meetings; and (b) to approve the Protocol for the Audio Recording of Council Meetings shown in the **Appendix**.

2 Background

- 2.1 At its meeting on 25 September 2012, the Council considered a Notice of Motion by Councillor Baxter, countersigned by Councillor de Vink, as follows:-

“Midlothian Council acknowledges that access to Council debates, particularly for residents who would otherwise be unable to attend, would be greatly enhanced if its meetings were webcast and podcast and calls for a report outlining potential benefits and costs”.

- 2.2 The Council approved the motion unanimously and agreed that the report referred to be brought forward to its next meeting on 6 November 2012.
- 2.3 The report presented on 6 November 2012 advised that the Council could webcast all meetings held in the Council Chambers based on an estimate of 120 hours of meetings per annum for an indicative charge of £16,500 per annum, together with one-off network and cabling works of £1,500.
- 2.4 Following debate, which took account of the cost of introducing webcasting, a cheaper alternative solution was agreed, namely that Council meetings be audio recorded.

3 Audio Recording of Meetings

- 3.1 Following the decision to introduce audio recording of Council meetings, a Tascam audio recording unit and memory card were purchased at a cost of £1,000 and installed in the Council Chamber.
- 3.2 A number of practical issues were identified at an early stage in connection with the audio recording of meetings, including:-
- (a) the need to advise Councillors and Officers that:-
- the recording unit was activated through the Council Chamber microphone system;
 - it was imperative that speakers used a microphone to ensure recording;

- (b) the need to alert everyone present, including the public, that meetings were being recorded, which was achieved through:-
 - the erection of signs stating that: “Proceedings within the Council Chambers may be recorded.”
 - an announcement by the chair at each meeting; and
 - the inclusion of a notice on agendas:
- (c) determining which meetings should be recorded;
- (d) the need to consider the data protection implications of recording meetings, resulting in legal advice not to record private business of a regulatory nature (e.g. hearings at the General Purposes Committee). It was considered inappropriate to have an inconsistent approach whereby some hearings may be recorded and others not, depending on the view of the data subject.
- (e) additional resource implications for the Clerks pre and post recording; and
- (f) responding to requests for transcripts or access to hear recordings arising from freedom of information or personal data subject access requests.

4 Introducing General Public Access to Audio Recordings

- 4.1 The audio recording notice included on agendas states that while the Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002, **the intention is to use the recording for internal purposes only**. In light of this, access to recordings has been restricted and recordings are not placed on the Council’s website or intranet.
- 4.2 In the interests of openness and transparency, the opportunity exists, if the Council is so minded, to move beyond the current “restricted” access arrangements and to make audio recordings of business transacted in public at Council meetings publicly available in future.
- 4.3 The recordings would be accessible (via a suitable internet platform) alongside the electronic agenda and papers for each meeting. This would mean that elected members and the public could access the public parts of any recordings. Commercial organisations and the media (i.e. press, tv, radio, etc) could also access the recordings and where they wished to do so, publish or broadcast all or part of them.
- 4.4 Arrangements would also be established to provide Councillors/Corporate Management Team with full access to the exempt and confidential/private business on recordings, however this private business would not be published. (Note: The access referred to here would be subject to restriction in the case of any sensitive information which should clearly be withheld.)

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5 Which Meetings Should be Recorded?

- 5.1** As stated above, the Tascam recording unit is located in the Council Chamber and is activated via the Chambers microphone system. Accordingly, only meetings which take place in the Chamber can be recorded. For the avoidance of doubt it is suggested that these should be:-

Midlothian Council
 Cabinet
 Performance, Review and Scrutiny Committee
 Planning Committee
 General Purposes Committee (excluding hearings)
 Local Review Body
 Audit Committee
 Petitions Committee
 Standards Committee
 Sub-Committees
 (NB - Excluding the Appeals Committee.)

- 5.2** The Audit Committee met previously in the Committee Room but was moved into the Council Chamber to facilitate audio recording of its meetings. It has been suggested however that the Committee Room offers a more conducive environment and that the Audit Committee should continue to meet there. However, there is currently no facility to audio record meetings in the Committee Room. In light of this it is proposed therefore that the Audit Committee's meetings should continue to take place in the Council Chamber.
- 5.3** Sub-Committees (i.e. the Blinkbonny and Gourlaw Sub-Committees of the General Purposes Committee) also normally meet in the Committee Room and again these meetings are not currently being recorded. To facilitate this it is suggested in future that they should also meet in the Council Chamber.
- 5.4** For the meetings referred to at paragraphs 5.2 and 5.3 above, the officers could be asked to explore possible furniture moves that would help to create a more informal environment. Such moves would however have ongoing resource implications in terms of set up and return thereafter to the usual Chambers lay out.
- 5.5** With regard to the Midlothian Safer Communities Board and the Midlothian Joint Health and Social Care Partnership, it is suggested that the Council agree to audio record these meetings, subject to there being no objections from the external partner bodies.
- 5.6** With regard to Seminars, it is proposed that these should not be recorded as they have no formal decision making powers and act only as an informal forum to allow members to discuss/explore issues (normally in private) in advance of formal reports coming forward to Council/Committee.

6 The Data Protection Implications of Recording Meetings

- 6.1** The Data Protection Act 1998, which regulates how personal data is to be processed, does not differentiate between different recording media.

For example, it does not say whether personal information is to be held in written format or by means of an audio recording. Accordingly, the Council is free to determine this as Data Controller.

- 6.2** In terms of data protection compliance for audio recording, the main issues for the Council are to ensure that any personal data is kept secure, for no longer than is necessary for the relevant purpose or purposes and processed in accordance with the data subject's right to access the information. It is considered that there are appropriate arrangements in place to comply with data protection requirements.

7 Council Minutes and Audio Recording

- 7.1** Notwithstanding that an audio recording of a meeting may be produced, the minutes remain the formal legal record of the meeting and of any decisions taken.
- 7.2** The availability of audio recordings allows anyone who wishes to hear the full debate (and therefore the contributions made by individual members) during public business at a Council meeting to do so.
- 7.3** Against this background there is an opportunity for the Council to consider the minute style it wishes to adopt for the future. The availability of online agendas, reports, minutes and audio recordings means that members of the public will have unprecedented access to the business and meetings of the Council.
- 7.4** Verbatim minutes are clearly not appropriate. The current minute style seeks to be brief but allows for fuller text to be incorporated in cases where this is appropriate.
- 7.5** With the introduction of audio recordings it is proposed that a succinct minute style should be confirmed which for each item will typically give a short introduction, specify any motions/amendments/votes and state the decision reached. It is also proposed that political debate and statements by individual members (portfolio-holders or otherwise) should not be detailed in the minutes as these will be fully accessible through the audio recording. It is further proposed that where a motion or amendment is moved, the minute should simply reflect that Councillor so and so seconded. Provision however may still be required for fuller text to be incorporated in cases where this is legally or procedurally required.

8 Report Implications

8.1 Resource

The main costs associated with making and publishing audio recordings are staff costs, which can be contained within resources.

8.2 Risk

The Council's Information Security Officer comments that: "As confidential and private agenda items will be recorded there is always the potential but small risk of accidental release into the public domain."

Apart from data protection risks, the main risk associated with the publication of audio recordings is where a meeting contains inappropriate language or defamatory comments. Under the proposed Protocol, a Panel comprising the Monitoring Officer and the Provost in the case of the Council, and the Monitoring Officer, the Provost and the Chair in the case of all other meetings, can decide not to publish a recording, or part thereof, if it is considered necessary to do so because all or part of the content of the recording is or is likely to be in breach of any statutory provision or if there is inappropriate language or defamation. It is anticipated however that this need should only arise in exceptional circumstances as determined by the Panel.

The risk of persons not being aware that audio recording may be taking place is mitigated by:-

- the presence of signage both inside and outside the Council Chamber;
- notices appearing on agendas;
- notification being included in correspondence to potential speakers (under paragraph 2.11 of the protocol); and
- the chair reminding everyone at the commencement of business that the meeting may be recorded and published.

8.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- Community safety
- Adult health, care and housing
- Getting it right for every Midlothian child
- Improving opportunities in Midlothian
- Sustainable growth
- Business transformation and Best Value
- None of the above

8.4 Impact on Performance and Outcomes

The availability of audio recordings will not improve performance or outcomes as such, but will have the benefit of improving the openness, transparency and accessibility of Council business and governance.

8.5 Adopting a Preventative Approach

Not applicable.

8.6 Involving Communities and Other Stakeholders

The availability of audio recordings means that communities and stakeholders can gain a better insight into the Council's decision making.

8.7 Ensuring Equalities

Meetings will be recorded in WAV or MP3 format on the Council's digital media recorder and a link provided to the recordings (the public business only) via a suitable internet platform.

Due to the additional work involved, no transcriptions will be provided other than in exceptional circumstances, e.g. in compliance with disability access requirements.

8.8 Supporting Sustainable Development

Not applicable.

8.9 IT Issues

Separate recordings will be made for public and private business and IT have sourced suitable editing software for use if required.

9 Recommendations

The Council is invited to consider the following recommendations:-

- (a) that with effect from 25 September 2013, future audio recordings of business transacted in public at Council meetings, be made publicly available;
- (b) that the meetings to be recorded be the Council, Committees and Sub-Committees (excluding the Appeals Committee), currently as follows:-

Midlothian Council
 Cabinet
 Performance, Review and Scrutiny Committee
 Planning Committee
 General Purposes Committee (excluding private hearings)
 Local Review Body
 Audit Committee
 Petitions Committee
 Standards Committee
 Sub-Committees
 (NB - Excluding the Appeals Committee)

- (c) that the officers be asked to explore possible furniture moves that would help to create a more informal environment in the case of meetings transferred into the Council Chambers to facilitate audio recording;
- (d) that the meetings of the Midlothian Safer Communities Board and the Midlothian Joint Health and Social Care Partnership be audio recorded, subject to there being no objections from the bodies themselves;
- (e) that seminars be not recorded;
- (f) that the media (i.e. press, tv, radio, etc), be permitted to publish or broadcast all or part those recordings that are published by the Council;
- (g) to note that where personal data is audio recorded such data shall be held by the Council in accordance with the Data Protection Act 1998;

- (h) to confirm the adoption of a succinct minute style on the basis described above;
- (i) that the Protocol for the Audio Recording of Council Meetings shown in the **Appendix** be adopted; and
- (j) that the Director, Resources, be requested to provide a future report on the implications, including costs, of introducing audio recording within the Committee Room.

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