

Cheshire East Council

Constitution Committee

Date of Meeting:	15 th September 2016
Report of:	Head of Governance and Democratic Services
Title:	Audio-Recording of Meetings
Portfolio Holder:	Councillor Peter Groves, Finance and Assets

1. Report Summary

- 1.1. This report seeks clarification and guidance upon the audio-recording of decision-making meetings.

2. Recommendations

- 2.1. That the proposals contained in paragraph 5.2(d) of this report be considered and, if agreed, an appropriate recommendation be made to Council.
- 2.2. That the Director of Legal Services, in consultation with the Chairman of the Constitution Committee, be given authority to make such changes to the Constitution as he considers are necessary to give effect to the wishes of Council.

3. Reason for Recommendations

- 3.1. In order for appropriate changes to be made to the Constitution.

4. Other Options Considered

- 4.1. Other options considered include a decision not to proceed with audio-recording, given the cost of recording equipment, and the additional administrative work which would be involved.

5. Background

- 5.1 The following is an extract of the minutes of the February meeting of the Constitution Committee, which considered the question of audio-recording decision-making meetings of the Council.

“With effect from the beginning of the new municipal year, subject to the availability of appropriate equipment, the proceedings of all decision-making meetings be audio-recorded; further that such recordings be retained for use by officers only in order to resolve any disagreement as to the accuracy of the draft minutes of the meeting, and that after formal agreement of the draft minutes, the audio recording be deleted”.

The question now arises as to how this minute should be actioned, given a number of practical considerations.

5.2 The Committee decision, which was approved by Council, stipulated that the sole purpose of keeping audio recordings of meetings will be to ensure the accuracy of minutes. Consideration should be given to the practicalities around this:

- a. For decades, local authority committees have relied upon the notes taken by committee clerks, who produce draft minutes. These are then considered, in the light of the recollection of the committee members, when they come to approve the minutes at the next meeting.
- b. The introduction of an audio-recording, which would be referred to if there was disagreement at a committee meeting over the accuracy of draft minutes, introduces practical considerations for the Committee. Given that the recording could not be listened to during the meeting, the approval of the disputed minute would need to be deferred. This, for example, would have consequences in respect of planning decisions where there is a set period of time within which an application should be determined.
- c. Rules would be needed in order to ensure that only certain categories of Members would have the right to formally call for the audio-recording to be used to clarify any concern about a draft minute eg a member of the committee in question, who had been present at the meeting in question.
- d. The following provisions could be built-into the Constitution, in order to provide certainty around the process:
 - i. Prior to it being moved and seconded that the minutes of a previous meeting of a decision-making meeting body be approved, such members as are referred to in paragraph 5.2 (d) (ii) (“Qualified Members”) below may propose that the audio recording of the meeting in question be scrutinised in order to establish the accuracy of the minute.
 - ii. Such proposal may only be made by a member appointed by Council to the decision-making body (not a substitute member), who was present throughout the whole of the item in question, at the meeting which made the decision, and must be supported by at least one other member of that body who was similarly present.

- iii. Where such a proposal is moved, seconded by Qualifying Members, and carried by a majority of such Members similarly present, the decision making body in question will consider the matter no further and the power to approve the minute, in a modified form, or in the same form as set out in the draft minutes, will be formally delegated to the Head of Governance and Democratic Services (or his nominated delegee), in consultation with the Chairman of the decision-making body in question, or his/her Vice Chairman.
- iv. In approving the minute in question, the Head of Governance and Democratic Services will have regard only to any available audio-recording of the meeting and to the views of the Chairman or Vice-Chairman.
- v. These provisions shall apply only to the following formal decision-making meetings of the Council, and not to the consideration of Part II (exempt) items of such meetings:
 - 1. Council
 - 2. Cabinet
 - 3. Planning Committees
 - 4. Licensing Committees/Sub-Committees
 - 5. Audit and Governance Committee
 - 6. Staffing Committee
- vi. Once the officer has exercised delegated powers, all members of the body in question will be notified of the outcome.
- vii. Upon the approval of the minutes, whether by the decision-making body, or by the officer, the audio-recording of the meeting in question will be expunged, provided that, if a relevant Freedom of Information request has been made before this has taken place, such request will remove the requirement to expunge until it has been satisfied.

6. Wards Affected and Local Ward Members

- 6.1. There are no direct implications for individual wards or local ward members.

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. Once any new provisions are agreed, these will need to be approved by Council and incorporated into the Constitution.

7.2. Legal Implications

7.2.1 The proposals contained in this report would not amount to a minor change in the Constitution and so require the approval of full Council (Constitution page 51, Chapter 14 – Management of the Constitution Paragraph 2.1).

7.2.2 The approved minutes constitute the legal record of a meeting and any decisions taken. However, an audio-recording is itself a record/information kept by the Council for the purposes of the Freedom of Information Act 2000 (FOI) and so capable of being subject to requests for copies or transcripts. Consideration should be given to the making and retaining of audio-recordings and their inclusion in the Council's policies and practices in particular in relation to responding to FOI requests and document retention policies.

7.2.3 The Openness of Local Government Bodies Regulations 2014 (SI No 2095) amended existing legislation to require councils to allow any member of the public to record the proceedings and report on all public meetings using communication methods such as filming, audio-recording, taking photographs and using social media. The Council does not have a policy or protocol on the use of such modern media tools (which would be a means to assist in managing the day to day practical implications of the public's right to use such methods). However, in dealing with the public's use of such methods the Council does need to comply with the regulations/amended legislation. The audio-recording of public meetings by the Council itself, publication of the recording on the Council's website and retention in perpetuity would ensure that the Council has its own accurate record of the proceedings in its original form and enhances the openness of council business in accordance with the Council's transparency agenda.

7.3. Financial Implications

7.3.1. Following initial trials, basic recording mechanisms, such as dictaphones and iPad devices are not considered fit for purpose. Other devices of modest cost are being considered which, it is hoped, will prove to be adequate. It is understood that suitable devices can be purchased for around £140. Given the need for a number of devices to be purchased the total cost is not expected to exceed £600.

7.4. Human Resources Implications

7.4.1. There are no direct human resources implications.

7.5. Equality Implications

7.5.1. There are no direct equality implications.

7.6. Rural Community Implications

7.6.1. There are no direct rural community implications.

7.7. Public Health Implications

7.7.1. There are no direct public health implications.

8. Risk Management

8.1. No direct risks appear to arise from the proposals contained in this report. Indeed, the existence of a mechanism to give certainty to the minutes, where these are questioned, minimises risks to the organisation.

9. Background Papers

9.1. No background papers have been referred-to in the preparation of this report.

10. Contact Information

Contact details for this report are as follows:

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