

**Using Audio Recording or Webcasting to increase  
the Openness and Transparency of Broads Authority Meetings**

Report by Solicitor and Monitoring Officer

**Summary:** This report sets out an analysis of the potential benefits of recording or webcasting of Authority meetings.

**Recommendations:**

- (i) The audio recording of all Broads Authority public meetings be adopted on a trial basis for the next six months to assist in the preparation of minutes and during that time the Authority's existing equipment is tested to see if it is suitable for the task and the issues involved in making the recordings available on the Authority's website are investigated.
- (ii) Members consider whether the webcasting of Broads Authority public meetings should be further investigated and officers report back to a future meeting.

## **1 Introduction**

- 1.1 This report examines the case for recording the meetings of the Authority and of its Committees, together with other options, including webcasting. It recommends that audio recording should be trialled for six months and asks Members to consider whether a more detailed investigation and examination of webcasting should be pursued.
- 1.2 The case for public availability of Authority meetings is founded on the Nolan Principles of openness and accountability and the concept of Citizen-Centred Governance, which promotes engagement and participation. The process of decision-making by the Authority is conducted in a forum open to members of the public and its minutes of meetings are publicly available. Nonetheless, there are clear advantages in terms of transparency, if a full record of the Authority's meetings were available.
- 1.3 The Authority's Solicitor and Monitoring Officer visited the Brecon Beacons National Park Authority (BBNPA) in the autumn of 2016 and as part of that examined that Authority's use of webcasting. Conversations have also taken place with South Downs, Yorkshire Dales and Exmoor National Parks, each of which use different approaches to the broadcasting or recording of meetings.

## **2 Audio Recording**

- 2.1 Exmoor and Yorkshire Dales National Park Authorities use audio-only recording of their meetings. Exmoor National Park has been recording its meetings for approximately four years. The system was relatively inexpensive to set up and consists of a main recorder and backup, with the hardware costing approximately £300.00. There is no simultaneous broadcast of this, but the files are placed on the National Park website. They have a disclaimer within their meeting papers permitting them to redact recordings where appropriate. One observation they had was that occasional comments by Members in meetings, intended to be amusing, sometimes did not come across as such without the visual connect.
- 2.2 Yorkshire Dales National Park Authority has a single audio recorder used in its Main Authority and Planning Committees. This is solely to cover against disputes over what was said and is not used for the preparation of minutes. Its use arose out of a standards complaint, when a recording which had been taken by a member of the Press had been used to clarify a dispute over what had been said. The recording is not placed on the web site, but a notice informs members of the public that they may listen to the recording by arrangement. Members already had push-button microphones and the recorder is connected to these.

## **3 Webcasting**

- 3.1 The Brecon Beacons National Park Authority considered the use of a webcasting option during 2011 and set up a Corporate Governance and IT Task and Finish Group to consider the proposal. The process adopted then was to:
- Organise a visit by members to observe a system in action and to discuss resource, communication, cultural and technical issues
  - Explore funding opportunities from partnerships and joint procurement and the option of sole procurement
  - Identify the likely resourcing issues going forwards including the impact on officers
  - The proposal was subject to presentations to Cluster meetings to take into account the views of members of the public.
- 3.2 BBNPA adopted a webcast system which is provided by a third-party supplier and broadly specified as follows. The main Authority meeting room has 36 seats. A number of pan and zoom cameras are installed at ceiling height and microphones with a button at each seat. There are a number of flat screen displays in the meeting room. Pressing the microphone button results in a red light illuminating on the speaker's microphone and simultaneously, a camera will focus on the speaker. This is linked to a live streaming webcast accessed through the Authority's viewing page, but actually hosted by a third party supplier.

- 3.3 The viewing page allows for web map integration with links between those maps, the relevant agenda item and index point on the video. There is a webcast control centre in the room, operated by a Governance officer, which includes an encoder and all operating software and the ability to add in agenda items as the meeting progresses. There is a short delay on the broadcast, which allows a cessation of recording to be implemented in the event of an inappropriate event.
- 3.4 Recordings of the meetings are then archived on DVD, but available also on a streaming service. The hardware costs are included in an annual payment to the provider which is circa £10,000. It is intended to have minimal input on officer time in terms of running the system.
- 3.5 It should be noted that the Broads Authority would not be able to have the pan and zoom cameras of BBNPA, with the current furniture due to the moveable nature of tables and seating.
- 3.6 The observations from BBNPA officers in relation to the use of the webcasting system are as follows:
- It supports the BBNPA transparency agenda, which could not be achieved by other means, such as digital audio recording. There is a better understanding by the public of its decision making.
  - There is a significant advantage when preparing the minutes of complex discussions.
  - Any questions relating to the accuracy of minutes can be resolved definitively.
  - It encourages a good level of debate and promotes high standards of behaviour, in turn reducing the number of complaints.
  - It has been useful to rebut accusations from outside the organisation that a topic has not been fully or accurately discussed by Members.
  - There has been a reduction in Freedom of Information Act (FOI) requests in that the FOI does not apply to information already in the public domain through a webcast.
  - It allows the Authority to showcase its debates providing an additional level of probity.
  - Some Officers, more so than Members, were initially reluctant to be filmed and Unions had to be consulted in relation to the recording of officers. However, those officers are now comfortable with the system.
- 3.7 The South Downs National Park also webcasts its full Authority and planning committee meetings and it uses the same supplier as BBNPA and the annual payment is circa £10,000.

## **4 Legal Implications**

- 4.1 The Openness in Local Government Bodies Regulations 2014 gives members of the public and Press the right to record meetings of the Authority held in public (but not those parts of meetings to which the Press and public are excluded by section 100A of the Local Government Act 1972). Recording or webcasting would be subject to similar considerations.
- 4.2 The minutes of any meeting would remain the statutory record of proceedings. The other areas of law which would require consideration in the event of recording by the Authority are as follows:

- Data Protection Act 1998
- Human Rights Act 1998
- The common law aspects of defamation law
- Copyright law

## **5 Data Protection Act 1998 (DPA 1998)**

- 5.1 The use of webcasting would involve the digital capture of images of members of the public. As such, consideration would need to be given to DPA 1998 and the obtaining of data subject consent. These issues could be overcome reasonably simply through putting appropriate notices on agenda papers, use of signage and putting into any application form to address a meeting of the Authority that it would be webcast or recorded.

## **6 Human Rights Act 1998/European Convention on Human Rights (ECHR)**

- 6.1 Article 8 of the European Convention on Human Rights would be engaged, which enshrines the right to respect for privacy and family life. However, where the interference of such rights is a reasonable and proportionate means of achieving a legitimate aim, such interference is lawful. The use of recording apparatus in local authority meetings is now reasonably well-established in practice and it is considered highly unlikely that, where due notice has been given of the intention to record, this would be a breach of ECHR.

## **7 Defamation Law**

- 7.1 Although there would be no changes to the legal position on defamation through recording, it is considered that extending the reporting or recording of Authority minutes would bring any defamatory statement into the public domain more quickly and potentially to a wider audience, than by Minutes (which do not and are not required to, provide a verbatim report).
- 7.2 Defamation is defined as the publication to another person of an oral or written statement which exposes that person to hatred, ridicule or contempt, or has the effect of lowering his/her reputation in the estimation of right-thinking members of the public generally, or injures that person in their office, profession or trade. There are various defences to defamation, such as justification and fair comment.

- 7.3 In the context of comments made at Authority meetings any such comments have the additional protection of quasi-privilege. If an individual has a duty or interest to make a statement and the recipient a corresponding duty to receive it, the comments are protected from an action in defamation. This is with the exception of comments which are made maliciously. Malice cannot be inferred where the maker of the statement believes the facts outlined to be true.
- 7.4 It would therefore be appropriate in the use of webcasting or recording, for the Authority to be able to pause a recording in the event that a member of the public or a Member were accidentally to say something inappropriate, offensive or illegal and provision for this to be made. Any archive of the recording could be edited by way of a “bleep” or otherwise.

## **8 Copyright**

- 8.1 The Authority would be the copyright holder in any webcast or recording, so as to control its use. This should be stated by the publication of terms and conditions in any webcast footage, or the reading out of an appropriate copyright statement during any recording. Permission of the Authority would be required to use the recording or to upload it onto video sharing websites such as YouTube.

## **9 Changes to Procedures**

- 9.1 There are a number of changes to procedures, which could be incorporated into standing orders (which are themselves due for review). These include copyright notification, procedures on notifying and informing meeting participants of the recording. Also, provisions relating to the cessation and suspension of recordings where an inappropriate event takes place would need to be covered.
- 9.2 Consideration should also be given as to whether those watching a webcast could and should be able to communicate with Members during debate.

## **10 Resource Implications**

- 10.1 The required resources for webcasting or recording of meetings are likely to be:
- In the case of webcasting, a contract with an external provider, covering suitable hardware, software and online hosting of the streaming service. Those national park authorities which use an external supplier pay an annual fee for the service.
  - Officer time in operating the system during meetings, at BBNPA this is done by a governance assistant.
  - In the case of audio-only recording, the Authority has a audio recorder which may be suitable but needs live testing in a Broads Authority meeting.

- Impact on officer time in IT and communications and detailed consideration of whether the existing web site could host audio recordings, if that were the route taken.
  - Impact on officer time in Governance in operating the system within meetings.
- 10.2 There may be some savings through webcasting or recording in terms of efficiency to set off against costs. The experience of BBNPA was that these savings were not expected to be very significant and they were not a key driver in the decision to webcast. In practice there has been some appreciable saving of time through the system advantages outlined earlier.
- 10.3 It is considered that if members were interested in pursuing either of the options of webcasting or audio recordings, more detailed proposals could be brought to a future meeting. Although audio-only recording would be more straightforward to implement it should nonetheless be subject to an analysis to resolve issues as to the quality of recordings and equipment hardware, suspension or pausing, distribution, editing in the event of an inappropriate event and archiving. There would also need to be a full analysis under the Equality Act 2010 for compliance.

## **11 Conclusion**

- 11.1 It is considered that there are a number of advantages in exploring the possibility of recording or webcasting Authority meetings and the option of audio-only recording should be trialled with the existing equipment to help in the preparation of accurate minutes. Members are invited to express a view as to whether audio recording should be implemented and whether they wish video recording to be further investigated.

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| Background Papers:      | Nil            |
| Author:                 | David Harris   |
| Date of Report:         | 9 January 2017 |
| Broads Plan Objectives: | None           |
| Appendices:             | None           |