

## POLICY AND RESOURCES COMMITTEE – 24 JANUARY 2022

### COUNCIL – 22 FEBRUARY 2022

#### PART I – NOT DELEGATED

#### 11. COUNCIL/COMMITTEES/SUB-COMMITTEES RECORDINGS

(CED)

##### 1. Summary

- 1.1 This report is being presented to the Committee with the recommendations of the Constitution sub-committee on the retention of audio meeting recordings and livestreaming recordings both past and in the future.
- 1.2 This follows Council's approval to livestream Part I business at Council/Committees and sub-committees at the meeting on 14 December 2021 subject to the installation of the required equipment.

##### 2. Detail

- 2.1 Members will be aware that in April 2014 the Council changed its Governance arrangements (from Executive to Committee) and at this time agreed to record all Full Council meetings only with the recordings to be retained for 10 years. This is detailed in the Council Constitution under Part 4 – Access to Information Procedure Rules with details provided below:

Section 8 - Access to Minutes etc. after the Meeting

##### 8.2 Recording of Meetings

The Council will make audio recordings of full Council meetings and such recordings to be maintained until the minutes have been approved at the next meeting

- 2.2 The recordings are stored on the network and the file size is nearly 6GB. There are currently no cost implications in retaining the files.
- 2.3 **The Regulations** (The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 made under the Coronavirus Act 2020 enabled Council/Committee meetings etc. to be held in a virtual format and enabled remote attendance. All the meetings held between 14 May 2020 and 6 May 2021 were livestreamed and all the recordings are currently available to view on the Council website.
- 2.4 Since 7 May 2021 we have had to hold physical meetings, as required by law, but have where possible made audio recordings of the meetings that are being held. There is no indication from government of any forthcoming legislation to permit a return to virtual meetings.
- 2.5 Following the making of the Regulations in April 2020 the Council provided a privacy notice on remote attendance at meetings which can be viewed using the link below:

<https://www.threerivers.gov.uk/egcl-page/privacy-notice>

- 2.6 The privacy notice provided details on how we would manage the data. It does not deal with the period for which the recording will be retained..
- 2.7 With regard to data protection, there appears to be little justification for retaining recordings of full Council meetings for 10 years, particularly where the recording contains personal data. All such recordings (with any necessary redaction for personal data) would be subject to FOI/EIR if not already in the public domain via the TRDC website. An image or a voice are both capable of being personal data that the Council has retained.
- 2.8 Some advantages/disadvantages of keeping the recordings were provided below for the sub-committee:

#### **Advantages**

- Members/Officers and members of the public are able to easily access the recording to see how a report/application/item of business was discussed.
- A recording may assist in clarifying a query in the minutes that does not immediately arise

#### **Disadvantages**

- Keeping the recordings duplicates the minutes and often leads to concern that the minutes are not detailed enough
- Storage of the recordings on the network system and on the website takes up a lot of file space
- A recording can be used to undermine approved minutes (which are by their nature not a verbatim record) depending on the viewpoint a particular Member, Applicant or member of the public wishes to advance post the event. In extreme cases, this could bring the Council into disrepute.

### **3. Options and Reasons for Recommendations**

- 3.1 The recommendation presented to the Committee from the sub-committee for consideration is the retention of the recordings/livestreams for a period of either 1, 4, 5, 6 or 10 years but subject to the Monitoring Officer reviewing the guidance on the retention of recordings and to include the details in the report for the Committee to consider. Having carried out a review, the details and reasons are in legal implications, below. The recommendations arising are:
- 3.2 That recordings of the meetings of council and its committees (so far as they are open to the public) be made available on the council website for a period of 12 months from the date of the meeting.
- 3.3. Following which, recordings of the meetings of council and its committees be archived for a period of 6 years.
- 3.4. At the expiration of a period of 7 years following the date the recording was made, the recording be destroyed unless it is required to be retained for a longer retention period and this may include litigation or other legal proceedings or that the recording is of particular public interest.

- 3.5. That officers be authorised to update the Council’s Document Retention Policy and Service Specific Privacy Notices accordingly.
- 3.6 That officers update the ‘Committee Meetings’ page of the Council’s website to include a notice informing members of the public that meetings will be webcast and made available on the Council’s website for a period of 12 months from the date of the meeting.
- 3.7 A one-year publication policy will allow members of the public to know how long the Council will make recordings available to the public at large and when the recordings will be taken down from the website.
- 3.8 An overall retention period of 7 years will allow for most legal challenges. During that retention period, the recordings would remain potentially subject to requests made under the Freedom of Information Act.

**4. Financial Implications**

- 4.1 There are currently no financial implications in retaining the files.

**5. Legal Implications**

- 5.1 The Council are required to take one paper copy of the agenda and reports to every public meeting held and are also required to retain a paper copy of all agenda and reports for 6 years. It retains a paper copy of all minutes which are bound every year. It has all minutes since the Council was established in 1974.
- 5.2 There is no statutory requirement to make recordings of meetings available to the public. Nevertheless, local authorities are increasingly choosing to webcast meetings on grounds of openness, transparency and accountability. However, there is no specific legal obligation to retain the recording of the meeting once the minutes have been agreed by the Annual/Full Council/Committee/Sub-Committee. Recordings will, from time to time, contain personal data.
- 5.3 Neither is there any specific guidance on retention/destruction periods for audio and/or video recordings of public meetings of Council or its Committees/sub-committees. It is suggested that the Council adopts a policy of balancing the privacy considerations of individuals against the public interest in having an accurate, open and accessible record of its decisions (and decision making process) as a public body.
- 5.4 Some Councils, such as HCC, publish the recordings for one year. Others, such as Camden, publish them for shorter periods, e.g. 6 months. Those publishing on YouTube tend to make recordings available for longer periods (typically, since the beginning of the pandemic in 2020, when Councils routinely began webcasting meetings). This may be more to do with server capacity. Other public bodies, such as central government and public inquiries held under the Inquiries Act 2005 retain recordings in perpetuity.

**5 Equal Opportunities Implications**

- 6.1 Relevance Test

Has a relevance test been completed for Equality Impact	Yes
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<p>Did the relevance test conclude a full impact assessment was required?</p> <p>Data will now be gathered and a full assessment undertaken in 3 years' time.</p>	No
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## 7 Staffing Implications

- 7.1 Training is to be provided to staff once the new equipment to be able to livestream meetings and hold hybrid meetings is installed which officers understand is scheduled for the end of March. There will be additional time required by Committee Team staff before and after the meeting to organise the livestreaming.

## 8 Environmental Implications

- 8.1 Livestreaming meetings and holding hybrid meetings will reduced travel by Councillors (non-committee members), Parish Councillors, County Councillors, members of the public, external organisations and officers to attend meetings as the option to watch live from a computer would be provided therefore this would have a positive benefit to the Council's Climate Change Strategy.

## 9 Community Safety, Public Health Implications

- 9.1 None specific.

## 10 Customer Services Centre Implications

- 10.1 The Customer Service Centre will be provided with details on the new policy once agreed.

## 11 Communications and Website Implications

- 11.1 All livestreaming recordings would be available to view on the website for the duration agreed by Full Council.

## 12. Risk and Health & Safety Implications

- 12.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 12.2 The subject of this report is covered by the Legal and Committee service plans. Any risks resulting from this report will be included in the risk register and, if necessary, managed within these plan.

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
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Livestreaming /Recordings can contain personal data. Information Commissioner Guidance is recordings should be retained for the minimum period necessary and only for reasons of lawful processing.	There are practical difficulties in deleting a part of a recording/live-streaming that has personal data in it and retaining the rest.	Delete once the minutes are approved	Treat	2
Retaining recordings for more than the time period for getting minutes approved.	Recordings would be retained for long periods of time which may contain personal data	Retain just until the minutes are approved	Treat	4

12.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

<b>Very Likely</b> ----- <b>Likelihood</b> ----- <b>Remote</b>	<b>Low</b>	<b>High</b>	<b>Very High</b>	<b>Very High</b>
	4	8	12	16
	<b>Low</b>	<b>Medium</b>	<b>High</b>	<b>Very High</b>
	3	6	9	12
	<b>Low</b>	<b>Low</b>	<b>Medium</b>	<b>High</b>
	2	4	6	8
	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Low</b>
	1	2	3	4
	<b>Impact</b>			
	Low	----->		Unacceptable

**Impact Score****Likelihood Score**

4 (Catastrophic)

4 (Very Likely (≥80%))

3 (Critical)

3 (Likely (21-79%))

2 (Significant)

2 (Unlikely (6-20%))

1 (Marginal)

1 (Remote (≤5%))

- 12.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

**13. Recommendation**

- 13.1 That the Committee consider the recommendations put forward by the sub-committee as set in Paragraph 3.1 to 3.8.

Report prepared by: Sarah Haythorpe, Principal Committee Manager

**Data Quality**

Data sources: Council Constitution

Data checked by: James Baldwin, Solicitor to the Council

<b>1</b>	<b>Poor</b>	
<b>2</b>	<b>Sufficient</b>	
<b>3</b>	<b>High</b>	<b>x</b>

Background Papers -

<https://www.threerivers.gov.uk/meeting/constitution-sub-committee-6-january-2022>

APPENDICES / ATTACHMENTS - none