

BRIGHTON & HOVE CITY COUNCIL

STANDARDS COMMITTEE

5.00pm 21 JUNE 2011

COMMITTEE ROOM 1, HOVE TOWN HALL

DRAFT MINUTES

Present: Councillors: Kitcat, Lepper, Littman, A Norman and Wells

Independent Members: Dr M Wilkinson (Chair), Mr Paul Cecil and Mr Peter Rose

Rottingdean Parish Council Representatives: Mr John Bustard and Mr Geoff Rhodes

Apologies: Councillor Alex Phillips

PART ONE

6. REVIEW OF WEBCASTING GUIDANCE

6.1 The Committee considered a report from the Monitoring Officer on the Webcasting Protocol.

6.2 Mr Ghebre-Ghiorghis said that the Council has been webcasting for 3 years and at the time of introduction had been hesitant to introduce it as it was experimental. Audience levels had been encouraging however, with significantly higher numbers of the public being reached than physical attendance at meetings would have achieved. Webcasting was therefore an effective way of communicating with residents. The contract for the current provider would end in September 2011 and the authority was currently going through the tendering process with a view to entering into a 3 year contract with the successful provider.

A webcasting protocol had been introduced, which was intended to be helpful to Members, and was a standardised format that other councils were using. Following some issues around the placing of webcast material on other websites however, there had been a desire for more clarification on the protocol, and so a new paragraph was introduced. A few problems with the restrictions of this paragraph had been encountered however. The webcast provider Public-i had enhanced the webcast facility and this enabled Members and members of the public to copy and paste the webcast information onto any site. A standards complaint had been received around this issue, and was eventually considered by the First Tier Tribunal, where some useful guidance was issued to the Council.

The Tribunal gave a view on what amounted to resources, and webcast material did not constitute a resource in the terms of the code of conduct. The Human Rights Act, which gave precedence to freedom of speech, was also considered relevant. Since that case had been heard, a number of other incidents had occurred where material had been put on other websites and it was felt that the additional paragraph of the code had become unenforceable. Four options for Members to consider were set out in the report.

The first option was to retain the protocol as it was currently. This would act as a firm guide but would also block people's rights to freedom of speech. The First Tier Tribunal did not make judgement on whether the protocol was right or not, but it was noted that certain sections had become unenforceable and unworkable. Mr Ghebre-Ghiorghis did not recommend this option.

The second option was to revoke the protocol completely. This option gave simplicity to the issue, but some useful bits of the protocol would also be lost.

The third option was to amend the protocol as per appendix 2 of the report. This would make the copyright position clear and also made the use of webcasts compliant with the general law of England and did not actively endorse alternative usage. Further, this amendment would allow retention of some control over usage. Another consideration was the issue of business use, and whether it was acceptable for commercial operators to use the authority's webcasts and sell them on, which could conceivably happen if there were no controls on the material.

The last option was to retain the webcast protocol and remove paragraph 4.5, which had given rise to most of the problems.

The protocol had been agreed by Governance Committee originally, but it was felt it would be useful for the Standard Committee to give a view on what the preferred option was. The final decision would be made at Governance however. Finally, any protocol needed to be enforceable, tenable and have cross party support.

- 6.3 Mr Rose said that there were copyright and public usage issues to consider here as well as the conduct of Members of the Council and the constraints placed on them. Removing the protocol completely left the copyright issue in limbo, and he felt the principle of this needed to be retained. He was concerned about editorial controls however, as it was difficult to know if meanings had been changed if material was edited, and it could be hard to make a sensible judgement. Mr Rose also felt that commercial use needed to be separated out in some way from the common usage of webcasts, which was more about freedom of information and freedom of speech.
- 6.4 Councillor Kitcat felt that the reality was that the Council was unable to control usage of webcast material on the internet. Satire was permissible under law and the Council did not have the authority to prevent this. He strongly supported option 4 and felt that a statement of copyright was adequate and hoped the local councils would eventually move to a national permissible licence. He did not agree with a protocol that was unenforceable and felt that if the webcasts were on the internet then people should be allowed to use them as at least they were showing an interest in the work of the Council. He realised the concerns about false perceptions being created, but this happened in the local press anyway and so could not be prevented.

- 6.5 Councillor Littman found both sides of the argument interesting, but recognised it was a historical British freedom to satire politicians. Breach of copyright happened all of the time with national political figures and he did not feel the issue of copyright was important. He agreed with a newer version of paragraph 4.5 being drafted, but leaned towards removing it completely.
- 6.6 Mr Cecil noted that the other options were difficult to police and restricted usage of the content.
- 6.7 Mr Rose said he would like to see the deletion of all the subsections of paragraph 4.5 as they were unenforceable, but to keep the rest. How Councillors then used the webcasting protocol would be a matter for the code of conduct rather than the protocol.
- 6.8 Councillor Bustard asked if previous meetings had been edited by the authority. Mr Ghebre-Ghiorghis replied that this was a provision for the Monitoring Officer to edit meetings after the event if difficulties arose in the meeting, this was in particular with reference to things that could lead to the council being liable for defamation.
- 6.9 Mr Cecil asked about whether webcasting material could be in breach of privilege and the Chairman responded that Councils did not have privilege rights.
- 6.10 Mr Rose suggested amending paragraph 4.5 to delete the words after “remain the property of the Council”, and delete the words at parts 1,2 and 3, and amend part 4 to delete the words after “Democratic Services”. Members agreed to this amendment.
- 6.11 **RESOLVED** – that the Standards Committee recommends to the Governance Committee that paragraph 4.5 of the Webcasting Protocol be amended to read as follows:

“The actual webcasts and archived material, and copyright therein, remain the property of the Council. A DVD copy of a webcast can be obtained for a fee of £75 from Democratic Services.”

