### Filming Public Council Meetings: Considerations and Recommendation

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<tr>
<th>Purpose of paper</th>
<th>This paper sets out further considerations regarding filming public Council meetings.</th>
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<td>Status</td>
<td>Public session</td>
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<td>Action</td>
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<td><strong>Corporate Strategy 2016-19</strong></td>
<td><strong>Performance Objective 3</strong>: To be transparent about our performance so that the public, patients, professionals and our partners can have confidence in our approach.</td>
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<td><strong>Business Plan 2017</strong></td>
<td><strong>Initiative 5</strong>: Implement our revised Communications and Engagement Strategy.</td>
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<td>Decision Trail</td>
<td>Council considered several initial technical proposals at its meeting in July.</td>
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<td>Next stage</td>
<td>If approved, the next steps described in this paper will be implemented.</td>
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| **Recommendations** | The Council is asked to:  
- Note the considerations and issues in regard to recording Council meetings;  
- Approve that this issue is brought back to a meeting when specialist legal advice on GDPR has been sought. |
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Executive summary

1. There have been a number of discussions at recent Council meetings as to whether the GDC should record open Council sessions and make these available to the public.

2. To support further discussion of this issue, work has been undertaken to understand the considerations associated with filming (sometimes referred to as video recording). An assessment of what would need to be undertaken to successfully implement and manage associated considerations is provided in the body of this paper.

3. To provide context, the paper also provides a summary of what a selection of other relevant stakeholders do in terms of filming and streaming their board/Council meetings.

4. One of the main considerations in relation to implementing this change is the consent which would be needed to be sought from those who are recorded. This consent is needed in order that the GDC complies with data protection laws, as the images and words of individuals at Council meetings would be classed as their personal data. Consent would be required from Council Members, staff, third parties who present at Council and members of the public who attend the meeting.

5. In order to obtain consent, the GDC would need to be able to articulate the purpose of recording the meeting, how and for how long the data would be stored, how it would be destroyed and who it would be disclosed to.

6. As members are aware, the General Data Protection Regulation will be coming into force in May of next year. There is a large amount of work currently going on within the business to ensure that the GDC is majority compliant at the date of implementation. Part of this work is requesting specialist advice from Counsel in relation to a number of issues across the organisation in relation to what will be required in terms of consent under the new legislation. To ensure consistency across a number of teams, it is proposed that Counsel will advise on a wide range of issues, to ensure that they see a ‘full picture’ of data processing at the GDC.

7. The GDPR work stream is not currently ready to request this advice and is still working with various members of staff to understand current processes. Indeed, as the Bill implementing the GDPR is still being amended, it is not yet fully clear what the full implications of the new law are, or how they will require organisations to change operationally. Therefore, the understanding across the legal profession and public sector of GDPR is still evolving.

8. Given the change in the legislation, and the uncertainty it brings, it is proposed that, this issue is reviewed and brought back to Council when there is a clearer picture in respect of consent and other data related issues, such as the right to request a stop to processing. This will give the communications team time to continue to work on operational costings and issues, so that Council can get a fuller picture of this matter.

9. The Council is asked to:
   - Note the considerations and issues in regard to recording Council meetings;
   - Approve that this issue is brought back to a meeting when specialist legal advice on GDPR has been sought.

10. Considerations regarding the filming of public Council meetings are organised below under the following headings:
    a. Operational
    b. Legal
    c. Information governance
    d. Communications
    e. Technical
Introduction and background

11. To contribute to fulfilling our commitment to transparency, as set out in the 2016-2019 corporate strategy, *Patients, Professionals, Partners, Performance*, it has been proposed that the GDC make the proceedings of public Council meetings available to a wider audience and achieve this by proactively filming or live streaming them.

12. To help provide context, an overview of what other relevant stakeholders do, in terms of making their board/Council meetings available to watch via filming is set out below.

- **NHS England** film their board meeting and make it available on their website. They use professional camera crews and post production processes at an estimated cost more than £10k per meeting.

- **Other health professional regulators** do not either live stream or record and make available later their public Council meetings. HCPC specifically states on their website that all recording is prohibited so that members are able to speak more freely. Although they do not film the meetings, the NMC live tweet during their public Council meetings.

- **Care Quality Commission** film their board meetings and make them available on YouTube and their website. The latest meeting in November had 38 views.

- **British Dental Association** have their Council meeting minutes behind a member-only access area. It is not stated on the public part of their website whether they film or live stream their meetings.

13. An initial scoping exercise was carried out in July, which focused on technical considerations. The following broad technical options were shared with the Council at its July meeting:

a. Guests connect to the current video conference solution for public Council meetings with the meeting managed by the Governance team.

b. Council meetings are recorded using the current technology and made available after the event with no post production. (Cost: Some changes made to technology and new solution to host video playback, which will be up to £10k per annum).

c. A web streaming bolt on is added to the boardroom Audio Visual Systems with the meeting managed by the Governance team (Cost: A web streaming solution bolt on will cost in the region of £14k to implement but this may increase depending on the number of attendees expected to connect to the web stream i.e. IT need to have an estimate on the number of attendees to provide an appropriately scaled solution).

d. Use a professional camera crew with post production editing (cost: approx. £10k per meeting).

14. The recommendation by Council was to further explore the second option (b), above.

15. In doing so, broader considerations, including Operational, Legal, Information governance, Communications and Technical matters have been taken into account.

Considerations

16. **Operational considerations:**

a. **Agenda and minutes.** Late changes to the agenda will mean that it does not correspond with the published timings. As a result, the recording would be more difficult to follow.

b. **Managing the process.** A member of staff would have to be appropriately trained on the technology and responsible for managing the process of recording each session
and saving the video file. This would need to be resourced appropriately and work alongside other governance arrangements.

c. **Managing potential staff members’ concerns.** Working with HR colleagues and potentially the Staff Forum, we will need to consider how we approach the issue with staff so they are properly aware of the changes and so any objections or concerns are aired. It is likely under GDPR we will need to gain their consent to processing their data in the recording and how long we will store it for. We will need to understand more about this for when staff are required to present and/or attend public Council meetings (see section below for the legal basis for this data, in addition to who we will disclose it to).

17. **Legal considerations:**

   a. **Informed consent.** Data protection legislation restricts the circumstances in which the GDC can lawfully process personal data. Recording and publishing individuals’ images, names and any other identifying information will constitute processing. In the light of the introduction of the General Data Protection Regulation in May 2018, to progress this work we would need to seek specialist legal advice on this matter, but it is likely that the only circumstance in which such processing will be lawful is where the GDC has obtained the informed consent of all those individuals being recorded. The GDC would need to consider how best to gain informed consent from those that could be filmed during public Council meetings, to ensure that it complies with the legal requirements. This includes staff (see above relevant operational consideration), Council members, individuals from external organisations that we invite to present at and/or attend public Council meetings and members of the public.

   b. **Future legal proceedings** Information in the public domain can be relied upon as evidence in legal proceedings. This is most likely to occur where there is a dispute about the meaning of GDC legislation, guidance or policy. Claimants would be entitled to ask a court to consider statements made in published recordings as evidence of the intention behind a particular policy or rule, or as generating an expectation of a particular course of action, particularly as the minutes of the meeting are not verbatim. When comments are made about individuals there may be a defamation risk, which although is a current risk in the public meeting, the risk is exacerbated by hosting a recording of the meeting on the GDC’s website.

18. **Information governance considerations:**

   a. **GDPR preparation.** The GDC is currently preparing for the introduction of the General Data Protection Regulation, which will come into force in May 2018. This work involves developing and improving processes for managing issues such as information retention, record keeping, etc for information and data that is stored across the organisation. The GDPR also has enhanced requirements in relation to consent to process data. The GDC is working through a large number of GDPR implications – at a time when the law is still evolving and changing. This uncertainty is likely to continue for a number of years while UK organisations, the ICO and the Tribunal work out what the GDPR means in practice.

   The GDC will seek specialist legal advice on the GDPR when it has undertaken more work to understand current processing. Given where the data mapping and audit work streams are, this is not possible at this time.
b. **Refusing to publish the recording.** Unpublished recordings of a Council meeting are potentially subject to Freedom of Information requests. If the GDC took a decision to refuse to publish the recording of the public Council meeting in full, this could increase FOI requests from interested parties. This issue is linked to publishing of transcripts of hearings, which the Information team are currently working through as part of the GDPR programme.

19. **Communications considerations:**

   a. **Sharing of unintended information.** The microphones in the boardroom are extremely sensitive and will pick up anything said while recording. We would need to make all attendees aware before commencing the meeting and if any issues of sensitivity and/or confidentiality arise, these would need to be removed and/or edited out before publishing the recording about the public Council meeting. Editing the content of the recording could lead to accusations of non-transparency that would need to be managed.

   b. **Stakeholders can manipulate the film.** Once the film is published stakeholders could, if they so wished, manipulate it digitally, editing to reorder or selectively quote from discussions. There is no preventative action the GDC can take to manage this. If this issue arises there are three broad possible ‘restorative’ strategies the GDC could pursue:

   i. **Ignore:** the GDC could choose to ignore the manipulated content, as addressing it can draw attention to it and give it a sense of importance.

   ii. **Influence:** the GDC could approach the individual/body responsible for the manipulation of the content and seek to influence them, asking them to remove and/or change the content.

   iii. **Legal:** the GDC could explore any legal options in addressing this potential issue.

20. **Technical considerations:**

   a. **Technology can always fail.** Should the camera stop recording, it may be difficult to start again without causing some disruption, and different technical issues take varying amounts of time to resolve, and therefore cause different levels of disruption. In this situation, to allow the public Council meeting to continue with limited disruption, we would suggest abandoning the recording and post an explanatory message on the GDC website.

   b. **Similarly, video recording systems can fail.** If the recording systems were to fail, the video might not save properly. While technology is increasingly reliable, human error can be a factor, particularly when staff are starting to use a new system. This could potentially be mitigated by recording to both the cloud and laptop simultaneously, however there is still a chance the files could be lost. As per above, in this situation we would suggest posting a message explaining the failure and pointing interested parties to the minutes.

   c. **When do we want to start recording meetings?** If agreed by Council, there is technical work to be undertaken which will require some external consultancy to update elements of the system and put the video hosting in place. It is expected this work would be completed within 8 weeks from proposal approval by Council. If approved, filming of public Council meetings can commence from that point onwards.

   d. **Post production.** As the recording and editing of video is a new initiative for the GDC, we would need to acquire the skills and required software.
What would need to be done to successfully implement and manage associated considerations and risks

21. If the GDC were to proceed with implementing filming of public Council meetings at this stage, the following actions would need to be taken in order to successfully manage the associated considerations and risks.

   a. Following specialist legal advice, a process for obtaining and recording informed consent of members of the public, Council members, staff and any other public Council attendees would need to be designed where this is needed. This would need to address whether informed consent would need to be sought for each recording, or at some other regular, but less frequent, interval. Additionally, the GDC would need to assess what the process would be if an individual does not provide consent. Consideration would also need to be given to staff and/or Council members who subsequently leave their position at the GDC and what that may mean for the status of their informed consent.

   b. A privacy notice will need to be developed explaining how long we intend to keep copies and how long it will be on our website; that we may not be able to subsequently pixelate their image or delete it if they subsequently chose to withdraw their consent (depending on post production in house expertise).

   c. The GDC would need to develop and implement a retention policy in relation to the video content and a policy and process to be able to identify (i.e. review and check the recordings), manage, and respond to situations arising where sensitive information has been recorded in error to ensure the publication of sensitive information is prevented.

   d. Agree circumstances when the GDC would not publish the video of the Council meeting, e.g. if there is a legal risk from what was said during a debate, etc (although this would rely on the staff present at the meeting to identify the risk).

   e. Seek Counsel’s advice on the proposal and actions set out above to ensure that all risks are identified, and test the measures put in place to ensure that they are robust enough to withstand potential challenge.

   f. Review communications and governance considerations in order to develop and implement processes to successfully manage them.

Recommendation

22. The Council is asked to

   • Note the considerations and issues in regard to recording Council meetings;
   • Approve that this issue is brought back to a meeting when specialist legal advice on GDPR has been sought.

Risks and considerations

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<th>Communications</th>
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<th>Equality and Diversity</th>
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<tr>
<td>Not applicable</td>
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Legal
Legal considerations are considered in the body of the paper

Policy
Not applicable

Resources
The recommendation that is being proposed does not have any additional resource implications at this stage.

National
Not applicable

Risks on registers
Not applicable

Internal Consultation
23. Where the matter covered in the paper has implications for other areas of the organisation, or where the knowledge and experience of another team has been considered, please note their input in this section by, at least, completing the table and including additional comments where applicable.

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<thead>
<tr>
<th>Department</th>
<th>Date and consultee name</th>
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<tr>
<td>IT</td>
<td>5 September, Keith Geraghty, Head of IT (only regarding the technical considerations)</td>
</tr>
<tr>
<td>Governance</td>
<td>21 November, Clare Mitchell, Head of Governance</td>
</tr>
<tr>
<td>Legal</td>
<td>21 November, Melissa Sharp, Head of Corporate Legal</td>
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<tr>
<td>Information Governance</td>
<td>21 November, Luke Whiting, Information Governance Manager</td>
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