

People, Performance and Development Committee
8 March 2018

Policy Statement on voice recording of HR meetings

Purpose of the report:

The Committee is asked to consider and endorse a proposal for the Council to adopt a formal policy statement codifying a facility for employees to request permission to use audio recording devices at formal meetings which take place under the provisions of its employment procedures. This proposal has originated from senior officers within the Council, who had asked officers in the HR&OD service to consider a potential solution following reports of staff requesting to use their mobile telephones in order to record HR meetings.

Recommendations:

It is recommended that the People, Performance and Development Committee agrees to the introduction of a policy statement on employee requests for permission to record formal meetings which take place as part of its employment procedures. The proposed statement is attached to this report (**Annex 1** of the submitted report).

Introduction:

1. Officers participating in discussions within the Council's Statutory Responsibility Network group brought to the attention of the [then] CEO/Head of Paid Service reports that officers participating in meetings under HR policies and procedures (most commonly on the issues of sickness, grievance, and/or discipline) had requested permission to record those meetings using their mobile telephones or other portable electronic devices.
2. The Statutory Responsibility Network group asked officers in the HR&OD Service to explore the possibility of introducing a policy that would allow officers to record HR meetings- potentially mirroring the way in which public Council meetings can be recorded by journalists and members of the public.
3. At the September meeting of the People, Performance and Development Committee of the Council, Members asked officers in the HR&OD Service to prepare a relevant proposal for deliberation by the Committee.
4. Officers within the HR&OD Service have investigated the relevant legal, technological, and social developments, and asked for input from the senior officers/workforce leads who participate in the HR Subgroup of the

Policy Statement on the Recording of HR Meetings

Key Issues:

5. The Council currently has no policy on whether employees are permitted to obtain audio recordings of meetings that take place under its employment procedures.
6. The Council normally arranges for formal meetings of this type to be minuted by an officer who is not directly associated with the proceedings- typically one whose role focuses on administrative or secretarial duties.
7. Such meetings are normally held privately, but the contents of the discussions held therein may end up being shared more widely. In cases where an employment dispute culminates in legal action, the minutes of those meetings may have to be published as part of the proceedings.
8. There is no explicit legal right to use, or prohibition from using, voice recording devices to capture audio at such meetings- however, there normally exists a requirement for the parties involved to consent to the meeting being recorded.
9. A number of employers maintain a policy of not providing such consent. A proportion of those employers also consider unauthorised recording of HR meetings to constitute a disciplinary offence. However, the enforceability of such a provision seems to be less than universal; unauthorised voice recordings have been admitted as evidence in Employment Tribunal proceedings in a number of cases.
10. At the CIPN HR meeting on 19 October 2017, officers in the HR&OD Service presented the operational workforce leads from across Council directorates with a number of potential ways for addressing the issue, outlining the associated benefits and risks of each option. The full spectrum of options was considered; including one that would formally prohibit voice recording at any HR meetings and another that would require the Council to arrange for all such meetings to be recorded.
11. Workforce leads in the CIPN HR Subgroup reached consensus in recommending the adoption of a policy statement to allow officers to request permission to use recording devices to capture audio at formal [minuted] HR meetings.
12. The Council may accept a request for a meeting to be recorded, without any obligation on its part to use such a recording in order to substitute written minutes. In order to ensure consistency, it would appear sensible for minutes to be taken irrespective of whether an audio recording is taking place.

13. In order for such a proposal to be implemented with due regard to the Council's commitment to restorative practice and the informal resolution of employment disputes, meeting chairs will be expected to accept such request unless they believe that voice recording is likely to compromise the success of a meeting- e.g. when a compromise agreement is being discussed on a 'without prejudice' basis. The proposed Policy Statement recommends meeting Chairs to obtain detailed HR advice if they require additional clarification.
14. At the People, Performance, and Development Committee meeting on 30 November 2017, Members expressed their preference for the introduction of an expectation on meeting chairs to use specialist equipment in order to capture voice recordings at meetings where they have accepted an employee request for audio recording. At the meeting of the same Committee on 29 January 2018, Members decided that the Statement should contain a provision which mandates the use of dedicated Council-supplied devices [thereby prohibiting the use of personal recording devices by meeting participants]. Officers in the HR and OD Service have amended the Policy Statement accordingly and reviewed the cost and risk implications relating to the adoption of the amended Statement. The amended statement can be found at Annex 1.

Financial and value for money implications:

15. It is expected that the introduction of the proposed Policy Statement will not result in any discernible financial impact to the Authority, although there may be some minor savings in officer time through the avoidance of disputes on whether a meeting should be recorded.
16. In order for meeting chairs to be able to obtain reliable recordings at meetings, it would be appropriate for the Council to procure a number of voice recording devices (approximately 15 units), which officers within Human Resources can make available to meeting chairs. Officers have identified two potentially suitable models. Unit costs appear to be in the range of £20, consequently this would result in a total acquisition cost of £300. The devices have no maintenance requirements, and they should have an economic life of at least 4-5 years.

Equality and Diversity implications:

15. The proposed Policy Statement is not expected to result in any changes to the way in which the Council manages equality and diversity in employment.

Risk Management implications:

17. The proposed Policy Statement is not expected to result in major changes to the Council's approach to risk management. However, officers in the HR&OD Service believe that it is likely to have some impact on organisational culture and indirectly reduce the risk of confrontation and friction in employment relationships through reinforcing the Council's commitment to its corporate value of 'Trust'.

18. Officers within the Human Resources and OD service have also identified an information governance risk, as the Council will need to ensure recordings are managed in a way that is compliant with relevant legislation and Council policy. The latter risk has been highlighted within the proposed Policy Statement and can be effectively managed through the involvement of appropriate Council officers prior to the publication of the Policy Statement, in order to design and/or authorise a process for the secure transmission of data from recording devices to the Council's information systems, and develop guidance around the storage of such data as appropriate.

19. The decision to prohibit participants from using their own equipment could potentially undermine a refusal by the Council to accept liability for recordings being unclear and/or unusable due to technical issues such as poor room acoustics or the loss of data. The Policy Statement aims to mitigate that risk through the retention of the requirement to obtain written minutes in addition to, and not in substitution of, audio recordings.

Next Steps:

20. Involve officers in IMT and Information Governance to ensure appropriate processes are in place prior to the publication of the Policy Statement. Purchase recording equipment and assign to HR Advisory team. Publish the statement on s-net and arrange for the new policy to be disseminated to officers within HR and managers across the Council.

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Annexes:

Annex 1 – Policy Statement on meeting notes and audio recording at formal HR meetings

Sources/background papers:

The proposed changes have been developed through Member input, consultation between officers within the Council's HR service, extensive discussion with operational workforce leads within the Human Resources Subgroup of the Continuous Improvement and Performance Network of the Council. Legal Services officers have also been consulted in the development of the Policy Statement.