

**INDEPENDENT INVESTIGATOR'S REPORT INTO CAMBRIDGE CITY COUNCIL'S (CCC) PROTOCOL
ON FILMING COMMITTEE MEETINGS**

REF: COMPLAINT CONCERNING FILMING OF NORTH AREA COMMITTEE 30 SEPTEMBER 2010

1. I have seen:

- the minutes for North Area Committee of 30 September 2010
- the You Tube video, made by Mr A, of the discussion at the above committee, concerning school traffic in Evergreens Close.
- Mr A's blog of 2 October 2010 headed ' East Chesterton Residents Terrorised By Thugs'
- the email from Cllr Blair forwarding the complaint from the member of the public who did not wish his identity to be revealed
- the email correspondence of affected residents with Cllr Nimmo –Smith
- Mr A's formal request, of 17 September, to film North Area Committee
- CCC's Filming Protocol adopted 22 July 2010
- the video film of Oxford City Council's October Full Council Meeting

2. I have been asked by Gary Clift, Democratic Services Manager, to review CCC's filming Protocol with particular reference to the following:

i) Under the existing protocol are there sufficient safeguards for the public if a member of the public wants to film.

ii) On 30 September 2010, was it made clear who was filming and did the public have the opportunity to opt out/ in

iii) Is the protocol sufficient to deal with requests from the public as opposed to accredited media.

iv) Is there the right balance between being open and transparent and affording the public the chance not to be filmed.

v) Should the protocol be reviewed / amended

3. The amount of personally identifiable information that exists about individuals in public and private databases is considerable. It is generally accepted that, without vigilance by the individual, the protection of online privacy is a lost cause. Given this it is likely that the existing protocol does not provide sufficient safeguards for the public. This is not to say it cannot be improved.
4. I note from their website that Oxford City Council appear to film Full Council Meetings only. This may be something Councillors wish to consider. Whilst members can try to protect the public from being filmed or recorded, it is a matter of concern that residents at Area Committee level may perceive a threat and feel unable to express themselves freely. A Chair cannot ensure a camera is switched off or that the camera does not pan the meeting room. To his credit Mr A does seem to have accepted the conditions set out in the protocol. There seems to be a conflict between transparency and both protecting the public and maintaining their freedom to comment on local issues. The baby could be thrown out with the bathwater.
5. The minutes of the 30 September 2010 North Area Committee meeting state, after those present, *“ The Chair gave permission for Mr A to film the meeting. It was confirmed with Mr A that the filming would take place from a fixed position and cease if members of the public or speakers expressed a desire not to be filmed.”*

There is no record in the minutes, of consent being sought or given by those present. Mr A's blog does refer to this, in response to a resident's request that his identity be removed. He says:

“ You had a lot of time to make your decision if you wanted to be filmed or not at the meeting, and were given a number of opportunities to opt-out. You also only made your request to not be filmed after publication of the video, on the grounds only of a misassumption of how the video would be used. In all these aspects your situation is very different from that for the resident whose voice I have disguised.

The minutes of the meeting are not yet available, but it would not be at all unusual for a member of the public's name to be associated with their comments in the public minutes. Do you consider the video to be significantly different from this?”

Mr A refused to remove the footage.

Mr A also states that there were clear signs advising those present that the meeting was going to be filmed and of their right to opt/out. The resident whose voice was disguised entered the meeting room after consent was sought and had not been given opportunity to opt out.

In fact the minutes do not name the public speakers and, in my experience, it is this that is usually the case. The Chairman seems to have taken reasonable control of Mr A's filming. He did not allow the camera to pan and the video shows that Mr A abided by this instruction.

The camera is angled at the table of members and the public speakers are not shown. However Cllr Blair is probably correct to point out that members and the public are not aware of the potential 'end use' and are not giving informed consent.

Given this, the only improvements to the management of the filming that I would propose, are as follows:

- To ensure the notice at the entrance to the meeting is large and: advises attendees that consent has been given by Councillors for a private individual to film; that as a result the film may appear on various social network websites and CCC has no control over this; that the public have an absolute right not to be filmed or voice recorded; that any objection should be made to the Chair at the beginning of the proceedings or at any point throughout.
- That the Chair ask all present and any latecomers if they have seen and understood the 'Notice'.
- That the Chair adopt the method used by Oxford City Council whose Chair can be heard throughout a recording saying 'stop filming please', presumably when someone who has expressed a wish not to be recorded starts to address the meeting.

6. The protocol is reasonably thorough. It gives the Chair the right of veto and the ability to dictate where the camera is positioned; the film maker is asked to agree not to distort or misrepresent the proceedings. Private individuals attending the meeting are given the right to opt in, with the default being set at opt out.

However Mr A seems to have been able to apply to film all meetings in advance. There is no provision in the protocol for there being more than one request to film. If Mr A has pre-booked all meetings the Chair would either have to accept more than one camera or refuse the newcomer.

In the light of 'block booking' I propose the application clause is amended to provide for a separate application for each meeting and that application to be made at least 3 days in advance, but with a limit on how long in advance, say, no more than 2 weeks. Where more than one application is received allocation could be on a rota basis.

Although the protocol asks the film maker to say what the film will be used for; a general response, encompassing Youtube and Flickr, has, to date, been accepted. Members may have their own views but I wonder why matters, that for the most part concern Cambridge residents, need to be shown on the World Wide Web. It may be better, however difficult to enforce, to confine reproduction to, say, the film maker's website.

Mr A states he is seeking general permission as often an interesting debate occurs without prior warning.

Having viewed the 'East Chesterton Residents Terrorised By Thugs' blog it is clear that Mr A is as much interested in sensationalism as he is in transparency. The September North Area Committee dealt with a number of important issues, none of which are reported by Mr A save for the, tabloid headlined, Evergreens Close issue. As this casts doubt in my mind as to motive, I see no reason why an applicant should not be asked to explain their interest in a little more detail.

7. It is clearly important to ensure that private individuals, albeit attending a public meeting, feel able to draw attention to local issues. If they are deterred by the fact that they may be seen or heard on social network sites, the purpose of local area committees is put into question.

The members may wish to consider the drawing up of a short form contract, that legally binds the film maker, to those elements of the protocol that seek to protect privacy and they may wish to expand this to include reference to where the film can be reproduced. The 1995 European Data Protection Directive has been used to protect personal data reproduced on an internet page (a Swedish referral to the European Court – the case of Bodil Lindqvist) so, although the circumstances are different, some redress does exist. However the main purpose of a civil contract would be to emphasise the importance of protecting privacy and to act as a deterrent. The legal department can best advise on what this contract should include.

However such a contract does not address all the problems associated with this type of media. Other outside parties may record and reproduce the data and it is unlikely that CCC can exercise any control over this, save perhaps by using copyright. For copyright to be enforced CCC would need to be the film maker and to own the rights. Legal will need to advise. CCC could then decide where the film would be reproduced (say, CCC's website, as with Oxford) and pursue any abuse.

8. Conclusion and recommendations

i) I stated at the beginning of this report that it is almost impossible to protect online privacy. It is for the members to decide whether they are happy to take this risk by allowing individuals to film.

ii) If individual filming is to continue, the safeguards with regard to the 'Notice' set out at paragraph 5 above should be implemented. I imagine this will result in very few opt ins and will require increased vigilance on the part of the Chair to ensure filming stops when those who have opted out are speaking; and

iii) Consideration should be given to setting limits on where the film will be reproduced, say, the film maker's website only. (As stated this will not prevent other parties reproducing elsewhere); and

iv) Separate applications for each meeting should be made, no less than 3 days in advance of a meeting and no more than 2 weeks in advance of the meeting; and

v) Consideration should be given to the film maker signing a short contract setting out the privacy elements of the protocol.

v) Members should give consideration to whether or not it is necessary, or desirable, to film all public meetings. It may be more appropriate to film full council meetings only, as appears to be the case with Oxford City Council.

vi) That CCC consider whether their best option is to film themselves. This is obviously a cheaper option if only full council meetings are filmed. However the use of a static camera could be explored as could advice on software that would limit reproduction of any film

appearing on CCC's website. CCC's website may already have this. Although it would always remain possible to film the webpage this would be poor copy plus it may be possible to protect copyright. Assuming the same protocol rights as now, the main problem would be in stop /starting a static camera.

I see no reason why, if CCC are filming, there would be any need to allow anyone else to do so. That would defeat the purpose of being able to control reproduction; protect privacy and safeguard against any potential liability.

vii) Why film at all ? I do not know the history behind the decision to allow filming but understand the desire for transparency. It is clear from looking at the minutes of meetings that they are not full transcripts. In fact the record is extremely brief. Another option may be to record and fully transcribe meetings. I appreciate there may be prohibitive costs implications for this too.

Corinne Hibbert

Independent Complaints Investigator

12 November 2010