

COUNCIL		
Report Title	Amendment to Constitution	
Key Decision	No	Item No.
Ward	All	
Contributors	Head of Law	
Class	Part 1	Date:26 February 2014

1 Summary

This report makes recommendations to change standing orders to require a recorded vote in relation to budget decisions at Council meetings.

2 Purpose

The purpose of this report is to ensure compliance with new regulations which come into effect on 25th February 2014. (SI 2014/165)

3 Recommendation

That the Council agree to the proposed amendment of the Constitution now appearing at Appendix 1.

4 Background

4.1 The Council has in place a constitution which complies with the requirements of the Local Government Act 2000 as amended, regulations, directions and statutory guidance made under it. It embodies the statutory provisions relating to the conduct of Council business and, so far as it is permissible in law, the choices made by the Council in this respect. It includes the Council's standing orders, effectively, its rules of procedure.

4.2 On 31st January 2014 new regulations were made. They are the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014. These amend the statutory provisions relating to the contents of standing orders. They require that the Council amend its standing orders as soon as practicable after the day on which the Regulations come into force to provide that the votes at key budget decision meetings are recorded. The Regulations require that the names of those voting for or against the decision and those who abstained must be recorded in the minutes.

4.3 The meetings at which the votes must be recorded are those at which a calculation is made (whether original or substitute) in respect of the following:-

- Calculation of the Council Tax requirement (Section 31A*)
- Calculation of the basic amount of Council Tax (Section 31B)
- Additional calculations for special amounts relating only to part of the area (Section 34 and 35)
- Calculation of Tax for different valuation bands (Section 36)
- Substitute calculations (Section 36A)
- The calculation of substitute amounts of Council Tax to apply in the event of a referendum not approving a Council Tax increase in excess of limits set by the Secretary of State (Section 52ZF)

NB all of the references to sections in the list above relate to sections of the Local Government Finance Act 1992.

4.4 Similar requirements are imposed on precepting authorities.

5 Financial implications

None arising

6 Legal implications

These are set out in the body of the report. Decisions relating to amendment of the Constitution are for full Council to make. Constitution Working Party has within its terms of reference the responsibility to advise Council on proposed changes to the Constitution. However, the required change is not one about which the Council has any discretion and the legal requirement is to amend Standing Orders as soon as reasonably practicable after 25th February 2014. In those circumstances and because of the timing of the Council meeting, the matter has not been referred to CWP. This does not affect the Council's ability to make the necessary decision.

7 Equalities

There are no equalities implications

8 Crime and Disorder

There are no implications

9 Conclusion

It is therefore recommended that the Constitution be amended to reflect the requirements of SI 2014/165

Appendix 1

The Council's procedure rules appear at Part C of the Constitution.

Paragraph 22.7 currently reads

“Recorded vote – Where any member requests it after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the matter. “

It is proposed that this be replaced with the following

“22.7 Recorded vote

When the Council makes a budget decision (whether original or substitute) the names of those who voted for and against the decision and those who abstained from voting shall be recorded in the minutes.

For the purposes of this rule, a budget decision is as defined in regulations requiring the recorded vote (SI 2014/165) and includes the following:-

- Calculation of the Council Tax requirement (Section 31A*)
- Calculation of the basic amount of Council Tax (Section 31B)
- Additional calculations for special amounts relating only to part of the area (Section 34 and 35)
- Calculation of Tax for different valuation bands (Section 36)
- Substitute calculations (Section 36A)
- The calculation of substitute amounts of Council Tax to apply in the event of a referendum not approving A council Tax increase in excess of limits set by the Secretary of State (Section 52ZF)

*All of the references to sections in the list above relate to sections of the Local Government Finance Act 1992.

For the purposes of this rule, a budget decision includes a vote on any decision related to the making of the calculation. When the council sets the Council Tax base and agrees the National Non Domestic Rate for the area, a recorded vote will take place.

In relation to any decision where there is no legal requirement for a recorded vote, where any member requests it after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the decision, or abstained from voting”