

Committee: FULL COUNCIL

Agenda Item

Date: 8 APRIL 2014

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Title: PROPOSED AMENDMENTS TO THE
COUNCIL'S PROCEDURE RULES

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Item for decision

Summary

1. As part of the drive towards transparency, the government has passed legislation requiring all local authorities to amend their standing orders to ensure that votes taken with regard to certain budgetary issues are formally recorded.
2. This report is to suggest to members amendments to the council's procedure rules to give effect to the legislation.

Recommendations

3. That members approve the draft amendments to the council's procedure rules attached.

Financial Implications

4. None arising from the recommendations.

Background Papers

5. None.

Impact

- 6.

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights	None.
Legal Implications	Although the council is required by the legislation to change its standing orders, there is no sanction for non-compliance.

Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

7. On the 29 January 2011 the government made the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2014. The statutory instrument was laid before Parliament on the 31 January 2014. It is expressed to take effect on the 25 February 2014. However, the instrument is subject to the annulment procedure applicable to statutory instruments and may therefore be annulled by a resolution of either of the Houses of Parliament passed within 40 days of the date upon which the instrument was laid namely the 12 March 2014. In the highly unlikely event of such a resolution being passed, any actions by councils reliant upon the resolutions between the 25 February 2014 and the date of annulment would nevertheless be valid.
8. The Regulations do not in themselves require a recorded vote to be taken. The Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001 to require local authorities to adopt standing orders which would then require that votes be recorded on matters relating to the calculation of council tax requirement, the basic amount of council tax, additional calculations where special items relate to part only in the district, calculation of tax for different valuation bands, substitute calculations during the course of the year and substitute calculations where a proposal to increase council tax will require a referendum. The 2014 Regulations impose a duty upon local authorities to modify their standing orders to comply with the amended 2001 Regulations as soon as reasonably practicable after 25 February 2014.
9. Attached to this report is a draft variation to council procedure rule 14 which deals with voting. If approved by members this will ensure compliance with the Regulations.
10. Procedure rule 20.2 provides that “any motion to add to, vary or revoke these council rules of procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the council”. Assuming therefore the recommendation finds a proposer and seconder, it will be debated at the council’s meeting on the 8 April.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
Members do not adopt the revised standing orders.	1, it is highly unlikely that members would disregard the legislation.	4, as there is no sanction for failing to comply with the regulations it is highly probably that the government would seek a mandatory order from the court compelling the council to comply with the regulations. The council would suffer reputational damage from being involved in such proceedings and would also be penalised in costs.	None
Having adopted the amended procedural rules members then do not take a recorded vote at future budget setting meetings.	1, it is highly unlikely that members would disregard the legislation.	(a) 4, the council would suffer severe reputational damage if it were to ignore legislation and its own adopted standing orders (b) 2, there is a risk of a legal challenge to a budget if a recorded vote is not taken. The risk is limited as the council has a duty to set a budget. The requirement of the regulations is procedural only in that the strict wording of the legislation requires the votes to be recorded after they have been made. There is therefore a strong argument that a procedural failure to record the votes after they have been taken does not invalidate the vote itself.	None

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.