

Committee:	Governance, Audit and Performance	Date:	17 May 2018
Title:	Voting by Ballot at Council Meetings		
Report Author:	Simon Pugh, Assistant Director - Governance and Legal Services	Item for decision:	Yes

Summary

1. The Council's constitution allows an option for votes to be taken by way of ballot rather than by way of a show of hands. With a ballot, members write their vote on a piece of paper the way in which they voted is not disclosed. A vote by ballot may be requested by five members, but is overridden by a request from one member for a recorded vote.
2. At the last meeting of GAP (and at previous meetings) Cllr Hargreaves has queried this and has suggested that voting by way of ballot is more appropriate for contested appointments; e.g. those of Chairman and Vice-Chairman of the Council.
3. This report asks members whether they support amending the Constitution to provide for appointments to be made by way of ballot.

Recommendations

4. Members are asked to indicate whether they support amending the Constitution to provide for appointments to be made by way of ballot.

Financial Implications

5. None.

Background Papers

6. None.

Impact

- 7.

Communication/Consultation	This report seeks the views of members.
Community Safety	None.
Equalities	None.
Health and Safety	None.

Human Rights/Legal Implications	The report sets out the legal context. There are no human rights implications.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

8. Under the Council Procedure Rules (Rule 14.4), a vote will take place by ballot if five members present at the meeting demand it. However, under Rule 14.5, a demand for a recorded vote by a single member will trump a demand for a ballot. The text of rules related to voting is appended to this report. The rules also apply to committees and sub-committees.
9. The provision allowing a demand for a recorded vote to override a demand for a ballot seems strange at first sight, but the issue is not wholly straightforward. The following points are of relevance:
 - a. These rules follow the model constitution promulgated by the Government (DCLG) as part of the implementation of the Local Government Act 2000. The Council does not have to follow the model constitution in respect of voting procedures, although there are some rules on voting.
 - b. There are issues around votes being taken by secret ballot. There will be a point of view that electors should be able to see how their councillors vote, and a secret ballot lacks transparency.
 - c. One of the mandatory rules is that a member can require how they voted to be recorded in the minutes. If there is a secret ballot, one will have to trust the statement of a member as to how they voted. If all the members voting for or against on an issue demanded that the minute shows how they voted, then this would undermine the secrecy of a ballot.
 - d. If a call for a vote by ballot is controversial, the wishes of five members of the Council should not prevail over a wish by a larger number of councillors to have a vote by show of hands, or a recorded vote. Even if a majority voted for a ballot, the minority could undermine this by requiring the minutes to show how they voted.
 - e. Whilst there is no statutory requirement for the recorded vote procedure (subject to one exception) it is a standard aspect of local government standing orders. It is also quite a valuable tool for political groups who wish to make clear how members voted on controversial or significant issues. There are some good arguments for a minority of members being able to trigger a recorded vote. (The exception mentioned above is voting on the budget, where votes need to be recorded by law.)

- f. The current arrangements allow for a ballot when everybody is willing to accept this and, arguably, relying on consensus is the better approach.

10. Cllr Hargreaves has commented:

“There is no intention to alter the general principle of openness in voting.

“The particular concern is over voting for appointment of chair and deputy chair of the council. The arrangement for the Speaker of the House of Commons is that if it is a contested appointment then it is by ballot. As a matter internal to the council it may also be of less importance to the public to know who voted for whom, compared with other votes.

“I think it is better on a contested appointment that appointees not know whether a councillor voted for them.

“What happened last time was that a valid request by 5 members for a ballot was overturned by one member. The consequence of that was the vote then went on party lines. I would submit that the request for a ballot was to ensure that the vote was a 'free' one, and the call for a recorded vote was to ensure that it was a party vote. In a matter where we are voting for a person, not an impersonal motion, no-one is going to vote against their party colleague. My understanding is that at least two people would have voted differently in a ballot.

“So the requested change is that for appointment votes, a valid ballot request cannot be trumped by a call for a recorded vote.

“If individual councillors request that their vote be recorded then so be it.

“As far as I recall that is the only time in this council that a ballot has been requested, and on general business I can think of no reason why it should be needed.”

11. Members' views are sought on the issue. If members favour change, a further report will be submitted proposing changes to the text of the Constitution to provide for the Chairman and Vice Chairman to be elected by way of ballot and to effect any other changes favoured by members.

12. Proposals for change would need the approval of full Council on the recommendation of this committee. I should be happy to bring a report to GAP to allow members formally to review the issue but I'm doubtful as to the scope for significant change. One could, perhaps, increase the number of members needed to trigger a recorded vote to, say, three, but in practice I doubt that this would have a significant impact. The current arrangements allow for a ballot when everybody is willing to accept this and, arguably, relying on consensus is the better approach.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
There are no specific risks provided that any changes proposed by the Committee are clear, practical and legal.	1	2	The provision of legal and governance advice in a further report, if one is needed.

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.

Appendix:

Extract from the Council's Constitution: Council Procedure Rules

RULE 14 VOTING

14.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

14.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

14.3 Show of hands

Save for voting on budget votes as defined in Rule 14.7 unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

14.4 Ballots

The vote will take place by ballot if five members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

14.5 Recorded vote

If any member present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

14.6 Right to require individual vote to be recorded

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

14.7 Voting at budget decision meeting

14.7.1 For the purposes of this rule a "budget decision meeting" is a meeting of the Council which makes a calculation (whether originally or by way of substitute)

in accordance with any of sections 31A (calculation of council tax requirement), 31B (calculation of basic amount of council tax), 34 to 35 (additional calculations where special items relate to part only of the district), 36 (calculation of tax for different valuation bands), 36A (substitute calculations) and 52ZF (duty to make substitute calculations where a proposal to increase council tax will require a referendum) of the Local Government Finance Act 1992 and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting and a “budget vote” is a vote upon any such calculation.

14.7.2 Immediately after any budget vote is taken at a budget decision meeting there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

14.8 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.