

Committee	FULL COUNCIL
Date	18 September 2023
Agenda Item	12

To update the Standing orders

Below is an extract from the Standing orders section 3s:

Unless standing orders provide otherwise, voting on a question shall be by a show of hands. At the request of a councillor, the voting on any question shall be recorded so as to show whether each councillor present and voting gave their vote for or against that question. Such a request shall be made before moving on to the next item of business on the agenda.

The question of recorded votes came up on 14 August, when a councillor requested a recorded vote after the vote had been taken. This was in line with the current wording (based on the NALC Model standing orders) as above, which allows for a request for a recorded vote at any time after the vote has been taken as long as it is before the next item on the agenda. However, this would theoretically allow a councillor to change their vote for the recorded vote, and might give the impression that 2 votes had been taken.

Advice has been taken from both the Monitoring Officer at Braintree District Council, and the adviser on legal procedures at EALC.

BDC advised that our Standing Orders were ambiguous, as they could allow someone to change their vote. They suggested that we add:

‘If, immediately before the vote is taken, 3 Councillors request a recorded vote....’

To replace the section in red above. This is used at BDC.

EALC advised that their view was that a recorded vote could be asked for at any time before moving on to the next item. This advice, however, assumes that no councillor will change their vote:

Under the Local Government Act 1972 Schedule 12 part 2, it is clear that a recorded vote can be requested by one councillor at any point before, during or after the vote but before the meeting has moved onto the next item. The NALC Model Standing Orders that you have quoted are as follows: Unless standing orders provide otherwise, voting on a question shall be by a show of hands. At the request of a councillor, the voting on any question shall be recorded so as to show whether each councillor present and voting gave their vote for or against that question. Such a request shall be made before moving on to the next item of business on the agenda.

It should be noted that this is a straight lift from the legislation - LGA1972 Sch 12 part 2

Sections 13.1 and 13.2 state:

13.1 Unless otherwise provided by the council’s standing orders the manner of voting at meetings of a parish council shall be by a show of hands.

13.2 On the requisition of any member of the council the voting on any question shall be recorded so as to show whether each member present and voting gave his vote for or against that question.

The Local Government Act 1972 Schedule 12 part 1 is for Principal Councils and it does not have the requirement which is placed on Town and Parish Councils, hence they are different pieces of the legislation and apply to different types of council. This is why Braintree District Council has on page 66 of its Constitution, the following:

Recorded Votes

If, immediately before the vote is taken, 3 Councillors request a recorded vote, the Chief Executive or the Monitoring Officer in their absence shall call each Member present to state whether they vote for, against or abstain. The names for, against and abstain for the motion or amendment shall be taken down in writing and entered in the Minutes.

I would therefore advise that Halstead Town Council should continue with the requirements under the LGA1972 Sch 12 part 2 (which is the legislation that applies to Town and Parish Councils) and not Sch 12 part 1, which is specifically for Principal Councils. If the Town Council does decide to change the Standing Order, it is likely to be open to challenge.

With regard to your point about a recorded vote being the equivalent of voting twice, this is not the case. If a vote has already been taken and a recorded vote is called for, this is not an opportunity to re-run the vote, which would be unlawful. It is so the Council can allow the Clerk to record the names of the councillors and in which way they voted on the matter. If the members try to use the opportunity to re-run the vote and possibly change their vote, then they themselves may be open to Code of Conduct complaints being made.

Recommendation : that HTC takes the advice offered by EALC and makes no change to this section of Standing Orders.



Sarah Greateorex Town Clerk