

Governance Working Group

Portfolio:	Non-executive function
Ward(s) Affected:	all

Purpose:

The Council is asked to consider the recommendations of the Governance Working Group in relation to:

- (i) the Mayor's casting vote and its application in the Executive Procedure Rules and the Committees, Sub Committees and Other Bodies Procedure Rules; and
- (ii) attendance at meetings of the Employment Committee when considering items in Part II of the agenda.

1. Background

- 1.1. The Working Group met on 20 August 2020. At this meeting it considered a number of issues and made recommendations which are addressed below.

2. Mayor's Casting Vote

- 2.1. Members will recall that, at its meeting on 26 February 2020, the Council agreed to amend Council Procedure Rule 17 (c), which concerns how the Mayor's casting vote is exercised. The Procedure Rule now provides that the Mayor's casting vote must be used to vote in favour of further debate, or, where it has been previously decided to have no further debate or in some specific instances, to vote in favour of the status quo.

- 2.2. The Working Group has reviewed the wording of this Procedure Rule in order to clarify how it is applied during meetings and is recommending that it is updated to state the following:

"In the event of a tied vote, the proposer of the matter under debate shall have the opportunity of making a further speech of no more than 3 minutes. A further vote will then immediately be taken. If deadlock has not been broken, the Mayor must cast a vote in favour of the status quo. The status quo will usually be interpreted as the motion falling."

- 2.3. The Working Group has indicated that in cases where there was no obvious status quo, for example when deciding on an appointment, the Mayor would exercise the casting vote without restriction.

3. Application of Council Procedure Rules – Voting at Meetings

- 3.1. The Working Group reviewed the current arrangement for Council Procedure Rule 17 – Voting to be automatically applied to the Executive Procedure Rules and the Committees, Sub Committees and Other Bodies Procedure Rules, with any references to 'the Mayor' being substituted with 'the Chairman'. As a

result of this provision, any restrictions on how the Mayor exercises a casting vote are automatically applied to the chairmen of the Executive, committees and any sub committees.

- 3.2. The Working Group was in agreement that no restriction should be placed on casting votes when Members are making planning or other quasi-judicial decisions. In practice, it recognised that this is only likely to affect planning decisions, as all other such matters will be decided at meetings where a defined, uneven number of Members is required to make a decision. The Group otherwise supported the continued application of Council Procedure Rule 17 (c) for the Executive, committees and sub committees.
- 3.3. The Working Group therefore proposes that
 - a. no changes are made to Executive Procedure Rules and the application of Council Procedure Rule 17 (c) continues to apply; and
 - b. The Committees, Sub Committees and Other Bodies Procedure Rules are updated to reflect the recommendation that no restriction is placed on the chairman of a Planning Applications meeting, but the application of Council Procedure Rule 17 (c) otherwise continues to apply.

4. Attendance at Employment Committee Meetings

- 4.1. The Working Group considered revisions to the Committees, Sub Committees and Other Bodies Procedure Rules regarding attendance at Employment Committee meetings when the Committee considers items in Part II of the agenda.
- 4.2. When the Employment Committee was established in December 2019, it was agreed to restrict attendance at meetings to committee members only when considering items in Part II of the agenda. At the time of introducing this rule, it was not intended to restrict non-committee members from attending when considering strategic items.
- 4.3. The Committee's Terms of Reference include both strategic matters, such as the recruitment process for the Chief Executive or senior management restructures, where it is appropriate for non-committee members to be included in discussions, and matters such as the authority to agree to suspend a statutory officer, or agreeing any incremental rises for the Chief Executive, where it would be appropriate to restrict attendance to decision making members only.
- 4.4. The Working Group proposes that the wording in the Committees, Sub Committees and Other Bodies Procedure Rules at Part 4, Section D of the Constitution is updated, as set out below, to allow flexibility to restrict attendance where considered appropriate, but otherwise allow non-committee members to attend during consideration of items in Part II of the agenda:

12. Who May Attend

- 12.2 With the exception of an Appointments Sub Committee, a Hearing Sub Committee, an Appeals Sub Committee, the Joint Staff Consultative Group or the Employment Committee when considering any items on Part II of the agenda **that in the view of the Monitoring Officer and Executive Head of Transformation, in consultation with the Chairman and Vice Chairman of the Employment Committee, directly affect an individual's employment**, any councillor may attend any committee or sub-committee meeting.

5. Member & Officer Protocol

- 5.1. The Working Group reviewed the Member & Officer Protocol and endorsed a number of recommendations, in particular concerning the insertion of a new section to reflect recent changes to the Speak Up Policy. These changes were submitted to the Joint Staff Consultative Group and Employment Committee for consideration and the recommendations are dealt with at Item 8 of this agenda.

6. Options

- 6.1. The Council has the option to agree the changes proposed, not agree these proposals, or propose any other alternatives as considered appropriate.

7. Resource Implications

- 7.1. Any resource implications relating to the proposals relate to opportunity costs which can met from within existing budgets.

8. Recommendation

- 8.1. The Council is advised to RESOLVE that
- (i) the Council Procedure Rules at Part 4, Section A of the Constitution be updated as follows:

17. Voting

17.2 Mayor's casting vote

~~(c) The Mayor's casting vote must be used to vote in favour of further debate, or, where it has been previously decided to have no further debate or in some specific instances, to vote in favour of the status quo~~ In the event of a tied vote, the proposer of the matter under debate shall have the opportunity of making a further speech of no more than 3 minutes. A further vote will then immediately be taken. If deadlock has not been broken, the Mayor must cast a vote in favour of the status quo. The status quo will usually be interpreted as the motion falling.

- (ii) No change be made to the current arrangements for the Mayor's casting vote provision to apply to Executive procedures;

- (iii) Paragraph 13 of the Committee, Sub Committees and other Bodies Procedure Rules at Part 4, Section D of the Constitution be updated to remove Voting – Rule 17 from the application of Council Procedure Rules to Committees and Sub Committees; and
- (iv) the following Rule be included in the Committees, Sub Committees and Other Bodies Procedure Rules:

“12A. Voting

12A.1 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.

12A.2 (a) If there are equal numbers of votes for and against, the Chairman will have a second or casting vote.

(b) If the Chairman fails to vote when the main vote is taken, an equality of a vote cannot be achieved by the Chairman casting an original vote and following that action with a casting vote. The Chairman’s casting vote may be used whether or not the Chairman has already voted.

(c) with the exception of (d) below, in the event of a tied vote, the proposer of the matter under debate shall have the opportunity of making a further speech of no more than 3 minutes. A further vote will then immediately be taken. If deadlock has not been broken, the Chairman must cast a vote in favour of the status quo. The status quo will usually be interpreted as the motion falling.

(d) There will be no restriction on how the Chairman of the Planning Applications Committee chooses to exercise a casting vote.

12A.3 The Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.”

12A.4 If, before the Chairman begins to take a vote, three members present at the meeting demand it, the names for and against the motion or amendment or abstentions from voting will be taken down in writing and entered into the minutes. Each member present will be called by name and asked to indicate whether they are voting in favour of, or against the motion or amendment or abstaining from voting.

12A.5 Where any member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

- (v) the Committees, Sub Committees and Other Bodies Procedure Rules at Part 4, Section D of the Council's Constitution be updated as follows:

12. Who May Attend

12.3 With the exception of an Appointments Sub Committee, a Hearing Sub Committee, an Appeals Sub Committee, the Joint Staff Consultative Group or the Employment Committee when considering any items on Part II of the agenda **that in the view of the Monitoring Officer and Executive Head of Transformation, in consultation with the Chairman and Vice Chairman of the Employment Committee, directly affect an individual's employment**, any councillor may attend any committee or sub-committee meeting.

Annexes	None
Background Papers:	None
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