



Report of the Director of Legal and Democratic Services

Council

Date: 1st November

**Subject: Recommendations of the Corporate Governance and Audit Committee –
Amendments to the Constitution**

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report presents to Members recommendations of the Corporate Governance and Audit Committee regarding amendments to the Constitution. The proposed amendments relate to:
 - Article 4, the Budget and Policy Framework;
 - Council Procedure Rule 10.4, regarding deputations to Council: and
 - Council Procedure Rule 14.5(a), regarding the speaking rights of Executive Members.
2. Members are recommended to approve the proposed amendments.

1.0 Purpose Of This Report

- 1.1 This report presents recommendations made by the Corporate Governance & Audit Committee to Council in respect of amendments to the Constitution and asks Members to approve the amendments.

2.0 Background Information

- 2.1 Corporate Governance and Audit Committee's terms of reference authorise the committee to consider proposals to amend the Constitution and make recommendations to full Council.
- 2.2 The Corporate Governance and Audit Committee considered all three amendments at its meeting on the 27th September 2006.

3.0 Main Issues

Article 4

- 3.1 Article 4 of the Constitution contains the Council's Budget and Policy framework, which lists various plans and strategies, some of which are required to be included by schedule 3 of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000.
- 3.2 With effect from the 21st April 2006 statutory instrument 2006 / 886 amended schedule 3 to add the 'Licensing Authority Policy Statement'. This is the policy statement to be issued under the Gambling Act and not the similarly named policy under the Licensing Act 2003.
- 3.3 The Council is currently drafting its policy under the Gambling Act 2005 and this needs to be approved before January 2007. The Director of Legal Services has been consulting on the draft, and the approval process is currently following the budgetary and policy framework rules set out in Part 4 of the Constitution. Amending the Constitution will clarify why the approval process is following the budgetary and policy framework rules, and so will promote more transparent decision making. The amended Article 4 is attached as Appendix One to this report.

Council Procedure Rule 10.4

- 3.4 Council is asked to consider the amendment, which clarifies that deputations to Council which relate to live licensing matters are not allowed. At its July meeting Council approved an amendment to Council Procedure Rule 10.4 clarifying that issues relating to live planning matters shall not be allowed as deputations to Council. The point was made at the July meeting that the same concerns as applied in relation to live planning issues were equally relevant to live licensing issues.
- 3.5 Therefore, it is proposed that paragraph 10.4.3 is further amended as per the paragraph below:

"Representations relating to matters subject to current consideration by a Plans Panel, the Licensing Committee or a sub-committee thereof shall be restricted to those allowed under the Protocol for Public Speaking at Plans Panels or the Licensing Committee Procedure Rules and shall not be allowed as deputations to Council. In cases of doubt the Director of Legal and Democratic Services may

require written details of the proposed deputation speech prior to determination of the request”

Council Procedure Rule 14.5

- 3.6 Council Procedure Rule 14.5(a) provides that the speech of an Executive Member when summing up on minutes within their portfolio shall not exceed ten minutes. As the Children’s Services Portfolio is a single portfolio, identified as such in Executive Board minutes, the rights to sum up in that portfolio now reside with the Lead Executive Member.
- 3.7 The Support Executive Member (Children’s Services) previously held a ten minute summing up right as the portfolio holder for Learning. The amount of business transacted within this part of the new single Children’s Services portfolio has not decreased and it can be anticipated that the amount of comment in Council meetings in relation to the Support Executive Member’s part of the portfolio will also not decrease. If the Support Executive Member’s right to respond is decreased to five minutes in accordance with the current procedure rule provision then it is reasonable to conclude that there will be insufficient time for the detail of response which Council might reasonably expect.
- 3.6 The proposed wording for insertion in the Council Procedure Rules, at paragraph 14.5(a), is:

“That in instances where there are two Executive portfolio holders within a single portfolio, the Support Executive Member shall be allowed to sum up in respect of his/her part of the portfolio for a period not exceeding ten minutes, immediately prior to the Lead Executive Member exercising his/her right to sum up”

- 3.7 The relevant pages of the Council Procedure Rules, showing both the amendments outlined above, are attached at Appendix Two to this report.

4.0 Implications For Council Policy And Governance

- 4.1 It is part of the Comprehensive Performance Assessment Key Lines of Enquiry that the Constitution is kept under review. Amending the Constitution in the manner outlined will help to ensure that deputations are dealt with fairly and consistently and retains an appropriate response period for an Executive Member. This will have a positive impact on the Council’s governance.

5.0 Legal And Resource Implications

- 5.1 In relation to the amendment to Article 4 (paragraphs 3.1-3.3 above) a failure to clarify why the budget and policy framework rules apply to the Licensing Authority Policy Statement might render that policy changeable.
- 5.2 There are no resource implications to any of the recommended amendments.

6.0 Recommendations

- 6.1 Council is recommended to approve the insertion of the ‘Licensing Authority Policy Statement’ at paragraph 4.1(i) of Article 4 of the Constitution.
- 6.2 Council is recommended to approve two amendments to the Council Procedure Rules as outlined below.

- That the following words be inserted at paragraph 10.3.4 of the Council Procedure Rules:

“Representations relating to matters subject to current consideration by a Plans Panel, the Licensing Committee or a sub-committee thereof shall be restricted to those allowed under the Protocol for Public Speaking at Plans Panels or the Licensing Committee Procedure Rules and shall not be allowed as deputations to Council. In cases of doubt the Director of Legal and Democratic Services may require written details of the proposed deputation speech prior to determination of the request”

- That the following words be inserted as paragraph 14.5(a) of the Council Procedure Rules:

“That in instances where there are two Executive portfolio holders within a single portfolio, the Support Executive Member shall be allowed to sum up in respect of his/her part of the portfolio for a period not exceeding ten minutes, immediately prior to the Lead Executive Member exercising his/her right to sum up”