

Executive

Planning and Licensing Constitutional Amendments

11 January 2010

Report of Head of Legal and Democratic Services

PURPOSE OF REPORT

To consider the constitutional amendments recommended to Council by Planning and Licensing Committees.

This report is public

Recommendations

The Executive is recommended:

- (1) To note the constitutional amendments recommended to Council by the Licensing committee relating to the Scheme of Delegation and Committee Terms of Reference.
- (2) To note the constitutional amendments recommended to Council by the Planning committee relating to the Scheme of Delegation and Public Speaking Procedure Rules.

Executive Summary

Introduction

Planning

- 1.1 The planning committee considered amendments to the scheme of delegation and public speaking procedure rules on the 10 December 2009. Public speaking at Planning Committee was introduced in May 2009. The scheme has proved largely successful and several applicants, objectors, supporters and parish councils have taken advantage of their right to address the committee. Despite this success the procedure rules for public speaking have been viewed as confusing and complex.
- 1.2 The scheme of delegation as set out in the Councils constitution for

the Head of Development Control & Major Developments is unduly complex, the amendments seek to clarify and simplify the procedures without extending the scope of delegation. In addition it is recommended that the scheme of delegation be updated to take into account changes at a national level with regard to discharge of conditions and amendments to approved schemes.

Licensing

- 1.3 The licensing committee considered amendments to the scheme of delegation and public speaking procedure rules on the 15 December 2009. Following the introduction of the revised Council Constitution and Scheme of Delegation, the experience over recent months; new information on licensing legislation; and the proactive inspection and enforcement activity, have led to the need for amendments to the Constitution and proposals for a streamlined HCV/PHV licence appeals process.

Proposals

Planning Proposals

- 1.4 The suggested amendments to the public speaking procedure are attached at Appendix 1. The amendments take away the complex 3 minute rule where each person who has registered is allowed to speak for up to 3 minutes with a time limit of 9 minutes on each of the groups, objectors and supporters.
- 1.5 It is suggested that this is amended so that those wishing to speak are grouped as objectors or supporters and that each group will have a time limit of 5 minutes. The speakers on each side will be left to organise how they split the time amongst themselves. The proposal also reduces the time allowed to speakers on each item from 18 minutes to 10 minutes.
- 1.6 Proposed amendments to the scheme of delegation are attached at Appendix 2. The suggested amendments provide greater clarity and consistency with the Town and Country Planning Act as amended. There has been no increase in the scope of the delegation. With regard to the discharge of conditions and amendments to approved schemes, these changes have been introduced nationally since April 2008. Previously matters were dealt with by letter rather than as a formal application, the introduction of 1APP has regularised these procedures.
- 1.7 The proposed amendments have been agreed by Planning Committee and will be recommended to Council on 18 January 2010

Licensing Proposals

- 1.8 The revised Constitution has now been in place for a number of

months, it has become apparent that matters relating to enforcement and administration of the Licensing Act 2003, the Gambling Act 2005 and other licensable activities should be further clarified and to delegate functions to the Head of Urban and Rural Services to enable him to discharge effectively the enforcement and associated activities relating to this work. The proposed amendments to the scheme of delegation are attached at Appendix 3

- 1.9 The Licensing Committee Terms of Reference authorise the committee to hear appeals against decisions of the Head of Urban and Rural Services in respect of licensing of hackney carriages, private hire vehicles, hackney carriage/private hire vehicle drivers and private hire vehicle operators. There is no legislative requirement for the Council to undertake this appeals function. The Local Government Miscellaneous Provisions Act 1976 provides a route of appeal to the Magistrates Court. The suggested constitutional amendments remove this right of appeal from the committee's terms of reference. The proposed amendments to the Licensing Committee Terms of Reference are attached at Appendix 4.
- 1.10 The proposed amendments have been agreed by Licensing Committee and will be recommended to Council on 18 January 2010

Key Issues for Consideration/Reasons for Decision and Options

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One	To agree the recommendations as set out
Option Two	To make comments to Council regarding the proposed constitutional amendments

Consultations

Planning Committee	Recommendations Agreed
Licensing Committee	Recommendations Agreed

Implications

Financial:	Streamlining the appeals process as recommended will provide service efficiencies and a quicker resolution for appellants. Comments checked by Denise Westlake, Service Accountant 01295 221982
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Legal: It is important the public speaking procedure rules for planning committee and scheme of delegation included in the Council's constitution are clear and easy to understand.

The recommendations comply with relevant legislation. There is no legal requirement to offer a committee appeal to licence applicants/holders. This approach is consistent with the Human Rights Act as applicants will have a right of appeal to the Magistrates Court.

The recommendations in this report require amendment of the Council's Constitution and agreement of the Council.

Comments checked by Nigel Bell, Solicitor 01295 221687

Risk Management: Making the procedure rules and scheme of delegation clear enhances the democratic process and reduces the risk of challenge of decisions.

Comments checked by Rosemary Watts, Risk Management and Insurance Officer 01295 221566

Wards Affected

None

Executive Portfolio

Councillor Debbie Pickford
Portfolio Holder for Democratic Services and Member Development

Document Information

Appendix No	Title
Appendix 1	Planning Scheme of Delegation Amendments
Appendix 2	Planning Public Speaking Procedure Rules Amendments
Appendix 3	Licensing Scheme of Delegation Amendments
Appendix 4	Licensing Committee Terms of Reference Amendments
Background Papers	
Planning Committee Constitutional Amendments Report 10 December 2009	
Licensing Committee Constitutional Amendments Report 15 December 2009	
Report Author	Alexa Coates, Senior Democratic and Scrutiny Officer
Contact Information	01295 221591 alexa.coates@Cherwell-dc.gov.uk