

REPORT OF THE CITY AND COUNTY SOLICITOR AGENDA ITEM:3

**INFORMATION REPORT – COUNCIL PROCEDURE RULES -
ANOMALY RELATING TO NOTICES OF MOTION**

Reason for this Report

1. To brief Members of the Constitution Committee regarding the proposed use of delegated powers, by the City and County Solicitor, to remove an anomaly from the Constitution in relation to notices of motion.

Background

2. In July 2005 the Constitution, and subsequently Council, approved the following procedure for the right of reply for Motions/Amendments:
 - At the end of a debate about a motion which is not amended, the Member who first proposed it at the meeting has right to reply to the points raised in the debate.
 - Once all amendments have either been declared, 'carried' or 'lost', the meeting returns to debating the original or 'substantive' motion (in its amended form). If a carried amendment was accepted by the mover of the original motion, then the mover of the original motion has the right of reply.
 - When any amendments have not been accepted by the original mover of the motion, the Member who proposed an amendment, which was subsequently carried on a vote, has a right of reply to the points raised in debate. No new matters may be introduced.
 - Members may not speak after the owner of a motion has exercised a right of reply, except to seek clarification of a particular matter before the owner of the motion concludes his or her speech. A Member may not speak after a proposition has been voted on except on a point of order relating to it.

Issues

3. Whilst all debates on Motions since that date have been carried out in accordance with the spirit of the above decision, the Constitution was not correctly amended at that time to reflect all of these changes. Consequently an anomaly exists, in regard of the right of reply at the end of a debate that needs to be corrected. The current procedure rules incorrectly infer, in paragraph 14.9(a) (ii), that the mover of a Motion has the right of reply at the close of the debate on an amendment. This is not the case, unless such an amendment is lost or accepted by the mover of the original Motion, and it is necessary to amend the rules to rectify this anomaly.
4. The City and County Solicitor is to exercise her delegated powers to amend the Constitution to accurately reflect the decision taken in July 2005 by:
 - The removal of paragraph 14.9(a) (ii) "If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it." And the re-numbering of the remaining paragraphs

Legal Implications

5. The Local Government Act 2000 requires the Council to keep its Constitution under review and up to date, and Article 14 of the Constitution provides for review and revision of the Constitution.

Financial Implications

6. There are no financial implications arising from this report.

Recommendation

To note the proposed action of the City and County Solicitor

Kate Berry

City and County Solicitor

Dated: 8 March 2010