

PLEASE NOTE TIME & VENUE

CONSTITUTION COMMITTEE AGENDA



Tuesday 9 October 2007

at 5.00pm

**in the Chair's Parlour,
Civic Centre, Hartlepool**

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond

Councillors Brash, Fenwick, Flintoff, James, A Marshall, J Marshall, Preece, Richardson, Simmons and Young.

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes of the meeting of the Committee held on 24 August 2007.
 - 3.2 To receive the minutes of the meeting of the Constitution Working Group held on 21 September 2007 (to follow).
- 4. ITEMS REQUIRING DECISION**
 - 4.1 Report of Chief Solicitor (to Follow)
- 5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

24 August 2007

The meeting commenced at 2.00 p.m. in the Belle Vue Community, Sports and Youth Centre, Hartlepool

Present:

Councillor Richardson (In the Chair)

Councillors Brash, Flintoff, A Marshall, J Marshall and Preece.

Officers: Tony Brown, Chief Solicitor
David Cosgrove, Principal Democratic Services Officer

10. Apologies for Absence

Councillors Fenwick, James, Simmons and Young.

11. Declarations of interest by members

None.

12. Confirmation of the minutes of the meeting held on 6 July 2007

Confirmed

13. Minutes of the meeting of the Constitution Working Group held on 13 August 2007

Received.

14. Member Questions at Council *(Chief Solicitor)*

The Chief Solicitor reported that Members had previously discussed the issue of the length of debates following Councillor Questions to Members of the Executive and Chairs of Committees at Council meetings. This related specifically to those questions where notice was given of the question.

Members were concerned that there was increasingly lengthy debate on those questions and recently, only three questions and subsequent debate had

taken more than the one hour set down in the constitution for this section of the meeting. The Chair, in particular was concerned at the effect these long debates had on other business at Council.

Members were concerned not to stifle debate, the principal function of the Council following the changes introduced in the 2000 Act, though there were views expressed that the questions element of the meeting should simply be for the asking of questions and the provision of responses by the appropriate Cabinet member or Chair of Committee.

Members considered various options, such as allowing no debate on the questions, limiting the number of speakers and reducing the time allotted for speakers. The option to reduce the time allotted to each speaker during this section of the meeting only was one that found favour with the majority of the Committee. Members did comment, however, that the situation should be monitored and problems with the length of this section of the Council meeting were still being experienced, then the issue should be reconsidered.

Members suggested that the current time allowed for speakers of five minutes should be reduced to four minutes in all cases when discussing the Member questions at Council. The Chair did express his concern at having to cut members' short but this was considered the most appropriate way forward at this time.

The Committee also discussed the length of time allocated to the Members Questions at Council. Currently, Council Procedure Rule 11.2 (iv) (b) stated "Not more than 1 hour shall be devoted by Council to the answering of questions under this rule provided that the Chairman may in his discretion extend the time." The Chair indicated that he had, a number of times, allowed the debate to extend beyond the hour as he assessed the debate was drawing to a close. The rule had only been formally used once or twice to extend the time limit. It was suggested that the time limit be extended to 75 minutes to allow debate to continue while still not permitting an unnecessarily extend period of the meeting to be taken up.

It was also commented at the meeting that over recent months there had been a number of amendments to the Constitution that had been agreed by this Committee and then formally adopted by Council. It was suggested that unless the changes require were of such importance that they had to be implemented as soon as possible, amendments to the Constitution should only be introduced at two points during the Municipal Year. Members supported this proposal.

Decision

That Council be requested to give consideration to the following recommendations of the Committee: -

1. That Council Procedure Rule 11.2 be amended to include a time limit for speakers in the general debate following the responses to Councillors questions on notice and that the time limit be four minutes for each

speaker.

2. That Council Procedure Rule 11.2 (iv) (b) be amended to allow 75 minutes to be devoted by Council to the answering of questions under this rule.
3. That 'minor' amendments to the Constitution be submitted to Council for approval only at two meetings during the Municipal Year.

CHAIRMAN

CONSTITUTION WORKING GROUP

21 September 2007

The meeting commenced at 2.00 p.m. in the Civic Centre, Hartlepool

Present:

Councillor Carl Richardson (In the Chair)

Councillors Jonathan Brash, Sandra Fenwick, Marjorie James and
Chris Simmons

Officers: Peter Devlin, Legal Services Manager
David Cosgrove, Principal Democratic Services Officer

15. APOLOGIES FOR ABSENCE

The Mayor, Stuart Drummond and Councillors Bob Flintoff, Ann Marshall, John Marshall, Arthur Preece and David Young.

16. DECLARATIONS OF INTEREST

None.

17. MINUTES OF THE MEETING HELD ON 13 AUGUST 2007

Confirmed.

18. LOCAL STRATEGIC PARTNERSHIP

At the previous meeting, Members had discussed the relationship between the Council and the Local Strategic Partnership (LSP) with particular reference to the degree of accountability of the LSP.

It was reported at the meeting that the Chair of the LSP, the Iain Wright MP, had resigned. It was also understood that the LSP was to reconsider its structure and it would be appropriate to await the outcome of this before any further consideration of the issue of accountability as these may be addressed.

DECISION

That further consideration of this matter be deferred until the new structure of the LSP was known.

19. OFFICERS CODE OF CONDUCT

Following recent comments by Members as to the lack of a Code of Conduct for Officers, the Chief Solicitor in his briefing had submitted a copy of the draft model code of conduct for employees. The Legal Services Manager commented that the final code wasn't expected until next year, though it was anticipated to be similar to the Members Code.

Members discussed the draft code and made the following comments, which they wished to be included in a response to the consultation draft.

- The code needed to be gender non-specific.
- The definition of relative gave a lengthy, though not exhaustive list, but there was no clear definition of 'friend'.

Members also considered the issue of key staff leaving employment with the authority only to be subsequently re-employed as independent consultants. Members considered some form of contractual condition or addition to the code of conduct to limit such activity. As this was an issue affecting the terms and conditions of employees, Members suggested that the views of the General Purposes Committee should be gained and requested that the report be forwarded to the General Purposes Committee.

DECISION

1. That the report be forwarded General Purposes Committee for their comments and views.
2. That Members comments as detailed above be forwarded as the response to the consultation.

20. EXECUTIVE PROCEDURE RULES/OVERVIEW AND SCRUTINY PROCEDURE RULES – PUBLICATION DATE OF RECORD OF DECISION

The Chief Solicitor reported on an issue has arisen regarding the appropriate date to be identified as the 'Publication date' for executive Records of Decision. The requirement for a date of publication arises solely from the operation of the Overview and Scrutiny Procedure Rules that provide (O&S Rules r. 16(a) – Part 4 page 129/130):

“Notification of the wish to call-in a decision must be given to the proper officer not later than 3 clear working days after the publication of the

decision. (After which the decision becomes effective i.e. on the fourth clear working day).

In order to bring certainty as to the point of publication, every Decision Record carries a date of publication. The practice has been adopted of dating the Decision Record the day after paper copies are sent out to members. The effect of this is that the 3 days for call-in commences the following day. Generally, Decision Records are not circulated until some three to four days after the decision is made. Thus for a Monday Cabinet meeting, the decision record is published Thursday or Friday.

In some instances, however, when there is a desire to ensure early implementation, a Decision Record is expedited, so as to enable it to be circulated the day of or the day following the meeting. Thus, an expedited Decision Record circulated on Monday carries a date of publication of Tuesday leading to an implementation date the following Monday, in the absence of call-in.

A query has been raised whether it is appropriate for a Decision Record circulated on Friday to carry a Saturday or Monday publication date. There is no reason why a Saturday should not be identified as the publication date – the fact that it is not itself a working day is not relevant, as the calculation of the call-in period does not start until the next working day in any event. As the publication date has no other practical function than to enable the call-in period to be commenced, the fact that the Decision Record is not posted on the intranet/internet is also not relevant.

Councillor James commented that she had raised the original query with the Chief Solicitor and was still concerned despite the explanation given. Members requested that the matter be researched further and brought back to the next meeting of the Working Group.

21. ANY OTHER BUSINESS THE CHAIR CONSIDERS URGENT

The Chair allowed the following issues to be raised under 'any other business'.

Lack of 'Opposition' Members at this/other meetings.

It was noted that there were no opposition group members at the meeting, which raised concern for some Members. It was reported that the only meetings where there was a requirement for opposition members to be present was at Scrutiny Meetings. For all other meetings, there was no stipulation in the constitution or legislation that opposition group members must be present.

Officer Delegated Powers

It was questioned whether when powers were delegated to officers, were they at anytime reviewed, or was the assumption that once delegated, that was it. The Legal Services Manager indicated that Council could reconsider, at any time, the scheme of delegated powers. Members suggested that it may be useful for the Working Group to discuss the issue with individual Portfolio Holders and Directors to assess if there were any areas in the delegation scheme that were 'a cause for concern' or needed to be reviewed. Members suggested that this matter be discussed further at the next meeting of the working group with a report from the Chief Solicitor.

C RICHARDSON

CHAIRMAN