

PLEASE NOTE TIME & VENUE

CONSTITUTION COMMITTEE AGENDA



Friday 30 November 2007

at 2.00pm

**in the Avondale Centre, Dyke House School,
(Raby Road Entrance), Hartlepool**

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond

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

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 9 October 2007.
- 3.2 To receive the minutes of the meeting of the Constitution Working Group held on 22 November 2007 (to follow).

4. ITEMS REQUIRING DECISION

- 4.1 Review and Approval of Council Accounts and Audit Committee Membership – *Chief Financial Officer (To follow)*
- 4.2 Review of Outside Bodies – *Assistant Chief Executive (To follow)*

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

9 October 2007

The meeting commenced at 5.00 p.m. in the Civic Centre, Hartlepool

Present:

Councillor Richardson (In the Chair)

Councillors Brash, Fenwick, Flintoff, James, A Marshall, Preece and Simmons

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

15. Apologies for Absence

The Mayor, Stuart Drummond.

16. Declarations of interest by members

None.

17. Confirmation of the minutes of the meeting held on 24 August 2007

Members referred to decision 3 of Minute 14 "Member Questions at Council" "That 'minor' amendments to the Constitution be submitted to Council for approval only at two meetings during the Municipal Year". Some Members considered that this was too restrictive and amendments should be taken as and when they were approved by the Committee. The Chief Solicitor indicated that the Constitution had become something of a 'moving target' and this proposal was to give some stability to the Constitution while still allowing major amendments to go direct to Council without delay. Members considered the previous debate on the issue further and agreed that amendments to the Constitution should be referred to Council as and when they were agreed by this Committee.

Decision

That the minutes of the meeting of 24 August 2007 be confirmed subject to the deletion of recommendation 3 to Minute 14 "Member Questions at Council".

18. Minutes of the meeting of the Working Group held on

21 September 2007

Received.

It was noted that Councillor Fleet attended as substitute for Councillor A Marshall at the meeting.

19. Chief Solicitor's Report

The Chief Solicitor indicated to Members that due to his involvement in other matters, he had been unable to produce a report for the Committee further to the issues discussed at the Working Group.

Decision

Noted.

20. Any Other Business which the Chair considers are Urgent

Delegated Powers

Members raised the issue of the review of delegated powers to officers as discussed at the Working Group meeting on 21 September 2007. The Chief Solicitor stated that he had been charged with the review of delegated authority to officers by the Corporate Management Group. The issue of delegated powers would come to Councillors as part of that process. Members requested that particular reference to the level at which Members became involved in staff appointments needed to be reviewed as part of that process.

The Chief Solicitor indicated that he would submit a report to the next meeting.

Members Attendance Statistics

Members were concerned at the recent press coverage given to their attendances at meetings of the Council. Members commented that often absences at meetings were due to very good reasons; Councillors work commitments, ill health and attendance at other meetings. Members were particularly concerned at the number of outside organisations that they frequently had to attend at venues across the Tees Valley that clashed with their Council commitments. These meetings were important but not recorded. There was also concern expressed at the accuracy of some of the figures produced. While accepting the limitations of the recording, Members commented that what was produced should accurately reflect attendances.

Members also expressed concern at the way the absence of some Members from a recent Planning Committee had been reported in the press.

The issue of reporting back on the work undertaken by Council appointments at outside bodies was also discussed. Members expressed concern at their

role as Local Education Authority representatives on school governing bodies when they were given no direction by the LEA as to how they should undertake their role and their approach to some of the significant issues raised at Governing Body meetings.

Members also expressed concern at what they saw as misrepresentation by Council Officers in the press. Some Councillors expressed the view that Hartbeat should be used more often to set the story straight for the public.

The Chief Solicitor indicated that he would submit a report to a future meeting on these issues.

Contracts Scrutiny Panel

Members requested that the operation of the Panel be reviewed as some inconsistencies had recently come to light. The Committee agreed to review the Contracts Scrutiny Panel through the Constitution Working Group.

CHAIRMAN

CONSTITUTION WORKING GROUP

22 November 2007

The meeting commenced at 5.00 pm in the Chairman's Parlour,
Civic Centre, Hartlepool

Present:

Councillor: Richardson (In the Chair)

Councillors: Jonathan Brash, Sandra Fenwick, Marjorie James, Ann
Marshall, George Morris and Chris Simmons.

Also Present:

Councillor Rob Cook

22. APOLOGIES FOR ABSENCE

Apologies for absence were received from The Mayor, Stuart Drummond and Councillors Bob Flintoff and Arthur Preece.

23. DECLARATIONS OF INTEREST

None.

24. MINUTES OF THE MEETING HELD ON 21 SEPTEMBER 2007

Confirmed subject to the amendment of the reference to 'opposition members' to 'minority group' in minute 21.

25. MATTERS ARISING

An update on the position of the review of the Local Strategic Partnership (LSP) discussed at the previous meeting was requested. It was reported that consultation was currently underway the results of which were due to be reported back to the LSP in December. Members were disappointed with the level of consultation undertaken with the Council in view of the fact that it was a major stakeholder of the LSP. It was noted that this issue would be reported back to the Constitution Working Group once the consultation was complete.

26. REVIEW AND APPROVAL OF COUNCIL ACCOUNTS AND AUDIT COMMITTEE MEMBERSHIP

The Council's accounts were currently considered under delegated authority by the General Purposes Committee. However, the Committee felt it was

more appropriate for the Audit Committee to review and approve the Council's accounts. Members also considered the membership of the Audit Committee in light of the proposed additional responsibilities.

There were some concerns among Members about the number of inquorate Audit Committee meetings. It was suggested that either increasing the membership on this Committee or holding a joint meeting of the Audit and General Purposes Committees to consider the annual approval of accounts may alleviate this issue.

Members were referred to the original decision of the Resources Scrutiny Forum to establish an Audit Committee. Confirmation of this decision, the Committee's remit and the reasoning behind the decision were requested to be reported to the next meeting of this Group.

DECISION

That the Chief Financial Officer report to the Working Group the original request by the Resources Scrutiny Forum on 11 August 2004 in relation to the creation of an Audit Committee.

27. REVIEW OF OUTSIDE BODIES

Members agreement was sought to a review of representation on outside bodies and the process by which nominations were made. The review was to be based on feedback from Members when Outside Bodies were last considered, prior to Annual Council this year.

Members reiterated their earlier concerns about the added value that some of the outside body appointments bring to the Council and the number of Members appointed to each organisation. Members were concerned that there did not appear to be a training or introduction programme in place for Members attending these organisations. In addition, there was no consistent arrangement for formal Member feed back from the different organisations to other Members, especially where the organisation was in receipt of local authority funding.

Despite the above concerns, it was acknowledged that there were a number outside organisations where Members felt that their attendance did add value to the organisation and the Council as a whole.

DECISION

The review of nominations to outside bodies as set out in section 3 of the report was endorsed.

28. OFFICERS DELEGATED POWERS

The Chief Solicitor reported the current position regarding appointment of staff and the regulations supporting this. There were several exceptions provided for by the regulations for the appointment, dismissal and disciplining of certain officers and they were detailed in the report.

Members felt there was a good argument for Members to be involved in senior officer appointments where a clear interface with Members was paramount to the effective undertaking of the role for example, Scrutiny or Neighbourhood Officers.

COUNCILLOR CARL RICHARDSON LEFT THE MEETING AT THIS POINT AND COUNCILLOR MARJORIE JAMES, VICE CHAIR, TOOK THE CHAIR FOR THE REMAINDER OF THE MEETING.

Concern was raised about the role of the Vacancy Monitoring Panel and the fact that the Panel's views can be over-ruled by the Chief Executive. The Chief Solicitor responded that Council had already decided that a post should exist by virtue of the approval of Departmental budgets. However, Members suggested that where a difference of opinion exists between the Panel and the Chief Executive, the issue should be referred back to Council for reconsideration of whether the vacant post should be filled.

The Chief Solicitor confirmed that a review of officer delegated powers was currently under review by the Corporate Management Team and would be reported to Cabinet and Council at an appropriate point. It was suggested that a cross-party working group be established to review officers delegated powers possibly through a rolling programme.

DECISION

- 1) That a future meeting of the Working Group examine which senior officer appointments Members feel they should be involved in.
- 2) That a cross-party working group be established to undertake a review parallel to that of the CMT review of officers delegated powers.
- 3) That consideration be given to the establishment of a referral process to enable referrals to be made to Council when the viability of filling a vacant post was questioned.

29. MEMBERS ATTENDANCE STATISTICS

At a previous meeting of the Working Group Members had raised several concerns about the public perception of the attendance records of Members. The Chief Solicitor submitted for Members attention a list of the outside bodies to which appointments were made at Annual Council and a list of Approved Duties included in the Members Allowances Scheme.

Members were concerned that several factors impacted on the 'non-attendance' figures including clashes in meetings or seminars held several times when Members would only be expected to attend one. Members commented that the figures did not include the many meetings Members attended outside Council business. It was noted that Members attendance at meetings was recorded to prove attendance and eligibility to claim expenses.

The Chief Solicitor clarified that if the Council held records of attendances, it was obliged under the Freedom of Information Act to provide this information on request, in a format selected by the requester. However, he added that if any such request was estimated to incur a cost of more than £450 it was not undertaken. Members sought clarification on whether a member of the public could be directed to view the minutes of meetings available on the internet as they included Members attendances at every meeting. The Chief Solicitor confirmed that this may be an appropriate course of action.

30. ANY OTHER BUSINESS

Clarification was sought on the possibility of adjourning Committee meetings after a specified length of time if all Members in attendance agree, as is the case for Council meetings. This issue was raised in light of a particularly lengthy Planning Committee held earlier this week. The Chief Solicitor indicated that he could foresee no reason why this rule could not be extended to all Committee meetings and would seek to confirm this in a report to the next meeting of the Constitution Working Group.

DECISION

That the Chief Solicitor report back to the next meeting of the Constitution Working Group.

31. ANY OTHER BUSINESS

Members requested a review of the remit and operation of the Contract Scrutiny Panel as it had been suggested by a Member that the Panel be disbanded and this function be referred to the appropriate Portfolio Holder. Members requested the Chief Solicitor examine this issue and seek the views of the current Contract Scrutiny Panel and report back to the Working Group with the aim of ensuring contracts were scrutinised in an appropriate manner.

DECISION

That the Chief Solicitor consult with the Members of the Contract Scrutiny Panel and report back to a future meeting of the Constitution Working Group.

CHAIRMAN

Report of: Chief Financial Officer

Subject: REVIEW AND APPROVAL OF COUNCIL
ACCOUNTS AND AUDIT COMMITTEE
MEMBERSHIP

1. PURPOSE OF REPORT

- 1.1 To inform Constitution Committee of the proposal for the Audit Committee to review and approve the Councils accounts from 2007/08 onwards. Also for the Constitution Committee to consider the membership of the Audit Committee in light of any additional role.

2. BACKGROUND

- 2.1 The Councils accounts are considered under delegated authority by the Councils General Purposes Committee. However, the General Purposes Committee at its meeting of 17.08.07 felt that there was a lack of clarity over the role it carried out and the Councils Chief Solicitor provided a brief note on the committees' responsibilities. This stated that the task of General Purposes Committee was to determine that the accounts as maintained by the Chief Financial Officer were a proper reflection of the Council's financial position at the account date and were presented in a manner according with proper accounting practice. The Chief Solicitor also advised that the Committee should address itself to the accuracy and completeness of the accounts as a record of financial transactions and resources. However, the remit of the committee was not consider or approve how these transactions and resources were managed. These were within the remit of the executive members and committees responsible for determining or considering such matters.
- 2.2 Given the nature of this role General Purposes Committee felt that it maybe more appropriate for the Audit Committee to fulfil the task of approving the accounts, and as such requested that the Audit Committee consider this proposal.

3. AUDIT COMMITTEE ROLE

- 3.1 The role of the Audit Committee has developed and evolved over the period of time it has been in operation. It now receives the full range of reports, analysis and information it needs to fulfil its remit. These reports include:
- Quarterly Internal Audit Update Reports from the Head of Audit,
 - The Annual Opinion on the Councils Internal Control Environment from the Head of Audit,

- The Statement on Internal Control,
 - The Internal Audit Annual Plan,
 - The Internal Audit Strategy,
 - The Internal Audit Charter,
 - External Audits Annual Audit and Inspection Letter,
 - External Audits Audit and Inspection Plan,
 - All External Audit reports.
- 3.2 Given the breadth and coverage of these reports, few of which are reported to the General Purposes Committee, it was suggested at the meeting of General Purposes on 17.08.07 that the Audit Committee was better placed to review and approve the Council's accounts.
- 3.3 Although the Audit Committee was not quorate at its meeting of 4.10.07 when the proposal was considered, those members present agreed in principle to taking over this responsibility, subject to this being ratified at the committee's next meeting.
- 3.4 It was noted by members that given the statutory deadlines that the authority now works to in compiling the accounts, it would be vital that approval was agreed within these tight timescales and therefore the issue of membership of the Audit Committee should also be considered by Constitution Committee.
- 3.5 Members felt that to negate the potential for an inquorate meeting when the Council's accounts were to be approved, consideration should be given to increasing membership of the Audit Committee. This would also reflect the additional responsibility taken on by the Audit Committee.
- 3.6 In terms of complying with good practice for the operation of an Audit Committee as recommended by CIPFA, when reviewing and approving the accounts the Audit Committee would consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- 3.7 If Constitution Committee considers it appropriate that the Audit Committee undertake the role of reviewing and approving the Council's accounts then the draft accounts prior to external audit would be reported in June 2008. This would be followed by the audited accounts, with any subsequent amendment following audit and external audits annual governance statement reported in September 2008.

4. RECOMMENDATIONS

- 4.1 Members' views are sought on the proposal to include the review and approval of the Council's accounts within the remit of the Audit Committee and to give consideration to increasing membership of the committee. The role of the Audit Committee would be to consider

whether the accounts are a proper reflection of the Council's financial position at the account date and were presented in a manner according with proper accounting practice. The Committee would address itself to the accuracy and completeness of the accounts as a record of financial transactions and resources.

Report of: Assistant Chief Executive

Subject: REVIEW OF OUTSIDE BODIES

1. PURPOSE OF REPORT

To seek Members agreement to a review of representation on outside bodies and the process by which nominations are made. The review to be based on feedback from Members when the Outside Bodies were last considered, prior to Annual Council.

2. BACKGROUND

Hartlepool Borough Council currently makes more than 280 nominations to more than 100 organisations. These organisations vary greatly from statutory bodies (eg Cleveland Police Authority) to national lobbying organisations (eg the Library Association) to local charities (eg Hartlepool Women's Aid). The roles of Members on these bodies and the demands on their time vary greatly. Some organisations may only meet once or twice a year while others may meet every few weeks. Some of these nominations will also require detailed briefings prior to the meetings.

Nominations are made in different ways. Generally the full slate of nominations is approved/noted at Annual Council in May each year. Some nominations are linked to particular positions (eg Executive Member/Neighbourhood Consultative Forum Chair), some require nominations on the basis of political group (eg Cleveland Fire Authority) and some may reflect the particular interest/expertise of a Councillor.

Members of the Executive have a particularly important role in representing the Council on outside bodies. Around 25 per cent of places are filled by the cabinet members. Within the Executive representation varies greatly, with some portfolios having more nominations attached to them than others.

Nominations that are not attached to a particular position are generally allocated to political groups. They will then nominate individuals to those positions.

In addition to feedback received from Members, it is noted that nominations have not undergone a detailed review since 2001. A review of representation on outside bodies, and the process by which members are nominated to them, is timely.

3. PROPOSALS

REVIEWING THE GENERAL APPROACH TO NOMINATIONS

Classification of outside bodies

The process by which the Council agrees to participate in outside bodies is very much ad hoc. The Council has no criteria for assessing whether or not to participate in an organisation or who should be nominated, beyond the convention that a number of nominations are allocated to specific posts.

Criteria could be used to assess Council participation and nominations to outside bodies. These include:

- the value of participation to the Council
- the value of Council participation to the community
- ensuring that the Council is effectively represented on outside bodies
- ensuring that the Council fulfils its statutory responsibilities
- not overburdening some positions with nominations;
- and ensuring that Councillors serve on bodies whose work interests them.

Information about outside bodies and participation in their work

In order to undertake such a review exercise thoroughly the appropriate information about each organisation needs to be available. The Democratic Services Team is proposing to undertake a survey of all outside bodies collecting basic information about each organisation in order to up-date the Council's records. The survey will ask about each organisation's aims and objectives and about the value of Council participation to them. The information from the questionnaires will be compiled and will prove useful in helping inform a review.

The Standards Committee agreed, prior to the review carried out in 2001, to an exercise asking all Councillors to put forward organisations for inclusion in the outside bodies list. That exercise could be repeated into the wider review outlined above. In addition, it would also be helpful to canvass the views of Members on the organisations in which they currently participate and this could easily be incorporated. It is proposed, therefore, that all Members be surveyed at the same time as the views of outside bodies are sought.

4. RECOMMENDATIONS

The Committee is requested to consider endorsing the review of nominations to outside bodies as set out in Section 3 of this report.

5. REASONS FOR RECOMMENDATIONS

These proposals would constitute a very thorough review of nominations to outside bodies and should leave the Council well placed to continue

representing the interests of local people effectively in a wide variety of organisations.

6. BACKGROUND PAPERS

Cabinet Report – 29 January 2001

Cabinet Report – 11 May 2001

Council Report - 24 May 2007

Constitution Working Group Report – 22 November 2007

7. CONTACT OFFICER

Amanda Whitaker

Democratic Services Team Manager

Corporate Strategy Division