

PLEASE NOTE TIME & VENUE

CONSTITUTION COMMITTEE AGENDA



Friday 25 January 2008

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 30 November 2007.
- 3.2 To receive the minutes of the meeting of the Constitution Working Group held on 11 January 2008 (*To follow*).

4. ITEMS REQUIRING DECISION

- 4.1 Executive Procedure Rules/Overview and Scrutiny Procedure Rules – Publication Date of Record of Decision – *Chief Solicitor (To follow)*
- 4.2 Adult and Community Services and Health Scrutiny Forum – Re-structure Proposal – *Chair of the Scrutiny Co-ordinating Committee (To follow)*

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

30 November 2007

The meeting commenced at 2.00 pm at the Avondale Centre, Hartlepool

Present:

Councillor Councillor Carl Richardson (In the Chair)

Councillors Brash, Flintoff, James, A Marshall, Dr Morris, Preece and Simmons

Officers Denise Wimpenny, Principal Democratic Services Officer

21. Apologies for Absence

Apologies for absence were submitted on behalf of the Mayor, Stuart Drummond, Councillors Fenwick and J Marshall.

22. Declarations of interest by members

None

23. Confirmation of the minutes of the meeting held on 9 October 2007

Confirmed

24. Minutes of the minutes of the Constitution Working Group held on 22 November 2007

Following discussion regarding the recommendations outlined in minute 28 of the Working Group Minutes it was suggested that the minutes be amended to read:-

Minute 28 – Officers Delegated Powers

- (iii) Members were of the view that in the event that unanimous agreement was not reached between Officers and Members of the Vacancy Monitoring Panel the issue be referred to Council for reconsideration of whether the vacant post should be filled.

Decision

That the minutes be received subject to an amendment to recommendation (iii) of Minute 28 as outlined above.

25. Matters Arising from the Minutes**Officers Delegated Powers – Minute No 28**

Further discussion ensued on the recommendations of the Constitution Working Group with regard to officers delegated powers. It was suggested that it was more appropriate for the Constitution Working Group to undertake a review of officers delegated powers rather than a cross-party working group.

Members discussed the process and role of the Vacancy Monitoring Panel and expressed concern that the Panel's views could be over-ruled by the Chief Executive. The reasons for the low levels of attendance at Vacancy Monitoring Panel meetings was discussed and the disadvantages of raising queries over the telephone rather than at the meeting.

Concerns were expressed that savings from vacant posts remained in departmental budgets until vacancies were filled as a means of managing internal budgets. It was considered that these funds should be transferred to the general fund and reallocated to departmental budgets when appropriate.

Members Attendance Statistics – Minute No 29

A Member asked if further clarification had been received from the Chief Solicitor in relation to Members attendance statistics. Discussion ensued with regard to the Chief Solicitor's advice at the meeting of the Working Group regarding Freedom of Information requests and in what circumstances information was provided.

Decision

- (i) That a future meeting of the Working Group examine which senior officer appointments Members felt they should be involved in.
- (ii) That the Constitution Working Group, rather than a cross-party working group, undertake a review of officers delegated powers.
- (iii) That in the event that unanimous agreement was not reached between officers and Members of the Vacancy Monitoring Panel the issue be referred to Council for reconsideration of whether the vacant post should be filled.

26. Review and Approval of Council Accounts and Audit Committee Membership *(Chief Financial Officer)*

It was suggested that the report be withdrawn pending receipt of further information as requested by the Working Group at its meeting on 22 November 2007.

Decision

That the report be withdrawn pending receipt of further information to the Constitution Working Group.

27. Review of Outside Bodies *(Assistant Chief Executive)*

Members agreement was sought to a review of representation to outside bodies and the process by which nominations were made. The review would be based on feedback from Members when outside bodies were last considered prior to Annual Council this year. In addition to feedback received from Members it was highlighted that nominations had not undergone a detailed review since 2001. A review of representation on outside bodies, and the process by which Members were nominated to them, was timely.

In order to undertake this review, the appropriate information about each organisation was required. It was proposed that the Democratic Services Team would undertake a survey of all outside bodies collecting basic information about each organisation in order to up date the Council's records. The survey would ask about each organisations aims and objectives and about the value of Council participation to them. The information from the questionnaires would be compiled and would prove useful in helping inform a review. It was proposed that all Members be surveyed at the same time as the views of outside bodies were sought.

Members reiterated their concerns expressed at a meeting of the Constitution Working Group held on 22 November 2007 about the added value that some of the outside body appointments brought 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 induction programme in place for Members attending these organisations. In addition, there was no consistent arrangement for formal Member feedback from the different organisations to other Members, especially where the organisation was in receipt of local authority funding and it was suggested that this issue be incorporated into the surveys to be forwarded to the organisations as well as Members.

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

Decision

- (i) That the review of nominations to outside bodies, as set out in Section 3 of the report, be endorsed.
- (ii) That the arrangements in relation to formal Member feedback be included in the surveys to Members and outside organisations.

28. Any Other Business – Members Access to Information Rights

A Member requested that clarification be sought from the Chief Solicitor that any Member had a right of access to confidential papers on a need to know basis. Members expressed concern relating to Member's restricted access to confidential papers, the process by which access may be obtained and reference to the term "super exempt" which was not referred to in the Council's constitution. Whilst it was recognised that there should be specific exemptions relating to access to certain types of information, for example, child protection, adoption and fostering panel information, the Committee considered that confidential information should be available to all Elected Members.

Discussion ensued on the implications of Members accessing confidential information and the reliance on Members not to breach the confidentiality rules. It was suggested that immediate punitive action be taken by the Council's Standards Committee for any Member found to breach that trust and the Council's constitution be amended to reflect this.

A Member requested that an update be provided by the Chief Solicitor in relation to the outcome of a breach of the Council's confidentiality rules which had been referred to the Standards Board for England.

Decision

- (i) That Members access to information rights be reviewed to enable access to all Council information with certain exemptions.
- (ii) That in the first instance immediate punitive action be taken by the Council's Standards Committee for any Member in breach of the confidentiality rules.

COUNCILLOR CARL RICHARDSON

CHAIRMAN

CONSTITUTION WORKING GROUP

11 January 2008

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

Present:

Councillor Marjorie James (In the Chair)

Councillors Sandra Fenwick, Bob Flintoff, Ann Marshall, John Marshall,
George Morris, Arthur Preece and Chris Simmons

In accordance with Council Procedure Rule 4.2 (ii) Councillor Rob Cook was
in attendance as substitute for Councillor Carl Richardson.

32. APOLOGIES FOR ABSENCE

Apologies for absence were received from The Mayor, Stuart Drummond and
Councillors Jonathan Brash and Carl Richardson.

33. DECLARATIONS OF INTEREST

None.

34. LICENSING COMMITTEE

At the last meeting of the Working Group, Members had sought clarification on
the delegated powers in relation to suspension of Hackney Carriage Driver's
Licences. The Chief Solicitor presented a briefing paper which outlined the
delegated powers provided to the Licensing Authority including those
delegated to the Head of Public Protection.

Members sought clarification on the use of officers' delegated powers and the
Chief Solicitor indicated that the decision to use their delegated powers was at
the discretion of the officer themselves. It was noted that some delegated
power were rarely exercised by officers with revocations or suspensions being
referred to Committee for decision. The Chief Solicitor added that there had
been a new provision included within the Licensing Act legislation in 2006
which provided for suspension to be invoked with immediate effect. Members
were unaware of this provision and it was suggested that this issue be
included within the current review of officers' delegated powers. Members
wished to be informed whether the new legislation had been reported to
Members and if not, why not.

It was also suggested that the views of Members of Licensing Committee be sought to ascertain which decisions should be reported to Committee and which could be dealt with under delegated powers. It was noted, however, that in the interim period, any decisions to revoke or suspend a licence be carried out in conjunction with the Chair and Vice Chair of Licensing Committee.

RECOMMENDATION

- 1) That the delegated powers in relation to Licensing Committee be included within the current review of officers delegated powers being undertaken by the Constitution Working Group.
- 2) That the views of Members of Licensing Committee be sought to ascertain what decisions should be reported to Committee and what should be dealt with under delegated powers.
- 3) In the interim period, any decisions to revoke or suspend a Hackney Carriage or Private Hire Licences be carried out in conjunction with the Chair and Vice Chair of Licensing Committee.

35. ADJOURNMENT OF COMMITTEE MEETINGS

At the previous meeting of the Constitution Working Group, a Member had raised the issue of the possibility of adjourning meetings after a specified length of time. This issue had been raised in light of a particularly lengthy Planning Committee. The Chief Solicitor presented a report which referred to the possibility of including a provision for this within the Constitution specifying a duration for the meeting rather than a termination time. It was highlighted that it would be difficult to provide a specific termination time due to the variety of commencing times for committees. The following was a suggested paragraph for inclusion within the Constitution within rule 25 of Council Procedure Rules:

“Unless the majority of Members present vote for the meeting to continue, any meeting of a committee or sub-committee which has lasted [*specify a period*] shall adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next meeting of the committee or sub-committee.”

Members were concerned that it would be difficult to apply this rule to all committee meetings and felt that this particular problem mainly affected Planning Committee. In view of this, it was suggested that this issue be referred back to an informal meeting of Planning Committee to ascertain their views.

RECOMMENDATION

That an informal meeting of the Planning Committee be held to ascertain Members views on the possibility of applying a specified duration for meetings of that Committee.

36. CONTRACT SCRUTINY PANEL

At a previous meeting, Members had requested a review of the operation of the Contract Scrutiny Panel be undertaken. The views of the Members of the Contract Scrutiny Panel had been sought and some constructive comments were made extending to methods of improving the integrity of the contract letting process and a desire to further develop the remit of the Panel. The current arrangement for attendance on a rota basis was also questioned as it was felt it gave rise to inconsistency. The current Panel Members clearly accepted a continuing need for a body discharging the functions of the Panel.

A discussion ensued in which Members suggested that the Panel should be appointed on an annual basis as with other committees and forums to ensure a consistent arrangement was in place. Members considered that a committee should be established to deal with procurement and contract matters which would include the packaging of contracts. The Chief Solicitor highlighted to Members that the exercise of letting contracts was an Executive function and this must be recognised within any role given to the Panel. Whilst Members acknowledged this, it was suggested that Executive and non-Executive Members should work together on the process from the early stage of packaging to awarding contracts.

It was suggested that Cabinet Members be invited to a future meeting of the Constitution Working Group to discuss this with a view to formalising an action plan to move this issue forward.

RECOMMENDATION

That Cabinet be invited to a future meeting of the Constitution Working Group to discuss the operation of the Contract Scrutiny Panel including the establishment of a committee as discussed.

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

At an earlier meeting of the Constitution Working Group, Members discussed the operation of arrangements for the publication of executive decision records. The Chief Solicitor's briefing paper illustrated the current timetabling of publication dates which did not include Saturday as a publication day and an alternative arrangement which did include Saturday. During the discussions, it was suggested that publication dates of executive decisions should not fall on Saturdays as it was felt that this reduced the time for full consideration by Members.

It was noted that the procedure for publication of decision records allowed 3 working days for the call-in period prior to implementation of the decision. Members suggested that this be extended to 4 working days to allow for fuller consideration of decisions taken.

RECOMMENDATION

That the Executive Procedure Rules/Overview and Scrutiny Procedure Rules in the Constitution be amended to state that:

- a) Saturdays are not to be used for the publication of decision records.
- b) The call-in period for executive decisions be extended to 4 working days.

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

The report sought Members views 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 the membership of the Committee.

A discussion ensued about the number of Members on the Audit Committee and the frequency of the meetings being iniquitous. It was suggested that the Audit Committee may currently be diaried at an inconvenient time for the Members of the Committee. In view of this, it was proposed that the current Members on the Committee were contacted to ascertain if the usual timing of the meeting was convenient for them.

RECOMMENDATION

The Democratic Services Team contact the Members of the Audit Committee to:

- 1) Gain their views on the usual timing of the Committee and that these views be reported back to the next meeting of the Constitution Working Group.
- 2) Ascertain if they wish the time of the next meeting scheduled for 3 April 2008 to be changed.

39. ANY OTHER BUSINESS – MINUTES OF CONSTITUTION WORKING GROUP – 20 NOVEMBER 2007

Clarification was sought on minute no 24 of the Constitution Working Group on 20 November 2007 as received by Constitution Committee on 30 November 2007. It was noted that the minutes should be amended to remove reference to the review being referred to Council prior to it commencing.

40. ANY OTHER BUSINESS – ADULT AND COMMUNITY SERVICES AND HEALTH SCRUTINY FORUM – RE-STRUCTURE PROPOSAL

Members were informed of the restructure proposals for the Overview and Scrutiny Function (endorsed by the Scrutiny Co-ordinating Committee) pending the outcome of the budget setting process for 2008/09. The detailed proposals were included within the report. It was noted that having endorsed the proposals as outlined in the report, Members of Scrutiny Co-ordinating Committee agreed to submit the financial implications to the Cabinet as a

budget pressure for Scrutiny Support as part of the budget setting process for 2008/09 and thereafter to the Constitution Working Group/Committee (subject to approval).

It was noted that the Constitution would need to be amended to reflect these changes prior to implementation in the 2008/09 Municipal Year.

CHAIRMAN