

# PLEASE NOTE TIME & VENUE

## CONSTITUTION COMMITTEE AGENDA



**Friday 6 June 2008**

**at 2.00 pm**

**in Committee Room A, Civic Centre, Hartlepool**

**MEMBERS: CONSTITUTION WORKING GROUP:**

The Mayor, Stuart Drummond

Councillors Fenwick, Flintoff, James, A Marshall, Morris, Preece, Richardson, Wallace and 2 vacancies

**1. APOLOGIES FOR ABSENCE**

**2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

**3. MINUTES**

- 3.1 To receive the minutes of the Constitution Working Group of 6 March and 3 April 2008.
- 3.2 To confirm the minutes of the Constitution Committee of 28 March and 3 April 2008.

**4. ITEMS REQUIRING DECISION**

- 4.1 Constitution Working Group and Constitution Committee – Work Programme for 2008/09 – *Chief Solicitor (To follow)*

**5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

## CONSTITUTION WORKING GROUP

6<sup>th</sup> March 2008

The meeting commenced at 4.30 p.m. in the Civic Centre, Hartlepool

### **Present:**

Councillor Richardson (In the Chair)

The Mayor, Stuart Drummond

Councillors Brash, Flintoff, A Marshall, Morris, Preece and Simmons.

Cabinet Members had been invited to attend the meeting. The following Cabinet Member was in attendance:-

Councillor Cath Hill

Officers:- Tony Brown, Chief Solicitor  
Amanda Whitaker, Democratic Services Team Manager

### 41. Remit of Contract Scrutiny Panel

Consideration has been given by the Constitution Working Group and the Contract Scrutiny Panel to the remit of the Contract Scrutiny Panel. In particular, members have been concerned to ensure that the Contract Scrutiny Panel had a recognised and meaningful role, which provided members of the Panel with a greater involvement in the contracting process. Latterly, the Contract Scrutiny Panel had examined and approved measures which enable members to guard against abuses of the contract letting procedures and to address performance and financial aspects of the Council's contracts.

At their meeting on 11<sup>th</sup> January 2008, the Constitution Working Group was advised of the progress made. 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 had 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.

Arising from the reference to the packaging of contracts the Chief Solicitor considered that it was relevant to note that 'packaging' of contracts could involve either:-

- the bringing together of projects to be let together which may have the effect of involving EU procedures which otherwise would not apply, but which could achieve greater economic benefits by the increased scale of the contract. or
- the disaggregation of a project into ingredient parts.

Either process could impact on the attractiveness of a contract package to contractors – interesting either local contractors or contractors from wider afield. However, it must always be recognised that contracts must be packaged appropriately; in accordance with EU procurement rules (where relevant) and follow the Council's Procedure Rules and Guidance on procurement. Contracts should never be packaged in order to avoid particular contract limits or to reduce the potential for fair and open competition.

Members discussed the background to the meeting and reiterated concerns in relation to the current role of the Panel. It was highlighted that the Finance Portfolio Holder had recently considered a report on the 'Procurement Strategy 2007 – 2010' which had addressed some of Members' concerns. It was considered, however, that the concerns which had been highlighted, in relation to 'closing the loop', still needed to be addressed. The Executive/Non Executive split of responsibilities was clarified by the Chief Solicitor.

Concerns regarding difficulties arising from there being no consistency in the membership of the Contract Scrutiny Panel were reiterated. Discussion followed on monitoring of the performance of contractors and the role of the Procurement Team. It was accepted by the Chief Solicitor that there was currently no Member input into that process and perhaps, therefore, that issue needed to be given further consideration.

As a result of the discussion and the concerns expressed by Members, it was recommended that:-

- (i) that the Contract Scrutiny Panel be appointed on an annual basis as with other committees and forums to ensure a consistent arrangement is in place. The membership of the Panel to include Executive and Non Executive Members

- (ii) That the Panel is involved in the monitoring of contract performance – it was considered that this would be best achieved by the Panel selecting a number of contracts to examine as part of its work programme. It was recognised that Members did not need to be involved in technical aspects associated with the award of contracts. Difficulties arising from Executive members being involved in the monitoring of contracts were highlighted.

Discussion followed on the compilation of Select Contractor Lists and the process followed in the event that a Contractor is 'removed' from the List. It was noted that Select Contractor Lists were submitted to the appropriate Portfolio Holder on a periodic basis. There did not appear to be provision, within the Contract Procedure Rules, in relation to process adopted in the event that a contractor is 'removed' from Lists.

RECOMMENDED – That a further report be submitted to the Working Group which includes models to address the concerns expressed by the Working Group and to achieve the recommendations set out at (i) and (ii) above.

#### 42. ANY OTHER BUSINESS – REPORT FORMATS

The Chairman expressed concern that when Officers were preparing reports, there is not always reference made to who has written the report. In response to the concerns expressed by the Chairman, it was highlighted that the corporate report format included reference to a 'contact officer'.

CHAIRMAN

## **CONSTITUTION WORKING GROUP**

3 April 2008

The meeting commenced at 4.30 pm in the Civic Centre, Hartlepool

### **Present:**

Councillor: Carl Richardson (In the Chair)

Councillors: Jonathan Brash, Marjorie James, Ann Marshall, George Morris and Arthur Preece

In accordance with Para 4.2 (ii) Councillor Rob Cook was in attendance as substitute for Councillor Christopher Simmons

Officers: Andrew Atkin, Assistant Chief Executive  
Amanda Whitaker, Democratic Services Team Manager  
Angela Hunter, Principal Democratic Services Officer

### **51. APOLOGIES FOR ABSENCE**

Apologies for absence were received from The Mayor, Stuart Drummond and Councillors John Marshall and Christopher Simmons.

### **52. DECLARATIONS OF INTEREST**

None.

### **53. OUTSIDE BODIES REVIEW**

The Democratic Services Team Manager presented the report which provided Members with feedback received from Members and outside bodies as part of the current review of Council representation on outside bodies. As some of the appointments to outside bodies were executive nominations, it was suggested that these appointments be referred to Cabinet for consideration. There were several organisations that had ceased to exist or had been succeeded by new arrangements and it was suggested that these be removed from the list. A number of organisations were identified on the basis of comments received from either the organisation or representative and Members were requested to give consideration to the continued participation and number of nominations for these organisations. It was noted that the Council currently made three nominations to The Studio and it was proposed by one of the current representatives that this be reduced to one nomination.

It was noted that Members, who had returned questionnaires, had considered that it would be beneficial to receive notification of what bodies they were appointed to immediately after the appointment was confirmed at Annual Council.

Several Members had raised concerns that they had not received invitations to meetings of the organisations to which they were nominated and requested that Officers write to these organisations to convey Members' concerns. A discussion ensued and it was suggested that the nomination to Age Concern be a self-selecting nomination of the Council's Older People's Champion. The appointment to the North Regional Brass Band Trust was questioned and Members requested clarification on the link between the brass band competition held in Hartlepool and the Council's representation on the North Regional Brass Band Trust.

It was noted that some Members may not be familiar with the structures and policies of the voluntary sector and it was felt that this may impact on their involvement in certain organisations. It was proposed that this may be an issue to be considered as part of the Member Development Programme.

A Member had proposed that any organisations who receive Council funding should be considered for inclusion within the Council annual appointments to outside organisations. The Assistant Chief Executive suggested that the impact and potential implications of such appointments be explored prior to this issue being considered. Suggestions made for additional organisations were considered and it was noted that the Landlords Association had been approached to accept a Council nomination as part of a previous investigation undertaken by the Regeneration and Planning Services Scrutiny Forum. This nomination had been declined and Members suggested that alternatives be examined to enable Council participation in this organisation. It was also proposed that the Council be involved in the Local NHS Boards and the new LINK arrangements.

Members were asked to consider approaches made to the Council by the Merchant Navy Welfare Board and the North East Rural Affairs Commission for Council nominations to participate in their organisations.

#### **54. RECOMMENDATIONS**

(i) That the following organisations are deleted from the approved list of outside bodies:-

- Albert Centre
- Connexions
- Forum for Racial Harmony
- One Voice Tees Valley
- Teesside International Eistedford
- NHS Continuing Care Review Panel
- North Regional Home and Leisure Safety Council
- Scope on Teesside

- Tees Valley Community Foundation
  - Tees Valley Rail Group – (Replaced by Transport for Tees Valley Board – Executive Member and Chief Officer responsible for Transport are automatic appointments to the Board)
  - Tees Valley Joint Strategy Committee – succeeded by new governance arrangements of Tees Valley Unlimited
  - Tree Council
- (ii) That the following organisations be added to the approved list of outside bodies:-
- Merchant Navy Welfare Board
  - North East Rural Affairs Commission
- (iii) That consideration of a review of Executive nominations be referred to Cabinet.
- (iv) That in addition to advising the Outside Bodies of appointments, the Democratic Services Team writes to all Members of the Council, following the Annual meeting of Council, to advise Members of those organisations to which they have been appointed.
- (v) That the impact and potential implications of representation on all organisations who receive Council funding, be reviewed
- (vi) That the number of nominations made to The Studio Management Committee be reduced from 3 to 1.
- (vii) That a session on the structures and policies of the voluntary sector be included in the Member Development Training Programme.
- (viii) That in view of the number of Members who have advised that they are not receiving invitations to attend meetings, a letter be forwarded to the organisations concerned to convey Members' concerns.
- (ix) That officers investigate LINKs, Local NHS Boards and the Landlords Association to ascertain how Members can become more involved.
- (x) That clarification be provided on the link between the Northern Regional Brass Band Trust and the local brass band competitions held in Hartlepool.

CHAIRMAN

# **CONSTITUTION COMMITTEE**

## **MINUTES AND DECISION RECORD**

28 March 2008

The meeting commenced at 3.00 pm in the Belle Vue Community, Sports and Youth Centre, Kendal Road, Hartlepool

**Present:**

Councillor Carl Richardson (In the Chair)

Councillors Jonathan Brash, Bob Flintoff, Marjorie James, Ann Marshall, Dr George Morris and Chris Simmons

Officers Tony Brown, Chief Solicitor  
Denise Ogden, Head of Environmental Management  
Christine Armstrong, Corporate Services Officer  
Mick Bannister, Principal Procurement & Finance Officer  
Tony MacNab, Solicitor  
Angela Hunter, Principal Democratic Services Officer

### **36. Apologies for Absence**

Apologies for absence were received from The Mayor, Stuart Drummond and Councillor Arthur Preece.

### **37. Declarations of interest by Members**

None.

### **38. Confirmation of the minutes of the following meetings:**

- (i) Constitution Committee – 25 January 2008 – confirmed.
- (ii) Constitution Working Group – 11 March 2008 – confirmed.

### **39. Process of Resident Representative's Election** (*Chief Solicitor*)

The Head of Environmental Management presented a report which provided Members with the opportunity to consider and approve revised arrangements for the election of Resident Representatives. At a meeting of the Constitution Working Group on 11 March 2008 Members considered the proposed arrangement for nominations for resident representatives to be submitted no later than 12 noon on the day before the meeting, thereby



avoiding administrative difficulties arising from the receipt of nominations so close to the election process. Members were in agreement with the proposed changes and suggested that further changes be incorporated to ensure that representatives were truly representative of the community. It was suggested that nomination papers should be endorsed by 10 residents of the area in question.

The suggestions recommended by Constitution Working Group necessitated changes to the Constitution, Part 2, Article 10.11, para (b) (iv) and (vi) and these were detailed in the report.

A discussion ensued on the merits of amending the nomination process and how this would affect the administration of the election. Members felt that as part of the nomination process, checks should be made to ensure that the resident representative nominees and residents endorsing the nomination were included within the electoral register, similar to the process followed for the election of local councillors. In order to facilitate this process, it was suggested that nominations be submitted prior to the day of election, at a time to be determined by Officers and agreed with the Chairman.

As it was proposed to submit the amendments to Resident Representative election process to the next meeting of Council, delegated authority was sought for the Chair to agree the detailed changes.

### **Decision**

- (i) That the Constitution, Part 2, Article 10.11, para (b) (iv) and (vi) be amended to read:
  - “Co-opted resident members
  - (b) The election process
  - (iv) A nomination will not be valid unless it is subscribed by 10 residents who appear on the electoral register of the ward area for which the nomination is made. Voting will be by secret ballot. Following the election for the positions of Resident Representatives, the Resident Representatives elected shall elect one of their number to the office of Vice-Chair and another to act as substitute for the Vice-Chair.
  - (vi) In the event of a tied vote, a further vote will take place. If there is no outright result following this second vote, the Chief Solicitor shall decide between the individual candidates by lot”.
- (ii) That the Chair be given delegated authority to agree the day and time for the close of nominations for Resident Representative elections with the Head of Environmental Management and the Chief Solicitor.

#### **40. Proposed Amendments to Contract Procedure Rules** (Head of Procurement and Property Services)

The Principal Procurement & Finance Officer presented a report which sought Members endorsement of the proposed changes to the Contract Procedure Rules (CPRs) and Article 14 of the Constitution and submission of those changes to Council for approval and implementation. The main aim of the proposed changes was to ease the burden on suppliers and included increased use of electronic advertising through the Council's website, an increase in tender limits, an increase in the number of tenders required and the introduction of compulsory orders for all goods/services not purchased through a contract.

It was noted that it was proposed to advertise contracts for a longer period and the cost associated with this was questioned. The Principal Procurement and Finance Officer responded that the longer period would be achieved through a longer closing date for the receipt of tenders, but that only one advertisement would be used as was current practice. However, the advertisement would be open on the website continuously until the tender period closed and it was recognised that the use of the website needed promotion. It was suggested by Members that the Council's publication, Hartbeat should be utilised to encourage suppliers to access the website as well as using the notice board outside of the Civic Centre reception. The Principal Procurement and Finance Officer indicated that the advertising contract was currently being examined, including statutory public notices, with a view to increased utilisation of the website. However, it was recognised that there were some instances where paper advertisements would still be necessary, for example trade press or so as not to exclude smaller local companies who were not yet electronically enabled.

In relation to the proposed increase in tender limits, it was suggested by Members that the limit for goods and services be increased to £25k, this would show natural progression from tenders for works.

A Member sought clarification on whether customer satisfaction surveys from Residents were used in tendering. The Principal Procurement and Finance Officer indicated that guidance to contract monitoring had been produced and included various processes including customer feedback. The Chief Solicitor suggested that this be considered as part of the review of the role of Contract Scrutiny Panel.

In response to comments by Members, the Principal Procurement and Finance Officer noted that the standardisation of contracts was being examined, including the use of a separate schedule at the back of the documentation to include the price of the contract.

**Decision**

- (i) That the proposed amendments to the Contract Procedure Rules and Article 14 of the Constitution be endorsed and submitted to Council for approval and implementation with the following addition:

That the tender limit for goods and services be increased to £25k.

- (ii) That consideration of the production of a contract monitoring system be included within the current review of the Contract Scrutiny Panel.

**41. Review and Approval of Council Accounts and Audit Committee Membership** (*Chief Solicitor*)

The Chief Solicitor presented a report which invited the Committee to recommend to Council changes to the remits of the Audit Committee and the General Purposes Committee and the number of Members of the Audit Committee. The changes outlined necessitated changes to the Constitution, Part 3, Responsibility for Functions and these were attached by way of Appendix.

**Decision**

The changes to Part 3 of the Constitution, Responsibility for Functions were endorsed for submission to Council.

**42. Planning Committee Review of Duration and Speaking Rights of Members** (*Chief Solicitor*)

The Chief Solicitor presented a report which invited the Committee to recommend to Council changes to the Constitution, Part 4, Rules of Procedure arising from concerns expressed by Members regarding the length of some Planning Committee meetings and consequent clashes with other meetings where Members' attendance was necessary.

In order to avoid unnecessary complexity and confusion it was proposed to amend rule 26 by the inclusion of words permitting Committees to make their own procedural arrangements. Such an approach would then simply necessitate a change to the Order of Proceedings for public involvement in Planning Committees by the inclusion of the proposed changes.

**Decision**

It was recommended that Rule 26.3, Part 4, Rules of Procedure be amended to include the phrase:

“Subject to any variation approved by a committee for regulating its own proceedings.”

**43. Any Other Business – Minutes of the meeting held on 6 March 2008**

Confirmed.

A discussion ensued on the merits of changing the remit and membership of the Contract Scrutiny Panel prior to this year's Annual Council. The Chief Solicitor advised that a committee could be constituted at any time and it was suggested that the recommendations of the minutes of the meeting held on 6 March 2008 remain and a report be submitted to the Constitution Working Group in the new municipal year. It was recognised that the involvement of Cabinet Members, especially the Portfolio Holder for Finance and Efficiency, was key to progressing this issue.

**44. Any Other Business – Chief Solicitor Retirement**

It was recognised that this was the last meeting Tony Brown, Chief Solicitor would attend prior to his retirement on 31 March 2008. The Chairman and Members present wished to thank him for the advice and guidance provided at Constitution Working Group and Constitution Committee meetings and wished him well for the future.

CHAIRMAN

# **CONSTITUTION COMMITTEE**

## **MINUTES AND DECISION RECORD**

3 April 2008

The meeting commenced at 5.15 pm in the Civic Centre, Hartlepool

### **Present:**

Councillor: Carl Richardson (In the Chair)

Councillors: Jonathan Brash, Marjorie James, Ann Marshall, George Morris and Arthur Preece

In accordance with Para 4.2 (ii) Councillor Rob Cook was in attendance as substitute for Councillor Christopher Simmons

Officers: Andrew Atkin, Assistant Chief Executive  
Amanda Whitaker, Democratic Services Team Manager  
Angela Hunter, Principal Democratic Services Officer

### **45. Apologies for Absence**

Apologies for absence were received from The Mayor, Stuart Drummond and Councillors John Marshall and Christopher Simmons.

### **46. Declarations of interest by Members**

None.

### **47. Outside Bodies Review** *(Assistant Chief Executive)*

At the meeting of the Constitution Working Group held 3 April 2008, Members considered a report submitted by the Assistant Chief Executive in relation to a review of Council annual appointments to Outside Bodies. A number of recommendations were proposed and were detailed as follows:

- (i) That the following organisations are deleted from the approved list of outside bodies:-
  - Albert Centre
  - Connexions
  - Forum for Racial Harmony
  - One Voice Tees Valley
  - Teesside International Eistedford
  - NHS Continuing Care Review Panel

- North Regional Home and Leisure Safety Council
  - Scope on Teesside
  - Tees Valley Community Foundation
  - Tees Valley Rail Group – (Replaced by Transport for Tees Valley Board – Executive Member and Chief Officer responsible for Transport are automatic appointments to the Board)
  - Tees Valley Joint Strategy Committee – succeeded by new governance arrangements of Tees Valley Unlimited
  - Tree Council
- (ii) That the following organisations be added to the approved list of outside bodies:-
- Merchant Navy Welfare Board
  - North East Rural Affairs Commission
- (iii) That consideration of a review of Executive nominations be referred to Cabinet.
- (iv) That in addition to advising the Outside Bodies of appointments, the Democratic Services Team writes to all Members of the Council following the Annual meeting of Council, to advise Members of those organisations to which they have been appointed.
- (v) That the impact and potential implications of representation on all organisations who receive Council funding, be reviewed
- (vi) That the number of nominations made to The Studio Management Committee be reduced from 3 to 1.
- (vii) That a session on the structures and policies of the voluntary sector be included in the Member Development Training Programme.
- (viii) That in view of the number of Members who have advised that they are not receiving invitations to attend meetings, a letter be forwarded to the organisations concerned to convey Members' concerns.
- (ix) That officers investigate LINKs, Local NHS Boards and the Landlords Association to ascertain how Members can become more involved.
- (x) That clarification be provided on the link between the Northern Regional Brass Band Trust and the local brass band competitions held in Hartlepool.

## **Decision**

That the above recommendations be accepted in full and submitted to the next meeting of Council for approval.

**CHAIRMAN**