

CONSTITUTION COMMITTEE AGENDA



Friday 29 August 2008

at 2.00 pm

in Committee Room A, Civic Centre, Hartlepool

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond

Councillors R Cook, Fenwick, Flintoff, James, Laffey, A Marshall, Morris, Preece, Richardson, Simmons

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 15 August 2008 *(to follow)*
- 3.2 To confirm the minutes of the Constitution Committee of 11 July 2008.

4. ITEMS REQUIRING DECISION

- 4.1 Pre-Election Period (PURDAH) and Ward Surgeries – *Chief Solicitor*
- 4.2 General Purposes Committee – Decision Making Process – *Chief Solicitor*
- 4.3 Chains of Office – *Chief Solicitor (To follow)*

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

CONSTITUTION WORKING GROUP

15 August 2008

The meeting commenced at 10.00 a.m. in the Civic Centre, Hartlepool

Present:

Councillor Carl Richardson (In the Chair)

Councillors Rob Cook, Sandra Fenwick, Bob Flintoff, Ann Marshall, Arthur Preece and Chris Simmons

In accordance with Council Procedure Rule 4.2 (ii) Councillor David Young attended as substitute for Councillor George Morris.

Officers: Peter Devlin, Chief Solicitor
Christine Armstrong, Central Services Manager
Angela Hunter, Principal Democratic Services Officer

17. MINUTES OF THE MEETING HELD ON 27 JUNE 2008

Confirmed.

18. MATTERS ARISING FROM THE MINUTES

Minute 13 – Contract Scrutiny Panel – the Chief Solicitor advised that due to the complex nature of the changes proposed to the above Panel and to allow a detailed examination, a report would be submitted to the next meeting of the Constitution Working Group.

19. PRE-ELECTION PERIOD (PURDAH) AND WARD SURGERIES

The Chief Solicitor presented a report which referred to a request by the Constitution Working Group for further information concerning the pre-election or “Purdah” period and its relationship with the holding of Ward Surgeries. The background to the “Purdah” period, associated Central Government guidance and guidance in relation to Council business events during the period in question were referred to in the report.

A lengthy discussion ensued in which Members sought clarification on whether the restrictions associated with the “Purdah” period applied to all Members or only those Members that were due for election. The Chief Solicitor advised that this had a

wider application and referred to all candidates and other Members to ensure that Council resources were not being utilised for publicity purposes for a political party.

Members were concerned that under the current policy of election by thirds, two-thirds of Members would be unable to provide a ward surgery to meet their constituents for a considerable amount of time prior to an election. Members also requested that the debate be widened to include publicity for ward surgeries and the possibility of utilising the Hartlepool Mail to publish these events in the free 'Whats On' column featured in that newspaper.

Another issue that was of concern to Members was that the current procedure for calling a ward surgery needed to involve 2 out of 3 of the ward councillors. This had proved problematic in some Wards where only 1 out of the 3 ward councillors wished to hold a surgery. It was suggested that this procedure be amended to enable an individual ward councillor hold a ward surgery should they wish to. It was noted that school premises used to be utilised more for ward surgeries in the past but that the costs associated with the use of such premises, now due to budget restrictions, this use may only be used should there be no alternative premises available.

The Chief Solicitor advised that although there was no legal requirement for Members to hold ward surgeries, the Government's White Paper provided that the local community should be empowered and that Members should be allowed to give policy direction and provide an interface for the public. Members felt that ward surgeries provided a way of proving that democracy does work and encourages people to become involved.

A discussion ensued on the frequency of ward surgeries and reference was made to a previous decision to provide sufficient budget to arrange 10 ward surgeries across the year for each ward. Should more than 10 surgeries be required, this would have budget implications and would need to be considered by the Portfolio Holder.

RECOMMENDATION

- (i) That up to 12 surgeries may be held in each ward per year and that any budget implications be forwarded to the Portfolio Holder for Performance.
- (ii) That on occasions when only 1 of the 3 ward councillors wished to hold a ward surgery, then this be allowed subject to sufficient budget being available.
- (iii) That the Hartlepool Mail be approached to ascertain whether an article could be placed in the 'Whats On' column to promote dates of ward surgeries.

20. GENERAL PURPOSES COMMITTEE – DECISION MAKING PROCESS

The Chief Solicitor presented a briefing paper which provided the background an issue in relation to the current decision making process which was raised at the General Purposes Committee on 18 January 2008. Members were advised that a genuine misunderstanding had evidently arisen which resulted in this item not being forwarded to the Constitution Working Group until this meeting.

The concerns raised concerned the appropriate follow-up action to be taken by Officers following a meeting and the Chief Solicitor suggested that such a scenario was adequately covered within the 'Officer/Member Protocol' and recited:

"Relationships between chairs/members of other committees and officers, will operate in line with the relevant codes of conduct and the principles contained in the protocol."

A discussion ensued in which Members agreed that it had been a genuine misunderstanding that this issue had not been referred to the Working Group earlier. However, Members felt that if a chairman or member of a committee requested information from an officer, this should be provided whether the officer felt this was particularly relevant or not. This of course was subject to some exceptions, for example in relation to child protection, vulnerable adults or business interests.

RECOMMENDATION

Members noted the report.

21. CHAINS OF OFFICE

As requested by the Constitution Committee on 11 July 2008, the Central Services Manager presented a report which confirmed that the Council's Chains of Office were owned by the Council. The report highlighted that although there were no formal rules and regulations relating to the wearing of the chains, a number of publications provided guidance on the custom and practice relating to the wearing of civic insignia and these publications were listed within the report.

It was noted that the protocol adopted in Hartlepool provided that the Chair and escort wore the chains that previously belonged to the former West Hartlepool Council and that the Vice-Chair and escort wore the former Hartlepool chains. However, since the theft of the Hartlepool chains, the Vice Chair has worn the Chair's chains of office at Council meetings and events and a report was to be submitted to Cabinet on 18 August 2008 seeking consideration of the replacement of the stolen chains of office.

A discussion ensued on the wearing of Chains of Office and it was noted that at a neighbouring Council, a decision had been taken that the Chair wear the Chains of Office and attended very few, if any civic and ceremonial events. Members felt that this course of action had a detrimental effect on that Council and that the Chains of Office were an important part of the civic and ceremonial function and an emblem of the town.

Reference was made to the Alderman's medallion and ribbon and it was suggested that this should be used for the Vice Chair until such time that the chains were replaced. Concern was also raised by Members in relation to situations where the Chairman receives an invitation to two functions/events to be held at the same time. It was the view of Members that on such an occasion, the Chairman should be able to delegate the responsibility of attending one of the functions to the Vice Chair. The

Central Services Manager indicated that this would incur financial implications including the arrangements for transport and the provision on an escort/driver.

RECOMMENDATIONS

- (iv) That the Chairman has the option to delegate an event/function to the Vice Chair on occasions when more than one invitation for an event/function for the same time is received and that any budget implications be forwarded to the Portfolio Holder for Performance .
- (v) That the Vice Chair be given access to the Alderman's medallion when requested to attend events/functions by the Chair, until such time as the Chains of Office are replaced.

The meeting concluded at 3.30pm

CHAIRMAN

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

11 July 2008

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

Present:

Councillor Marjorie James (In the Chair)

Councillors Rob Cook, Sandra Fenwick, Bob Flintoff, Pauline Laffey, Ann Marshall, Arthur Preece and Chris Simmons.

Officers: Alyson Carmen, Legal Services Manager
Amanda Whitaker, Democratic Services Team Manager
Angela Hunter, Principal Democratic Services Officer

5. Apologies for Absence

Apologies for absence were received from The Mayor and Councillors George Morris and Carl Richardson.

6. Declarations of interest by Members

None.

7. Confirmation of the minutes of the following meetings

Constitution Working Group – 3 and 27 June 2008 – received.

Constitution Committee – 6 June 2008 – confirmed.

8. Licensing Committee (*Chief Solicitor*)

At its meeting on 3 June 2008, the Constitution Working Group had considered the current membership of the Licensing Committee and its sub-committees. The Working Group had suggested that the Licensing Act Sub-Committees be reconfigured to include five Members with the quorum to remain at three. Subsequent to this discussion, the Licensing Committee at its meeting on 2 July 2008 considered this issue and was advised that the Licensing Act 2003 was clear that the Licensing Act functions should only be carried out by a sub-committee of three Members.

However, the Committee further considered that when the Licensing Act took force, it was considered essential to appoint five Licensing Act Sub-Committees due to the sheer volume of applications to be received at that time. Recent experience has shown that the need for five sub-committees no longer existed and that potentially two or three sub-committees would suffice, leaving the remaining membership of the Licensing Committee to act as substitutes where necessary.

Members were concerned that the advice given to the Constitution Working Group at its meeting on 3 June 2008 in relation to the possibility of having five member sub-committees was inconsistent with the advice given at the Licensing Committee on 2 July 2008. The Principal Solicitor acknowledged that this was unfortunate but advised that the Chief Solicitor had time to refer to the legislation in detail prior to the Licensing Committee and was therefore able to confirm the precise details of the legislation in relation to the membership of sub-committees.

A discussion ensued in which Members suggested the possibility of a rota system for the operation of the Licensing Act Sub-Committee prior to the issue of the agenda documentation. This proposal raised a number of issues for Democratic Services in relation to the operation of such a system and it was suggested that a proposal be forwarded to the Chair and Vice Chair of the Constitution Committee prior to submission to the Licensing Committee for their consideration.

Decision

That the Democratic Services Team Manager submit a proposal for the operation of the Licensing Act Sub-Committees to the Chair and Vice Chair of Constitution Committee prior to submission to the Licensing Committee for its consideration.

9. Budget and Policy Framework Update *(Chief Solicitor)*

At its meeting on 23 June 2008 the Constitution Working Group considered the proposed amendments to the Budget and Policy Framework documents. As a result of the proposed changes it was recommended that Part 2 – Articles, Policy Framework be amended as follows:

(a) Policy Framework

The policy framework means the following plans and strategies:-

Children and Young People's Plan;
Commissioning Strategies for Vulnerable People'
Sustainable Community Strategy;
Corporate Plan;
Crime and Disorder Reduction Strategy;
The plans and strategies which together comprise the

Development Plan;
 Food Law Enforcement Service Plan;
 The plan and strategy which comprise the Housing Investment Programme;
 Local Transport Plan;
 Quality Protects Management Action Plan;
 Tees Valley Joint Waste Management Strategy;
 Youth Justice Plan.

Decision

That the Constitution, Part 2 – Articles, Policy Framework amendments be submitted to Council for approval.

10. Council Procedure Rules – Questions to Members *(Chief Solicitor)*

At its meeting on 23 June 2008 the Constitution Working Group considered the proposed amendments to the Council Procedure Rules – Questions to Members. As a result of the proposed changes it was recommended that Part 4 – Council Procedure Rules, para 11.2, be amended as follows:

11.2 Questions on notice at full Council

- i) A Member of the Council may ask:
- the Chair;
 - a Member of the executive; or
 - the chair of any committee, ~~sub-committees~~ or *Forums*

Decision

That the Constitution, Part 4 – Council Procedure Rules amendments be submitted to Council for approval.

11. Any Other Business – Chains of Office

The Chair sought clarification on the ownership and rules and regulations which administer the Council's Chains of Office and requested a report be submitted to the next meeting of the Constitution Working Group with this information.

Decision

That a report be submitted to the next meeting of the Constitution Working Group to provide clarification on the ownership of the Council's Chains of Office and any rules and regulations which administer the Chains.

The meeting concluded at 2.20 pm.

CHAIRMAN

CONSTITUTION COMMITTEE

29 August 2008



Report of: Chief Personnel Officer

Subject: CHAINS OF OFFICE

1. PURPOSE OF REPORT

To advise the Committee of the ownership, and current practices and procedures relating to and wearing, of the Chains of Office by the Vice-chair and to consider the comments and proposals from Constitution Working Group at its meeting held on 15 August 2008.

2. BACKGROUND

2.1 At your meeting held on 11 July 2008, Members requested a report seeking clarification on the ownership of the Council's Chains of Office and any rules and regulations which administer the chains.

2.2 The Chains are owned by Hartlepool Borough Council.

2.3 There are no formal rules and regulations relating to the wearing of chains, however, there are a number of publications that provide guidance on the custom and practice relating to the wearing of civic insignia. The publications that are used by officers at Hartlepool are –

Civic Ceremonial by Paul Millward

The Law and Practice of Local Authority Meetings by Raymond Knowles.

The Official Handbook of the Guild of Macebearers (1999 Edition)

2.4 The publications do not give any definitive rules or regulations but include guidance on common practice amongst local authorities. Enquiries have been made of other local authorities in the north east region regarding their protocols around chains of office. Their responses are attached at Appendix A.

3. HARTLEPOOL PROTOCOLS

3.1 The protocol has been that the Chair and escort wear the chains that previously belonged to the former West Hartlepool Council and that the Vice-

Chair and escort wear the former Hartlepool chains. As Members are aware, the Hartlepool chains were stolen in a theft that took place over the Christmas period in 2007 and which is still the subject of a police investigation. Since the theft took place, the Vice-Chair, in the absence of the Chair, has worn the Chair's Chains of Office at Council meetings and events/functions when he is representing the Chair.

- 3.2 Cabinet, at its meeting held on 18 August 2008, agreed to replace the stolen chains with replicas to the value of the insurance payment.

4. CIVIC FUNCTIONS

- 4.1 In Part 2 of the Constitution, Article 5 – Chairing the Council, item 5.01 Role and function of the Chair states that

“..... the duties will be discharged to the Vice-Chair in the absence of the Chair.”

- 4.2 On that basis, the Chair and Vice-Chair would not attend simultaneous events in their civic head capacity, other than on Remembrance Sunday, when services are held at Victory Square and the Redheugh Gardens. This practice has been in place since 2002 and the then Chief Executive provided some additional guidance to the Chair of the Council that is attached as Appendix B.

- 4.3 If the Chair of the Council is unable to attend a civic event, he decides whether or not the event should be offered to the Vice-Chair. The event organiser is always consulted if the Chair is unavailable.

- 4.4 However, as mentioned in Appendix B, Part 5 of the Constitution at Para 5 - Relationships between the Chair of the Council and Officers states at item 5.2(vii) that

“Where more than one civic function is occurring at the same time, the Chair will determine which function, if any, should be accepted/carried out by the Vice-Chair”

- 4.5 Currently, if the Chair has already agreed to attend an event, and another invitation is received for the same date and time, the second one is declined.

- 4.6 Constitution Working Group recommended a change to this working practice so that the Chair of the Council could ask the Vice-Chair to represent him at an event if he is already attending a civic function.

5. FINANCIAL CONSIDERATIONS

- 5.1 Over the last 12 months, there have been just over 30 occasions when invitations have been received for simultaneous events with two thirds of them taking place outside Hartlepool.

- 5.2 The additional costs that would be incurred relate to the provision of a vehicle and an attendant.
- 5.3 On average, events last around 4.5 hours. The average cost per event would be around £50 taking account of the hourly rate of an attendant and Fleet Management charges for a hire vehicle. These calculations do not take account of any enhanced rates of pay eg weekend working or late evening events. The average enhanced cost per event would rise to £65.
- 5.4 The approximate costs per year for the Vice-Chair to attend an additional 30 simultaneous events would be between £1500 and £2000 depending upon the time of day that the event took place.

6. RECOMMENDATIONS

- 6.1 That the Vice-Chair does not wear the Chair's Chains of Office in the absence of the Chair.
- 6.2 That the Vice-Chair be given access to the Alderman's medallion when requested to attend events/functions by the Chair, until such time as the Chains of Office are replaced.
- 6.3 That the Chairman has the option to delegate an event/function to the Vice-Chair on occasions when more than one invitation is received for an event/function being held at the same time and that any budget implications are forwarded to the Portfolio Holder for Performance.

7. BACKGROUND PAPERS

Civic Ceremonial by Paul Millward
The Law and Practice of Local Authority Meetings by Raymond Knowles.
The Official Handbook of the Guild of Macebearers (1999 Edition)

8. CONTACT OFFICER

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APPENDIX A

CIVIC INSIGNIA

AUTHORITY	DETAILS
Hartlepool	Prior to theft – Separate chains for Chair/Vice-Chair. Vice Chair wears VC designated chains when Chairman not in attendance. Since theft – Chair and Vice-Chair wear Chair's designated chains.
Easington	Separate chains for Chair/Vice Chair. Vice Chair wears VC designated chains when Chairman not in attendance.
Sunderland	Separate chains for Mayor/Deputy Mayor. Deputy Mayor wears DM designated chains when Mayor not in attendance.
Darlington	Deputy Mayor has a Medallion on a chain and would wear this when deputising for Mayor.
South Tyneside	Separate chains for Mayor/Deputy Mayor. Deputy Mayor wears DM designated chains when Mayor not in attendance.
North Tyneside	Mayoral – available but chooses not to wear them – Deputy Mayor does not wear either Chairman – Deputy Chairman has a medal and would wear this at all events.
Stockton	Separate chains for Mayor/Deputy Mayor. Deputy Mayor wears DM designated chains when Mayor not in attendance.
Redcar & Cleveland	No reply

APPENDIX B

BJD/lab

15th November, 2002

Councillor C. Richardson,
Chairman,
Hartlepool Borough Council.

Dear Carl,

I refer to our brief conversation on 13 November 2002 regarding the role of the vice chair of the council in attending civic events. I promised to write to you setting out the current rules, the accepted interpretation of these rules and also a few thoughts as to how we might move forward.

First the rules. These are set out in the constitution in two places. The first is in article 5, which makes it clear that the vice chair carries out your role only “in your absence”. As you will appreciate this requires an interpretation of the word “absence”. The second is actually a protocol, which in my view is subsidiary to article 5, and gives you the authority to determine whether or not the vice chair should attend a civic function where two civic functions are taking place simultaneously.

The accepted interpretation of these rules and protocols, upon which the staffing structure for civic matters has been based, is as follows.

1. In cases where the chair is **absent** by reason of illness, a prearranged holiday or attending an event as a Councillor (which in the chair's opinion cannot be attended by a substitute), the chair can ask the vice chair to attend on his/her behalf. In that case the civic vehicle, attendant etc are available to the vice chair in the normal way.
2. In cases where the chair is otherwise available, but simply does not wish to attend an event, attendance by the vice chair is ineligible. This reflects the fact that the chair is receiving an allowance for attending such events and should therefore only decline events that he/she regards as unsuitable for a civic visit. It would in my view be wrong in principle, and potentially discourteous to the invitee, to act otherwise, although I do concede that there may be exceptions to this.
3. Where two civic events occur simultaneously and the chair accepts one of them, the vice chair is ineligible to attend the second event unless it is within the boundaries of Hartlepool and the vice chair does not use any council facilities to attend. (This reflects the fact that the council does not have the staffing or resource capability of supporting two events at the same time).

As you know, I am concerned that we do not get into a position where we effectively have two permanent attendees of civic events, where we are resourced to cater for only one.

I do concede however that a rigid approach to this issue may lead on occasions to difficulties. For example, if the reason for the chair not wishing to attend an event is a matter of personal opposition to the event itself, rather than any intrinsic problem for the council in attending, then it may be appropriate for the vice chair to attend instead. Perhaps the way forward here is for the chief executive to be consulted on the (hopefully) rare occasions this may occur. You may wish to give this suggestion some thought.

As regards attendance at simultaneous events, I see no reason why the current system should change. However, if you disagree and wish to open up the possibility of providing support for two civic visits at the same time, then I will need to arrange for a report to the Resources portfolio holder to provide additional facilities such as attendants, vehicle hire etc. As you know I am vehemently opposed to this idea as I see no need to expand the council's civic role beyond that which can be effectively carried out by one person. I also believe that a change to article 5 may be required, but I will explore this further if this idea is taken forward.

I do hope you find this helpful, and I stand ready to discuss it further with you, should you so wish.

Yours sincerely,

Brian Dinsdale
CHIEF EXECUTIVE