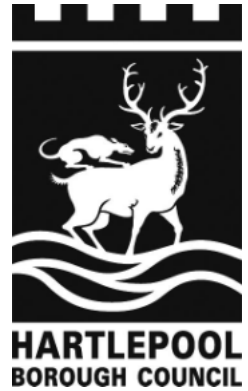


CONSTITUTION COMMITTEE AGENDA



Wednesday 25 November 2009

at 4.15 pm

in Committee Room C, Civic Centre, Hartlepool

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond

Councillors C Akers-Belcher, R W Cook, Flintoff, James, Laffey, A Lilley, G Lilley, Preece, Richardson, Simmons

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 Minutes of the Constitution Working Group on 12 November 2009
(to follow).
 - 3.2 Minutes of the Constitution Committee on 9 October 2009.
4. **ITEMS REQUIRING DECISION**
 - 4.1 Provision of copies of reports to Overview and Scrutiny – *Chief Solicitor (to follow)*
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

CONSTITUTION WORKING GROUP

12 November 2009

The meeting commenced at 4.15pm in the Civic Centre, Hartlepool

Present:

Councillor: Carl Richardson (In the Chair)

Councillors: Christopher Akers-Belcher, Marjorie James, Pauline Laffey, Geoff Lilley, Arthur Preece, and Chris Simmons

Officers: Peter Devlin, Chief Solicitor
Amanda Whitaker, Democratic Services Team Manager
Angela Hunter, Principal Democratic Services Officer

20. APOLOGIES FOR ABSENCE

Apologies for absence were received from The Mayor, Stuart Drummond and Councillors Rob W Cook and Alison Lilley.

21. DECLARATIONS OF INTEREST

None.

22. MINUTES OF THE MEETING HELD ON 29 SEPTEMBER 2009

Confirmed with the addition of Councillor Chris Simmons' attendance to be included.

23. REPORTING MECHANISMS – STANDARDS COMMITTEE AND GENERAL PURPOSES COMMITTEE – *Chief Solicitor*

The Chief Solicitor presented the report which examined the role and remit of Standards Committee and General Purposes Committee. Members were asked to note that both Standards Committee and Audit Committee had endorsed the extension to the Standards Committee remit as detailed in the report.

A Member sought clarification on the implementation of a Code of Conduct for Employees. The Chief Solicitor advised that whilst there was no statutory officer code at the present time, the Constitution did include an officer/member protocol along with a formative code of conduct for employees approved by the Executive in 2008. A Member suggested that for the

protection of all employees, all officer conduct/protocol documentation should be encapsulated into one document. There was some concern that Members were bound by such a huge amount of information and regulations in relation to how they behave in public life and yet there was no formal Code of Conduct for Officers. Members were asked to note that this issue was being progressed as part of Government legislation and as such was out of the control of the Council.

In relation to General Purposes Committee, there was concern among Members about the membership of the General Purposes (Appeals and Staffing) Sub Committee when decisions were considered relating to early retirement under function 4, concerning officers appointed by Members under the Officer Employment rules. The issue of the political balance of the Sub Committee was also discussed.

It was noted that there was still a lot of discussion required on the issue of the membership of the General Purposes (Appeals and Staffing) Sub Committee and Members suggested an additional meeting of the Working Group be convened as soon as practical to enable this issue to be taken forward. It was agreed that an additional meeting be scheduled for Monday 16 November 2009 at 4.15pm.

RECOMMENDATION

That an additional of the Working Group be scheduled for Monday 16 November 2009 at 4.15pm.

24. REVIEW OF THE SCHEME OF DELEGATED AUTHORITY – *Chief Solicitor*

The Chief Solicitor presented a report which highlighted that since the introduction of the Council's Constitution in 2000, the scheme of delegated authority had fundamentally remained unchanged. In addition, Members were asked to note that the Proper Officer list contained within the Constitution required updating to ensure proper alignment with the new departmental arrangements implemented as part of business transformation.

Members acknowledged the huge amount of work involved in reviewing the scheme of delegated authority and it was suggested that the scheme be broken down in line with the new departments to enable Members to see the full implications of any changes and feed into further discussions.

RECOMMENDATION

That the Chief Solicitor present to a future meeting of the Working Group the scheme of delegated authority broken down across the three new departments; Child and Adult Services, Regeneration and Neighbourhoods and Chief Executive Departments.

25. ANY OTHER BUSINESS – PROVISION OF COPIES OF REPORTS TO OVERVIEW AND SCRUTINY

Members were referred to the Constitution - Part 4, Rules of Procedure, Access to Information Rules paragraph 28. This paragraph related to the Chair of Scrutiny Co-ordinating Committee (SCC) receiving all reports to be considered by an individual decision-maker including confidential (pink) papers. It was also noted that this had been common practice for some years. The Chair of Scrutiny Co-ordinating Committee brought to Members' attention a number of concerns she had in relation to the recent distribution of some confidential reports.

It was suggested that paragraph 28 be amended to ensure clarity and to include all reports, including confidential reports, submitted to the Executive, whether to Cabinet or an individual decision maker.

In addition to this, it was suggested that all executive reports should be forwarded to the Chair of the relevant Scrutiny Forum as well as the Chair of Scrutiny Co-ordinating Committee, including confidential reports to ensure that a fair and open process was maintained throughout the decision making process. This would also give all scrutiny chairs the opportunity to raise any issues they might have prior to any decision making taking place.

RECOMMENDATION

- (i) That the Chair of Scrutiny Co-ordinating Committee liaise with the Democratic Services Team Manager to agree the proposed amendments to paragraph 28, Access to Information Rules and for this to be submitted to the Constitution Committee.
- (ii) It was proposed that all executive reports be forwarded to the Chair of the relevant Scrutiny Forum as well as the Chair of Scrutiny Co-ordinating Committee, including confidential reports to ensure that a fair and open process was maintained through the decision making process.

The meeting concluded at 5.50 pm.

CHAIRMAN

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

9 October 2009

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

Present:

Councillor Richardson (In the Chair)

Councillors: C Akers-Belcher, R Cook, Flintoff, G Lilley, Preece and Simmons

In accordance with Council Procedure Rule 4.2 (ii), Councillor A Lilley and Councillor Morris attended as a substitute for Councillors Allison and Laffey respectively.

Officers: Christine Armstrong, Central Services Manager
Alyson Caman, Legal Services Manager/Solicitor
Amanda Whitaker, Democratic Services Team Manager

74. Apologies for Absence

Councillors Allison, James and Laffey

75. Declarations of interest by Members

None

76. Minutes

Constitution Working Group – 28 August 2009 – approved.
Constitution Working Group – 29 September 2009 – approved.
Constitution Committee – 28 August 2009 – confirmed

With reference to minute 19 of the meeting of the Constitution Working Group held on 29 September 2009, Members clarified the background to the discussion which had taken place at the Working Group meeting.

77. Ward Support (*Chief Solicitor*)

The report updated Members on the enhanced arrangements for ward newsletters and advised on budgetary provision for hire of premises for ward surgeries. Members were reminded that this topic was referred back to the Constitution Working Group by Council to make recommendations for the consideration of the Constitution Committee before further reference to

Council. The relevant extract of the report as submitted to Council was appended to the report. At recent meetings of the Constitution Working Group, Members had requested a separate budgetary cost centre be set up for ward surgeries and ward newsletters. Members had asked also that the guidance included in the Members' Induction Pack in relation to Ward Newsletters be enhanced to provide more detail on what services can be provided by the Members' Services Team.

Members were advised that a new cost centre had been set up that includes budgetary provision for hire of premises in the amount of £3000 and printing in the amount of £2000. The budget in relation to ward surgeries would be utilised for hire of premises for up to 12 surgeries per ward per year. For ward newsletters, an amount of £2000 was available for the production of 4 newsletters per ward per year based on a sheet of A4 size paper printed in black ink only. Attached to the report was a draft copy of the enhanced guidance that would be included in future copies of the Members' Induction Pack. Once agreed, the guidance would also be issued to existing Elected Members.

It was noted that the budgets required for hire of premises and printing had been transferred to the new cost centre from existing civic expense budgetary provision. No budget provision was included for the delivery of ward newsletters as it was assumed that Members would distribute the newsletters personally.

In response to questions raised by Members at the meeting, the Central Services Manager confirmed the following:-

- The new cost centre had been set up to include both hire of premises and printing and therefore totalled £5,000
- Ward newsletters will be printed on both sides of a single sheet of A4 size paper, printed in black ink only.

Following discussion regarding the charges incurred when holding ward surgeries in the Fens ward, the Central Services Manager undertook to write to the Head teacher of Fens School.

It was suggested that Radio Hartlepool could be approached to ascertain whether it was able to promote dates of all ward surgeries.

Decision

- (i) That the budget provision included in the new cost centre be noted.
- (ii) That the guidance included in Appendix A to the report be agreed.
- (iii) That the recommendations referred from Council on 30 July 2009 as attached to the report be reaffirmed subject to recommendation (iv) being amended to include reference to Radio Hartlepool also being approached to promote the dates of all ward surgeries.

78. Process Relating to Nominations and Election of Honorary Freeman and Alderman *(Chief Solicitor)*

The report sought the consideration of the Committee of the recommendation of the Constitution Working Group in respect of changing the process relating to the nomination and election of Honorary Freeman and Alderman.

At the meeting of the Constitution Working Group held on 29th September, 2009, Members had been advised that the Civic Honours Committee had considered the process, attached to the report, relating to the nomination and election of Honorary Freeman and Alderman. The process had been subsequently approved by Council. The process included an invitation, on a confidential basis, to a nominee whose nomination was resolved to be referred to Council, to indicate whether s/he would accept the relevant honour if offered.

Concern had been expressed, by Members of the Working Group, at the potential implications if a nomination was not approved by Council if a nominee had already been made aware of the nomination. It was considered that if the Council resolve that they are minded to elect the nominee(s) as honorary freeman or alderman then it should be after that meeting, and before the extraordinary meeting of Council being convened to confer the relevant honour, that a nominee(s) be invited on a confidential basis, to indicate whether s/he would accept the honour. It was considered also that in the event that a nominee(s) indicates that they would not accept the relevant honour, the Chairman of the Council should be authorised to withdraw that nomination.'

Members reiterated the view which had been expressed previously at meetings of the Constitution Working Group and at the Civic Honours Committee that consideration should be given to imposing a moratorium of 3 years before any further honours can be conferred, unless exceptional circumstances apply. It was noted that Civic Honours Committee had agreed to refer the issue to the Constitution Working Group for consideration.

Decision

(i) That the Constitution Committee recommend to the next Ordinary meeting of Council that the Process relating to the nomination and election of Honorary Freeman and Alderman be amended as follows:-

- Deletion of Paragraph 2.2 from the previously agreed Process appended to the report.

- Deletion of 'Following confirmation of the nominee's prospective acceptance', at the start of Paragraph 2.3 from the previously agreed Process appended to the report.
- A new paragraph 2.4 to be inserted as follows:-

'Prior to the extraordinary meeting of the Council being convened, a nominee whose nomination is resolved to be referred to the Council will be invited, on a confidential basis, to indicate whether s/he would accept the relevant honour. In the event that a nominee indicates that they would not accept the relevant honour, the Chairman of the Council is authorized to withdraw that nomination.'

(ii) That the Process relating to the nomination and election of Honorary Freeman and Alderman be amended as set out above and be circulated to Members of the Committee prior to submission to Council on 29th October 2009.

Any other Business

(i) Members' Allowance – In view of the number of Members using e mails as their preferred method of communication, rather than telephone, it was suggested that consideration should be given to an allowance being given to Members to cover the cost of their home broadband.

(ii) Members' ICT Provision– Members discussed issues associated with the provision of Members ICT and expressed concern regarding lack of progress in respect of the 'roll out' of ICT equipment and ancillary items to individual elected Members. Discussion took place regarding the increasing reliance of Members on ICT and current ICT contract arrangements.

Decision

That the issues and concerns raised by Members be added to the Work Programme of the Constitution Working Group as part of a review of Members Allowance Scheme and that as part of those considerations, background reports be provided to the Working Group in relation to Members' ICT Provision.

The meeting concluded at 3.12 p.m.

CHAIRMAN

CONSTITUTION WORKING GROUP

16 November 2009

The meeting commenced at 4.15pm in the Civic Centre, Hartlepool

Present:

Councillor: Carl Richardson (In the Chair)

Councillors: Christopher Akers-Belcher, Bob Flintoff, Pauline Laffey, Arthur Preece, and Chris Simmons

Officers: Peter Devlin, Chief Solicitor
Angela Hunter, Principal Democratic Services Officer

26. APOLOGIES FOR ABSENCE

Apologies for absence were received from The Mayor, Stuart Drummond and Councillors Rob W Cook and Geoff Lilley.

27. DECLARATIONS OF INTEREST

None.

28. REPORTING MECHANISMS – STANDARDS COMMITTEE AND GENERAL PURPOSES COMMITTEE – *Chief Solicitor*

Members had requested this additional meeting to give further consideration to the reporting mechanisms and membership of General Purposes Committee. At the meeting of the Constitution Working Group on 12 November 2009 Members had discussed a number of issues around the membership of the General Purposes (Appeals and Staffing) Sub Committee and the full disclosure of background information for the items to be considered at that Committee.

There was particular concern about decisions taken in relation to early retirements under function 4, concerning officers appointed by Members under the Officer Employment rules. In decisions of this nature, the committee membership was increased to seven and included two executive Members as nominated by The Mayor. It was noted that there could be occasions where Cabinet Members may be involved in a decision to make a particular post redundant through for example, business transformation or the reorganisation of the Council. Subsequent to this, those same Executive Members may be called upon to participate in the consideration and voting thereon of the decision to grant the early retirement for the employee in that

post at a General Purposes (Appeals and Staffing) Sub Committee. Members were concerned at the possible pre-determination of a decision by an Executive Member involved in the earlier decision relating to the redundancy of the post as this would affect the impartiality of the Sub Committee.

In addition to the above, it was noted that officers who may stand to gain from the early retirement under consideration should not be in attendance at the Sub-Committee making that decision.

The Chief Solicitor confirmed that the General Purposes (Appeals and Staffing) Sub Committee should be the determining body in accordance with the functionality provided by Council. It was acknowledged that there were clear issues around pre-determination and possible conflict of interest.

In conclusion, Members could see the benefits of having the relevant Executive Member(s) in attendance in an advisory capacity, but felt very strongly that they should be excluded from voting. In view of this, it was suggested that the membership on the Sub-Committee be amended to consist of the Chair of GP Committee along with four Members of that Committee chosen on a rota basis. In addition to this, Members requested that full disclosure of the relevant background information to any decisions being considered should be provided for the Members of that Sub-Committee.

On a procedural note, Members felt that there should be an opportunity within a General Purposes (Appeals and Staffing) Sub Committee, should it be required, for Members to discuss their considerations and formulation of a decision without any officers present, with the option of recalling the officers should additional advice be deemed necessary.

The Chief Solicitor indicated he would write to the Corporate Management Team, with a copy to the Chair, to reinforce the guidance already in place in relation to officers attending meetings where they had a personal interest.

RECOMMENDATION

- (i) That the membership of the General Purposes (Appeals and Staffing) be amended as follows:

Chair of General Purposes Committee
 4 Members of the General Purposes Committee chosen from a rota managed by the Democratic Services Team Manager
 The Executive Member from the relevant service area (non-voting)

In decisions relating to early retirements under function 4, concerning officers appointed by Members under the Officer Employment rules, the committee membership to be increased to seven and include two non-voting executive Members as nominated by The Mayor

- (ii) That full disclosure of all material facts and relevant information pertinent to the decision be provided for all Members of the Sub-Committee.
- (iii) That the Democratic Services Team Manager progress as appropriate Members' request that there should be an opportunity within a General Purposes (Appeals and Staffing) Sub Committee, should it be required, for Members to discuss their considerations and formulation of a decision without any officers present, with the option of recalling the officers should additional advice be deemed necessary.

The meeting concluded at 5.10 pm.

CHAIRMAN