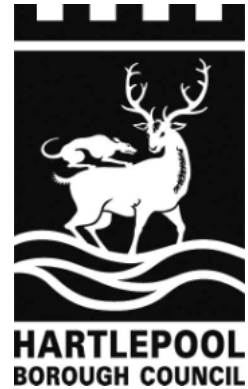


CONSTITUTION COMMITTEE AGENDA



Friday 21 May 2010

at 10.30 am
or immediately following Constitution Working Group, whichever is the later
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 and 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 held on 12 March 2010.
 - 3.2 To receive the minutes of the Constitution Working Group held on 26 March 2010.
 - 3.3 To confirm the minutes of the Constitution Committee held on 26 March 2010.
- 4. ITEMS FOR CONSIDERATION**
 - 4.1 North East Strategic Migration Partnership – *Assistant Director (Community Safety and Prevention)*
 - 4.2 Local Democracy, Economic Development and Construction Act 2009 – *Petition Scheme – Chief Solicitor*
- 5. ANY OTHER ITEMS OF BUSINESS THE CHAIRMAN CONSIDERS URGENT**

CONSTITUTION WORKING GROUP

12 March 2010

The meeting commenced at 12 noon in the Civic Centre, Hartlepool

Present:

Councillor: Carl Richardson (In the Chair)

Councillors: Christopher Akers-Belcher, Rob W Cook, Marjorie James, Pauline Laffey, Arthur Preece and Chris Simmons.

Officers: Peter Devlin, Chief Solicitor
Joanne Machers, Chief Personnel Officer
Christine Armstrong, Customer and Support Services Manager
Joan Norminton, Scrutiny Manager
Amanda Whitaker, Democratic Services Team Manager
Angela Hunter, Principal Democratic Services Officer

35. APOLOGIES FOR ABSENCE

Apologies for absence were received from The Mayor, Stuart Drummond and Councillor Bob Flintoff.

36. MINUTES OF THE MEETING HELD ON 15 JANUARY 2010

Confirmed.

37. MATTERS ARISING

The Chief Personnel Officer sought clarification on minute 33 and what level of details Members wished to receive in relation to General Purposes (Appeals and Staffing) Sub Committee role and responsibilities. It was confirmed that Members wished to receive additional information on

- the process and criteria used for determining early retirement and redundancy situations in relation to Chief Officers and comparisons with other Council officers including clarification insofar as dismissals and voluntary redundancies were concerned under employment law.
- the role and responsibility of General Purposes (Appeals and Staffing) Sub Committee in relation to redundancy decisions

already taken by Cabinet and in relation to the early release of pension payments for employees who had already retired.

38. AMENDMENTS TO THE CONSTITUTION IN RESPECT OF RESIDENT REPRESENTATIVE ELECTIONS – Assistant Director (Neighbourhood Services) and Chief Solicitor

The Customer and Support Services Manager presented a report which highlighted the proposed amendments to the Constitution in respect of resident representative elections.

Members commented on the reference to Band 10 in para (ii) and felt that this appeared low and may disenfranchise some people from standing for election as a resident representative. The Chief Solicitor referred to a recent change to be implemented as part of the Local Democracy, Economic Development and Construction Act 2009, whereby the head of paid service, chief officers and those with delegated powers or who speak to the media were the only politically restricted posts within the authority. It was suggested that Members may wish to give consideration to using similar restrictions in relation to the eligibility criteria of employees to be nominated as resident representatives.

It was highlighted that there was reference to voting in secret ballot twice and the Customer and Support Services Manager indicated this was an administrative error and would be corrected.

During the discussions it was suggested that consideration be given to the total votes received for each candidate being made publicly available after a resident representative election had taken place.

It was noted that paragraph (vii) indicated that the Returning Officer would draw lots to decide on the successful candidate in the event of a tied vote and this process was questioned. The Chief Solicitor highlighted that this was the method used in all elections in the event of a tied vote after a number of recounts had taken place.

RECOMMENDATION

The amendments to the Constitution in respect of Resident Representative elections were agreed subject to

- (i) the eligibility criteria in relation to salary banding being amended to be in line with the politically restricted posts as noted above.
- (ii) the second reference to a secret ballot be removed.

39. CONSTITUTIONAL AMENDMENTS REQUIRED TO CLARIFY THE COUNCILLOR CALL FOR ACTION MECHANISM – *Scrutiny Manager*

The Scrutiny Manager presented a report which sought endorsement of the minor amendments to the existing entry in the Constitution to further clarify the Councillor Call for Action Mechanism. Members were informed that a quick guide was being produced to assist Members in their understanding of the implementation of the Councillor Call for Action process.

The flow chart which was approved by Council on 9 April 2009 for inclusion in the Constitution was attached at Appendix A with the amendments highlighted in italics.

RECOMMENDATION

- (i) The revision to the Councillor Call for Action flow chart as outlined in Appendix A was endorsed.
- (ii) The necessary amendments to the Constitution be submitted to Constitution Committee and Council thereafter for approval.

40. REPORTING MECHANISMS – STANDARDS COMMITTEE

The Chief Solicitor presented a report which provided clarification for Members on the issues raised at the meeting of Constitution Committee on 29 January 2010.

During the discussions that followed, reference was made to the fact that the Council did not have an Employee Code of Conduct in operation. The Chief Solicitor commented that employees were bound by a code of conduct adopted as part of the Single Status Agreement as well as a number of professional codes of conduct and a disciplinary code of conduct.

The Chief Solicitor highlighted that the implementation of an employee code of conduct across local authorities was being progressed by the Secretary of State with consultation being undertaken last year. However, a formal employee code of conduct had yet to be created within England. It was noted that in Wales, a code of conduct had been adopted although this mainly applied to chief officers.

Members were keen to see this issue progressed and as such suggested that the Chief Solicitor submit a report to Standards Committee to enable Members to develop and formulate a robust local code of conduct for employees.

RECOMMENDATION

- (i) That the extension to the role and functions of the Standards Committee be referred the Constitution Committee for approval.

- (ii) That the Chief Solicitor submit a report to Standards Committee to enable Members to develop and formulate a robust local code of conduct for employees.

41. LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009

The Chief Solicitor presented a report which provided Members with an update on the implementation of the above and on the position with regard to a draft 'petition scheme'.

It was suggested that due to the significant amount of information to be considered, an additional Working Group be scheduled to enable full consideration of the issues.

RECOMMENDATION

That an additional Constitution Working Group be schedule to enable full consideration of the issues surrounding the proposals contained within the Local Democracy, Economic Development and Construction Bill.

42. OFFICER EMPLOYMENT PROCEDURE RULES

The Chief Solicitor presented a report which included an extract of the Rules of Procedure from the Constitution relating to the Officer Employment Procedure Rules.

During the discussions that followed Members had a number of questions about the new departmental structures which had been created through the implementation of the Business Transformation Programme. Members considered that they were not in a position to consider this report until they had information in relation to these structures. The Chief Solicitor reminded Members that a report was to be submitted to a future meeting of the Working Group to enable a full review of the scheme of delegation to be undertaken.

There was concern that departmental structures were being created and implemented without any consultation with Members and that a lot of officer experience was being lost in a short space of time due to early retirements and redundancies, therefore exposing the Council to a considerable amount of risk.

It was suggested that an additional meeting be arranged to enable further consideration of this issue to be undertaken.

RECOMMENDATION

- (i) That consideration of the report be deferred and a report be submitted to an additional meeting of the Constitution Working Group including detailed information on the department structures to be implemented as part of the Business Transformation Programme.
- (ii) That the additional meeting of the Working Group to discuss this report and the proposals contained within the Local Democracy, Economic Development and Construction Act 2009 be held at 1pm on 26 March 2010.

43. GENERAL PURPOSES (APPEALS AND STAFFING) SUB COMMITTEE – Chief Personnel Officer

This item had been considered as part of matters arising from the minutes.

44. ANY OTHER BUSINESS – FLAG FLYING

A Member referred to a recent query on whether the Council's standard should be flown upon the death of a former Alderman, Freeman, Mayor, or Chairman, or a councillor who passes away during their term of office. All Members felt that it would be appropriate in all the above cases to fly the Council's standard from notification of the death until the funeral had taken place. The Chief Solicitor to draft a protocol in relation to the raising of the Council's standard for submission to the next meeting of the Working Group for Members' consideration.

RECOMMENDATION

That the Chief Solicitor draft a protocol in relation to the occasions Council's standard should be raised.

The meeting concluded at 1.29 pm

CHAIRMAN

CONSTITUTION WORKING GROUP

26 March 2010

MINUTES

The meeting commenced at 1.00 pm in the Civic Centre, Hartlepool

Present:

Councillor: Carl Richardson (In the Chair)

Councillors: Christopher Akers-Belcher, Rob W Cook, Marjorie James, Pauline Laffey, Alison Lilley and Chris Simmons.

Officers: Andrew Atkin, Assistant Chief Executive
Alyson Caman, Legal Services Manager
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, Councillors Bob Flintoff, Geoff Lilley and Arthur Preece.

46. DECLARATIONS OF INTEREST

None.

47. MINUTES OF THE MEETING HELD ON 12 MARCH 2010

Confirmed.

48. FUNCTIONAL STRUCTURE OF THE COUNCIL – *Assistant Chief Executive*

The Assistant Chief Executive presented a report which provided information in respect of the functional structure of the Council which had been considered and agreed by Cabinet. The Departmental structures were attached by way of appendix.

A Member commented that some Members may not be fully aware of the new departments and their responsibilities and the raised the question of possible gaps in service provision due to the number of senior officers leaving the authority. The Assistant Chief Executive confirmed that an outline of departmental responsibilities and functions was included as part of the new Member induction process. However,

it was noted that there had been a significant amount of changes since the Member induction process held for the 2009/10 municipal year of which some Members were unclear. It was suggested that the information provided for new Members at the time of their induction could be circulated to all Members at the same time to ensure that all Members had the most up to date information available.

A Member commented that when larger issues such as Business Transformation were submitted to Council for approval, Members were not always aware of the smaller issues underlying the main proposals. The Assistant Chief Executive confirmed that information on the progress of Business Transformation had been shared with Members through Seminars and the minutes of the Business Transformation Programme Board and Cabinet were available on the internet with as much information being kept in open reports as possible. It was noted that some weaknesses had been highlighted in the Annual Audit letter in respect of terminology and job title which had given rise to some concerns.

In relation to confidential pink papers, Members were concerned at the limited distribution of pink papers to Members especially in relation to a possible 'call-in' of decisions where several Members were required call in a decision. It was requested that further examination of this issue be undertaken. In response to a Member's question the Assistant Chief Executive confirmed that all confidential printing was done in-house by the Councils Printing Section with particularly sensitive reports copied by the Democratic Services Team.

A Member questioned why consultation exercises were being outsourced when there was a Consultation section within the Chief Executive's Department. The Assistant Chief Executive confirmed that some elements of consultation had always been outsourced due to the capacity within the Corporate Strategy Division. The amount of consultation outsourced involved small pieces of work and was usually time limited and this was thought not to justify additional employees.

RECOMMENDATION

- (i) That information be circulated to Members including departmental structures and key officer contacts.
- (ii) That the distribution of confidential papers be examined further, in particular in relation to Members' access to reports for the purposes of possible call-in.

49. LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009

A report was submitted to the Constitution Working Group on 12 March 2010 and Members has requested further consideration due to the significant amount of information included within the report.

A Member referred to the ability to complete online petitions and questioned if these could be correlated with signatures collected manually. Clarification was

sought on the number of signatories required to complete a petition. The Chief Solicitor would provide clarification on the above issues at the next meeting.

It was noted that the Council must appoint a designated “scrutiny officer” from 1 April 2010. Members suggested that the Scrutiny Manager was the most appropriate appointment and added that as this was a statutory post, it was expected that a re-examination of the salary package for this officer be undertaken.

RECOMMENDATION

- (i) That the Chief Solicitor provided clarification on the above issues at the next meeting of the Constitution Working Group.
- (ii) That Council approval be sought to appoint the Scrutiny Manager as the designated scrutiny officer as required by the Act under Governance and Audit.

50. OFFICER EMPLOYMENT PROCEDURE RULES

At the last meeting of the Constitution Working Group, the Chair requested a report be provided on the procedure relating to the officer appointments. The Legal Services Manager presented the report which provided the background and included an extract from Part 4 of the Council's Constitution relating to Officer Employment Rules so far as they relate to the appointment of Chief Officers.

It was noted that some of the queries raised Members would be considered as part of the review of delegated powers to be undertaken by the Constitution Working Group in the future. However, the Assistant Chief Executive confirmed that Members were involved in the appointments of officers who were covered by the Chief Officer terms and conditions through a statutory arrangement. The only exception to this was the appointment of the Scrutiny Manager. The Chief Executive had agreed to the involvement of Members in this appointment due to the particularly close working relationship required between that officer and Members.

A Member questioned if Members were involved in the appointment of Chief Officers, would they also be involved in the decision when that officer leaves the authority through either early retirement or redundancy. The Assistant Chief Executive confirmed that all decisions of this nature relating to Chief Officers were taken by Cabinet under the scheme of delegation. Below Chief Officer level, these decisions were delegated to either the Chief Executive or appropriate Director or Chief Officer.

RECOMMENDATION

Members noted the report and additional information provided.

51. WHEN TO FLY THE PURPLE HBC FLAG

At the last meeting of the Constitution Working Group on 12 March 2010 the Chair has requested clarification on the protocol for flying the Council's standard. The Chief Solicitor had presented the protocol currently used for Members consideration.

Members suggested that this protocol be circulated to all Members for their information.

RECOMMENDATION

That the protocol be submitted to Constitution Committee for approval to be submitted to Council for the information of all Members.

The meeting concluded at 2.04 pm.

CHAIR

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

26 March 2010

The meeting commenced at 12.30 pm in the Civic Centre, Hartlepool

Present:

Councillor: Carl Richardson (In the Chair)

Councillors: Christopher Akers-Belcher, Rob W Cook, Marjorie James, Pauline Laffey, Alison Lilley and Chris Simmons

Officers: Peter Devlin, Chief Solicitor
Andrew Atkin, Assistant Chief Executive
Alyson Caman, Legal Services Manager
Denise Ogden, Assistant Director (Neighbourhood Services)
Joan Nominton, Scrutiny Manager
Amanda Whitaker, Democratic Services Team Manager
Angela Hunter, Principal Democratic Services Officer

89. Apologies for Absence

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

90. Confirmation of the following minutes

- (i) Constitution Working Group held on 12 March 2010 – deferred to next meeting.
- (ii) Constitution Committee held on 29 January 2010 – confirmed.

91. Reporting Mechanisms – Standards Committee (*Chief Solicitor*)

The Chief Solicitor presented a report which sought to extend the remit of the Standards Committee. Members had previously requested clarification on a number of issues and this was provided by way of an addendum report. The current remit and proposed areas of additional functionality were detailed within the report.

After a brief discussion Members considered that the queries they had previously raised had been answered and agreed to submit the report to Council for approval.

Decision

That the Standards Committee remit be extended as detailed within the report and submitted to Council for approval.

92. Local Democracy, Economic Development And Construction Act 2009 *(Chief Solicitor)*

A report was submitted to the Constitution Working Group on 12 March 2010 and Members has requested further consideration due to the significant amount of information included within the report. A further report was submitted to the Constitution Working Group to be held immediately following this meeting, however Members were asked to give consideration to the appointment of a designated “scrutiny officer”.

It was noted that the Council must appoint a designated “scrutiny officer” from 1 April 2010. Members suggested that the Scrutiny Manager was the most appropriate appointment and added that as this was a statutory post, it was expected that a re-examination of the salary package for this officer be undertaken.

Decision

That Council approval be sought to appoint the Scrutiny Manager as the designated scrutiny officer as required by the Act under Governance and Audit.

93. Amendments to the Constitution in respect of Resident Representative Elections *(Assistant Director (Neighbourhood Services) and Chief Solicitor)*

The Assistant Director (Neighbourhood Services) presented a report which invited Members to consider a number of changes to Article 10 of the Constitution in relation to the election of Resident Representatives. The report had been considered at the Constitution Working Group on 12 March 2010 and Members had suggested several amendments.

A discussion ensued in relation to nominations being received from the floor at a resident representative election and how this was not in line with the change in procedure where nominees were required to secure 10 signatures from residents within the forum area. The Assistant Director highlighted that it was hoped that paragraph b(v) and b(x) within the election process in Article 10 addressed this issue. In addition to this, the level of responsibility placed on a resident representative nominated as Vice Chair of a Neighbourhood Consultative Forum when standing in for the Chair of the Forum during absences was discussed. It was suggested that the Vice Chair act as Chair of the Forum in the absence of the Chair unless

that absence was expected to extend to be for more than one occasion then a substitute Councillor appointment will be made by the Forum.

Clarification was sought on the reference to politically restricted posts in para 10.11 (a)(i) or Article 10 and it was noted that the Local Democracy, Economic Development and Construction Act 2009 which was to be considered by the Constitution Working Group clarified this. It was noted that from 12 January 2010, the salary threshold for defining politically restricted posts was removed (it was £36,730). Such posts were now limited to the Head of Paid Service, Chief Officers, officers with delegated powers under the Local Government Act 1972, political assistants and officers who regularly advise the Council, the Executive or their Committees or who regularly speak to the media on behalf of the Council. The Assistant Chief Executive added that all officers who were employed in a politically restricted post should be aware of this. It was suggested that the above clarification provided by the Local Democracy, Economic Development and Construction Act 2009 be included within Article 10 to ensure this was clear for everyone.

It was suggested that delegated authority be given to the Chair and Vice Chair of the Committee to agree the finalised report prior to submission to Council.

Decision

- (i) That the arrangements for the substitution of the Chair at Neighbourhood Consultative Forums be amended as noted above.
- (ii) That subject to the amendments noted above, the Chair and Vice Chair be delegated to approve the final report prior to submission to Council.

94. Constitutional Amendments Required for Clarify the Councillor Call for Action Mechanism (*Scrutiny Manager*)

The Scrutiny Manager presented a report which had been considered by the Constitution Working Group on 12 March 2010. The report referred to amendments required to the Constitution to further clarify the Councillor Call for Action mechanism derived from the Local Government and Public Involvement in Health Act 2007.

A flow chart including the proposed amendments in bold italics was attached at Appendix A.

Decision

The amendments to the Constitution, Part 3 – Overview and Scrutiny Rules were approved for submission to Council for adoption.

The meeting concluded at 1.00 pm.

CHAIR

Report of: Assistant Director (Community Safety & Protection)

Subject: Membership of North East Strategic Migration Partnership

1. PURPOSE OF REPORT

- 1.1 To outline the role of the North East Strategic Migration Partnership (NESMP) and seek approval to include this Partnership on the council's official list of "outside bodies".

2. BACKGROUND

- 2.1 The council has statutory duties towards asylum seekers, refugees and migrants.

A recent review of these duties by a group of HBC officers has confirmed that these duties are being met.

- 2.2 THE NESMP mirrors the boundaries of the Government Office North East, comprising the sub-regions of Durham, Northumberland, Tees Valley and Tyne & Wear. The NESMP is made up of organisations in the North East from the statutory, voluntary, community and private sectors.

- 2.3 NESMP's remit includes asylum seekers, refused asylum seekers, refugees and migrants from outside the UK. This partnership has been established to ensure that agencies across the region provide appropriate and accessible services for these groups.

The partnership does not aim to provide services itself, but aims to facilitate, co-ordinate and enable others to provide them. It looks at issues that are common between local areas, regionalises them, brings back solutions and promotes good practice.

- 2.4 The North East Strategic Migration Partnership meets quarterly in June, September, December and March (i.e. based on a financial year).

- 2.5 The Council's template for nominations to organisations and bodies has been completed by the NESMP co-ordinator and is attached as **Appendix 1**.

- 2.6 Further information on NESMP is attached as **Appendix 2**.

3. PROPOSALS

- 3.1 Until 2006, the council was a member of the predecessor body to NESMP. In 2006 the council decided not to bid to review its contract with the Home Office (UK Border Agency) to provide accommodation and associated services for asylum seekers and as a consequence, discontinued its membership of this regional partnership.
- 3.2 The North East Strategic Migration Partnership is seeking representation from a Hartlepool Executive member and senior council officer (to provide support) to join the Strategic Partnership Board.
- 3.3 The benefits of joining this Strategic Partnership Board would be that Hartlepool gains knowledge and develops understanding from good practice elsewhere in the region, in relation to services for these minority groups; we will gain opportunities to participate in bids to deliver services (e.g. for accommodation), in partnership with other local authorities or other partners; we will have a direct link to the Regional Strategic Partnership which disseminates early information from the Home Office (UK Border Agency) on new guidance, changes to legislation which would affect councils etc.

4. RECOMMENDATIONS

- 4.1 The Constitution Committee consider inclusion of the North East Strategic Migration Partnership on the council's official list of 'outside bodies'.

Contact officer: Alison Mawson
Assistant Director Community Safety & Protection
Email: alison.mawson@hartlepool.gov.uk
Tel. 01429 284342

Council nominations to organisations and bodies.

Organisation: North East Strategic Migration Partnership (NESMP)

Anderson House, Market Street (east), Newcastle upon Tyne. NE2 6XA



Telephone number: 0191 2771666

Fax number: 0191 2771655

E-mail address: nadeem.ahmad@newcastle.gov.uk

Contact(s): Name: NADEEM SYED AHMAD.....(BLOCK CAPITALS PLEASE)

Position: REGIONAL PARTNERSHIP MANAGER (BLOCK CAPITALS PLEASE)

General information.

Aims and objectives. Please state below the aims or objectives of your organisation or attach details if you would prefer. Please attach, if available, a copy of your organisation's Constitution.

Please see attached Appendix 2

What is the status of your organisation? *(Please tick as appropriate)*

Charitable

☐

Voluntary

☐

Statutory

☐

Other (please state)

Partnership

Which geographic area does your organisation/body cover?

Borough of Hartlepool

☐

Area within Hartlepool (please state)

☐

**Tees Valley (Darlington, Hartlepool,
Middlesbrough, Redcar & Cleveland and Stockton)**

☐

Regional

☒

Other (please specify)

**How many people do the Council
nominate to your organisation or
body?**

**Do these nominees have to be
councillors?**

☒ **Yes**☐ **No**

How long is the term of office?

**Do Council nominees serve on
any sub-committees or working
parties?**

☐ **Yes**☒ **No**

IF YES,

**Are nominations to these
made by the Council?**

☐ **Yes**☐ **No**

Are nominees permitted to appoint

☐ **Yes**☐ **No**

Substitutes?

What voting rights (if any) do nominees have?

Voting

Non Voting

Other (please state)

Are there any restrictions on nominations that the Council needs to be aware of, for example, do nominees need to come from a particular area of Hartlepool, be an Executive Member OR are there any areas of experience that it would be helpful for nominees to have? (please state)

Preference would be for an Executive Member with a relevant Portfolio (usually social inclusion, equality and in some cases, regeneration).

Financial and insurance issues.

Do Council nominees receive any payment for serving on your body?

☐ Yes

☒ No

**IF YES,
What is the payment made for,
how much are the nominees paid and how
frequently are the payments made?**

Are Council nominees eligible for the following from your body/organisation for attending meetings:

Travel allowance?

☐ Yes

☐ No

Subsistence allowance?

☐ Yes

☐ No

Do you account in any way for tax and national insurance?

OR

Do you inform the Inland Revenue or Hartlepool Borough Council of payments made on an annual basis?

Yes, Tax and National Insurance

☐

Yes, Inland Revenue or Council

☐

No/not applicable

☒

Do you require nominees to complete a declaration of pecuniary (financial) interests?

☐ Yes

☒ No

Do you ask nominees to declare any gifts or hospitality they receive as a representative of your organisation?

☐ Yes

☐ No

Does your body/organisation have liability insurance to protect nominees against personal liability for decisions made by your body?

☐ Yes

☐ No

Attendance at meetings.

Do you record the attendance of Council nominees at meetings?

☒ Yes

☐ No

Who should the Council contact to confirm the attendance of nominees at meetings?

Nadeem S Ahmad

Additional information.

How important is participation by representatives from Hartlepool Borough Council to your body/organisation?

As a regional partnership, it is vital that all local authorities are represented as it not only adds value to the Partnership, but we can also represent the region nationally. Each of the 9 English regions has a similar partnership and one each in Scotland and Wales. Through the partnership, we can take specific issues raised by any of our partners and as a partner; the Council has the use of the Partnership staff where required and appropriate.

Do you have any other comments?

As above and it must be emphasised that the Council was and has been part of this Partnership (previously known as the Consortium) since 2000 and we welcome this involvement, representation and active participation.

Thank you for taking the time to complete this questionnaire. If you have any questions please contact Angela Hunter on (01429) 284171 or by email at angela.hunter@hartlepool.gov.uk

It would be helpful if you could provide a list of meeting dates for your organisation when returning your questionnaire.

Please return the questionnaire in the pre-paid envelope attached.



North East Strategic Migration Partnership

The North East Strategic Migration Partnership [NESMP] mirrors the boundaries of the Government Office North East, comprising the sub-regions of Durham, Northumberland, Tees Valley and Tyne and Wear. The original Consortium was established in May 2000 to support the Government's dispersal policy through a contract and the settlement of refugees. In 2007, the Home Office, our funder added migration to the remit and renamed NESMP.

Our Purpose

To provide a leadership, co-ordination and advisory function for migration in the region.

We aim to achieve this by:

- creating and maintaining awareness of the reasons for, the nature of and the effects of migration to and from the North East;
- promoting understanding of the positive aspects of migration and the integration of migrants with communities in the Region; and
- supporting services in the Region to meet the needs of migrants alongside those of settled communities in the Region.

Our Service Areas [2010 to 2012]

1. Policy

Providing advice on developing policies, critique of policy proposals and pro-actively seeking to influence local, regional and national policies regarding migration for the benefit of those who live in the North East.

2. Information

The provision of quality, up-to-date information on migration in the North East and appropriate analysis to enable more effective delivery at local level.

3. Advice and Information

To our partners from the public, private and voluntary sectors based on research, good practice, experience and expertise, on the impact of delivery of services and on managing integration.

4. Networking and Communication

Facilitating the interaction of agenda where joint working will enhance their respective roles vis a vis migration; and to promote all aspects of migration and integration in the North East.

Our Partners

The Partnership is made up of all the 12 local authorities in the region and other key regional bodies. All our present members are listed in the Annexe.

We also work with a range of other regional partnerships.

Our Partners

- Association of Directors Adult Services – North East
- Association of Directors of Children Services – North East
- Association of North East Councils
- Government Office North East [GONE]
- Jobcentre Plus
- North of England Refugee Service [NERS]
- ONE North East [The Regional Development Agency]
- Private Sector Contractors
 - Angel Group
 - Jomast
- Public Sector Contractor
 - North East Contracting Consortium for Asylum Support [NECCAS]
- Regional Refugee Forum – North East [RRF]
- Regional Strategic Health Authority [PCTs and NHS Trusts]
- The three Police Services in the Region
 - Cleveland Constabulary
 - Durham Constabulary
 - Northumbria Police
- The four Fire Services in the Region
 - Durham & Darlington Fire and Rescue Service
 - Northumberland Fire and Rescue Service
 - Tyne & Wear Fire and Rescue Service
 - Cleveland Fire Brigade
- The twelve Local Authorities
- TUC
- UK Border Agency [National & North East]

Our Staff

Nadeem Ahmad
Regional Partnerships Manager
nadeem.ahmad@newcastle.gov.uk

Carolyn Reynolds
Regional Policy & Information Officer
carolyn.reynolds@newcastle.gov.uk

Tel: +44[0] 191 277 1666
www.nesmp.org.uk

Report of: Chief Solicitor

Subject: LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT
AND CONSTRUCTION ACT, 2009 – PETITION
SCHEME

1. PURPOSE OF REPORT

- 1.1 This report follows that previously submitted to the Constitution Working Group on the main provisions introduced through the Local Democracy, Economic Development and Construction Act, 2009 (the ‘Act’). Amongst those provisions, was the requirement for a principle local authority to adopt a petition scheme, with an indication that such a scheme could become effective from 1st April, 2010. However, the Department for Communities and Local Government indicated that an authority would be obliged to operate a scheme from 15th June, 2010 with the operation of an “e-petition” scheme from 15th December, 2010. This report sets out the legal requirements for the Council under the provisions of the Act and further appends a draft petition scheme (**Appendix A**) for comment and to form the basis of recommendations to the Constitution Committee and ultimately, Council.

2. BACKGROUND

- 2.1 Part 1 Chapter 2 of the Act imposes a new statutory duty upon local authorities to operate a scheme for the handling of petitions which must be approved by full Council and published on the Council’s website. Under the petition scheme anyone who lives, works or studies in the Borough (including under 18s) can sign or organise a petition which is intended to trigger a response from the Council. Among the possible steps which the Council may choose to take in response to a petition, must be included the following;

- Taking the action requested
- Considering the petition through debate at full Council
- Holding an inquiry
- Holding a public meeting
- Commissioning research
- A written response setting out the Council’s view on the issue
- Reference of the matter for the purposes of Overview and Scrutiny

- 2.2 Petition organisers who are dissatisfied with the Council's response can ask for a review. Where petitions have a significant degree of support this will trigger a Council debate. Although, it will be for the Council to determine the number of signatures required to trigger a Council debate the guidance suggests that this number should not exceed 5% of the Borough's population. According to the Office for National Statistics with a population estimated at 91,400, this would entail 4,570 signatures. Members will note that the draft scheme as attached has included a figure well below this threshold. Local authorities will also have to provide in their petition scheme a requirement that Senior Officers will give evidence through the Overview and Scrutiny process. This will ordinarily be in public unless confidential information would be disclosed, in such a case, the meeting will take place in private.

3. APPLICATION OF A PETITION SCHEME

- 3.1 The petition scheme will apply to a petition made to the Council which;
- asks for action to be taken or ceased
 - signed by the requisite number of individuals
 - is not made under any other enactment
 - if electronic, uses the Council's electronic facilities
- 3.2 A petition must relate to a relevant matter, namely, a Council function or an improvement in the economic, social or environmental wellbeing of the area to which a partner authority can contribute. Planning and licensing decisions are to be excluded from a petition scheme, as are matters where there is another appeal mechanism. However, such matters will not be excluded if the petition relates to a systematic failure in service provision. In determining whether to allow a petition, the Council can take into account data protection issues and such matters as equalities law, libel and whether a petition is vexatious, abusive or otherwise inappropriate. If the Council refuses to allow the petition facility to be used, it must provide reasons. In deciding whether a petition is vexatious or abusive, the Council should base their decision on the same tests that will be used for freedom of information requests, namely *"is the request likely to cause distress, disruption or irritation without any proper or justified cause"*. The test must be applied to the topic and not the petition organiser. The guidance also suggests that a petition may be inappropriate where legal proceedings are possible or the petition relates to an individual member of the community.
- 3.3 The duty to provide an e-petition facility, which will become operational later in the year, will require the Council to create a facility for such e-petitions and to incorporate the same, into its online information. A signature will only count if the name and address are given and if the petition is electronic, with such means of authentication as the Council requires. The model scheme suggests that it might be by name, post code and individual e-mail address. Petitions must also be acknowledged within a specified time limit with an indication of what the Council has done or intends to do in respect thereof.

Identification must be sent to the petition organiser and must be posted on the Council's website.

- 3.4 An organiser who is dissatisfied with the Council's response to a petition has the right to request a review. Accordingly, they may request Scrutiny to review the adequacy of the steps taken and action proposed. The outcome of such a review must be published on the Council's website. If the view is taken that the Council's response is inadequate, having regard to the range of possible responses and matters of proportionality, they can use their existing powers to conduct their own review of the issue pursuant to the Local Government Act, 2000. If Scrutiny are of the opinion that the Council has seriously neglected its responsibility to listen to the local community in its response to the petition, it may refer the matter to full Council for the purposes of a review. The outcome of that review will be communicated to the petition organiser and should appear on the Council's website.
- 3.5 It is the Government's intention that authorities '*should approach their petition scheme from the starting point of responding to all petitions they receive.*' Other than where a specified level of support is required to either trigger a debate of Council or for a senior local government officer to give evidence (see below), the model scheme as attached, does not indicate a specified number of signatories to initiate any action. However, it has been indicated that some authorities intend to specify a modest number of signatories for an 'ordinary' petition to be activated. Members will need to determine whether they wish to specify a number of required signatories, or not. In addition, the Constitution will need to reflect the operation of the petition scheme both within the 'Summary and Explanation' (para 13 of relevance) to the Constitution and under Article 3 'Local People and the Council' ('voting and petitions').

4. PETITIONS REQUIRING DEBATE

- 4.1 The Act requires that the scheme allow for petitions requiring a debate at Council provided it has sufficient signatures (threshold of 5% of the population according to Office of National Statistics figures). The possible responses must include or comprise referral to a meeting of the full Council. This does not apply to a petition to hold an Officer to account (see further below). Again, the petition organiser must be told of the arrangements and notice of the debate must be placed on the Council's website.

4. CALLING OFFICERS TO ACCOUNT

- 4.1 A petition may be submitted requiring an Officer to be called to give account. Again, the Council is required to set a threshold for the number of signatures for such a petition. Again, the model petition as annexed herewith provides a suitable threshold in conjunction with the draft statutory guidance. The grounds in the petition must relate to the Officer's duties and not be

personal. Officers who can be called to account in this way are those set out in the scheme and must include;

- (i) The Head of Paid Service (Chief Executive Officer)
Statutory Chief Officers;
 - Director of Child and Adult Services
 - Section 151 Officer (Chief Finance Officer)
 - Section 5 Officer (Monitoring Officer)
- (ii) Non-statutory Chief Officers, for example
 - Anyone reporting directly to the Head of Paid Service or to the Council or a Committee of it.
 - Those reporting directly (or indirectly) for most or all of their duties to a statutory or non-statutory Chief Officer.

- 4.2 If such a petition is received, the scheme must provide for the attendance by the Officer at the Scrutiny Committee to ask questions and the petitioner to receive any report/recommendations made by the Committee. Scrutiny may call another Officer if they think it more appropriate. Such meetings will ordinarily be in public and the organiser of the petition is to be invited unless confidential information would be revealed. Notification of the meeting and any report or recommendations arising should be communicated to the petition organiser and placed on the Council's website.

6. SUMMARY AND CONCLUSIONS

- 6.1 The Local Democracy, Economic Development and Construction Act, 2009, provides for a duty upon principle local authorities to respond to petitions. The duty obliges principle local authorities to draw up a petition scheme, which allows local people a right to a public response if they are signatories to a petition. Those petitions with a significant level of support will be able to “trigger” a debate of full Council and petitions will also be able to call for a senior member of the Council's staff to attend a meeting of a Committee discharging the overview and scrutiny function, to answer questions about how they are delivering public services. Petition organisers will have a right to request a review of the Council's response to their petition, should they feel the response is inadequate. Ultimately, local authorities will also be required to provide a facility relating to “e petitions”.
- 6.2 In the Department of Communities and Local Government's document “Listening to Communities: Consultation on Draft Statutory Guidance on Duty to Respond to Petitions” (December, 2009) it is indicated that the Government believes that local authorities should approach their petition scheme from the starting point of responding to all the petitions they receive. *‘Petitions are an important tool for local people to raise concerns with their locally elected representatives and we expect petitions to trigger action where appropriate’*. Attached herewith for consideration of the Working Group/Committee is a model scheme based upon that provided through the Department for Communities and Local Government. The model scheme

therefore comprises the “four key areas” comprising; under-performing schools, alcohol related crime and disorder, under performing health services and anti-social behaviour. It is envisaged that such schemes will provide “a high level of flexibility” for local authorities in how they approach this particular duty. It will therefore be appropriate for the petition scheme to be constantly kept under review, to ensure that the same represents local circumstances and remains accessible to all.

7. RECOMMENDATIONS

- 7.1 For the Working Group/Committee to note and consider this report and the model petition scheme as annexed herewith, and to make recommendations thereon to Council.

8. CONTACT OFFICER

Peter Devlin, Chief Solicitor

HARTLEPOOL BOROUGH COUNCIL

Draft Petition Scheme

Petitions

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 14 days of receipt. This acknowledgement will set out what we plan to do with the petition.

Paper petitions can be sent to Democratic Services Team, Civic Centre, Victoria Road, Hartlepool TS24 8AY

Or be created, signed and submitted online by following this link [*link to be inserted following development of system – system to be in place December 2010*]

Petitions can also be presented to a meeting of the full Council. These meetings take place on dates and times that can be found here [*link to be inserted following approval of Council meeting dates*]. If you would like to present your petition to the Council, or would like your local Councillor to present it on your behalf, please contact Democratic Services Team on 01429 523013 at least 10 working days before the meeting and they will assist you through that process.

What are the guidelines for submitting a petition?

Petitions submitted to the Council must include

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take
- the name and address and signature of any person supporting the petition

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will **not** be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser **within 14 days** of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a full Council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners

- referring the petition for consideration by the Council's Scrutiny Co-ordinating Committee who have responsibility for scrutinising the work of the Council in conjunction with the five Scrutiny Forums:
 - Children's Services Scrutiny Forum
 - Regeneration Planning Services Forum
 - Adult & Community Services Scrutiny Forum
 - Health Scrutiny Forum
 - Neighbourhood Services Scrutiny Forum
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

Petition subject	Appropriate steps
Alcohol related crime and disorder	If your petition is about crime or disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.
Anti-social behaviour (ASB)	<p>As the elected representatives of your local area, and licensing authority, the Council plays a significant role to play in tackling anti-social behaviour. The Council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour, you can find more details about these standards here [insert link].</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as licensing authority. For example, we will work with the partner agencies in the affected area to identify what action might be taken, consider identifying a dedicated contact within the Council to liaise on issues of ASB in the area in question.</p>

Petition subject	Appropriate steps
Under-performing schools	We will consider, in consultation with local partners, all the options available to us when working with schools to secure their improvement. For example, on our behalf, the school improvement partner (SIP) will play a pivotal role, challenging and brokering support for poorly performing schools. Where a school is under performing we will consider whether it is appropriate in the circumstances to issue a warning notice outlining expectations and a timeframe for the school to improve its performance standards. Other measures available to us, where schools fail to comply with a warning notice or are in an Ofsted category of notice to improve (requiring significant improvement) or special measures including; appointing additional governors, establishing an interim executive board, removal of the school's delegated budgets, requiring the school to enter into a formal contract or partnership or, only if the school is in special measures, closure.
Under-performing health services	We will work with local health partners to consider the matter raised in the petition including, where appropriate, exploring what role the Local Involvement Network (LiNK) might have in reviewing and feeding back on the issue (the LiNK is run by local individuals and community groups and independently supported – their role to find out what people want in terms of local health services, monitor those services and to use their powers to hold them to account).

If your petition is about something over which the Council has no direct control we will aim to make representations on behalf of the community to the relevant body. The Council works with a large number of local partners [link list of LAA partners] and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible here [[Hartlepool Borough Council Homepage](#)].

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

Full Council debates

If a petition contains **more than 1,500 signatures** it will be debated by the Full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Officer evidence

Your petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains **at least 750 signatures**, the relevant senior officer will give evidence at a public meeting of the Council's Scrutiny Committee. A list of the senior staff that can be called to give evidence can be found here [HBC constitution\Constitution 2009-2010\Sections of Constitution\Man Structure Flow Chart.doc](#). You should be aware that the Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting Democratic Services Team on Ext 3013 up to three working days before the meeting.

E-petitions (under development)

The Council welcomes e-petitions which will be created and submitted through our website [*link to be inserted following development of system*]. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to Democratic Services Team. In the same way as a paper petition, you will receive an acknowledgement within 14 days. If you would like to present your e-petition to a meeting of the Council, please contact Democratic Services Team within ten days of the petition closing.

A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature here [*link to be inserted following development of system*].

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible. The e-petition signature process will also include a mechanism to prevent robot signatures.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Scrutiny Co-ordinating Committee review the steps that the Council has taken in response to your petition.

The committee will consider your request within 30 days of receiving it. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Executive and arranging for the matter to be considered at a meeting of the Full Council.

Once the appeal has been considered the petition organiser will be informed of the results within seven days. The results of the review will also be published on our website.