

CONSTITUTION COMMITTEE AGENDA



Thursday 14th July 2011

at 4.00 p.m.

in Committee Room 'C',
Civic Centre, Hartlepool.

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond

Councillors Aiken, S Akers-Belcher, Cook, Fenwick, James, J W Marshall, Preece,
Richardson, Simmons and Wells.

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 Minutes of the meeting of the Constitution Committee held on 9th June 2011.
4. **ITEMS REQUIRING DECISION**
 - 4.1 Police Reform and Social Responsibility Bill – *Chief Solicitor*
 - 4.2 Business Report – *Chief Solicitor*
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

9th June 2011

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

Present:

Councillor Richardson (In the Chair)

Councillors Aiken, Cook, Fenwick, James, Preece, Simmons and Wells

In accordance with Council Procedure Rule 4.2 (ii), Councillor C Akers-Belcher was in attendance as substitute for Councillor S Akers-Belcher and Councillor A Marshall was in attendance as substitute for Councillor JW Marshall.

Officers: Alyson Carman, Legal Services Manager
Amanda Whitaker, Democratic Services Team Manager

1. Apologies for Absence

The Mayor, Stuart Drummond and Councillors S Akers-Belcher and JW Marshall.

2. Declarations of interest by Members

None

3. Minutes

The minutes of the meeting held on 25th March 2011 were confirmed.

Members discussed the following matters arising from the minutes:-

Minute 40 – Recorded Votes at Council – It was noted that the amendment to the Council Procedure Rules had been submitted to the Council meeting held on 14th April 2011 and in accordance with the Rules of the Constitution had stood adjourned. The amendment would, therefore, be referred back to the Council meeting to be held on 23rd June 2011.

Minute 41 – Annual Proportionality and Allocation of Positions to Independent Members – Members discussed the background to the request, at the previous meeting, for a further report to be submitted dealing with constitutional and legal issues arising from the acknowledgement of a political group under Regulation 7(i) of Local Government (Committees and

Political Groups) Regulations 1990. It was agreed that the issue should be included in the 2011/12 work programme for the Committee.

Minute 42 – Officer Employment Procedure Rules – Members highlighted constitutional issues arising from the recent announcement of the retirement of the Chief Executive. The Legal Services Manager agreed to seek clarification from the Department of Local Government and Communities in terms of the options available to the Council when considering the replacement of the Chief Executive particularly in the context of the Local Government Act 2000 and the outcome of the 2001 referendum. It was agreed that a meeting of the Committee's Task and Finish Group be convened when a response had been received from the Government Department.

4. Review of Constitution /Work Programme for 2011/12 (*Chief Solicitor/Assistant Chief Executive*)

A joint report submitted by the Chief Solicitor and Assistant Chief Executive highlighted the requirement to review the Constitution to reflect general changes, changes as a result of new legislation, the reduction in the number of Councillors recommended by the Local Government Boundary Commission and to reflect recommendations arising from the review of Community Involvement and Engagement (including LSP Review). Other considerations including those relating to the Independent Remuneration Panel were also likely to result in changes to the Constitution.

Members were reminded that at the first meeting of the Committee each Municipal year, it was usual for the Committee to consider a work programme for the coming year. When considering the work programme for this Municipal year, it was considered appropriate to highlight the volume of work which would be generated by the review of the Constitution and that it was essential to have the amended Constitution agreed in time for the next Municipal year. It was noted that if there were any areas of the Constitution which Members of the Committee considered should be reviewed, then they could be picked up as part of the review of that appropriate section of the Constitution.

In addition, in terms of the Work Programme, an issue in relation to the breach of the constitution had been referred, by the Scrutiny Co-ordinating Committee, to this Committee for consideration (minute 192, Scrutiny Co-ordinating Committee refers).

It was recognised that it was important to deal with all the issues highlighted in this report and to have clear work programme and timetable to ensure working Constitution in place for the next Municipal year. Officers would, therefore, work up a timetable to reflect the review of the 16 articles that set out the basic rules governing the Council's business and the more detailed procedures set out in the Constitution. It was suggested that in view of the importance of the Constitution, the amount of work involved and the time

constraints, a Task and Finish Group be set up to consider the review of the Constitution

Members acknowledged the necessity to review the Constitution and proposed the following additional issues to be considered by the Committee:-

Financial Procedure Rules – with reference to Rule 4.5.7, concern was expressed that a decision which had been taken by Cabinet at its meeting held on 6th June 2011, in relation to the Final 2010/11 Outturn Strategy, required approval by Council in respect of the transfer of reserves. Members considered that this issue should be considered by the Committee.

Standards Committee – Following concerns expressed regarding the timeframe for consideration of complaints by the Standards Committee, it was agreed that the issue should be considered by this Committee.

Annual Council – Members referred to the practice, prior to the introduction of the current political structure, where in addition to the Annual Council meeting, there was a Special meeting of Council to conduct business relating to appointments to Committees and Outside Bodies. It was agreed that the possibility of reverting back to previous practice should be considered at part of the review of the Council Procedure Rules.

Decision

- (i) That a Task and Finish Group be convened for the purpose of reviewing all Sections of the Constitution, required to be completed and in place for the start of the next Municipal year.
- (ii) That the Scrutiny Co-ordinating Committee referral be accepted for inclusion in the work programme.
- (iii) That the additional topics relating to Financial Procedure Rules, Standards Committee complaint procedures and Annual Council meeting be added to the work programme.

5. Any Other Items which the Chairman Considers are Urgent

None

The meeting concluded at 2.45 p.m.

CHAIR

CONSTITUTION COMMITTEE

14th July 2011



Report of: Chief Solicitor

Subject: POLICE REFORM AND SOCIAL RESPONSIBILITY
BILL

1. PURPOSE OF REPORT

- 1.1 To inform and outline to the Committee the main policy areas associated with the Police Reform and Social Responsibility Bill. Primarily, these areas cover; Police accountability and governance, alcohol licensing, the regulation of protests around Parliament Square, misuse of drugs, and the issue of arrest warrants relating to private prosecutions.
- 1.2 The key areas of the Bill are as follows;
- The proposed replacement of Police Authorities with directly elected Police and Crime Commissioners,
 - Amending the provisions of the Licensing Act, 2003, with the intention of “rebalancing” this legislation in favour of local authorities, the Police and local communities,
 - Providing a new framework for regulating protests around Parliament Square with additional Police powers to prevent encampments and the use of amplified noise equipment,
 - Enables the Home Secretary to temporarily ban drugs for up to a year and to remove the statutory requirement of the Advisory Council on the Misuse of Drugs to include members with experience in such activities,
 - Introduces a new requirement that private prosecutors obtain the consent of the Director of Public Prosecutions prior to the issue of arrest warrants for “universal jurisdiction” offences such as war crimes or torture.
- 1.3 Although the provisions of this Bill are wide ranging this report will necessarily confine itself to those areas which most impact upon a local authority, namely the proposed directly election Police and Crime Commissioners and amendments to the Licensing Act, 2003.

2. POLICE REFORM AND SOCIAL RESPONSIBILITY

- 2.1 The Police Reform and Social Responsibility Bill was introduced to Parliament on 31st December, 2010 and in mid-February completed its Committee status in the House of Commons. In late June, the Bill was at the report stage in the House of Lords and it is anticipated that the Bill will receive Royal assent, later this year. In the Queen's 2010 speech, the coalition Government had announced the introduction of legislation that would make the Police service more accountable to local people and to tackle alcohol related violence. Accordingly, the main provision of the Bill 'marks the next step in the Government programme to reduce bureaucracy', achieve 'democratic accountability' and to 'empower local communities'.
- 2.2 The key elements of this strategy to achieve better accountability and to be more responsive to local people includes the following;
- The selection of Police and Crime Commissions in May 2012,
 - A new National Crime Agency to deal with organised crime and to strengthen border security,
 - Greater collaboration between Police Forces to increase public protection and to deliver savings, thereby achieving better value for money,
 - Phasing out the National Policing Improvement Agency (NPIA),
 - Cutting bureaucracy, through the removal of restrictive health and safety procedures, and
 - Greater public participation and involvement through beat meetings, neighbourhood watch schemes and voluntary groups.

3. POLICE AND CRIME COMMISSIONERS

- 3.1 A Police and Crime Commissioner will have functions relating to "community safety and crime prevention" and also such other functions as conferred through legislation. However, and of note, a Police and Crime Commissioner for a Police area must
- secure the maintenance of the Police Force for that area, and
 - ensure that the Police Force is efficient and effective.

The Police and Crime Commissioner will be required to hold the Chief Constable to account and those persons who operate under the direction and control of the Chief Constable. Police Authorities established for Police areas under Section 3 of the Police Act 1996 would be abolished. A Police and Crime Commissioner must also appoint a person to be the head of the Commissioner's staff and a person responsible for the proper administration of the Commissioner's financial affairs. Further, a Police and Crime Commissioner may appoint such other staff as the Commissioner thinks appropriate to enable a Commissioner to exercise the functions associated with the role of Commissioner. A Commissioner may also "do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of Commissioner". This would include the power to enter

into contracts and other agreements, including the acquisition and disposal of property (including land) and borrowing money.

- 3.2 In place of the current Police Authorities, there will be a body covering each Police area as listed in Schedule 1 of the Police Act, 1996, who will be known as the “Police Commission”. This body will consist of the Police and Crime Commissioner and a Police and Crime Panel. The Police and Crime Commissioner will be appointed through the Police and Crime Panel. In the main the functions of these elected local policing bodies, will have an accent upon community safety and crime prevention. The Police and Crime Commissioner for a Police area must issue a “Police and Crime Plan” within the financial year in which each ordinary election is held.
- 3.3 There is the assumption that the election of a Police and Crime Commissioner will take place in May, 2012 (an “ordinary election”) and then every subsequent fourth year. There is a corresponding role of the Electoral Commission to take such steps as it considers appropriate to raise public awareness surrounding such elections and the process behind such an election. The Commissioner is to be returned under the simple majority system unless there are three or more candidates, wherein the supplementary vote system (a vote capable of being given to indicate first and second preferences) will come into effect. The proposed legislation contains certain disqualifications on an individual standing for election as a Police and Crime Commissioner and of note, a Commissioner is not to serve for more than two terms of office.
- 3.4 The local authority or local authorities within a Police area must;
 - (i) establish and maintain a Police and Crime Panel for the Police area and
 - (ii) make Panel arrangements for the Police and Crime Panel.

Such a Crime Panel for a Police area, must include the relevant number of persons properly appointed as members of the Panel, which is ten if the Police area covers ten or fewer local authorities and two members co-opted by the Panel. A Police Crime Panel will therefore operate as a Joint Committee for the relevant local authority within an existing Police Authority area. Although, the Secretary of State has certain reserve powers to call for a different arrangement, the Secretary of State must secure (so far as is reasonably practicable) that a “fair representation objective” is met. This objective in the case of the existing Police Authority area, is that each relevant local authority has at least one of its Councillors as a member of the Panel. It will be the responsibility of the Police and Crime Panel to review the draft Police and Crime Plan or any variation thereof and to make a report and/or recommendations to the Commissioner as they deem appropriate. In the furtherance of this duty, the Police and Crime Panel must conduct public meetings of the Panel to discuss the Annual Report provided through the Police and Crime Commissioner, to ask questions thereon and to review the Annual Report and make recommendations on that report to the Commissioner. In addition, a Police and Crime Panel must review or scrutinise the decisions made or action taken by the relevant Police and

Crime Commissioner in the discharge of the Commissioner's functions and to make such reports and/or recommendations to the Commissioner with respect to the discharge of those functions. Furthermore, the Panel may require the relevant Police and Crime Commissioner and members of the Commissioner's staff to attend before the Panel (on reasonable notice) to answer any questions which appear to the Panel to be necessary in order to carry out their own functions.

4. AMENDMENT TO THE LICENSING ACT, 2003

4.1 The coalition Governments response to a public consultation exercise on the 'rebalancing' of the Licensing Act, 2003, are now to be found within Part 2 of the Police Reform and Social Responsibility Bill. In brief, the main proposals include;

- Overhauling the Licensing Act to give local authorities and the Police stronger powers to remove licences from, or refuse to grant licences to premises that are causing problems,
- Allowing Councils and the Police to permanently shut down any shop or bar that is repeatedly selling alcohol to children,
- Doubling the maximum fine for those caught selling alcohol to minors to £20,000,
- Allowing local Councils to charge more for late night licences, so helping to pay for additional policing.

In April, 2010, the Government announced the first three conditions of the Licensing Act, 2003 (Mandatory Licensing Conditions) Order, 2010. These conditions apply to all licensed premises and those with a club premises certificate in England and Wales. They require;

- A ban on irresponsible promotions
- A ban on dispensing alcohol directly into customers mouths
- Mandatory provision of free tap water

In addition, in October, two further conditions came into force, namely;

- An age verification policy
- Smaller measures (ie the availability and awareness of certain measures applying to beer, wine and spirits).

4.2 The Police Reform and Social Responsibility Bill contains provisions wherein applicants are to give greater consideration to the local area when making their application. Presently, applicants are required to set out in their operating schedule the steps they intend to take to promote the licensing objectives. For the information of the Committee these objectives as outlined in the Licensing Act, 2003 are as follows;

- (a) the prevention of crime and disorder
- (b) public safety

- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

Applicants will therefore be required to provide further, more detailed information on the steps they intend to take and also to demonstrate their awareness of the local community in which the premises will be based. This would include coverage of issues such as the local authorities social demographic characteristics, specific local crime and disorder issues and an awareness of the local environment. There is also a proposal for a late night levy wherein licensing authorities will have a discretion to introduce a charge for premises that have a late alcohol licence. Where such a measure is introduced that levy will be collected annually and the revenue will be split between licensing authorities and the Police. Local authorities and the Police will be given much stronger powers to remove licences from, or refuse to grant licences to any premises that are causing problems in the local area. The present intention is to extend the flexibility of Early Morning Restriction Orders to provide authorities with additional powers in that particular area.

- 4.3 Responsible authorities within the Licensing Act, 2003 include Police, Fire Authorities, Health and Safety Authorities, Local Planning Authorities, Environmental Health, and the bodies responsible for protecting children from harm. This definition will be extended to local health bodies, who will therefore be able to make relevant representations regarding new licence applications and also for requests for reviews of existing licences. Where such representations are received, a licensing authority must hold a hearing to consider any relevant representation in making their determination. There is also to be provision for licensing authorities to give increased weight to the representations and objections made from the Police through amendments to the statutory guidance to require authorities to accept all representations and objection notices (in the case of personal licence applications) through the adoption of all recommendations from the Police, unless there is clear evidence that these are not relevant. There is also provision wherein the maximum fine for underage alcohol sales will be increased to £20,000 and the provision to allow Councils and Police to shut down permanently any shop or bar persistently selling alcohol to children. There is also to be additional provisions within the Bill enabling licensing authorities to suspend licences due to non payment of fees and to changes to the notification provisions to responsible authorities in relation to a Temporary Event Notice (ie wherein an individual intends to carry on a licensable activity not exceeding 96 hours). There would also be the removal of the so called “vicinities” test, thereby extending the rights of individuals and representative groups to make objections to licence applications. The Secretary of State will also have power to introduce locally set licensing fees.

5. SUMMARY

- 5.1 The Police Reform and Social Responsibility Bill covers a broad range of provisions relating to the administration and governance of Police Forces in England and Wales, changes to the licensing regime as well as the

prohibition of certain activities in Parliament Square. Further, the Bill proposes control measures associated with dangerous and otherwise harmful drugs and the restriction in the use of arrest warrants for certain territorial offences. This report provides an overview of those provisions most closely associated and therefore relevant to this Council, particularly in relation to the role and governance arrangements to operate within the relevant Police areas. A further report will therefore be brought to the Committee once the Bill has received Royal Assent to inform upon the implications of the enacted legislation.

6. RECOMMENDATIONS

1. For Members to note and discuss the content of this report

Report of: Chief Solicitor

Subject: BUSINESS REPORT

1. REVIEW OF THE CONSTITUTION

At the meeting of the Constitution Committee on 9th June 2011, it was agreed that a Task and Finish Group be convened for the purpose of reviewing all sections of the Constitution with the object of completion by the start of the next Municipal Year. It was acknowledged that the Localism Bill, and the Further Electoral Review by the Local Government Boundary Commission could have a significant impact on the final 'document' and that where possible the proposed changes would be considered as part of the overall review.

Below is a proposed timetable for the undertaking of the Review. Members will see that a proposed commencement date of week commencing 8th August 2011 is suggested with Thursday, 11th August 2011 as the date of the first meeting with meetings every 4 weeks thereafter.

Members will also need to decide on the composition of the Task and Finish Group and whether it should consist of a small number of members or rotating membership for each item under review.

DATE AND TIME	SUBJECT OF REVIEW
Thursday, 11 August 2011 at 2pm	Part 1 Summary and Explanation Part 2 Articles of the Constitution
Thursday, 8 September 2011 at 2pm	Part 3 Responsibility for Functions
Thursday, 6 October 2011 at 3pm followed by Constitution Committee at 4pm	Part 3 Responsibility of the Functions cont'd
Thursday, 3 November 2011 at 2pm	Part 4 Rules of Procedure
Thursday, 3 December 2011 at 2pm	Part 4 Rules of Procedure cont'd
Thursday, 5 January 2012 at 2pm	Part 5 Codes and Protocols
Thursday, 2 February 2012 at 2pm	Part 6 Members Allowances Scheme
Thursday, 1 March 2012 at 2pm	Part 7 Outside Bodies
Thursday, 29 March 2012 at 2pm	Part 8 Management Structure

RECOMMENDATION

Members' views are sought.