

CONSTITUTION COMMITTEE AGENDA



25 November 2019

At 2 p.m.

**Committee Room “B”,
Civic Centre, Hartlepool**

MEMBERS: CONSTITUTION COMMITTEE:

Councillors Fleming, Harrison, Howson, James, Johnson, Loynes, Marshall, Moore, and Tennant

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 15 July 2019
- 4. ITEMS REQUIRING DECISION**
 - 4.1 Further Periodic Review of the Council’s Constitution (*Chief Solicitor and Monitoring Officer*)
- 5. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**



CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

15 July 2019

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

Present:

Councillor Moore (In the Chair)

Councillors Fleming, Harrison, James, Loynes and Marshall.

Officers: Gill Alexander, Chief Executive
Hayley Martin, Chief Solicitor
Amanda Whitaker, Democratic Services

1. Apologies for Absence

Councillors Howson and Tennant

2. Declarations of interest by Members

As Ceremonial Mayor, Councillor Loynes declared an interest in agenda item 4.1 – Civic and Democratic Arrangements review. Councillor Loynes sought advice whether she would be allowed to stay at the meeting for consideration of the item. The Chief Solicitor advised Councillor Loynes that she was permitted to remain at the meeting.

3. Minutes

The minutes of the meeting held on 4 March 2019 were confirmed.

4. Civic and Democratic Arrangements Review (*Chief Solicitor*)

At the meeting of Full Council on the 20th December 2018, Members had approved the proposal that civic engagement and associated activities be reviewed. The Committee considered the following issues:-

- (i) Ceremonial Mayor - The report provided information on current arrangements, including the heritage and history of the role of the First Citizen of the Borough. Appended to the report was a complete list of the events attended by the Ceremonial Mayor in the years 2017/18 and 2018/19. It was

noted that the budget for attending events for the current financial year is £5,651.

Members acknowledged the benefits of the role of the Ceremonial Mayor. However, clarification was sought whether the role of Ceremonial Mayor had to be an Elected Member. It was confirmed that in accordance with the Authority's Constitution, at its Annual meeting Full Council is required to appoint a Chair of Council who will also take the title, Ceremonial Mayor for the municipal year, in accordance with the Local Government Act 1972. The Chief Executive advised that she was not aware of a precedent of a non-elected member being appointed the Ceremonial Mayor and advised that legal research could be undertaken and a further report submitted to the Committee. The implications, if the appointment of a non-elected member was permissible, were highlighted including the difficulties arising from the selection process.

Following the discussion it was agreed that there was no desire to change the role of Ceremonial Mayor but that consideration could be given to the selection process in terms of the rotation of Elected Members and the terms of office.

(ii) Civic Events - The budget for food and beverages at civic events (including Annual Council) is £4,074. At a meeting of Full Council in March, it was agreed that spend at civic events would be reviewed, particularly in relation to alcohol. The report set out the amount spent on alcohol at civic events in 2017/18 was £526.60 and in 2018/19 was £481.79. Actual expenditure on food and beverages in the last two years had been on budget with the average spend of approximately £3600. It was suggested that Members may wish to consider reducing the budget by 5% to reduce expenditure.

Members advised that alcohol was limited in terms of availability at civic events. It was noted that reducing the budget by 5% would equate to a saving of £180. Members responded to a question raised regarding the benefits for the public arising from the role of Ceremonial Mayor and highlighted the benefits derived from the role including role of networking. It was acknowledged by the Chair that the public perception of the role is not always correct and should, therefore, be explained to the public.

It was recommended that no change be made to the civic events budget.

(iii) Civic Transport and Costs - The report set out details relating to civic transport and associated costs. The cost of running the vehicle amounted to approximately £2,500 per annum. Current arrangements included the employment of a Civic driver who also undertakes the role of Mace bearer at meetings of Full Council. Further details regarding this post were set out by way of an appendix which contained exempt information under Schedule 12A Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006) namely paragraphs 1 & 2.

It was highlighted that the Civic driver is also responsible for security of the civic chains during official engagements attended by the Ceremonial Mayor.

The role would continue to be required if the current arrangements for civic transport was to change and replaced, for example, with the use of taxis. During the debate, tribute was paid to the civic driver/mace bearer.

It was recommended that no changes be made to the current arrangements for civic transport.

(iv) Change in Election Cycle -

The report addressed issues relating to a change in election cycle. Under the current system the annual cost is £100,000 which equated to £300,000 over the election cycle. The annual budget for elections is £75,000 per year. If elections moved to 'all out' every 4th year it was estimated that this would cost around £140,000. Spread over the 4 years this amounted to an annual cost of £35,000 which equated to a saving of £40,000 per year against the existing budget. If any election is combined with a Tees Valley/National election further savings were realised.

Members spoke in support of the current election cycle and highlighted disadvantages of moving to 'all out' elections. However, it was suggested that there were other issues associated with the election process which could be considered, for example the election count being held the following day.

It was recommended that no changes be made to the election cycle and that the other issues associated with the election process be considered by Officers.

(v) Member Conferences and Development

With regard to Member Conferences and Development, the Committee was advised that there was a list of approved conferences in Part 7 of the Constitution. All Members could access support from this funding to improve the discharge of their duties subject to approval of the Leader and Chief Executive. The budget for Member Conferences and Development is £13,908. Actual Expenditure in the last two years had been broadly in line with the budget. Attendance at conferences and costs associated were disclosed in the published statements of accounts at an individual member level.

Members were requested to review the list of approved and attendance at other Conferences and review the Member Development programme and consider merging the budget for Member Development and Conferences and reduce the budget by 10% to offer a saving. Members considered that the current budget and approval arrangements were proper and the budget should not therefore be reduced. It was proposed also that the Local Government Association's training programme, which did not incur any costs other than that for travel, should be utilised.

Recommendations

- (i) That the role of Ceremonial Mayor continue unchanged and that consideration be given to the process for rotating elected members to the position of Chair of Council.
- (ii) That no change be made to the civic events budget.
- (iii) That no changes be made to the current arrangements for civic transport.
- (iv) That no changes be made to the election cycle and that issues associated with the election process be considered by Officers with a view to potential reduction in election costs.
- (v) That the current budget and approval arrangements were proper and the budget should not therefore be reduced. It was proposed also that the Local Government Association's training programme, which did not incur any costs other than that for travel, should be utilised.

5. Council Referral – Delegation Scheme (*Chief Solicitor*)

The report had been submitted to enable Members to consider a referral from Full Council, on 21 March 2019, relating to the delegation scheme set out within Part 3 of the Constitution. At the request of an elected member it had been agreed that the delegation scheme be approved with the exception of the provision relating to museum acquisitions and disposals so that further work could be carried out to ensure the appropriate safeguards were in place.

Members were advised that the proposed update to the delegation scheme was to allow for the Director of Regeneration & Neighbourhoods (in consultation with the Chair of the Regeneration Services Committee) to make the decision on acquisition/disposal of an item/specific collection rather than submit a report to Committee each time. Once the acquisition/disposal had been considered by the Director (in consultation with the Chair of Regeneration Services Committee), Officers would follow the Museum Association procedures which were detailed in the report. It was highlighted that whilst the Council regularly acquired objects, the disposal of items was not a regular occurrence and there had been no disposals in the previous 12 years.

Concerns were expressed regarding the proposed delegation. It was highlighted that a sub-committee had been convened previously, under previous governance arrangements, to consider acquisitions and disposals. During discussion, views were expressed that any finance accrued from disposal of an item/collection should be allocated to the General Fund. Members agreed to defer consideration with further information to be included in an additional report to be submitted to the Committee, including the formulation of a policy to be determined by the Regeneration Services Committee.

Decision

- (i) To recommend that any finance accrued from disposal of an item/collection should be allocated to the General Fund.
- (ii) To defer consideration with further information to be included in an additional report to be submitted to the Committee.

6. Annual Constitution Review – Verbal Update

The Chief Solicitor advised the Committee that as Monitoring Officer she was required to review the Constitution and report the outcome of that review to Council annually. Members were reminded, however, that a comprehensive review of the Constitution had recently been completed. The Chief Solicitor acknowledged, for inclusion in the next review, the issue of public questions at Council meetings which had been referred at the previous meeting of the Council. It was suggested also that the review also focus on a review of Procedure Rules. Committee Members were encouraged to forward any additional issues which they wanted to be included in the 2019/20 review direct to the Chief Solicitor.

The meeting concluded at 3.25 p.m.

CHAIR

CONSTITUTION COMMITTEE

25 November 2019



Report of: Chief Solicitor and Monitoring Officer

Subject: FURTHER PERIODIC REVIEW OF THE COUNCIL'S CONSTITUTION

1. PURPOSE OF REPORT

- 1.1 To seek a view from the Committee regarding proposed changes to the Constitution prior to consideration of the changes by Council on 19 December 2019

2. BACKGROUND

- 2.1 The Council's Constitution at Article 14 ("Review and Revision of the Constitution") requires that the Monitoring Officer "will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect." Members will recall that a comprehensive review was undertaken and approved by Council on 21 March 2019. The report addresses issues which have arisen since the previous review and is the final review of the Constitution for the current Municipal Year.

3. PROPOSALS

- 3.1 A further review has been undertaken of the Constitution. Matters which have arisen during the review are detailed below:-

PART 2 – ARTICLES

Article 2 – Elected Members of the Authority

2.7 – Member Development – The Corporate Parent Forum, at its meeting on 11 June 2019, agreed that this Committee be requested to consider the issue of compulsory training for all Elected Members on their role as corporate parents. If the Committee considers that a recommendation should be made to Council to introduce compulsory training for corporate parents, it is proposed that Article 2 be amended accordingly.

Members may recall also that the Audit and Governance Working Group recommended to the Audit and Governance Committee and agreed by Council on 31 October 2019, that:-

In order to provide greater clarity, the form to record Members declarations of interest in the Authority's Register of Elected Members/Co-opted Members Interests should be reviewed and a clearer electronic form designed for use after the May 2020 election. The revised electronic form and publication arrangements to be clearer in relation to declaration where Members are employees of an organisation which the Council contracts with. **Guidance and mandatory training on completion should then be provided to new and existing Members.** Members comply with the Councils constitution and register information about registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of appointment as a member of the Authority and when any change takes place in registerable personal interests.

Members are office holders elected by their constituents and not employees of the Council. This distinction means that the measures available to enforce adherence by officers to mandatory training will not necessarily be available for members. The Council could however consider measures including:

- (a) Agree a clear expectation that certain roles will not be available to members who have not undertaken the necessary training. A current example is that members of the Planning Committee have to have attended specific Planning training before they can sit on a Planning Committee.
- (b) The publication of either all training attendance records on the Council's website or just those relating to mandatory training.
- (c) Reporting on member compliance with their mandatory training to a public committee. This could be the Council's Audit and Governance Committee. These reports would be available on the Council's website and the committee could call members to account for their non-compliance at a public meeting.

Article 10 – Community Forums

Members are requested to consider a suggestion that the Community Forums: 'North and Coastal' and 'South and Central' be combined. If Members agree to this suggestion, in addition to a change to Article 10, consequential changes will be required throughout the Constitution.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

It is proposed that the Homelessness and housing advice function transfer from the Children's Services Committee to the Finance and Policy Committee in view of the function being a town wide issue.

PART 4 – RULES OF PROCEDURE

Full Council Procedure Rules – Changes are proposed to the following Procedure Rules:-

CPR4 - APPOINTMENT OF SUBSTITUTE ELECTED MEMBERS OF COMMITTEES AND SUB-COMMITTEES

It shall be the responsibility of the individual substitute Elected Member to ensure that he/she is appraised of the items on the agenda of the relevant meeting in order to facilitate effective decision making.

A substitute may only serve as a substitute when the Member for which he/she is substituting is absent for the entire meeting. A substitute may not be appointed for a specific item. Once a meeting has started with a Member in place then no substitution may be made during the course of the meeting to replace that Member.

If a substitute has not arrived by the commencement of the meeting and the original appointed Member is present, then the appointed member will continue as a voting member of the Committee.

The substitute Member will be entitled to speak and vote in his or her own capacity, and is not constrained by the views of the Member for whom he or she is substituting.

CPR9 – QUESTIONS FROM THE PUBLIC

At the meeting of Full Council held on 20 June, it was moved and seconded that the Constitution Committee be requested to consider changes to changes to Council Procedure Rules – Questions from the Public in relation to supplementary questions. It was agreed that the issue of supplementary public questions be referred to this Committee. Members' views are invited.

It is proposed also that Council Procedure Rule 9.3 (i) be updated. The Constitution currently states:-

“Not later than the day before the commencement of any meeting in respect of which more than one notification has been received under rule 9.2 and not rejected under rule 9.5, the order in which the questions shall be asked shall be determined in a manner of random selection to be stipulated by the Chief Executive. The determination of the order shall take place at the Civic Centre and shall be open to the public.”

It is proposed that the above be replaced with the following:-

“‘Questions will be asked in the order received, except that the Chair of the Council may group together similar questions’

CPR11 – MOTIONS ON NOTICE

Attached at Appendix A are changes which are proposed to the above Procedure Rule.

CPR23 - COMMITTEES AND SUB-COMMITTEES OF THE COUNCIL

It is proposed that the following paragraph be added:-

23.6 Committees Meeting Jointly

Where a Committee is to consider a matter upon which another Committee(s) shares a common interest, that Committee may invite Members of other Committee(s) to attend a joint meeting. The attending Committee Members will have no vote but may take part in the discussion.

OFFICER EMPLOYMENT PROCEDURE RULES – It is proposed that the Procedure Rules be amended to include the following:-

10. Disciplinary Action

All Chief Officers, including the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and last no longer than two months beginning on the day the suspension takes effect.

11. Disciplinary Action Relating to the Head of Paid Service, Monitoring Officer and Section 151 Officer (Statutory Officers)

Disciplinary action in relation to the Statutory Officer's is governed by Authority's 'Disciplinary procedure for Head of Paid service, Monitoring officer and Section 151 in accordance with the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 (as amended). .

Before any decision is taken to dismiss of the Head of Paid Service, Chief Finance Officer or the Monitoring Officer, the Independent Advisory Committee (IAC) must be convened to advise on any matter that could lead to the dismissal of one of these officers. Any recommendation to dismiss a Statutory Officer must be approved by Full Council.

As a consequence of the above, it is proposed also that the following be added to Part 3 of the Constitution – the Authority's Functions and Delegation Scheme:-

INDEPENDENT ADVISORY COMMITTEE

MEMBERSHIP	
HBC	
OTHER MEMBERS	<p>Persons appointed by the Council as an Independent Person, pursuant to S.28(7) of the Localism Act 2011</p> <p>In the advent of insufficient numbers to make a quorum, Independent Persons from other Local Authorities (from the Tees Valley or region) may be invited to sit on the Panel</p>
TOTAL MEMBERSHIP	3
QUORUM	2

TERMS OF REFERENCE

To act as an advisory panel to the Council in respect of any recommendation that is made to dismiss an officer designated as the Council's Head of Paid Service, the Chief Finance Officer or Monitoring Officer (the Statutory Officers).

SCRUTINY PROCEDURE RULES – It is proposed that the Procedure Rules be amended to provide clarification as follows:-

Co-opted Members

The appointment of co-opted Members is a matter reserved to the full Council. The Audit and Governance Committee can make recommendations to the Council on the appointment of co-opted members to the Committee itself and/or any of its sub-committees. In making such recommendations to the Council the Committee will specify the term of office to be applied in each case. The term of office for any appointed co-opted Member can only be extended with the express approval of the Council. Co-opted Members appointed by the Council can attend and speak at meetings of the Committee but cannot vote, unless the Council approves a voting scheme.

Membership

The membership of the Audit and Governance Committee is seven Elected Members and the Committee may also co-opt representatives from outside bodies to assist in the conduct of its statutory scrutiny function.

Appendix C – Procedure for the Decision Making Route for Statutory Scrutiny Final Reports - replace reference to 'Policy Committees' with 'Committees'

3. RECOMMENDATION

- 3.1 That the Committee consider the report and subject to the views of Members, the Committee formulates its recommendations for submission to Council on the 19 December 2019.

4. REASONS FOR RECOMMENDATIONS

- 4.1 It is the responsibility of the Monitoring Officer to monitor the Constitution to ensure that the aims and principles of the Constitution are given full effect.

5. BACKGROUND PAPERS

Hartlepool Borough Council's Constitution
Council Minutes – 20 June 2019

6. CONTACT OFFICERS

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11. MOTIONS ON NOTICE

11.1 Notice

A Motion must be about a matter for which the Authority has a responsibility or which affects the Borough of Hartlepool.

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least five Elected Members, must be submitted to and received by the Chief Executive, or by electronic mail to the Chief Executive ~~during normal office hours~~ before 5pm at least ~~seven~~ clear working days before the date of the meeting.

~~These~~ The notice of motion will be entered in a book open to public inspection.

~~ii)~~ The number of motions before an Ordinary Meeting of Council shall not exceed ~~3~~ three subject to consultation with the Chair of Council and in accordance with Council Procedure Rule 11.1. ~~(i)~~ Where, subject to rule 11.2, more than three Motions are received, the Motions to be submitted to Council shall be determined in a manner of random selection which will determine also the order the Motions will be listed on the agenda, any remaining Motions on Notice shall be dealt with at the next ordinary meeting of Full Council.

11.2 Scope

The Chief Executive in consultation with the Chair of the Council, may reject a Motion if:-

i) it is not about a matter for which the Authority has a responsibility or which affects the Borough;
or

ii) it is out of order, illegal, irregular or improper; or

iii) it is defamatory, frivolous or offensive; or

~~iv)~~ it is substantially the same as a Motion which has been put at a meeting of the Full Council in the past six months and since when there has been no change of circumstances justifying the resubmission of the question ; or

v) it requires the disclosure of confidential or exempt information; or

vi) it is unreasonably excessive because of its length or its number of parts;

~~11.3 Motion set out in agenda Motions for which due notice has been given will be listed on the agenda in the order in which notice was received, unless the Elected Members giving notice states, in writing (including electronic mail), that they propose to move it at a later meeting or withdraw it.~~

~~11.34~~ Withdrawal of motion not moved If a motion set out in the agenda is not moved either by ~~an~~ the Elected Members who gave notice of it or some other Elected Member on his/her behalf shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

CPR9 – QUESTIONS FROM THE PUBLIC

At the meeting of Full Council held on 20 June, it was moved and seconded that the Constitution Committee be requested to consider changes to changes to Council Procedure Rules – Questions from the Public in relation to supplementary questions.

It was agreed that the issue of supplementary public questions be referred to this Committee. Members' views are invited.

Council	Public Qs and deadlines	Supplementary	Debate
MBC	Yes - deadline Pre Agenda circ.	Yes - 1	No - unless the Chair decides otherwise.
SBC	Yes - 7 days prior to meeting. No more than 2 per person/org.	Yes - 1	No - unless the Mayor decides otherwise.
RCBC	Yes - 10 days prior to meeting. No more than 3 per person/org.	Yes - 1	No - unless the Chair decides otherwise.
Sunderland	Yes - 6 days prior to meeting.	No	No
Newcastle	Yes - 2 days prior to meeting + right to address Council	No, but right of response to answer.	No - other than by restriction.
North Tyneside	Yes - 6 days prior to meeting.	Yes - 1	No
South Tyneside	Yes - 8 days prior to meeting. Only 1 per person inc on agenda.	Yes - 1	No

~~11.5 Remission to committee If in the view of the Chair of Council, in consultation with the Monitoring Officer, the subject matter of any Motion is the responsibility of any Committee or Committees it shall, upon being moved and seconded, stand referred without discussion to such Committee or Committees or to such other Committee or Committees as Full Council may determine, for consideration and report. Provided that the Chair may, if s/he considers it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting of Full Council, following consultation with the Monitoring Officer.~~