

# PLEASE NOTE VENUE

## CONSTITUTION COMMITTEE AGENDA



**27<sup>th</sup> November 2006**

**at 4.00 pm**

**in Committee Room "A"**

**MEMBERS: CONSTITUTION COMMITTEE:**

The Mayor, Stuart Drummond

Councillors Fenwick, Griffin, Hall, James, A Marshall, J Marshall, Preece, Tumilty, Richardson and Young

**1. APOLOGIES FOR ABSENCE**

**2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

**3. MINUTES**

- 3.1 To confirm the minutes of the meeting of the Constitution Committee held on 6<sup>th</sup> October 2006 (*attached*)
- 3.2 To receive the minutes of the meeting of the Constitution Working Group held on 10<sup>th</sup> November 2006

**4. ITEMS REQUIRING DECISION**

- 4.1 Co-Option of Children and Young Persons to Children's Services Scrutiny Forum – *Chief Solicitor*
- 4.2 Chairman – Absence from Council – *Chief Solicitor*

**5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

# CONSTITUTION COMMITTEE

## MINUTES AND DECISION RECORD

6<sup>th</sup> October 2006

### Present:

Councillor Richardson (In the Chair)

Councillors Fenwick, Hall, James, A Marshall, Preece and Tumilty

In accordance with Council procedure 4.2 Councillors Cook and Morris were in attendance as substitutes for Councillors Griffin and Young respectively.

Officers: Peter Devlin, Legal Services Manager  
Amanda Whitaker, Democratic Services Team Manager  
Joan Wilkins, Scrutiny Support Officer

### 55. Apologies for Absence

The Mayor and Councillors Griffin and Young

### 56. Declarations of interest by members

None

### 57. Minutes

- (i) The minutes of the meeting held on 7 September 2006 were confirmed.
- (ii) The minutes of the meeting of the Constitution Working Group held on 28<sup>th</sup> September 2006 were received.

### 58. Procedure for the Decision Making Route for Scrutiny Final Reports *(Assistant Chief Executive)*

The Scrutiny Manager sought endorsement from the Working Group with regard to the implementation of a procedure to be used for co-ordinating the Cabinet and other Committees' responses to Scrutiny Final Reports and recommendations, prior to consideration by the Constitution Committee.

The Scrutiny Co-ordinating Committee at its meeting on 30 June 2006, endorsed a refined procedure for the decision making route for all Scrutiny Final Reports and forwarded that revised procedure to the Constitution Working Group and, thereafter, the Constitution Committee, prior to Council approval, for inclusion in the Authority's Constitution. It was noted that the new procedure would strengthen the scrutiny processes already included in

the Constitution and would “close the loop” in terms of the executive reporting back to Scrutiny and providing update reports on progress made on the implementation of recommendations. The process had been recently piloted to test its robustness and had shown to work very well.

### **Decision**

The refined decision making route procedure for responses to Scrutiny Final Reports, to strengthen the current provision outlined in Authority's Constitution, was endorsed.

## **59. Proposed Selection Criteria – Dealing with Non-Mandatory Scrutiny Topic Referrals from the Authority's Regulatory Panels and Other Committees** *(Assistant Chief Executive)*

The Scrutiny Manager sought endorsement from the Working Group to the implementation of new selection criteria to be used when considering the appropriateness of undertaking a scrutiny investigation following receipt of a non-mandatory referral from the Authority's regulatory panels and other committees. This new procedure had been endorsed by the Scrutiny Co-ordinating Committee at its meeting on 30 June 2006 and also by Cabinet on 11 September 2006.

The new procedure built upon the Scrutiny Coordinating Committee's duty to consider the appropriateness of undertaking a scrutiny investigation, or not, following a referral from a Council regulatory panel or other committee. Under the new procedure the Scrutiny Co-ordinating Committee would assess suggested non-mandatory scrutiny topic referrals against the following proposed selection criteria:-

- (i) Affects a group of people living within the Hartlepool area;
- (ii) Relates to a service, event or issue in which the Council has direct responsibility for, significant influence over or has the capacity to act as public champion;
- (iii) Not be an issue which overview and scrutiny has considered during the last 12 months;
- (iv) Not relate to a service complaint; and
- (v) Not relate to matters dealt with by another Council committee, unless the issue deals with procedure and policy related issues.

### **Decision**

The proposed selection criteria was endorsed for inclusion in the Constitution.

## 60. **Business Report** (*Chief Solicitor*)

The information contained within the Business Report followed on from that received by Members of the Constitution Working Group at their meeting on 28<sup>th</sup> September 2006 and the recommendations from that Working Group.

### **(i) Response to Member Enquiries**

Members had indicated that they wish to establish a protocol to the effect that enquiries to officers by members should be responded to within the same 10 day timescale that applies to officers responses to enquiries from members of the public. Members of the Working Group agreed that a protocol should be established to require Members to respond to correspondence received from members of the public within 10 days, and in any event, for the avoidance of doubt a period not exceeding 10 days and that this protocol be monitored.

It was noted that compliance with the 10 day deadline was monitored by each department or division and, in the case of the Chief Executive's department is reported to the Portfolio holder as part of the Departmental Service Plan monitoring report. It was envisaged that monitoring agreements would be initiated in respect of responses to member enquiries. However, a mechanism for members reporting responses delivered direct rather than through the Members Services, would require close co-ordination of responses.

The Legal Services Manager agreed to forward, to the Chief Solicitor, concerns expressed by Members. As a result of those concerns, it was suggested that the protocol be amended to provide for the following:-

- Exemptions eg. Those occasions when a reply will not be sent and correspondence sent by e mail.
- Deadline to be 10 working days rather than 10 days.

### **Decision**

That the Legal Services Manager convey the issues raised by Members to the Chief Solicitor for inclusion in the protocol.

### **(ii) Honorary Alderman and Freeman – Process for Elections**

The Council had invited comments on the process for conferring the appointment of honorary freeman. Whilst responses received made nominations for such appointment, none contained representation on the procedure or process to be adopted.

The Legal Services Manager noted typographical errors highlighted by Members and agreed that the process would be amended accordingly.

### **Decision**

The procedure and process for election of Honorary Alderman and Freeman, as appended to the report, was approved.

### **(iii) Chairman – Absence from Council**

At the previous Constitution Committee, the Chairman had requested a report on the standing of the Chair of the Council, when an event e.g., illness (temporarily or otherwise) prevented the Chair presiding at a meeting of Council.

It is unavoidable that a Chairman of Council might be unable to continue to officiate part way through a meeting. In such circumstances, the options were determined by the expected duration of the Chairman's indisposition -

- (i) If it is expected to be of short duration, it would not be unreasonable for the Chairman to suspend the meeting for a few minutes whilst s/he recovers his/her composure the Chairman leaving the Council Chamber briefly for this purpose. The meeting would resume as soon as the Chairman feels fit to continue.
- (ii) However, if the Chairman's indisposition were to be of a duration that it would be unreasonable to proceed as in (i), then the Chairman would relinquish the chair to the vice chairman. The Chairman would be required to leave the Council Chamber as the Local Government Act 1972 (Schedule 12, para 5(1)) provides that when the Chairman is present at a meeting of the Council, s/he will preside.

In *Re Wolverhampton Borough Council's Aldermanic Election* (1961), which concerned an election of Aldermen for which the Mayor was a candidate, the Mayor vacated the chair just before the Council proceeded to the election of aldermen but he delivered a voting paper and remained in the Council Chamber.

The Court held; it was Parliament's intention that at a meeting of the Council the Mayor's place, and his only place, should be in the chair. When he is not in the Mayoral chair ... then, since his functions are one and indivisible, he has lost his right to exercise any of them so far as taking part in the meeting is concerned.

Members considered that the current statutory requirements, outlined in the report, were a 'nonsense' and that the situation needed to be highlighted on a national level.

### **Decision**

That a further report be submitted to the Committee.

### **(iv) Contract Scrutiny Panel – Remit**

At their meeting on the 9<sup>th</sup> March 2006 the Working Group discussed the role of the Contract Scrutiny Panel. The use of the term 'scrutiny' within the title of the Panel was considered to be misleading and something of a misnomer. Views were also expressed that instead of the members of the Panel being selected from a rota, the Panel should be appointed at the Annual Council meeting. It was further considered that Officers should ensure that all appropriate information be presented to the Panel particularly that relating to the examination of the outcome of

price/performance and partnering contracts letting provides. It was resolved that the role and remit of the Contracts Scrutiny Panel should be examined.

The Contract Procedure Rules contains the following entry regarding the function of the Contract Scrutiny Panel –

*“In order to ensure probity and transparency in the award of contracts, the Contracts Scrutiny Panel will participate in the letting of contracts by monitoring their compliance with the Contract Procedure Rules at a number of stages, both during and after the completion of the contract procedure. In respect of any contract the Panel will have the responsibility:*

- *To receive and examine tenderers lists*
- *To open tenders*
- *To receive and examine reports on the outcome of price/performance and partnering contracts letting procedures”*

The point made by members on 9<sup>th</sup> March 2006 was that whilst the Panel had a role during the contract letting process – and members were of the view that that role itself was unclear – its activities did not amount to a ‘monitoring’ role. Members commented that no information was presented to the Panel as to the course of the contract, following the letting process. The Panel were therefore unable to examine compliance, and financial issues arising during the life of a contract. Although the relevant portfolio holder would receive information on a regular basis which would reveal on-going problems with a particular contract, members felt that examination of such issues by the Contract Scrutiny Panel would be a valuable role in assisting the Council to manage its contracts portfolio.

Members reiterated their concerns in relation to the current operation of the Panel including the following:-

- Delete the word scrutiny from the title of the meeting
- Training for members of the Panel
- Concerns regarding membership of the Panel being based on rota system
- Member involvement

The recommendations made by the Working Group at its meeting on 28<sup>th</sup> September were therefore supported.

### **Decision**

That the role of the Contracts Scrutiny Panel be reviewed in detail by the Working Group.

C RICHARDSON

CHAIRMAN

## CONSTITUTION WORKING GROUP

10<sup>th</sup> November 2006

### **Present:**

Councillor Richardson (In the Chair)

Councillors Hall, James, A Marshall, J Marshall and Preece

Also present: In accordance with Council Procedure Rule 4.2, Councillor M Waller as substitute for Councillor Griffin and Councillor Dr Morris as substitute for Councillor Young.

Officers:- Tony Brown, Chief Solicitor  
John Robinson, Children's Fund Manager  
Amanda Whitaker, Democratic Services Team Manager

### 22. APOLOGIES FOR ABSENCE

The Mayor, Stuart Drummond and Councillors Fenwick, Griffin and Tumilty

### 23. DECLARATIONS OF INTEREST

None

### 24. MINUTES

The minutes of the meeting held on 28<sup>th</sup> September 2006 were confirmed.  
The following matters arising from the minutes were discussed:-

- (i) Response to Member Enquiries – Difficulties associated with the monitoring of e-mails, to Members, were highlighted. It was noted that e-mails were not always received via the Council's e-mail system as some went direct to the personal e-mail addresses of Members. Therefore, whilst appreciating the intention to provide a better service, in the absence of the ability to effectively monitor e-mails, it was recognised that it may not be appropriate, at this stage, to include e-mails in the monitoring of Member responses to enquiries.

Following concerns expressed in relation to responsibility for dealing with correspondence from constituents that Members had

been advised not to respond to, it was suggested that it would be appropriate for a general Statement of Service to be compiled.

The Chief Solicitor undertook to provide, to a future meeting of the Working Group, a first draft of a Statement of Service dealing with the rights and responsibilities of both Members and Constituents in their relationships with each other.

It was noted that there were occasions when Members received correspondence on planning issues and it was questioned whether, within the Protocol, reference could be made to the limitations of Members who are members of the Planning Committee.

## 25. BRIEFING PAPER (*Chief Solicitor*)

### (i) Local Strategic Partnership (LSP)

At an earlier meeting of the Constitution Committee, Members had expressed concern regarding the role of Council representatives on the Local Strategic Partnership. Members were concerned that members of the Council's Executive were effectively committing to proposals considered by the LSP before any consideration was given to the proposals in their executive role.

Members had expressed a desire to examine the current processes, together with accountability concerns and this matter had been included in the working group's work programme. Members were invited to clarify their concerns in this respect, but, in the meantime, the initial comments of the Mayor and the Chief Executive had been sought.

Tabled at the meeting was a 'Preliminary Briefing Note' prepared by the Head of Community Strategy. The Chief Solicitor suggested that Members have the opportunity to consider that briefing note and that a further report be submitted to a future meeting of the Working Group. The Chief Solicitor drew attention, however, to the fact that the paper raised issues regarding the relationship of the Council and the Local Strategic Partnership which were of some importance but which were outside the remit of the Constitution Working Group. It was highlighted, however, that issues associated with the Local Strategic Partnership had been the subject of an enquiry by the Regeneration and Planning Services Scrutiny Forum. It was considered that the Working Group should, therefore, refer the briefing note to the Scrutiny Forum and defer consideration of this item until the views of Scrutiny Forum had been sought.

RECOMMENDED - That consideration of this item be deferred until the briefing paper had been considered by the appropriate Scrutiny Forum.

### (ii) Reporting Mechanisms



At an earlier meeting of the Constitution Committee, it was highlighted that the General Purposes Committee and the Standards Committee did not appear to have any 'reporting mechanisms'.

The current arrangement, whereby Committees of the Council do not routinely submit their minutes to Council, as they did previously, dated from the adoption of the executive management arrangements in 2002. It was the recollection of officers' that in the months prior to the adoption of the arrangements, consideration was given to a wide range of procedural matters at a Constitution Steering Group of Members and officers, charged with drafting the Constitution for ultimate submission to Council for approval. The change in procedure from submission of all committee minutes, as previously, to the submission of committee reports only when approval or action by Council is required, was undoubtedly considered by the steering group. The revised approach was consistent with the role of Full Council under the new model Constitution, as developed by the government department of the time – DETR.

Concern was expressed that if the General Purposes Committee and the Standards Committee acted under delegated authority, Members would not necessarily be aware of those decisions under current arrangements. Accountability and Performance Management issues, associated with Members not receiving copies of minutes, were highlighted. The Chief Solicitor agreed to come forward, to the Working Group, with some proposals.

RECOMMENDED – That the Chief Solicitor submit a report to a future meeting of the Working Group to address the issues of concern highlighted by the Working Group.

## 26. THE PARTICIPATION AND INVOLVEMENT OF CHILDREN AND YOUNG PEOPLE IN CHILDREN'S SERVICES SCRUTINY FORUM (*Director of Children's Services and Chief Solicitor*)

At their meeting on 1<sup>st</sup> September 2006 the Children's Services Scrutiny Forum had agreed to recommend that children and young people be involved in the Forum. The Children's Services Scrutiny forum recognised that certain factors had to be implemented in order to ensure that participation of children and young persons be effective. These pre-requisites included -

- The timing of meetings,
- the level of formality at meetings,
- easy-to-read minutes, media awareness training,
- annual seminars linked to others similar initiatives,
- involvement of young people already involved in the U.K. Youth Parliament, and finally
- reflection of the arrangements as necessary in the Constitution. –  
"That the Terms of Reference (including the formal membership) for the Scrutiny Forum are re-written to reflect the involvement of children and young people and any of the above points that are agreed. This will be an ongoing process that will be driven by a

group from children's services, democratic services and corporate strategy with input from Children's Services Scrutiny Chair."

The remainder of the Briefing Note, therefore, concentrated on features relevant to the Constitution. There were 2 parts of the Constitution which required to be amended to accommodate the proposals of the Children's Services Scrutiny Forum –

Part 3 – Responsibilities for Functions – Children's Services Scrutiny Forum; and

Part 4 – Rules and Procedures – Overview and Scrutiny Procedure Rules.

With regard to Part 3, Appendix 1 comprised the current statement in Part 3 - Responsibilities for Functions, relating to the Children's Services Scrutiny Forum in which had been inserted a section referring to the proposed 6 Children and Young Persons representatives. No other change was considered to be necessary.

With regard to Part 4, - Overview and Scrutiny Procedures Rules – there were 2 places in either of which reference to the Children and Young Persons representatives could conveniently be inserted –

Para 4, which deals with education co-opted members generally and to which could be added a further paragraph, para 4.6, in the terms of Appendix 3; or

Para 12, which deals with public participation and to which the same paragraph set out in Appendix 3 could be added (para 12.2, the existing paragraph being numbered 12.1).

Paragraph 4 of the Overview and Scrutiny Procedure Rules arose out of statutory requirement and guidance, and had relevance not only to the Children's Services Scrutiny Forum, but also to the Scrutiny Co-ordinating Committee and other scrutiny forums. Para 12 referred to members of the public and other stakeholders and thus could be an appropriate location. On balance the Chief Solicitor's suggestion was that para 12 be extended as suggested in Appendix 3. Appendix 3 was considered by the Chief Solicitor to include the essential 'constitutional' elements of the Scrutiny Forum's proposals, omitting practical and operational features of the proposals.

Members discussed issues associated with the involvement of children and young people in the Forum, with particular reference to the selection process in respect of the children and young people who are to be invited to join scrutiny. Members who had been involved in the scrutiny process clarified the detailed process undertaken by the Scrutiny Forum. It was highlighted also that the final report of the Forum, which addressed the issues highlighted by Members, had been considered and subsequently adopted by the Council. Members' clear preference was that the importance of the inclusion of children and young persons representatives be enhanced by their inclusion in Para 4 at sub-para 1 rather than Para 12.

RECOMMENDED – That the amendments to the Constitution be agreed as follows:-

- Part 3 – Responsibility for Functions relating to the Children's Services Scrutiny Forum – a section to be inserted referring to the proposed 6 Children and Young Persons representatives (as set out in Appendix 1)
- Part 4 - Overview and Scrutiny Procedure Rules – Heading of Paragraph 4 to refer to 'Co-optees – Education and Children and Young Persons representatives'. Paragraph 4.1 to include additional category at (iv) and Paragraph 4.2 to be amended accordingly – authority was delegated to the Chairman to approve the final wording of amendments.

C RICHARDSON

CHAIRMAN

# CONSTITUTION COMMITTEE

27<sup>th</sup> November 2006



**Report of:** Chief Solicitor

**Subject:** CO-OPTION OF CHILDREN AND YOUNG PERSONS TO CHILDREN'S SERVICES SCRUTINY FORUM

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## 1. PURPOSE OF REPORT

To invite the Committee to give consideration to the recommendation of the Constitution Working Group to amendments to the Constitution arising from the proposal to include children and young persons as co-opted members of the Children's Services Scrutiny Forum

## 2. BACKGROUND

Following considerable consideration, the Children's Services Scrutiny Forum have decided to adopt proposals to include 6 children and young persons as co-opted members of the forum. The co-optees, who would be members of and nominated by the Young Voices Group, would not have voting powers. Each co-optee would have an elected member mentor. Other adjustments to the procedures of the forum would be adjusted so as to accommodate the co-optees.

## 3. PROPOSALS

The Constitution will need to be amended to make provision for the arrangements to be adopted by the Children's Scrutiny Forum. The Constitution Working Group have considered the changes necessary which affect the Constitution at –

Part 3 Responsibilities, for Functions – Children's Services Scrutiny Forum; and  
Part 4 – Rules and Procedures – Overview and Scrutiny Procedure Rules.

Appendix 1 sets out revised entries accommodating the alterations approved by the Working Group, and, in respect of the changes to the Overview and Scrutiny Procedure Rules, approved also by the Chairman of the Working Group as directed.

**4. RECOMMENDATIONS**

That the Committee recommend the proposed changes to Council.

**5. BACKGROUND PAPERS**

Constitution – Part 3 Responsibilities, and Part 4 Overview and Scrutiny Procedure Rules

**8. CONTACT OFFICER**

Tony Brown Chief Solicitor

## APPENDIX 1

**CONSTITUTION PART 3 – RESPONSIBILITY FOR FUNCTIONS CHILDREN'S SERVICES SCRUTINY FORUM****PROPOSED ENTRY**

<b>Children's Services Scrutiny Forum</b>	
<b>Membership:</b>	<p><b>11</b></p> <p><b>Councillors:- Shaw (Chair), Preece (Vice-Chair), Brash, S Cook, Fleet, Griffin, Laffey, London, Rogan, M Waller, Young.</b></p> <p>1 C of E Diocese representative – Jesse Smith</p> <p><b>1 Roman Catholic representative – David Relton</b></p> <p><b>2 Parent Governor representatives – Elizabeth Barradough (primary sector) (term of office ends February, 2008). Vacancy (secondary sector) (term of office ends February, 2008)</b></p> <p><b>Resident Representatives:</b> <b>To be appointed.</b></p> <p><b>Children &amp; Young Persons Representatives</b> <b>6 members of the Hartlepool Young Voices Group nominated by that group</b></p>
<b>Quorum:</b>	<b>4 Councillors (drawn from at least two political group) + 1 voting co-opted member.</b>
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
To consider issues relating to specialist (intervention), targeted (prevention) and universal services for children and young people.	

## OVERVIEW AND SCRUTINY RULES – PARAGRAPH 4

### **4 Co-optees - education representatives and children and young persons representatives**

4.1 The Children's Services Scrutiny Forum shall include in its Membership the following:

(a) Education representatives ("statutory co-optees"), namely:-

i) One Church of England diocese representative

ii) One Roman Catholic diocese representative

iii) Two parent governor representatives (one primary sector, one secondary sector)

and

(b) 6 Children and young persons representatives, being members of and nominated by the Hartlepool Young Voices Group who shall be entitled to speak on any matter being discussed but not vote. For each Children and Young Persons representative a councillor member of the Forum will be identified by the Forum to act as mentor.

4.2 The statutory co-optees will be able to vote on matters concerning education functions which are the responsibility of the executive. They will also be able to attend meetings of the forum and speak where other matters are discussed but not vote.

4.3 Where the Scrutiny Co-ordinating Committee is examining an education function which is the responsibility of the executive, one diocesan representative and one parent governor representative will be entitled to attend that meeting. The representatives will be selected on the basis of a rota. They will be entitled to speak and vote on the education function item(s) and speak on other items at that meeting of the co-ordinating committee. In exceptional circumstances it may be appropriate to override the rota system. This may only be approved with the consent of the Monitoring Officer.

4.4 In addition to the statutory co-optees, five advisors on education issues will also be available to the forums. These are:

- a higher education representative
- a further education representative
- three teacher representatives

- 4.5 When a forum is examining an issue relating to education it may request the attendance of any of these advisors to assist the forum in its work. As advisors these representatives will be able to attend forum meetings when requested and speak at meetings but not vote.



# CONSTITUTION COMMITTEE

27<sup>th</sup> November 2006



**Report of:** Chief Solicitor

**Subject:** CHAIRMAN – ABSENCE FROM COUNCIL

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## 1. PURPOSE OF REPORT

To invite the Committee to give further instructions regarding the statutory requirement that the Chairman must occupy the Chair when he is present at a Full Council meeting.

## 2. BACKGROUND

Members are referred to the Minutes of the previous meeting which outlines the issues discussed and at which Members considered that the current statutory requirements, outlined in the report, were a 'nonsense' and that the situation needed to be highlighted on a national level.

## 3. PROPOSALS

The principal methods of seeking alteration of existing statutory provision are -

- Representations through the Member of Parliament
- Referral to the Local Government Association for their views and support

## 4. RECOMMENDATIONS

The Committee consider the options for steps towards amendment of the relevant legislation

**5. CONTACT OFFICER**

Tony Brown Chief Solicitor

## APPENDIX 1

**CONSTITUTION PART 3 – RESPONSIBILITY FOR FUNCTIONS CHILDREN'S SERVICES SCRUTINY FORUM****PROPOSED ENTRY**

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