

CONSTITUTION COMMITTEE

AGENDA



Friday 1 July 2022

at 2.00 pm

Committee Room “B”,
Civic Centre, Hartlepool.

Those wishing to attend the meeting should phone (01429) 523568 or (01429) 523019 by midday on 30 June 2022 and name and address details will be taken.

You should not attend the meeting if you are displaying any COVID-19 symptoms (such as a high temperature, new and persistent cough, or a loss of/change in sense of taste or smell), even if these symptoms are mild. If you, or anyone you live with, have one or more of these symptoms you should follow the [NHS guidance on testing](#).

CONSTITUTION COMMITTEE:

Councillors Allen, Brown, Cook, Cowie, Howson, Little, Moore, Morley 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 held on 22 November 2021
4. **ITEMS REQUIRING DECISION**
 - 4.1 Business Report (*Chief Solicitor/Monitoring Officer*)
5. **ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**

CIVIC CENTRE EVACUATION AND ASSEMBLY PROCEDURE

In the event of a fire alarm or a bomb alarm, please leave by the nearest emergency exit as directed by Council Officers. A Fire Alarm is a continuous ringing. A Bomb Alarm is a continuous tone. The Assembly Point for everyone is Victory Square by the Cenotaph. If the meeting has to be evacuated, please proceed to the Assembly Point so that you can be safely accounted for.

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

22 November 2021

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

Present:

Councillor Moore (In the Chair)

Councillors Brown, Hall, Harrison, Picton and Stokell.

Councillor Richardson was in attendance as substitute for Councillor Howson.

Officers: Hayley Martin, Chief Solicitor
Amanda Whitaker, Legal and Democratic Services Team
Manager

8. Apologies for Absence

Councillors Howson, Little and B Loynes.

9. Declarations of interest by Members

None.

10. Minutes

The minutes of the meeting held on 6 July 2021 were confirmed.

11. Further Periodic Review of the Council's Constitution *(Monitoring Officer)*

It was reported that the Council's 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." On 23 September, an e mail had been sent to all Elected Members to invite comments and suggestions on any matters which they felt should be canvassed prior to Full Council to assist in the determination of recommendations to review and revise the Constitution. The report addressed issues which had arisen since the

previous review of the Constitution and the comments and suggestions received from Elected Members as follows:-

| Proposal/Issue | Current Position | Constitution Reference | Referred by |
|--|---|--|--------------------------------------|
| 1. Election Cycle – change to an election every 4 years. | Election of a third of all Elected Members held each year, except every fourth year when no election is held. | Article 2 | Constitution Committee – 6 July 2021 |
| <p>The Local Government and Public Involvement in Health Act 2007 (as amended by the Localism Act 2011) requires that Full Council pass a resolution to consult such persons as the council think appropriate (s33(2)) to move to whole council elections. The Act does not specify the form of consultation required; only that the Council determine that it is reasonable. Good practice guidance on consultation exercises suggests that a 12 week period would be appropriate. Once consultation has been completed a special meeting of Full Council is required to be convened for a motion which must then be approved by a two thirds majority of members voting and must also specify the first year to be a whole council elections.</p> <p>Elected members noted the financial savings that would be achieved by changing to an election every 4 years and discussed when they considered it would be appropriate for the first year of whole Council elections.</p> <p>Committee Recommendation:</p> <p>That the election cycle be changed whole council elections with effect from May 2024, when the term of office of all currently elected members will have expired.</p> | | | |
| Proposal/Issue | Current Position | Constitution Reference | Referred by |
| 2. Increase the number of members on Audit and Governance Committee to 11 elected members permanently for the next municipal year following increase in workload | Currently 7 elected members. | Part 3 – Responsibility for Functions. | Councillor Cook |
| | | | |

On the 30 September 2021, Full Council had agreed to increase membership of the Audit and Governance Committee for the remainder of the Municipal year from 7 to 10 due to the increased workload.

The Committee discussed the rationale for the proposal to increase the membership and agreed that the recent increase in membership to 10 be monitored prior to any further increase in the membership of the Committee.

Committee Recommendation:

That the committee membership be changed permanently to 10.

| Proposal/Issue | Current Position | Constitution Reference | Referred by |
|-----------------------------------|--|------------------------|-------------------|
| 3. Public Questions at Committees | There is currently no provision in the Constitution covering public questions at Committee meetings. | N/A | Managing Director |

Members of the public attending committee meetings are often invited by the Chair to ask questions/seek clarification on matters being discussed. Currently there is no formal process and public questions are not an item on the agenda.

Following clarification from the Managing Director and Chief Solicitor with regard to the issue, elected members agreed the process should be formalised to ensure consistency is adopted at Committee meetings.

Committee Recommendation:

That provision be included in the Council Procedure Rules to set out that the public may ask questions at Policy committee meetings in relation to the items on the agenda with a time limit of 4 minutes to include asking and responding to the question.

| Proposal/Issue | Current Position | Constitution Reference | Referred by |
|---|---|----------------------------------|---|
| 4. Supplementary questions are reinstated to the original number of two. Their removal has damaged the democratic process | Under Rule 9.7 a questioner may ask one supplementary question for clarification purposes only without notice | Part 4 – Council Procedure Rules | Constitution Committee 6 th July & email Councillor Brash |

| and has allowed Councillors to simply give pre-scripted answers to questions, with no opportunity for the public to follow up and genuinely probe their elected representatives. | being given. The supplementary question must arise directly from the original question or reply. | | |
|--|--|----------------------------------|---|
| <p>Members were asked to consider increasing the number of supplementary questions and scope.</p> <p>Following discussion on issues arising from this issue, support was expressed for up to two supplementary questions which should arise directly from the original question or response for clarification purposes.</p> <p>Committee Recommendation:</p> <p>That Rule 9.7 be amended to a questioner may ask ‘up to two supplementary questions without notice for clarification purposes. The supplementary question must arise directly from the original question or reply.</p> | | | |
| Proposal/Issue | Current Position | Constitution Reference | Referred by |
| 5. Members of the public should be allowed to ask their own questions, instead of having it read for them. | Under Rule 9.7 the Managing Director is required to read out the question. | Part 4 – Council Procedure Rules | Constitution Committee 6 th July & email Councillor Brash |
| <p>Members were asked to consider changing rule 9.7 to ‘The member of the public read out their question (if present).’</p> <p>The Committee expressed support for this issue.</p> <p>Committee Recommendation:</p> <p>That the member of the public be given the choice to read out their own question or allow the Managing Director to read out the question.</p> | | | |

| Proposal/Issue | Current Position | Constitution Reference | Referred by |
|--|---|----------------------------------|---|
| 6. The deadline for submission of public and member questions should be reduced (noon on the day prior to the Council meeting). | A question from the public or an elected member on notice may only be asked if notice has been given by delivering it in writing or by electronic mail to the Managing Director no later than noon on the Thursday of the week before the meeting | Part 4 – Council Procedure Rules | Constitution Committee 6 th July & email Councillor Brash |
| <p>Members were asked to consider changing the notice period in rule Rule 9.2 (Notice of Public Question) and Rule 10.2 (Questions on Notice at Full Council) to: 'no later than noon the day before the meeting'</p> <p>The Committee discussed issues associated with reducing the submission deadlines. It was also highlighted at the meeting that there was provision in the Constitution for urgent questions to be submitted to Full Council.</p> <p>Committee Recommendation:</p> <p>That Rule 9.2 and 10.2 do not change. This is on the basis that the Rules referred to allow any urgent questions or issues to be raised outside of the specified timeframes at the Chairs discretion.</p> | | | |
| Proposal/Issue | Current Position | Constitution Reference | Referred by |
| 7. The public should have the facility to ask questions WITHOUT notice, just as Councillors are allowed to do, but only, as with Councillors, if it relates directly to a recent decision (made since the last meeting). | There is currently no provision in the Constitution to cover this issue. | N/A | Constitution Committee 6 th July & email Councillor Brash |

| <p>Currently under Rule 10.1 elected members are able to ask the Chair of a Committee a question without notice about a recent decision of a committee. There is no equivalent provision regarding questions from members of the public.</p> <p>Members were asked to consider the introduction of public questions without notice on recent decisions of a Committee.</p> <p>Elected Members debated issues arising from the proposal with some members supporting the proposal to promote openness and transparency. The majority of elected members questioned the rationale for the proposal and referred to the functions of Full Council.</p> <p>Committee Recommendation: Members voted with the majority not accepting of this change.</p> | | | |
|---|--|------------------------|------------------|
| Proposal/Issue | Current Position | Constitution Reference | Referred by |
| 8. The leader of the council should be required to answer questions on any aspect of council business, in exactly the same way as the elected mayor did and hold monthly leader's questions for councillors and public. | There is currently no provision in the Constitution to cover this issue. | N/A | Councillor Brash |
| <p>There is no provision in the Constitution specifically regarding questions to the Leader.</p> <p>Members were asked to consider the introduction of a 'Questions to the Leader' item in the agenda for Full Council.</p> <p>Members voted with the majority not accepting of this change on the basis that our governance arrangements are different to the elected mayor model and that the Leader holds weekly surgeries Tuesday 4pm-5pm where the public can ask questions.</p> | | | |

Committee Recommendation:**That the proposal/issue not be supported.**

| Proposal/Issue | Current Position | Constitution Reference | Referred by |
|---|--|------------------------|------------------|
| 9. All Councillors should be able to be questioned, not just those who hold certain posts, about the work they are involved in. In the new committee system nearly all Councillors have a role in decision making and therefore those that are should be accountable to the public and be prepared to answer questions about the work of any committee they serve upon. | There is currently no provision in the Constitution to cover this issue. | N/A | Councillor Brash |
| <p>As set out above under rules only Chairs of Committee's can be asked questions at meetings of Full Council.</p> <p>Members were asked to consider changing this to 'any Elected Member'</p> <p>Whilst acknowledging that all elected members should be accountable it was debated whether full Council was the appropriate meeting to be questioned. Some members promoted the proposal to ensure openness and transparency.</p> <p>Committee Recommendation:</p> <p>Members voted with the majority not accepting of this change.</p> | | | |
| Proposal/Issue | Current Position | Constitution Reference | Referred by |

| 10. Issue of Elected Members signing up to a voluntary sanctions scheme to be considered as part of Annual Constitution Review. | There is currently no provision in the Constitution to cover this issue. | N/A | Council – 30 September 2021 |
|---|--|------------------------|-----------------------------|
| <p>The sanctions available to a Council are limited and no longer include the power to suspend an Elected Member who is found to be in breach of the Code of Conduct. The document appended to the report 'Assessment Criteria for Complaints' set out the sanctions available.</p> <p>Committee Recommendation:</p> <p>Members supported this proposal but need to consider details of proposal.</p> | | | |
| Proposal/Issue | Current Position | Constitution Reference | Referred by |
| 11. That Members sign a document to agree that they have read and understand the Code of Conduct and Nolan Principles | The Code of Conduct automatically applies once a Member signs their declaration of acceptance. However we do not request that Members sign to say that they have read and understood the Code. | N/A | Councillor Leisa Smith |
| <p>Members were asked to consider incorporating this proposal in to the Members induction process so that all Members sign to say they have read, understand and will comply with the Code of Conduct.</p> <p>Committee Recommendation:</p> <p>That the Member Code of Conduct be included with a candidates election pack and at Member Induction, a statement be signed to say that they have read and accept the Code.</p> | | | |
| Proposal/Issue | Current Position | Constitution Reference | Referred by |
| 12. Redundancy Delegation | Currently decisions on compulsory redundancy are delegated from Full | Finance and Policy | Managing Director |

| | Council to Finance and Policy Committee. | Committee Delegation: (8) The final decision, post consultation, on any staffing proposals requiring compulsory redundancy of one or more staff. | |
|--|--|---|--------------|
| <p>Members were asked to consider amending the delegation to delegate post consultation, the final decision on compulsory redundancy (excluding the statutory officers which are reserved to Full Council by law) to the Managing Director as the Head of Paid Service.</p> <p>The Managing Director advised on the rationale for the change to the delegation with support for the change expressed by the Committee.</p> <p>Committee Recommendation: That the delegation be amended to: That the Managing Director makes the final decision (post consultation) on any staffing proposals requiring compulsory redundancy of one or more staff (excluding the statutory officers).</p> | | | |
| Proposal/Issue | Current Position | Constitution Reference | Referred by |
| 13. Home to School Transport | There is currently no reference to Home to School Transport Appeals in the Constitution. | N/A | Dem Services |
| <p>It was proposed that responsibility for hearing home to school transport appeals be delegated to Audit and Governance Committee as currently these do not fall within the remit of any other committee.</p> <p>Committee Recommendation: That Home to School transport Appeals be included under the function of Audit and Governance Committee. Any appeals will be considered by a sub-committee appointed by the Audit and Governance Committee. .</p> | | | |

Member Champion's

Further to minute 5 of the meeting held on 6 July 2021, the Committee received an update on the outcome of the public consultation with the results of the consultation appended to the report.

Committee Recommendation:

That as the remit of the majority of Member Champions reflected specific policy area remits, the Champion roles be allocated to the Chair or Vice Chair of the appropriate Committee, unless it is considered more appropriate for another member of that Committee to be appointed to the role.

Prior to the meeting closing, the Managing Director advised that as requested by elected members, a report would be submitted to the Committee regarding arrangements relating to the Ceremonial Mayor and civic transport.

The meeting concluded at 3.55 p.m.

CHAIR

CONSTITUTION COMMITTEE

1 July 2022



Report of: Chief Solicitor/Monitoring Officer

Subject: BUSINESS REPORT

1. PURPOSE OF REPORT

To seek a view from the Committee regarding proposed changes to the Constitution

1.1 Member Champions

The Committee is requested to consider a referral made at the Annual Council meeting for the Committee to consider the list of member champion appointments. Details of Member Champion Appointments are set out in Part 7 of the Constitution (**Appendix 1**). The Armed Forces and the Veterans Champions are required in accordance with the Armed Forces Covenant.

Members will recall that at the meeting of the Committee held on 6 July 2021, it was agreed that in order to inform the review of Member Champions, residents of the Borough to be consulted on their 'top 10 priorities' through the Your Say, Our Future approach and that the remaining Member Champion appointments be held vacant until the conclusion of the review. Consultation was subsequently undertaken with limited response.

The outcome of the consultation was reported to this Committee on 22 November 2021 when it was agreed that as the remit of the majority of Member Champions reflected specific policy area remits, the Champion roles be allocated to the Chair or Vice Chair of the appropriate Committee, unless it is considered more appropriate for another member of that Committee to be appointed to the role.

The Committee is requested to further consider the Member Champion appointments.

RECOMMENDATION

Following the referral from Council, the Committee is requested to consider any changes to the list.

2.1 Irrecoverable Debts – Write Off

Strategic Financial Management reports, considered by Finance and Policy on a regular basis, includes monitoring of income collection, including sundry debts and Collection Fund. These reports give members reassurance that the Authority has a good recovery record and strives to collect all debt raised. Long term collection rates remain high and as a consequence the level of write offs remain low. Despite the robust processes in place, inevitably a number of accounts become irrecoverable each year. Writing off sums deemed irrecoverable is considered good financial practice since it enables the financial position of the Authority to reflect the reality that these debts are unlikely to be paid.

However where write-off is required, the Financial Procedure Rules, set out in the Constitution, provide that any debt due to the Authority of £1,000 or more can only be written-off with the agreement of the Finance and Policy Committee. This write-off value, requiring Member approval, is a lower value than in other councils which have a higher limit, or delegate this responsibility to officers.

All debts proposed to be written-off from the accounting records are comprehensively scrutinised by officers. Historical accounting provisions have been created against which these debts can be written off and if any payment is subsequently received in respect of any of the individual debts, the relevant debt will also be reinstated onto the council's financial systems.

In order to streamline the write off process, improving the timeliness of entries into the Authority's financial systems, and ultimately reducing the duplication of performance reporting to Finance and Policy, it is proposed that the write off values for irrecoverable debts are reviewed.

RECOMMENDATION

That, based on the average set by other Local Authorities, the Committee consider increasing the threshold for write-off value for irrecoverable debts to £50,000.

3.1 Annual review of Constitution

Elected Members will be aware that the Council's Constitution at Article 13 ("Review and Revision of the Constitution") requires the following:-

"The Constitution Committee will periodically review the operation of the

Constitution in conjunction with the Authority's Monitoring Officer who will monitor the constitution to ensure that the aims and principles of the Constitution are given full effect.

In conducting a periodic review of the Authority's Constitution the Constitution Committee should submit a report (the report to be presented by the Monitoring Officer to Full Council) before the September meeting (or a meeting approximate thereto) to ensure that any new Elected Members have undertaken their induction."

The views of the Committee are sought on issues to be considered as part of the Annual Review of the Constitution.

5. BACKGROUND PAPERS

Constitution Committee Minutes – 22 November 2021

6. CONTACT OFFICERS

Hayley Martin
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| | <u>Organisation</u> | <u>2021/22 Membership</u> | <u>2022/23 Nominations</u> |
|--|---|---|---|
| | <u>Champions</u> | | |
| | Armed Forces Champion | (1) Cllr Price | (1) Cllr Cowie |
| | Veterans Champion (Term of Office expires September 2022) | (1) Mr Michael Male | (1) Mr Michael Male |
| | Heritage Champion (Member of Planning Committee) | (1) Cllr Young (Chair) or Cllr Brown (Vice Chair) Planning Committee | (1) Defer – refer to Constitution Committee |
| | Mental Health Champion | (1) Cllr Moore, Chair Health and Wellbeing Board | (1) Defer – refer to Constitution Committee |
| | Older Persons Champion (Chair of Adult and Community Based Services Committee) | (1) Cllr Fleming (Chair) or Cllr Little (Vice Chair) Adult and Community Based Services Committee | (1) Defer – refer to Constitution Committee |
| | Refugee Champion | (1) Cllr Moore (Chair) or Cllr Stokell (Vice Chair) Finance and Policy Committee | (1) Defer – refer to Constitution Committee |
| | Looked After Children Champion | (1) Cllr Lindridge (Chair) or Cllr Harrison (Vice Chair) Children's Services Committee | (1) Defer – refer to Constitution Committee |
| | Animal Rights Champion | (1) Cllr Stokell (Chair) or Cllr Price (Vice Chair) Neighbourhood Services Committee | (1) Defer – refer to Constitution Committee |
| | Anti-Social Behaviour Member Champion | (1) Cllr Stokell (Chair) or Cllr Price (Vice Chair) Neighbourhood Services Committee | (1) Defer – refer to Constitution Committee |