

# CONSTITUTION COMMITTEE

## AGENDA



**21 November 2022**

**at 2.00 P.M.**

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

CONSTITUTION COMMITTEE:

Councillors Allen, Brown, Cook, Cowie, Howson, Little, Moore, Morley and vacancy

- 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 1 July 2022 (*attached*)
- 4. ITEMS REQUIRING DECISION**
  - 4.1 Further Periodic Review of the Council’s Constitution (*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

1 July 2022

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

**Present:**

Councillor Moore (In the Chair)

Councillors: Allen, Brown, Cook, Cowie, Howson, Little and Morley

Officers: Hayley Martin, Chief Solicitor  
James Magog, Assistant Director - Finance & Customer Services  
Amanda Whitaker, Democratic Services Team

### 1. Apologies for Absence

Councillor Young

### 2. Declarations of interest by Members

None

### 3. Minutes

The minutes of the meeting held on 22 November 2021 were confirmed

### 4. Business Report (*Chief Solicitor/Monitoring Officer*)

The report sought recommendations from the Committee regarding proposed changes to the Constitution with regard to the following:-

**Irrecoverable Debts – Write off** – The Committee was advised that Strategic Financial Management reports, considered by Finance and Policy on a regular basis, included 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.

The Chair advised elected members that the Finance and Policy Committee had previously questioned the rational for submission of reports to Committee as the debts submitted had been comprehensively scrutinised and the Committee had, at that stage, little option other than to write off the debts.

The Committee debated issues arising from the proposal. In response to clarification sought from the Committee, the Assistant Director provided further background information, reiterated the benefits of increasing the threshold and advised that he did not consider there to be any risks associated the proposal. Elected members were assured that if the proposal to increase the threshold was increased, the comprehensive scrutiny of debts would continue.

### **Decision**

It was agreed, with no dissent, to recommend to Council that the threshold for write-off value for irrecoverable debts be increased to £50,000.

**Member Champions** – A referral had been made at the Annual Council meeting for the Committee to consider the list of member champion appointments. Details of Member Champion Appointments, as set out in Part 7 of the Constitution, were appended to the report. It was noted that the Armed Forces and the Veterans Champions are required in accordance with the Armed Forces Covenant. The Chief Solicitor referred elected members to previous consideration by the Committee on 6 July 2021, when consultation had been undertaken with limited response. The outcome of the consultation had been

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.

Whilst Elected Members expressed support for the previous decision of the Committee. It was reiterated that it was appropriate for the Member Champion to be the Chair or Vice Chair of the relevant Committee, unless there was an interest from another elected member to fulfil the role.

The Committee considered each of the Member Champions listed in the Constitution. Elected Members also considered the role of the Champions with specific reference to whether Member Champions should be required to submit reports to Full Council.

**Decision** – It was agreed, with no dissent that Full Council:-

- (i) Agree Member Champions to be the Chair or Vice Chair of the relevant Committee, unless there was an interest from another elected member to fulfil the role.
- (ii) Agree that the following Member Champions be deleted from the list included in the Constitution:-
  - Animal Rights Champion
  - Anti-Social Behaviour Champion
- (iii) Agree a strong recommendation from the Committee that Member Champions give a verbal or written update to Full Council or relevant Committee.

### **Annual review of Constitution**

Elected Members were reminded of the requirements set out in the Council's Constitution at Article 13 ("Review and Revision of the Constitution") for the Committee to periodically review the operation of the Constitution in conjunction with the Authority's Monitoring Officer. The views of the Committee were sought on issues to be considered as part of the Annual Review of the Constitution.

The Chair of the Committee advised that he was minded to suggest that as there is no legal requirement to review the Constitution annually, it should instead be reviewed every two years. It was noted that the Constitution authorised the Monitoring Officer to make such minor, factual, grammatical and other changes necessary to comply with legislation and statutory guidance. Other Elected Members expressed the view that it was good governance for the Constitution to

continue to be reviewed annually. The Chair of the Audit and Governance Committee supported that view and reiterated it was good governance for the Constitution to be annually reviewed.

**Decision** – It was agreed:-

- (i) That the Committee continue to periodically review the operation of the Constitution in conjunction with the Authority's Monitoring Officer.
- (ii) That for this year, unless an issue is raised through year, no further review is required this year

The meeting concluded at 3.00 p.m.

CHAIR

# CONSTITUTION COMMITTEE

21 November 2022



**Report of:** Monitoring Officer

**Subject:** FURTHER PERIODIC REVIEW OF THE COUNCIL'S CONSTITUTION

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## 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 15 December 2022.

## 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."
- 2.2 On 1 July, 2022, the Committee recommended a number of changes to the Constitution. It was agreed also agreed that for this year, unless an issue is raised through year, no further review is required this year. This report addresses issues which have arisen since that meeting of the Committee.

## 3. PROPOSALS

- 3.1 The following issues have arisen since the Committee met last:-

### **Parish Council Liaison Group**

Since 17 August 2021, the Leader has been holding Parish Liaison Meetings. The Parish Council Liaison Meeting is an opportunity for Parish Councils in the Hartlepool area, to meet together to discuss issues of common interest.

Members are asked to consider formalising these meetings by adding a further role to the list set out in Article 6 – Leader of the Council as follows:

- (i) To chair meetings of the Parish Liaison Group with the Managing Director and the Chairs/Vice Chairs of the Parish Councils on a quarterly basis'

The Committee is also requested to note that one of the items currently being discussed by the Parish Liaison Group is the agreement of a Charter / Deal between the Local Authority and the Parishes that lays out expectations for the operational relationship between both sides. A Parish Charter Working Group has been created to progress the development of the Parish Deal which is to be agreed by the Parish Liaison Group. Any changes/proposals recommended by the Working Group which has an impact on a Committee will be reported to the appropriate Committee.

### **Officer Employment Procedure Rule 12.1 - Other Officers – Appointments**

The Committee will be aware that the Officer Employment Rules of Procedure set out the Authority's governance arrangements for the recruitment and dismissal of, and the taking of disciplinary action against, officers. The Majority of those rules relate to the Head of Paid Service, Directors and Chief Officers reporting directly to them. However, Section 12 relates to the appointment of 'Other Officers' as follows:-

"Appointment of all other Officers is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Elected Members. An invitation at the request of the Chair and/or Vice Chair of a relevant Committee to attend at the interview or otherwise be consulted on a Band 15 appointment would be permissible but the responsibility of appointment will solely rest with the Head of Paid Service or his/her nominee."

The Committee is requested to consider approval of the deletion of the above paragraph.

### **Council Motions**

The Council Procedure Rules currently states that the Managing Director 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 factually incorrect; 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;

The Committee is requested to consider updating above as indicated and adding the following:-

#### *11.3 Motions which commit the Authority to new or additional expenditure*

- (a) *Members moving a motion at Council the net effect of which, if accepted, is to commit the Authority to new or additional expenditure or cause loss of income shall before moving such motion clearly demonstrate that they have taken appropriate officer advice on all the following issues*
  - (1) *whether or not the proposal set out in the motion is within current budgets,*
  - (2) *what the implications of incurring the expenditure or loss of income would be,*
  - (3) *if not within current budgets how any expenditure or loss of income is to be funded and*
  - (4) *any change in priorities as a result of the proposal. The relevant information and consequences of the proposal must be clearly set out in the motion together with the fact that, in voting for the motion, Members will also be voting to amend the previously agreed expenditure or income and/or change in priorities for the services or areas affected.*
- (b) *Failure to comply with the above requirements in total means that the motion cannot be implemented until such time as the requirements are met.*

### **Planning Delegations (Enforcement & Certificate of Lawfulness)**

At present, decisions to issue an Enforcement Notice under the Planning Acts fall to be determined by members of the Planning Committee. At a recent meeting, the Committee resolved that these matters should be determined at officer level.

The Council sometimes receive (Certificate of Lawfulness) applications to establish that development carried out is lawful under the Planning Acts or process formal applications to establish if or not a particular development would require planning permission. The Chief Solicitor has reviewed the current delegation provisions and is satisfied that it is appropriate to amend the same in order to provide clarification going forward.

The following amendments to the Scheme of Delegation are therefore proposed:-.

- That any decision to issue an Enforcement Notice under section 172 of the Town and Country Planning Act 1990 (as amended) and the formulation and pursuance of the Council response to any subsequent appeal under section 174 of the Town and Country Planning Act 1990 (as amended) henceforth be delegated to the Director of Neighbourhoods and Regulatory Services in consultation with the Chief Solicitor.
- That consideration of an application for a Certificate of Lawfulness (Existing or Proposed) under sections 191 or 192 of the Town and Country Planning Act 1990 (as amended) and formulation and pursuance of the Council case at any subsequent appeal under section 195 of the Town and Country Planning Act 1990 (as amended) henceforth be delegated to the Director of Neighbourhoods and Regulatory Services in consultation with the Chief Solicitor.

#### **4. BACKGROUND PAPERS**

Hartlepool Borough Council's Constitution

#### **5. CONTACT OFFICERS**

Hayley Martin  
[Hayley.martin@hartlepool.gov.uk](mailto:Hayley.martin@hartlepool.gov.uk)  
01429 523002