

PLEASE NOTE VENUE

CONSTITUTION COMMITTEE AGENDA



30 March 2007

at 2.00pm

**in Committee Room "A",
Civic Centre**

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 26 January 2007 (attached)
 - 3.2 To receive the minutes of the meeting of the Constitution Working Group held on 19 March 2007 (To Follow)
4. **ITEMS REQUIRING DECISION**
 - 4.1 Review of Financial Procedure Rules – *Chief Financial Officer (To Follow)*
 - 4.2 Proposed Amendments to Constitution – *Chief Solicitor*
 - 4.3 Statement of Service – *Chief Solicitor (To Follow)*
5. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

26th January 2007

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

Present:

Councillor: Carl Richardson (In the Chair)

Councillors: Jonathan Brash, Gerard Hall, Ann Marshall, George Morris, Arthur Preece and Victor Tumilty.

In accordance with Council procedure 4.2 Councillor Jonathan Brash was in attendance as substitute for Councillor Sheila Griffin and Councillor Dr Morris was in attendance as substitute for Councillor Young.

Officers: Tony Brown, Chief Solicitor
Amanda Whitaker, Democratic Services Manager

67. Apologies for Absence

Apologies for absence were received from The Mayor, Stuart Drummond, Councillors Marjorie James, Sheila Griffin and David Young.

There was concern raised by Members with regard to the non-attendance of Members appointed on Committees and the fact that apologies were not always submitted. The Chief Solicitor indicated that the statutory requirement was that a Member must attend one Council meeting within a six-month period and that all attendances were recorded by the Democratic Services Team. However, he added that this procedure would be investigated further and reported back in more detail to a future meeting. The Chief Solicitor clarified that the requirement to attend a Council meeting may be discharged by attendance of a Council, committee or sub-committee meeting.

68. Declarations of interest by Members

None.

69. Confirmation of the minutes of the following meetings:

Constitution Committee – 27th November 2006 – confirmed
Constitution Working Group – 12th January 2007 – confirmed.

70. Local Strategic Partnership – Partnership Scrutiny Investigation Action Plan *(Chief Solicitor)*

The Chief Solicitor presented a report which outlined the background to Members concerns in relation to the role of Council representatives on the Local Strategic Partnership. A Preliminary Briefing Note had been prepared by the Head of Community Strategy and considered at the meeting of the Constitution Working Group on 10th November 2006. It had been highlighted that issues associated with the Local Strategic Partnership had been included within an inquiry by the Regeneration and Planning Services Scrutiny Forum and it had been agreed that consideration of this issue by the Working Group be deferred until the briefing paper had been considered by this Forum. It had been understood that the briefing paper was due to be considered at the Regeneration and Planning Services Scrutiny Forum on 23rd January 2007. However, this had been an error and consideration of this issue was not due to be undertaken until the meeting of the Scrutiny Forum on 23rd February 2007. In light of this, the Chief Solicitor suggested that more detailed consideration of this issue by this Committee be deferred until this had been undertaken.

Decision

The Committee noted the position and awaited feedback from the Regeneration and Planning Services Scrutiny Forum from their meeting on 23rd February 2007.

CARL RICHARDSON

CHAIRMAN

CONSTITUTION WORKING GROUP

19 March 2007

The meeting commenced at 4.00 p.m. in the Civic Centre, Hartlepool

Present:

Councillor Carl Richardson (In the Chair)

Councillors Gerard Hall, Marjorie James, Ann Marshall, John Marshall, Arthur Preece and Victor Tumilty.

Also Present Councillor Dr George Morris as substitute for Councillor David Young.

Officers: Tony Brown, Chief Solicitor
Mike Ward, Chief Financial Officer
Joanne Smithson, Head of Community Strategy
Christine Armstrong, Central Services Manager
David Cosgrove, Principal Democratic Services Officer

30. Apologies for Absence

Councillors Fenwick, Griffin and Young.

31. Declarations of Interest

None.

32. Minutes of the Meeting of the Working Party held on 12 January 2007

Confirmed.

33. Briefing Paper – Chief Solicitor

The Chief Solicitor outlined two issues previously considered at the Constitution Working Group and the links between which were recognised at the meeting of the Regeneration and Planning Scrutiny Forum on 23rd February 2007.

(a) Local Strategic Partnership (LSP)

At an earlier meeting of the Constitution Committee, the Committee 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.

At the meeting of the Constitution Working Group on 10th November 2006, there was tabled 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 LSP that 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.

On 23rd February 2007, the Regeneration and Planning Services Scrutiny Forum considered the Head of Community Strategy's paper. The following views expressed in the discussion are relevant –

- Members are not aware of an occasion when Elected Members have disagreed with the decisions of the Partnership.
- Recent developments, in the Local Government White Paper and through the development of Local Area Agreements, mean that more and more power is moving to the Partnership. Consequently, some Members were concerned that a 'democratic deficit' may emerge,
- Councillors are the most directly accountable representatives in the locality.
- The Partnership's potential to shape and influence decisions prior to a decision being taken by the Council's Executive.
- LSP represents a variety of interests and the various stakeholders (including Elected Members, Chairs and Vice-Chairs of the Neighbourhood Forum, and Community and Voluntary Sector representatives) on the Partnership
- Theme Partnerships have different accountabilities and represent different constituencies.
- Members of the Partnership and Theme Partnerships have clear responsibilities, which are set out in Terms of References.
- Partnership meetings are open to the public.

In conclusion, the Regeneration and Planning Services Scrutiny Forum surmised that they share some of concerns expressed by the Constitution Working Group and Constitution Committee. In addition, it was argued that

better Member feedback from the Partnership may allay some of the concerns expressed by Members. Indeed this was a recommendation from the Regeneration and Planning Service Scrutiny Forum's report into Partnerships that is currently being developed:

“Rec (t) That informal (quarterly) meetings are arranged to enable elected representatives sitting on Partnerships to feedback on their involvement in these partnerships to other Elected Members and resident representatives.”

(b) Partnerships Scrutiny Investigation – Action Plan

At the working group meeting on 12th January 2007, the Chief Solicitor submitted a briefing paper informing the group of the relevance to the working group of the Partnerships Scrutiny Investigation, Action Plan – Appendix 3. The Working Group decided to defer further consideration of the action plan until the Regeneration and Planning Scrutiny Forum had considered the L.S.P. paper as discussed earlier in this briefing paper.

The Action Plan included a number of entries which sought consideration by this Working Group, namely

- That the Council seeks to strengthen the feedback mechanisms (to the Local Authority) for its representatives on the Regional Assembly.
- That the attendance records of all Members i.e. Councillors on partnerships be produced as a public document.
- That where possible Councillors attending events across the town take the opportunity to feedback the work and success of the partnerships in which they are involved.

The Chief Solicitor indicated that Members of the Working Group may consider that the concerns expressed in relation to the impact of the L.S.P. on the Council's executive decision making process would be sufficiently addressed by the implementation of the action points contained in the Partnership Scrutiny Investigation Action Plan. If members considered it appropriate, provisions could be inserted into the introductory paragraphs to Part 7 of the Constitution – “Outside Bodies” to specify what is expected of members appointed to the principal bodies to which appointments are made. This could cover arrangements for feedback from the appointed members and for the records of attendance to be available in the same way as currently in relation to attendance at committees etc. With regard to the Regional Assembly, it may be that consideration could be given to the minutes of the Assembly being presented to Council on a periodic basis.

Members considered that they supported the Scrutiny Forum's recommendations but were concerned to ensure that a mechanism for feedback was in place. Members were concerned that Councillors on the LSP could be presented with information prior to its submission to the Council which they may reach a view upon and indicate that in LSP

meetings. Once presented to the Council, the information could be seen in a new light with Members expressing a contrary view, which could make individual Councillors and the authority look foolish.

The Chief Solicitor commented that there was an issue of how elected members on the LSP discharged their duties though it was at this time difficult to recommend any course of action to the Working Group without further information. Members considered that additional information on the LSP 'constitution' was necessary. The Working Group also hoped that the LSP could understand the concerns being expressed by the Working Group and how there was a desire to avoid any potential future difficulties.

The Chief Solicitor indicated that he, in consultation with the Head of Community Strategy, would present a further report to the next Working Group

34. Briefing Paper – Contract Scrutiny Panel – Review of Remit – Chief Solicitor

The Chief Solicitor indicated that at earlier meetings of the Working Group, consideration had been given to the review of the remit of the Contract Scrutiny Panel. The concept of review had initially arisen from comments made by members of the Contract Scrutiny Panel who appeared to perceive a wider role for the Scrutiny Panel and wished the working group to explore options for further involvement of the Panel in the procurement process. The Chair of the Contracts Scrutiny Panel, Councillor Geoff Lilley, was present at the meeting.

The Scrutiny Panel were asked to address and clarify their views further at the meeting of the Panel on 19th January 2007. Members were invited to express their views on the review of the remit of the Panel and the manner of appointment of members of the Panel. Members expressed the viewpoint that Contract Scrutiny Panel meetings were a meaningless formality, regarded as a chore by Councillors. The membership of the Panel changed so often that there was no chance for any consistency or ownership amongst members and it was suggested that a longer tenure would improve this situation. It was also felt desirable for Councillors to have more of an involvement in the decision-making process with officers, something which the Chief Solicitor reported had been expressed during a previous overhaul of Contract Scrutiny Panel. Other suggestions made included a requirement for one member only (possibly an executive member) to supervise the opening of tenders. However, concerns were raised that this would place too much pressure on the member concerned. The Chief Solicitor went on to consider Members' two main points in relation to the Panel.

The Purposes of the Contract Scrutiny Panel.

Despite Officers' diligence and integrity, reinforced with sound Contract Procedure Rules, the letting of contracts is one of the areas of local

government administration that are most vulnerable to abuse and corrupt practices. The sums of money involved in local authority contracts are vast, and the opportunities for securing profits for contractors by manipulation of contract procedures are many and various. Officers and others involved in the procurement procedure may be exposed to corrupt approaches from interested contractors to interfere with the process in a variety of ways to improve the prospects of success for a dishonest contractor.

Contract Procedure Rules are designed to diminish the opportunity for irregular and corrupt practices. It is, therefore, in the interests of both the Council and those involved in the procurement process that the procedures are generally followed. Additionally, it is important that the procurement process is transparent and monitored on a regular and rigorous basis.

The current arrangements, involving a contract scrutiny panel, were adopted at the time of introduction of the new executive management arrangements now in force. The letting of contracts is clearly an executive function and, in the absence of local checks and balances, the new executive arrangements had the potential for a single member to have immediate control over

- The decision to undertake a project involving the letting of a contract
- The determination of the specification and budget
- The receipt of tenders
- The selection of the successful tenderer
- Monitoring of the contract

It was felt that these responsibilities would make a member unduly vulnerable and that, although non-executive members could not be involved in any decision-making capacity, their involvement in a monitoring role would go a significant way to maintaining the transparency and integrity of the contracting process. The new procedures therefore continued the involvement of non-executive members in the opening of tenders, and provided a series of points within the contracting process at which reports are necessary. Involvement in this way at least gives non-executive members an opportunity to examine and raise issues, which is a merit in its own right – however, it also acts as a deterrent to corruption and unnecessary departure from the Council Procedure Rules.

Can the purposes of the Contract Scrutiny Panel be provided for by other, more convenient, arrangements?

The Chief Solicitor indicated that he was not aware that any other authority has taken a similar approach to Hartlepool Borough Council. Examination of the constitutions of a number of authorities on the internet reveals that Hartlepool appears alone in having a Contract Scrutiny Panel. The constitutions examined generally take the approach that contract opening is a matter for officers and there does not appear to be a body of members charged with overseeing contract procedures generally. In one case, the letting of Council contracts above a threshold (£50,000) is dealt with by an Executive Committee. In many authorities, scrutiny of contracts is clearly

undertaken by one or other of the authority's overview and scrutiny committees.

The Chief Solicitor commented that while there were many models of dealing with procurement issues, the Working Group may wish to explore these and other options before developing further the remit of the Contract Scrutiny Panel.

The Chair commented that Members of the Panel did frequently feel frustrated at not being able to question officers on contracts. The rotation of member's on the Panel also removed any consistency. The Chair of the Contracts Scrutiny Panel, Councillor Geoff Lilley, commented that he had been informed by some contractors that it was very difficult to get on the Council's approved list of contractors. Councillor Lilley believed that the approved tenderers list were 'very clean' and had no evidence that they were not. However, there must be areas of concern but as the current Panel had little ability to investigate them, then there was possibly cause for this function to be transferred to a sub group of the Scrutiny Coordinating Committee.

Members agreed that the 'scrutiny' element of the Panel's name was something of an anomaly as it had no power at all to scrutinise tenders or contracts. The rotation of Members was a weakness and perhaps if the Panel was to continue in some revised form, then a permanent membership would be preferred. This would allow for a group of members who could receive training and develop knowledge and understand of the workings of the Council's Contracts Procedure Rules. A different situation for the future of the Panel was proposed, with it becoming a sub group of the General Purposes Committee.

During the discussion, members raised significant concerns at some of the practices that had allegedly occurred in the appointment of substitutes to meetings of the Contracts Scrutiny panel. Members were concerned that the Council Procedure rules were being flouted in order to ensure a quorum for Panel meetings.

The Chief Solicitor highlighted to the Working Group that the Panel did have a wider remit than just 'opening envelopes' and explained the wider elements of the Panel's remit. There were, however, obvious reasons to review the Panel and its operation. The Chief Solicitor indicated that the name of the Panel was one thing, that following Members comments, needed to be changed, as did the 'location' of the Panel within the wider Committee structure of the Council. The Chief Solicitor indicated that he would produce a further report for the Working Group examining these issues and potential revisions, and additions, to the Panel's remit for further consideration.

35. Briefing Paper – Chief Personnel Officer

Display of Civic Robes and Regalia

The Central Services Manager reported that at the meeting of the Constitution Working Group held on 31 March 2005 Members welcomed the proposals for the inclusion of a display cabinet for display of civic robes and regalia in the main reception area at the Civic Centre. The display cabinets have now been installed in the Civic Centre within the Hartlepool Connect contact centre. The cabinets are fitted to museum standard and have removable shelving to allow robes, the mace and other larger items to be displayed.

A programme needed now to be agreed on the items to be displayed. Submitted as Appendix A to the report was an extract of the inventory of the civic regalia and items donated by other organisations. The Hartlepool Civic Society has advised that they would like to see all items of regalia, including robes, chains and maces, to be displayed along with photographs of former mayors and a copy of their letter dated 14 November was submitted.

After taking advice from the Museum Service, suggestions for organising a display programme include having themed displays of items from individual organisations or displaying a couple of items from each collection. It is planned to rotate the displays every 3-6 months.

Examples of themed displays are –

1. Hartlepool Borough Council - robes, maces, chains and silverware
2. Military - Durham Light Infantry, 118 Field Squadron, Royal Navy
3. Hebrew Silver
4. Ad hoc - Former Mayors, Freemen and Honorary Aldermen medallions, scrolls etc

Alternatively, a couple of items from each collection could be displayed together and again these would be rotated on a 3-6 month basis.

Civic Regalia - Council Website

The Central Services Manager went on to report that all of the items held by the Council were currently being photographed and would shortly be uploaded onto the Council's website. General background information about the civic regalia would be included and each photograph would be accompanied by a brief description of each item together with its historical details.

Members were concerned that there was no specific budget to care for and display the authority's civic regalia. Other authorities had permanent displays and Members considered that Hartlepool needed to make more of the town's significant history by displaying its civic regalia much more

prominently. Members were also concerned that the design of the display Cabinets had changed since the plans shown to Members at earlier meetings. The Working Group was reassured that the Cabinets installed were of a very high security standard.

Members welcomed the proposal to include photographs of many of the items on the website and hoped that it could be extended to include some of the other items of value, such as books, that were of importance to the town's civic history. Members did feel that many of the items that the Council held on behalf of other groups should perhaps be returned or passed on to more appropriate organisations so they may be displayed in better context. Examples of this were some of the military silver held by the Council.

Following a detailed debate, the Working Group agreed that

- The displays of the Council's civic regalia should commence at the earliest opportunity.
- That officers explore the potential of a specific budget for the management of the authority's civic regalia.
- That a working group be established to review the civic regalia held by the Council and to establish a policy for its future retention, display and/or return to those who could be established as having a more appropriate ownership of certain items than the Council. It was suggested that representatives from Hartlepool's history societies be co-opted onto the group. Councillors James, J Marshall, Preece and Tumilty were nominated as the Councillor representatives to the group.

36. Review of Financial Procedure Rules – Chief Financial Officer

The Chief Financial Officer reported that it was necessary to review the Council's current Financial Procedure Rules (FPRs) as set out in the Constitution. The report set out for the Working Group the changes proposed to FPRs in order to meet the requirements identified when completing the Statement on Internal Control (SIC) for 2005/06. The Chief Financial Officer guided Members through the proposed amendments to the FPR's which had been considered by the Corporate management Team and the Audit Committee at its meeting on 4 January 2007.

Through the debate on the individual changes, members suggested the following further amendments to the FPR's. The other changes outlined in the document, and highlighted in red, were supported by the Working Group.

2.8 Paying Staff and Members

2.8.1 (iv) The Chief Executive authorise all changes in Chief Officer pay.

3.3 Monitoring of Revenue Income and Expenditure

3.3.3 (iv) To ensure that where the approved budget for a service area under a single Director's control is anticipated to be insufficient to meet

forecast commitments, to transfer resources between service areas in accordance with the budget transfer rules detailed in section 4.5 and where appropriate to seek approval of transfers within the quarterly monitoring reports submitted to Cabinet and Scrutiny.

3.5.3 (iv) To ensure that where the approved budget for a specific scheme is anticipated to be insufficient to meet forecast commitments, to transfer resources in accordance with the budget transfer rules detailed in section 4.5 and where appropriate to seek approval of transfers within the quarterly monitoring reports submitted to Cabinet and Scrutiny.

4.5 Budget/Reserves Transfers and Contingencies

4.5.1 (second paragraph) All transfers must be notified to the Chief Financial Officer for his agreement prior to his actioning those transfers in the Accounting System. All transfers must leave the originating budget with sufficient funds to meet its commitments within that the current financial year and not affect the sustainability of the service in future years.

4.5.4 Revenue Transfers

4.5.4 (i) Changes to staffing structures need to be approved in accordance with the relevant Council policy and be approved by the relevant Director, the Chief Executive, CPSO and CFO and must be wholly sustainable. No permanent staffing changes can be approved from reserves without Cabinet approval. Approval to fill all vacant posts must be granted by the Monitoring of Vacancy Panel prior to the commencement of the recruitment process.

4.5.6

The Working Group discussed the transfer of managed revenue underspends in detail. This was an area that the Audit Committee had highlighted as warranting further discussion during their review of the proposed changes to the FPR's. Members proposed a percentage level of 10% or £500,000, whichever was the lower, should be imposed. The Chief Financial Officer highlighted that Directors still had the facility to transfer funds to the Strategic Change Reserve outside of these restrictions.

Members commented that it appeared that departments could consistently carry forward 10% budget savings year after year. The Chief Financial Officer indicated that this area was very carefully managed and scrutinised by internal audit officers. Controlled underspends could be used over a number of years to build funding for service improvements that couldn't otherwise be provided within a single financial year. The Chief Financial Officer assured Members that financial probity within departments was encouraged and monitored.

4.5.8 Capital Transfers

The Working Group debated in detail the proposed amounts that could be transferred from one project to another as proposed within the report. Members considered that rather than the bands proposed within the report, a percentage figure would be more appropriate. It was proposed that a 10% maximum be imposed, together with a revision to paragraph 4.5.9.

The Chief Financial Officer indicated that this could mean very minor schemes would require Council approval if they strayed over the 10% margin. Members agreed that the revision should be “10% or £500,000, whichever was the higher”. This would ensure that significant transfers were reported to Council. The Chief Financial Officer suggested that a similar control should be applied to Revenue Transfers.

4.5.9 Transfers between capital and revenue are allowed subject to the continued delivery of the capital program and compliance with capital accounting regulations and specific funding arrangements and approved by the CFO and reported through the internal audit and scrutiny process.

The Working Group agreed the proposed amendments to the Financial Procedure Rules, as set out in the report, other than those amended above, be reported to the Constitution Committee for consideration prior to submission to Council.

37. Any Other Items the Chair Considers are Urgent

The Chair raised two issues which he requested be reported to the Constitution Committee.

Extraordinary Meetings of Council

The Chair requested that an amendment to the Constitution be considered to allow increased flexibility in the calling of Extraordinary meetings of the Council. Days other than the accepted practice of Thursday for Council meetings should be permitted, as should times other than 7.00pm as specified in the Constitution. The Working Group supported the Chair's proposal.

Nomination of Substitutes

The Chair suggested that the current rule in relation to the nomination of substitutes being required to be submitted 24 hours in advance of a meeting should be relaxed to allow increased flexibility to members. The Chair considered that the requirement that a Member appointing a substitute should contact the Chief Executive's Department in advance of the meeting stating who their appointed substitute was for a specific meeting should remain. This would ensure that substitutes were only appointed in accordance with Members' wishes but would allow Members to react to changes in their circumstances on the day of a meeting which, under the current rules, they were prevented from doing. The Working Group supported the Chair's proposal.

C RICHARDSON

CHAIRMAN

<p style="text-align: center;">CONSTITUTION COMMITTEE</p> <p style="text-align: center;">30th March 2007</p>
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Report of: Chief Financial Officer

Subject: REVIEW OF FINANCIAL PROCEDURE RULES

1. PURPOSE OF REPORT

1.1 To inform the Constitution Committee of the necessity to review the Council's current Financial Procedure Rules (FPRs) as set out in the Constitution. The report sets out the changes proposed to FPRs in order to meet the requirements identified when completing the Statement on Internal Control (SIC) for 2005/06.

2. BACKGROUND

2.1 The Council needs to have suitably robust financial arrangements in place both corporately and at a department level to demonstrate appropriate control procedures exist to manage services and risks, with the FPRs providing this framework.

2.2 As part of the evidence gathering process for the 2005/06 SIC, it was felt that in order to maintain the highest levels of financial probity and best practice the current FPRs would need to be updated. There are also new initiatives and challenges that face the Council, such as partnership working and the arrangements for dealing with grant income, that now need to be included.

2.3 The proposed changes have been reported to and agreed by CMT at their meetings of 23.10.06 and 4.12.06. The proposed changes have also been reported to the Audit Committee at their meeting of 4.01.07. Constitution Working Group considered the changes proposed and comments made by the Audit Committee at its meeting of the 19.03.07, with amendments requested by Constitution Working Group detailed in *italics* in Appendix A.

3. RECOMMENDATIONS

3.1 Members views are sought on the proposed changes to FPRs.

Appendix A

2.2 Internal Audit

- 2.2.1 The Chief Financial Officer has a statutory responsibility for the overall financial administration of the Council's affairs and is responsible for maintaining an adequate and effective internal audit.
- 2.2.2 Internal Audit is an independent and objective appraisal function established by the Council for reviewing the authority's system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
- 2.2.3 In undertaking its work, Internal Audit is independent in planning and operation and carries out its activities in accordance with the CIPFA Code of Practice for Internal Audit and any other relevant guidance.
- 2.2.4 In carrying out the internal audit function the Chief Financial Officer, or their authorised representative, has authority, subject to any statutory limitations, to:
- i) Enter at all times any Council land or premises;
 - ii) Have access to all documents, correspondence and other records relating to the finances of the Council and apply any test or check deemed necessary;
 - iii) Require and receive from employees, Members or other persons, information and explanations concerning any matter under examination;
 - iv) Require any employee of the Council to produce any cash, stores or other property of the Council under the employee's control.
- 2.2.5 Chief Financial Officer's responsibilities:
- i) Maintain Strategic and Annual audit plans taking account of relative risk and in consultation with the Chief Executive, Directors and Chief Officers;
 - ii) Ensure that Internal Audit have access at reasonable times to all Council premises, records, documents and staff for information and explanations;
 - iii) Where appropriate report to Members on any audit recommendations the Chief Executive, Directors and Chief Officers have formally stated they will not implement or have not been implemented within six months of agreement;
 - iv) Report annually to the Audit Committee on the main issues raised by Internal Audit during the year;
 - v) Investigate promptly any fraud or irregularity brought to their attention and report to the Head of Paid Service.
- 2.2.6 Responsibilities of Directors and Chief Officers:

- i) To ensure that Internal Auditors are given access at all reasonable times to premises, records, documents and staff for the purposes of their work and liaise and co-operate with Internal Auditors on service specific issues;
- ii) To consider and respond promptly to audit recommendations, confirming in writing they have been implemented or formally stating why they will not be implemented.
- iii) Notify the Chief Financial Officer immediately of any suspected fraud or irregularity. Take all necessary steps to prevent further loss and secure records for any investigation.

2.8 Paying Staff and Members

2.8.1 Staff costs form the largest single element of the Council's expenditure and appropriate controls are necessary to ensure that payments are only made in accordance with the appropriate terms and conditions. Accordingly the Council has the following controls:

- i) The calculation of all payments to staff/Members must be done by the Chief Financial Officer supported by appropriate Personnel/Legal advice;
- ii) All appointments must be made in accordance with appropriate terms and conditions;
- iii) All appointments must have adequate budget provision;
- iv) All prime documents used to calculate pay must be signed by the individual and authorised by an appropriate budget holder or their nominee;
- v) All payments to Members must be in accordance with the approved scheme of allowances;
- vi) The Chief Executive authorises all *changes in Chief Officer pay.*
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2.9 Preventing Financial Irregularities

2.9.1 In administering its responsibilities, the Council is committed to the prevention of financial irregularities and in its Anti Fraud and Corruption Strategy, issued from time to time, Council makes it clear that the Council will not tolerate fraudulent or corrupt acts committed either by its officers, Members, or those companies or organisations with which it does business.

2.9.2 The Council's expectation on propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to rules, procedures and Codes of Conduct.

2.9.3 The Council has in place a network of systems and procedures to cover its stewardship of public funds responsibilities and it maintains a continuous overview of the adequacy of its corporate governance arrangements through its Internal and External Auditors.

2.9.4 The Council's "Whistleblowing Arrangements" issued from time to time, provide the opportunity for issues to be raised in a confidential manner. In addition, the Council operates defined protocols, such as the

procedures to comply with the Proceeds of Crime Act, setting out individual responsibilities for reporting and the subsequent investigation of irregularities.

2.9.5 Chief Financial Officer's responsibilities:

- i) Maintain adequate and effective audit arrangements;
- ii) Periodically review the Council's policies on Fraud and Corruption;
- iii) Ensure irregularities are appropriately investigated and are reported to the Head of Paid Service to determine what further action should be instigated.

2.9.6 Responsibilities of Directors and Chief Officers:

- i) Ensure all staff are aware of the Council's Anti Fraud and Corruption Strategy;
- ii) Ensure that all suspected irregularities are reported to the Chief Financial Officer and if appropriate, the Monitoring officer.

3.3 Monitoring of Revenue Income and Expenditure

3.3.1 Having determined budgets that set out how the Council intends to achieve its objectives it is important to monitor the performance of actual income and expenditure against those budgets. This is a continuous process to ensure that resources are used to their best effect. In relation to income it is important to ensure that all income is accounted for and in relation to expenditure that differences are explained and understood. The analysis of differences should enable budget holders to ensure that appropriate action to bring budgets back on track is taken. Often at the detail level this may not be possible within the financial year and the relevant Director will need to consider transfers from other budgets within their control.

3.3.2 Responsibilities of the Chief Financial Officer:

- i) To ensure that monitoring reports are available to budget holders;
- ii) To ensure that corporate level budgets are monitored;
- iii) To determine the format of monitoring reports for Scrutiny and or Executive;
- iv) To report on major differences or trends that have a significant impact on the overall finances of the Council;
- v) To operate and maintain an effective Financial Management system;
- vi) To provide Directors and Chief Officers with appropriate advice and guidance.

3.3.3 Responsibilities of Directors and Chief Officers:

- i) To ensure that adequate budget provision exists for all expenditure prior to it being incurred;
- ii) To ensure that each detailed budget has a nominated budget holder;
- iii) To monitor budgets within their service areas;

- iv) To ensure that where the approved budget for a service area under a single Directors control is anticipated to be insufficient to meet forecast commitments, to transfer resources between service areas in accordance with the budget transfer rules detailed in section 4.5 and where appropriate to seek approval of transfers within the quarterly monitoring reports submitted to Cabinet *and also Scrutiny Coordinating Committee to ensure transparency.*
- v) To inform the Chief Financial Officer of any major differences of actual from planned income or expenditure.

3.5 Monitoring of Capital Income and Expenditure

3.5.1 Having set a Capital Programme to achieve its Capital Strategy it is important to monitor the performance of actual physical progress, income and expenditure against the Programme. This is a continuous process to ensure that resources are used to their best effect and not lost, as some external funding is limited to specific financial years. In relation to Capital income, which can take the form of grants or credit approvals, it is important to ensure that all income is received and accounted for within the right financial year. Physical progress should be monitored, as this is a leading indicator of real expenditure on schemes. The analysis of differences between expected spends and actual should enable budget holders to ensure that appropriate action to bring budgets back on track is taken. If this is not possible then the relevant Director will need to consider transfers to or from other budgets within their control. If this is not possible then the Chief Financial Officer should be informed to enable the programme to be rebalanced.

3.5.2 Responsibilities of the Chief Financial Officer:

- i) To ensure that monitoring reports are available to budget holders;
- ii) To determine the format of monitoring reports for Scrutiny and or Executive;
- iii) To report on major differences or trends that have a significant impact on the overall finances of the Council;
- iv) To ensure so far as possible the overall Programme is balanced and that the Council suffers no loss of resources;
- v) To provide Directors and Chief Officers with appropriate advice and guidance.

3.5.3 Responsibilities of Directors and Chief Officers:

- i) To ensure that adequate budget provision exists for all expenditure prior to it being incurred;
- ii) To ensure that each detailed budget has a nominated budget holder;
- iii) To monitor projects and their budgets within their service areas;
- iv) To ensure that where the approved budget for a specific scheme is anticipated to be insufficient to meet forecast commitments, to transfer resources in accordance with the budget transfer rules detailed in section 4.5 and where appropriate to seek approval of transfers within

the quarterly monitoring reports submitted to Cabinet *and also Scrutiny Co-ordinating Committee to ensure transparency.*

v) To inform the Chief Financial Officer of any major differences of actual from planned income or expenditure.

3.5.4 Responsibilities of Director of Neighbourhood Services:

- i) To manage the contracting process for building works;
- ii) To monitor projects physical and financial performance and take action as necessary;
- iii) To manage the disposal of surplus land and buildings in accordance with the Capital Strategy.

4.5 Budget/Reserves Transfers & Contingencies

4.5.1 The Council sets budgets for both Revenue and Capital expenditure; equally the Council holds reserves for earmarked purposes. Circumstances can and do change that result in those detailed budgets becoming outdated. It is necessary, to ensure good financial management, that flexibility exists to allow transfers of resources.

All transfers must be notified to the Chief Financial Officer for their agreement prior to those transfers being actioned in the Accounting System. All transfers must leave the originating budget with sufficient funds to meet its commitments *for the provision of that service at the level approved by Council within the budget and policy framework* within the current financial year and not affect the sustainability of *the service in future financial years. ~~future year budgets.~~*

4.5.2 These rules should be interpreted for both budget and reserve transfers and cover:

- i) Detailed transfers between service areas within a Director's/Chief Officer's control;
- ii) Transfers from Revenue to Capital;
- iv) Transfers of managed revenue underspends to the following financial year;
- v) Transfers of resources into and from Specific Reserves;

4.5.3 For Capital these rules cover:

- i) Transfers between projects;
- ii) Transfers from Capital to Revenue, which are subject to specific rules.

4.5.4 Revenue Transfers

In relation to budget transfers the following rules apply:

- i) Changes to staffing structures need to be approved in accordance with the relevant Council policy and be approved by the relevant Director, the Chief Executive, CPSO and CFO and must be wholly sustainable. No permanent staffing changes can be ~~funded approved~~ from reserves without Cabinet *and Council* approval. Approval to fill all vacant posts must be granted by the Monitoring of Vacancy Panel prior to the commencement of the recruitment process.
- ii) In relation to transfers between service areas under a single Directors control, the Director may transfer budgets as required up to £100,000.
- iii) In relation to transfers between service areas under a single Directors control of between £100,001 - £500,000, these must be authorised by the relevant Portfolio Holder.
- iv) In relation to transfers between service areas covering more than one Directorate, transfer of budgets up to £100,000 of a budget, must be authorised by the Cabinet.
- v) Budget transfers in excess of the above limits must be approved by the Council.

4.5.5 Transfers from Revenue to Capital are allowed subject to continued service delivery.

4.5.6 Transfers of managed revenue underspends from one year to the following are allowed subject to the transfer not exceeding 10% *or £500,000, whichever is the lower*, of the Departmental budget. Details of contributions to managed revenue underspend must be reported to Cabinet within the annual outturn report.

4.5.7 In addition, transfers into and from Specific Reserves and technical budget adjustments necessary to allocate grant resources and comply with grant conditions are allowed. Details of contributions to Specific Reserves must also be reported to Cabinet within the annual outturn report.

4.5.8 Capital Transfers

In relation to Capital, transfers of resources from one project to another subject to a maximum of:

- ~~£10,000~~ *£5,000 or 10%, whichever is the higher*, for projects up to £100,000,
- ~~£50,000~~ *£20,000 or 10%, whichever is the higher* for projects between £100,001 and £500,000,
- £100,000 *or 10%, whichever is the lower* for projects above £500,001, which must be approved by the CFO prior to being

authorised by the relevant Portfolio Holder and reported with the quarterly budget monitoring report.

The Council must approve budget transfers in excess of the above limits.

- 4.5.9 Transfers between capital and revenue are allowed subject to the continued delivery of the capital program and compliance with capital accounting regulations and specific funding arrangements and approved by the CFO, *Internal Audit and reported to Scrutiny Coordinating Committee.*

4.5.10 Contingencies

In circumstances where action is required for which no or insufficient budget provision is available the Cabinet has authority to authorise the incurring of expenditure up to £100,000 in any one year from contingencies with maximum allocations for any one instance of £10,000, *subject to the budget provision for Cabinet contingency.*

4.5.11 Responsibilities of the Chief Financial Officer:

To maintain and administer the scheme of budget transfers and contingencies.

4.5.12 Responsibilities of Directors and Chief Officers:

To ensure the Chief Financial Officer is informed of any changes, which require a budget transfer.

CONSTITUTION COMMITTEE

30 March 2007



Report of: Chief Solicitor

Subject: PROPOSED AMENDMENTS TO CONSTITUTION

1. PURPOSE OF REPORT

To propose two amendments to the Constitution as discussed at the meeting of the Constitution Working Party on 19 March 2007.

2. BACKGROUND

The Chair raised two issues at the meeting of the Constitution Working Party for consideration at the meeting of the Constitution Committee. These were:

Extraordinary meetings of Council – that the day and timing of meetings be at the discretion of the Chair of Council.

Designation of Substitutes - that the 24 hour notification period for nomination of substitutes be removed.

3. PROPOSALS

3.1 Council Procedure Rule 5.1 states: -

“Annual and extraordinary meetings

The annual meeting and extraordinary meetings of the Council shall unless otherwise directed or determined by the Council be held at the Civic Centre, Hartlepool, commencing at 7.00 p.m.”

The protocol of the Council applied for a number of years has been to hold all Council meetings on Thursdays.

The Chair of the Council is suggesting that in order to allow more flexibility in the calling of Extraordinary Council meetings, the day and timing of these

meetings should be at the discretion of the Chair of Council. As the current procedure rule applies to both Annual and Extraordinary meetings, it is suggested that the whole of Procedure Rule 5 be amended to the following: -

5 TIME AND PLACE OF MEETINGS

5.1 Annual meeting

The annual meeting Council shall unless otherwise directed or determined by the Council be held at the Civic Centre, Hartlepool, on a Thursday commencing at 7.00 p.m.

5.2 Ordinary meetings

The Ordinary meetings of the Council shall unless otherwise directed or determined by the Council be held at the Civic Centre, Hartlepool commencing alternately at 2.00 pm in the afternoon and 7.00 pm in the evening.

5.3 Extraordinary Meetings

That Extraordinary meetings of the Council shall be held on a day and time to be determined by the Chair of Council, unless otherwise directed by Council.

3.2 Council Procedure Rule 4.2 states: -

Designation of Substitutes

A substitute may be designated for each Member appointed to a committee or sub-committee

- i) by the Council, if so requested by the Member, or*
- ii) by the Member, by written notification to the Chief Executive (which designation as a substitute shall take effect 24 hours after delivery of the notice to the Chief Executive or at such later time as shall be specified by the Member)*

and, in respect of a Member appointed to more than one committee or sub-committee, a different substitute may be designated for each appointment.

A Member may, by written notification to the Chief Executive, terminate the appointment of a substitute with immediate effect.

The Constitution Working Group discussed the specific issue of the notice that should be given to the Chief Executive as set out in (ii) of the procedure rule above. Members considered that the notice period should be removed but that the onus should still be on the Member appointing the substitute to

contact the Chief Executive (or Democratic Services Team) before the meeting stating who their appointed substitute is.

The only comment to add to this process is that the notification should be given in sufficient time so that the appropriate member of the Democratic Services Team is aware before the commencement of the meeting. Members would, therefore, be advised to allow thirty minutes as a reasonable time period to assure that messages can be forwarded.

It is therefore suggested that procedure rule 4.2 (ii) be amended as follows: -

ii) by the Member, by notification to the Chief Executive (which designation as a substitute shall take effect immediately after notification to the Chief Executive for the specific meeting or until such later time as shall be specified by the Member).

5. RECOMMENDATIONS

The Committee is requested to recommend the following changes to the Constitution to Council.

1. That Council Procedure Rule 5 be amended to the following: -

5 TIME AND PLACE OF MEETINGS

5.1 Annual meeting

The annual meeting Council shall unless otherwise directed or determined by the Council be held at the Civic Centre, Hartlepool, on a Thursday commencing at 7.00 p.m.

5.2 Ordinary meetings

The Ordinary meetings of the Council shall unless otherwise directed or determined by the Council be held at the Civic Centre, Hartlepool commencing alternately at 2.00 pm in the afternoon and 7.00 pm in the evening.

5.3 Extraordinary Meetings

That Extraordinary meetings of the Council shall be held on a day and time to be determined by the Chair of Council, unless otherwise directed by Council.

2. That Council Procedure Rule 4.2 (ii) be amended to the following: -
 - ii) by the Member, by notification to the Chief Executive (which designation as a substitute shall take effect immediately after notification to the Chief Executive for the specific meeting or until such later time as shall be specified by the Member).

6. REASONS FOR RECOMMENDATIONS

1. To amend the Constitution to allow greater flexibility in the calling of Extraordinary meetings of the Council.
2. To amend the Constitution to allow Members greater flexibility in the appointment of substitutes to attend meetings of the authority.

7. BACKGROUND PAPERS

Hartlepool Borough Council Constitution 2006/07

8. CONTACT OFFICER

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CONSTITUTION COMMITTEE

31st March 2007



Report of: Chief Solicitor

Subject: STATEMENT OF SERVICE – A PROTOCOL FOR COUNCILLORS AND CONSTITUENTS

1. PURPOSE OF REPORT

The purpose of this report is to enable the Committee to consider the draft 'Statement of Service – a protocol for councillors and constituents' which has been the subject of discussion at the Constitution Working Group.

2. BACKGROUND

At the meeting of the working group on 6th November 2006, the working group considered that it would be appropriate for a general Statement of Service to be compiled to deal with the nature and regulation of relations between councillors and their constituents. The Chief Solicitor had undertaken to provide 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 also 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.

On 12th January 2007, the working group considered a first draft of such a statement prepared by the Chief Solicitor. The statement sought to define the role of members in relation to constituents, explaining constraints that members of the public might sometimes find it hard to understand, but emphasising the freedom of choice on the part of members as to the extent to which they communicate with constituents. Members made a number of comments on the potential for expansion of the document to cover issues such as member training and the position regarding substitutes. Following discussion, it was agreed –

(i) That Section 3 of the Statement of Service be amended to highlight the distinction between the Planning Committee and the Licensing Committee

- (ii) That the document be an 'inclusive' document
- (iii) that a further report be submitted to the Working Group following consideration by the Member Development Group.
- (iv) That the views of the Standards Committee be sought.

The draft protocol was submitted to the Member Development Group at their meeting on 12th March 2007. The protocol was generally well received, though a comment was made which called into question the use of the term 'protocol' in view of the fact that the document would not be capable of being agreed with the general public and that there is no manner in which the Council can ensure that members of the public adhere to its principles. In this respect, however, Members might consider it appropriate that a document should nonetheless be termed 'a protocol' as providing for a statement of the principles which the Council expects to be applied to constituents who wish to avail themselves of a councillor's services. Cr. P. Jackson, Performance Manager Portfolio holder, Chairman of the Member Development Group has been given an opportunity to present the formal views of the group and any observations received from him will be presented to the committee at their meeting.

A revised copy of the protocol is attached (Appendix 1). Amendments made to reflect the comments made at the working group are underlined.

3. RECOMMENDATIONS

Members are invited to consider further the draft protocol, including the amendments proposed. If the document meets with members approval, it is suggested that it be referred to the next meeting of the Standards Committee for their observations before then returning to the Constitution Committee for final consideration in preparation for submission to Council for approval.

HARTLEPOOL BOROUGH COUNCIL

STATEMENT OF SERVICE –
A PROTOCOL FOR COUNCILLORS AND CONSTITUENTS**Introduction**

1. The purpose of this Statement is to provide a protocol for managing relationships between a councillor and his/her constituents by establishing an understanding of
- The role and functions of councillors
 - The constraints that may reduce the ability of the councillor to act in accordance with constituents' wishes
 - The discretions available to the individual councillor in the style and extent of his/her relationship with constituents
 - The expectations of the Council as to minimum levels of service of councillors to their constituents
 - The standards of conduct for both councillors and constituents in their dealing with each other

The roles and functions of councillors

2. Although legislation provides for and requires the election of local authority councillors, and makes some fundamental provisions regarding the participation of councillors in the business of the authority, no indication is given in legislation as to what is expected of councillors in respect of service to their constituents and others having interests in the ward to which they are elected, or the borough as a whole. The only formal statement of the roles and functions of councillors is to be found in the Council's Constitution (closely following the model constitution issued by the Department for the Environment and the Regions) and which, so far as relevant, provides –

“Roles and functions of all Councillors***(a) Key roles***

All Councillors and the elected Mayor will:

collectively be the ultimate policy-makers and determine the budget and policy framework;

represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

contribute to the good governance of the area and actively encourage community participation and people involvement in decision making;

effectively represent the interests of their ward and of individual constituents;

be available to represent the Council on other bodies; and

maintain the highest standards of conduct and ethics. “

The constraints that may reduce the ability of the councillor to act in accordance with constituents' wishes

3. The general statements of the Constitution do not, however, detract from the fact that, in some circumstances, the councillor's role as an advocate for the community is constrained by the requirements of their office, for example -

- Whilst a councillor is properly expected to represent the interests of his/her ward in the discharge of Council business, the councillor's primary duty is to discharge his/her responsibilities in the interests of the borough as a whole. Accordingly, a councillor involved in a decision-making or advisory role should not discharge that role in a manner to benefit or protect his/her constituents where by doing so a greater burden or disadvantage is cast upon another area of the borough;
- A councillor's involvement in regulatory decision-making such as the **Planning Committee** or the **Licensing Committee**, may involve him/her in applying principles that may be inconsistent with the wishes of his/her constituents. A planning application may be clearly acceptable in planning terms, yet opposed by some local residents for reasons particular to them; participation in the business of the Planning Committee places an obligation on councillors to cast their votes according to the relevant planning principles, in the interests of good planning in the borough and the wider community as a whole, regardless of the personal wishes of their constituents.
- Also, in any decision making process, and particularly in the role as a member of the **Planning Committee** or the **Licensing Committee**, a councillor is required to be open-minded up to the point of any decision. A decision may be open to challenge if councillors can be shown to have made up their minds before the point at which the decision is made. A councillor involved in such a decision should, therefore, be careful not to commit him/herself as to a final view in support or opposition of an application before the meeting at which a decision is to be made. This has the effect that a councillor should refrain from making any commitment to constituents as to how s/he will vote on the issue.
- Similarly, where the rules of natural justice apply, e.g. in dealing with applications to the **Licensing Committee**, a member of the committee is required to make a decision based on the information supplied in the context of the formal consideration of the application, supplemented only by his/her general knowledge. Accordingly, a member of the committee should not participate in discussion with applicants or objectors or their supporters. This has the effect that a member of the committee should not attend public or other meetings with constituents relating to such business. However, this principle does not apply to the **Planning Committee**, where there is no objection to a member of the committee engaging in discussion outside the committee with the public, whether supporting or opposed to an application. In such discussion a councillor must be careful to retain his/her objectivity by refraining from making any promises to vote one way or the other. Where statements of fact are made to the member which might significantly affect his/her judgment of the merits of an application, s/he should take appropriate steps to check the validity of the statements, e.g. by enquiry of the relevant planning officer.

The discretions available to the individual councillor in the style and extent of his/her relationship with constituents

4. There is, thus, no 'job description' for councillors - with the exception of the requirement for each councillor to attend a minimum number of council meetings, each councillor is entitled to put as little or as much into the 'constituency' role of their office as they chose. The Constitution entries do not limit that freedom on the part of councillors – it may be noted that the advocacy role is described in terms of the councillor being "the advocate of and for their communities". No reference is made to the individual constituent.

5. It is also worth noting that the DCLG circular on Members allowances, in describing the nature of the basic allowance, makes no stipulation as to contact with individual constituents, but simply states -

"Basic allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes." (underlining added)

6. Later, the circular comments –

“It is important that some element of the work of members continues to be voluntary - that some hours are not remunerated. This must be balanced against the need to ensure that financial loss is not suffered by elected members, and further to ensure that, despite the input required, people are encouraged to come forward as elected members and that their service to the community is retained.”

7. The extent to which a member makes him/herself available to constituents either in personal contact, attendance at meetings with constituents (say in ward surgeries), telephone, e-mail and letter correspondence, is, therefore, a matter of personal choice for the individual councillor. *[Is there anything relevant in political party guidance to their elected members?]* Clearly, that principle will have an influence upon the manner and extent to which councillors relate to and ‘do business’ with individual constituents.

The expectations of the Council as to minimum levels of service of councillors to their constituents

8. Clearly, the public interest demands that councillors have some level of personal contact with individual constituents – it is unacceptable for a councillor to stand wholly aloof from the electors and others in their ward. There is a rightful expectation that councillors will be ready to receive representations from their constituents and to participate in local affairs relevant to their role as ward councillor. However, having regard to the potential demands that could be made of a councillor by an individual constituent, let alone the constituents as a whole, it is impossible and unfair to seek to prescribe any level of time or frequency or nature of participation by an individual member in contact with his/her constituents. A councillor may find the manner of approach of a constituent(s) unacceptable at a personal level; e.g. the interests of the constituent(s) may be so extreme or they may be obsessive, aggressive or otherwise offensive that the councillor would be justified in rejecting further contact. The Council must respect the freedom of a councillor to draw a line under continued contact either with an individual constituent, or community groups either by reference to the time that would be involved in meeting their demands, or to other factors which justifiably give rise to a reluctance on the councillor’s part to assist them.

9. The Council, therefore, expects councillors to make themselves available to constituents by telephone, e-mail letter or face to face discussion, and in involvement in community groups and events, to such extent as provides constituents with reasonable access to councillors whilst not impacting unduly upon the councillor’s right to a private life. However, the Council respects the freedom of a councillor to decline continued contact either with an individual constituent, or community groups either because of the time involved in meeting their demands, or other factors which justifiably give rise to a reluctance on the councillor’s part to assist them or participate in their activities.

10. Within reasonable bounds, a member will respond to requests from constituents for information or assistance – principally by reference to the relevant officer or department of the Council able to deal with the constituent’s affairs. Where appropriate, a member will reply to correspondence from constituents either by giving a personal response (direct or through the Members Services Section) within 10 working days, or by notification that the matter has been referred to the relevant officer or department within 5 working days of receipt of the correspondence.

11. As in all fields of public service, training is a crucial to the provision of quality services. Councillors. A member of the public seeking the assistance of a councillor is entitled to expect that the councillor has undertaken relevant training – or, if the assistance sought is in an area beyond the councillors training and experience, that s/he will refer the member of the public to a colleague who will be better able to assist. The Council places much emphasis on the importance of training for Councillors in addition to that which they are required by law or best practice to undertake. The issue of training is also relevant to the practice of member substitution at committees. A councillor should not agree to act as a substitute unless s/he has had relevant training in the business of the committee such as to enable him/her to participate fully and knowledgeably in the decision to be taken.

The standards of conduct for both councillors and constituents in their dealing with each other

11. Councillors are subject to the provisions of the Code of Conduct for Councillors which include the following requirements relevant to this protocol

2. *A member must –*

- (a) promote equality by not discriminating unlawfully against any person;*
- (b) treat others with respect; and*

.....

3. *A member must not –*

- (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor*
- (b) prevent another person from gaining access to information to which that person is entitled by law.*

12. With certain exceptions (e.g. the Code of Conduct does not apply where a councillor is in a purely personal situation unrelated to his/her membership of the Council) failure to comply with these requirements may render a councillor in breach of the Code of Conduct. However, regardless of the application of the Code of Conduct, the Council would expect councillors to adhere to the principles set out in any dealings with constituents, treating them with politeness, consideration and equality in all circumstances.

13. Conversely, councillors are entitled to expect constituents to treat them with respect and there is no expectation that councillors should endure aggressive or intimidatory or otherwise offensive conduct on the part of a constituent(s). For example, a councillor faced with aggressive telephone calls would be justified in terminating the conversation without further discussion – in other words hanging up. In an extreme situation, if a councillor is fearful for his/her safety or that of family members, say, by a constituent calling at the councillor's home address, the police should be notified and asked to take appropriate action.
