

CABINET ADDENDUM ITEM 214 – APPENDICES TO REPORT TO GOVERNANCE COMMITTEE

4.00PM, THURSDAY, 23 APRIL 2009

COUNCIL CHAMBER, HOVE TOWN HALL

ADDENDUM

ITEM		Page	ļ
214.	SIX MONTH REVIEW OF THE CONSTITUTION	1 - 2:	2

How Effective Do You Think Brighton and Hove City Council's New Constitution Is?

Are you aware of the new Cabinet system which came into effect at Brighton and Hove Cit Council in May 2008?		
Answer Options	Response Count	
Yes	22	
No	4	
answered question skipped question	26 0	

Do you feel you are able to have an input into decisions taken by the Council under the Leader and Cabinet system?

	Response	
Answer Options	Count	
Yes	0	
No	17	
Don't know	6	
answered question	23	
skipped question	3	

Have you tried to have an input into decisions taken by the Council under the Leader and Cabinet system? Answer Options Count

Answer Options	Count	
Yes	9	
No	15	
answered question	24	
skipped question	2	

Were you satisfied that your input was listened to and considered?		1?
Answer Options	Response Count	
Yes	1	
No	8	
answered question	9	
skipped question (only those who have tried to have an input were asked the question)	17	

Have you heard of the Forward Plan?		
Answer Options	Response Count	
Yes	5	
No	19	
answered question	24	
skipped question	2	

Have you looked at the Forward Plan?		
Answer Options	Response Count	
Yes	2	
No	3	
answered question	5	
skipped question (only those who have heard of the forward plan were asked the question)	21	

If you have	e looked at the	Forward Plan did	you use it to:

	Response
Answer Options	Count
Find out information about the major decisions likely to	2
To plan attendance at Council meetings	0
To get information on agendas and reports	1
Other	1
answered question	2
skipped question (only those who have looked at the forward plan were asked the question)	24
Torward plan were asked the question)	24

Did you know that some Council meetings are beir	ng webcast?	
Answer Options	Response Count	
Yes	14	
No	10	
answered question	24	
skipped question	2	

Have you seen any of the Council meeting webcase	ts?	
Answer Options	Response Count	
Yes	2	
No	12	
answered question	14	
skipped question (only those who knew Council meetings are being webcast were asked the question)	12	

Are you likely to watch the Council meeting webca	asts in the futu
Answer Options	Response Count
Yes	14
No	3
Don't know	4
answered question	21
skipped question	5

DRAFT (19/01/09): Constitution Review - Verbatims

Are there any changes you would like to see to the Council's Constitution/decision-making process?	Do you have any suggestions to improve the public interest and involvement in the decision-making process?
The old system was far more democratic and I would welcome a return to it.	
Yes. The councillors and councillor Cabinet post holders should be paid. The system relies upon dogged scrutiny by non post holders and these are "part time" and that is a handicap. Councillors now have more responsibility and they should be recognised as such. I do not want my ward Cllr to be scrambling to balance a job and represent my interests.	Yes. Cabinet holders should be placed under a code of conduct where they are not allowed to directly pressure non political executive officers with party political considerations. This is important because with increased power and influence Cabinet post holders must be made aware that executive officers have a duty to the whole council and should not feel under pressure from a particular Member who wields increased power.
There seems to be on obvious way that minority parties or community groups can influence the decision making process. It is a closed book to most of us.	Some decisions should be taken at neighbourhood level.
Return to the previous committee system The Council is more distant and unresponsive since the cabinet system came in. We should reconsider having a City Mayor in view of this.	I don't think many people realise that a very small number of votes can significantly affect the make-up of their local council and that their vote is really worth while
I would like to feel that when members of the public are consulted it was more than just a box being ticked by the Council in a process that has already been decided. There are a lot of people in Brighton with a far more detailed knowledge of the city than some members of the planning department have, and they have something useful to contribute, given a chance.	especially in local elections.
I prefer the old committee system. I think that the present system distances the public from the decision making process, as a result even fewer people may vote in local elections.	Officers must first learn the difference between giving members of the public information and true consultation. It is only true consultation when plans may be changed as a result of the views submitted by members of the public. In the majority of cases minds have been made up, shown to the public, and described as consultation, whereas they are merely informing the public of decisions which have already been made. This makes members of the public fed up and they are put off getting involved again as they regard it as a waste of time.

Are there any changes you would like to see to the Council's Constitution/decision-making process? I think there are problems inherent in the "pyramid" structure of the council. The only people who truly know what is going on are	Do you have any suggestions to improve the public interest and involvement in the decision-making process? Yes. I think the council needs to discard its perception of being an "Authority" and see itself as "Public Servant". Public interest and
those at the top. In the lower ranks there is a sense of being "in the dark", confusion and even paranoia.	involvement increases with positive results to involvement. The council should be there to administer decisions taken by the public.
I do not believe that investing executive power into the hands of the leader of the council and cabinet is as democratic or accountable as the standard/previous constitution.	Revert the constitution to the previous, more democratic system as the current constitution concentrates power into one individual and then a small minority.
Regular Area committees attended by local councillors should be held (monthly?) to discuss local issues and councillors should report concerns and decisions to full Council. The Cabinet set-up inevitably means that there is little cross-party discussion and all decisions are made simply by a few senior members of the ruling party. Even their own back-benchers are sidelined.	More time for questions from the public should be allowed at full Council meetings - and at the start of the proceedings.
Neighbourhood forums	More accessible council meeting times - not during the working day, so all people can attend.
I do not feel the current 'cabinet' structure is very democratic. I felt that no notice at all was taken of the questions asked at the Environment Cabinet Member meeting I attended - minds had already been made up - very poor.	Improve the public consultation process. BHCC regularly fails to give proper prior notice of consultations and inadequate time for responses. And in the recent North Street MPR consultation regarding Ship Street, BHCC disregarded the most popular option and opted for a scheme which was not in the questionnaire. No wonder the public loses faith in decision making processes!!!
Greater openness	Consultation standards need to be far higher and adhered to.

involvement in the decision-making
process?
Decisions that affect the public - like allowing Fatboyslim's beach party to go ahead at unacceptable volumes for locals and with unexpected restrictions to public spaces should be given public consideration before gaining approval. Make it known more.
Return to committees.
Oh yesabsolutelyer mmm New Year resolution - to be more aware of opportunities for involvement in "the forward plan" and the "decision making process/constitution". Sorry to come a cross "clueless" but I think you may find me typical of many housing tenants. Keep trying we are far from a lost cause - OK?

Comments from the PCT

Thank you for asking us to comment on the Council's new democratic arrangements.

The PCT is involved with the Council in number of areas specifically:

- Local Strategic Partnership groups including the Healthy City Partnership and the City Inclusion Partnership.
- Joint Commissioning Board
- Children and Young Peoples Trust Board
- Overview and Scrutiny Committees

We broadly welcome the new arrangements as they give a focus to discussions about services that impact on both of our organisations. Particularly an increased emphasis on the 2020 Community Partnership and the Community Plan. Ensuring that all partners are able to contribute to the priorities of the City is a welcome step forward.

Executive function:

- The role taken by the Cabinet member for Community Affairs, Inclusion and Internal Relations has been a welcome improvement, and we have been able to see clear benefits from having both a key leadership role in this area and a strong officer team.
- Progress has been made in making the CYPT and Joint Commissioning Board more effective, by improving governance arrangements. The PCT does however need to ensure that the Councils Forward Planning arrangements are fully integrated into our own planning and governance structures.

Overview and Scrutiny

- The Health Overview and Scrutiny Committee role continues to be a key scrutiny function supported by a very able scrutiny team. We had hoped that the new governance structures would enable the Council to provide increased support for officers to enable Councillors more fully engage in the scrutiny role.
- Further discussion is required about how the PCT can be effective in contributing to the Children and Young People scrutiny process.

Given the changed nature of other Councillors' roles we had anticipated that there would be an increased emphasis on the role of 'Community Councillors'. We believe this could strengthen links with local communities

the NHS. It is hoped that as the system continues to develop, there will be an increased link to how the PCT engages with neighbourhoods and Councillors.

Brighton and Hove Federation for the Disabled

Thank you for giving us the opportunity to take part in your 6 monthly review. I have consulted Trustees and Staff of the Federation as to how the constitutional changes have impacted upon us as an organisation.

The consensus seem to be that it is really early days and at the moment, most people have not really felt that the changes have impacted on how they work with the authority. However during this time of change, we are pleased to report, that we have been consulted and have been able to influence some of the structures and processes that have been put in place to support the new constitution, for example the new City Inclusion Partnership and the Community Engagement Framework.

The Federation is a partner organisation and benefits from a collaborative way of working with Council Members and Officers. We look forward to strengthening this relationship and to work with the authority to ensure that the voices of Disabled People are heard and are able influence how services are improved and delivered in the future.

Arts Commission

I consulted with the executive committee of the Arts Commission about the review. The members gave overall support to the cabinet system but were unclear about policy direction. Under the committee system the Arts Commission was able to give ongoing reports to committee. That contact appears to have been lost. The executive would welcome an opportunity to continue a line of communication.

Eco-Logically

We understand that you are seeking views on the new constitution adopted in 2008 (source: 'City News', December 2008). In particular the 'Cabinet System' that replaced the former Committee Structure' on 15 May. We are primarily interested in effective management of the <u>natural environment</u> across the whole city jurisdiction and in increasing awareness and appreciation of this irreplaceable resource by residents and visitors. Close involvement with the council's Wildlife Advisory Group (WAG) has provided one mechanism for progressing this interest.

The WAG previously reported to the then 'Sustainability Commission' and **Eco-Logically** regularly attended the quarterly meetings.

However, under the new Cabinet System it has been difficult to engage effectively with the nominated members and appropriate officers. This is of particular concern as one intention was to achieve better representation for local people, to seek agreement on proposals to local government which improve the sustainability of local communities (Sustainable Communities Act, 2007). So far the Cabinet System has significantly failed in this respect. For example, the Sustainability Cabinet Meeting (8 October 2008) was very poorly publicized with a handful of councillors attending and only three local residents present! There were no formal opportunities to raise questions in advance, and it was only through the Chair's extremely helpful direction to address this glaring shortfall that comments were sought after AOB. Similarly at the 12 January 2009 City Sustainability Partnership meeting there was no allocated opportunity for residents to raise issues. In fact people who were not sitting at the main table initially had to stand as there was no seating provided, even up to five minutes before the meeting started!

Finally, the Partnership meetings are held between 5.00 and 7.30pm. Previous Sustainability Commission meetings were held at a similar time and refreshments were provided for those attending. This greatly helped to foster a relaxed and effective meeting where all those attending could concentrate and focus on contributing most usefully. Regretfully refreshments were not provided at the last Sustainability Partnership meeting apart from a pitifully small quantity of tea and coffee. Whilst this last detail is clearly not as critical as the first three issues raised, it is perhaps indicative of the way implementation of the new council constitution is treating those elected members and specialists who are providing their time and expertise wishing to improve the quality of life across Brighton & Hove.

We hope these comments will be considered in detail. If you wish to discuss any aspects further please contact **Eco-Logically** at the above address.

Summary of consultation responses - Officers - January 2009

1. What has worked well under the new constitution?	2. What has improved as a result of operating a Leader & Cabinet system?
Decision making appears easier and quicker	Clearer about public info being available (published) and access to meetings
Scrutiny has potential/is improving	Clearer leadership on issues
Licensing Panels	Created an advisory committee to the executive to assist licensing councillors
Focus on Sustainability in new Sustainability Cabinet Committee	Cabinet Support Team is strong and good to work with.
Webcasting	New Audit Committee working well
3. What major changes have you noted and how have these impacted on your work?	4. What has not worked so well?
The lead in time is longer than before in many cases and this feels like the system is less flexible	Cabinet Member meetings lack debate, do not appear inclusive or accessible. Are they a good use of resources?
Too much duplication of systems and processes – adding further workload	Scrutiny has not developed a transparent way to deal with issues members want to challenge
Difficulty in identifying key decisions	Some meeting have thin agendas (Central Services CMM/ Licensing Committee/Finance CMM). Need to review meetings timetable
The Sustainability Commission has been replaced by a Committee internally and a Partnership externally, doubling the workload.	Scrutiny appear to be weak with many items going to Council rather than scrutiny
More meetings and a lot of uncertainty about what decisions should be taken where.	Report template need improving
5. What have been the challenges?	6. What changes do you think should be made to the constitution to improve its operation and to help you do you job more effectively?
The Forward Plan could be more accessible and user friendly	More time is needed for this to bed in and for us to get more experience
Helping Members to understand the distinction in roles between Scrutiny and the Audit Committee	Review CMM portfolios and operation of CMM meetings

Defining what a key decision is	Develop Area Panels to involve and include a
	wider base of community interest
Workload; learning and understanding new ways of working; more oppositional and less consensual decision-making, arguably.	Less frequent meetings – Licensing/Contral Services/Finance
Understanding the executive and council functions and where to take issues for decision.	Encourage more debate/public questions at Cabinet Meetings.
7. Are there any aspects of the constitution you need clarified? If so, please give details	8. Are there any further issues you would like to raise?
Difference between cabinet member and	
cabinet meetings	
cabinet meetings More clarity around key decisions – what are they – how do you decide	
More clarity around key decisions – what are	

Summary of consultation responses - Members - January 2009

What has	Housing Management and Planning Committees working well
gone well?	More open and transparent
	Quicker decision making
	Closer liason with Officers
	More informed
	The transition to the new Constitution went smoothly
	The openness of Cabinet Member Meetings
	Audit and Licensing and some other Regulatory Committees, including Standards, operating well and inclusively
	Decisions made more quickly
	Introduction of political assistants
	Introduction of webcasting (but technical problems remain)
	The principle of the Forward Plan (but not been able to get the reports)
Cabinet Meetings	Would like more debate at Cabinet and Cabinet Member Meetings
and Cabinet Member	Difficult for Members to raise issues/speak at these meetings.
Meetings	Physical layout not welcoming or inclusive – a more inclusive approach would be welcomed
	Redesign the seating arrangements in meetings which are perceived to be hostile and unwelcoming
	Access to information and opportunity for debate greatly reduced
	Would like to be able to speak at these meetings as of right
	Grant speaking rights at all public and private Cabinet Member meetings

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	A disproportionate amount of responsibility allotted to the principal opposition group Should allow cross party involvement at these meetings – ie a seat at the table for Greens and Lib Dems Opposition Parties need access to Officer briefing on Cabinet papers Involve main spokespeople of all parties in Chair's briefings Cabinet meetings too confrontational
Decisions /agendas	Not enough business on some CMM agendas
at	Agendas for some meetings very thin
Cabinet and	Difficult to justify resources spent on CMMs.
Cabinet	
Member meetings	Decisions should either be taken at Cabinet or by the Member and reported to Cabinet
	Lack of seat at the table at these meetings means do not attend
	Decisions driven further from (non Cabinet) Members and the public gaze
	Revisit the officers' delegated powers to see how they have been affected by the introduction of the Cabinet system
Communi ty Affairs and Inclusion	Lack of CMM for this portfolio means there is no place for a dialogue on these issues
Special Cabinet Meetings	Need clarity on when these can be called and how
Council –	Clarify what NOMs can cover
Notices of Motion	Too many hoops to get through – Members should be able to ask the Administration to consider action

Council	Council is the only forum for genuine debate
	Council is being used instead of Cabinet/CMM to debate issues
	There should be more Full Council meetings
	Report substantive decisions to Council for review
	NOMS/questions and supplementaries escalating
	Opportunities to debate major issues are limited to five general council meetings a year – should increase number to 11 per year
	Urgency Committee of Council should be politically proportionate
Complete a	
Scrutiny	Clarify limits on number of panels to ensure not overloaded
	Look at other models eg Birmingham to improve understanding and best use of scrutiny
	The Scrutiny Commission needs to operate more as a filter for the work of Panels and ensure that work is not duplicated with work already underway
	The OSC has not undertaken work requested of them
	Clarify the role of OSC
	Reduce the number of reports for noting where no action from scrutiny requested.
	Policy development role is not embedded.
	Too many reports to note.
	Forward Plan timing not effective to assist with work programme.
	Need training for Officers and Members and look at other models that are working well
	A disproportionate allocation to the principal opposition group re Chairs/Deputy Chairs

	Not on top of how scrutiny works
	Pre decision policy development role not working
	Comments made by Scrutiny Panels not taken to Cabinet
	In practice scrutiny has very little direct power or influence
	Ensure urgent decisions cannot be made exempt from call-in
	Separate Scrutiny Committees for ASC and Housing
	Separate Scrutiny Committees for Environment & Community Safety
Regulator y Committe	Change the size of Regulatory Committees to odd numbers
es	

The Proposed amendments are show in bold italics.

K. Cabinet Member for Central Services

Explanatory Note

The Cabinet Member for Central Services will have responsibility for the quality, efficiency and cost effectiveness of Central Services, namely the support services listed in paragraph 1 below.

Delegated Functions

To exercise the functions of the Council as follows:

- 1. All functions regarding the delivery and performance of the Council's support services, in particular:
 - Finance
 - Property
 - ICT
 - Customer Services
 - Corporate Procurement
 - Legal Services
 - Democratic Services
 - Policy
 - Communications
 - Human Resources
 - Improvement & Organisational Development
- 2. To discharge all functions regarding the establishment of joint working with other authorities, including the establishment of any shared services arrangements.
- 3. To receive reports on resourcing, structuring and capacity building in support services and takes action as appropriate.
- 4. The Council's functions regarding ICT providing that this shall not include approval of the ICT Strategy.
- 5. To approve the Council's Planned Property Maintenance Programme.
- 6. The acquisition or disposal of properties held centrally or by service areas relating to 2 or more Cabinet Members or Directorates, up to the value of £1 million providing that the Leader is notified in advance and has no objection.
- 7. The award of contracts relating to Central Services or those that are Corporate (i.e. not specific to individual services such as corporate stationary, cleaning etc contracts).

[NB. The delegations under 6 or 7 will not preclude contracts of major significance being referred to Cabinet in accordance with the normal rules.]

PART 7.2 PART A.

GENERAL DELEGATIONS

Save where indicated otherwise and subject to paragraph 16 of the Introduction, the following general powers are delegated to all Chief Officers in relation to the services for which they are responsible.

1. Administrative

To administer the services for which they are responsible, including taking and implementing decisions which facilitate the operation or effectiveness of those services, and which fall within the policy decisions taken by the Council or the Executive. This power shall include the continuing review of the departments for which they are responsible to maximise resources and implement best value.

2. Financial

To exercise all the functions delegated to officers under the Council's Financial Regulations.

3. Land Management

In the paragraphs below: -

- (1) The disposal or acquisition of any interest in property or the creation, extension or variation of any interest therein shall be in such form as shall receive the approval of the Monitoring Officer.
- (2) The term "land" includes buildings or parts of buildings and any estate or interest in land.
- (3) The term "Valuer" means the valuer appointed or approved by the Director of Finance & Resources.

In respect of land held or used for the purposes of a service administered by the officer:

- (a) To approve the detailed terms of any disposal or acquisition authorised in principle by the Council, the Executive or a Cabinet Member where the terms are certified by the Valuer to be the best consideration reasonably obtainable;
- (b) After consultation with the Monitoring Officer and the Valuer to dispose of any land or any interest in land where the person

acquiring the land or the interest has a legal right to acquire the same granted by an Act of Parliament or any rule of law;

- (c) To acquire or dispose of the freehold or leasehold of land for a consideration of £25,000 or less provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable and after consulting the Chairman of the relevant Committee or Sub-Committee or relevant Cabinet Member as appropriate;
- (d) To *acquire or* dispose of land on a lease for 25 years or less provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable;
- (e) In relation to the Director of Finance & Resources only:
 - After consulting the Cabinet Member for Central Services to acquire or dispose of land for a consideration of up to £250,000 provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable and relates to property held for the purposes of the functions of the Director or is declared by the relevant Director to be surplus to requirement. under (k) below;
- (f) To approve rent reviews where the Valuer certifies the terms to be the best consideration reasonably obtainable;
- (g) After consultation with the Valuer for all land in relation to item (i) below, and for all land except council housing in relation to item (ii) below
 - (i) to approve the change of use of land let by the Council, and
 - (ii) to give consent for improvements or alterations to such land (except where any compensation payable by the Council is likely to exceed £10,000);
- (h) After consultation with the Monitoring Officer to take action on all matters concerned with the enforcement by or against the Council of the terms or provisions of any lease or disposal, including the service of appropriate notices under any statutory provision whether or not including the forfeiture or other termination of such lease or other provision;
- (i) After consultation with the Valuer and the Monitoring Officer, to grant easements, licences and wayleaves;
- (j) Subject to the limitations expressed above, to undertake the general management of land, including the making of any necessary planning applications and applications for building regulation consent;

- (k) After taking appropriate professional advice in accordance with guidelines from time to time laid down by the Council to authorise land to be declared surplus to the requirements of the officer's area of service. Management and future use of the land will be transferred to the Director of Finance & Resources to be held corporately pending appropriation or disposal;
- (I) After consultation with the Monitoring Officer and subject to the advice of the Valuer to accept the surrender of leases.

4. Human Resources

(1) Subject to the policies, practices and procedures of the Council, to manage staff within the officer's department.