





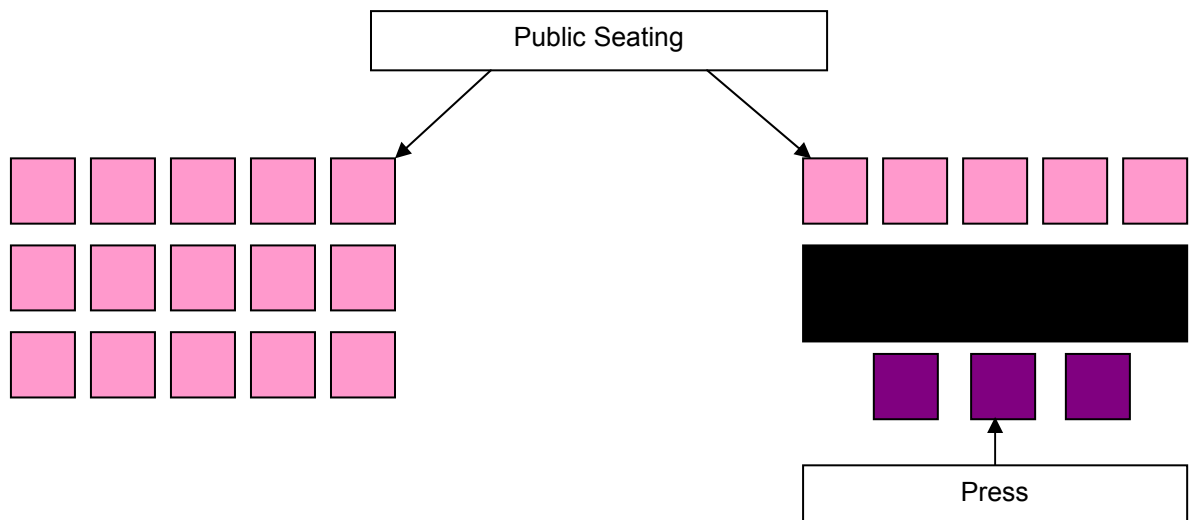
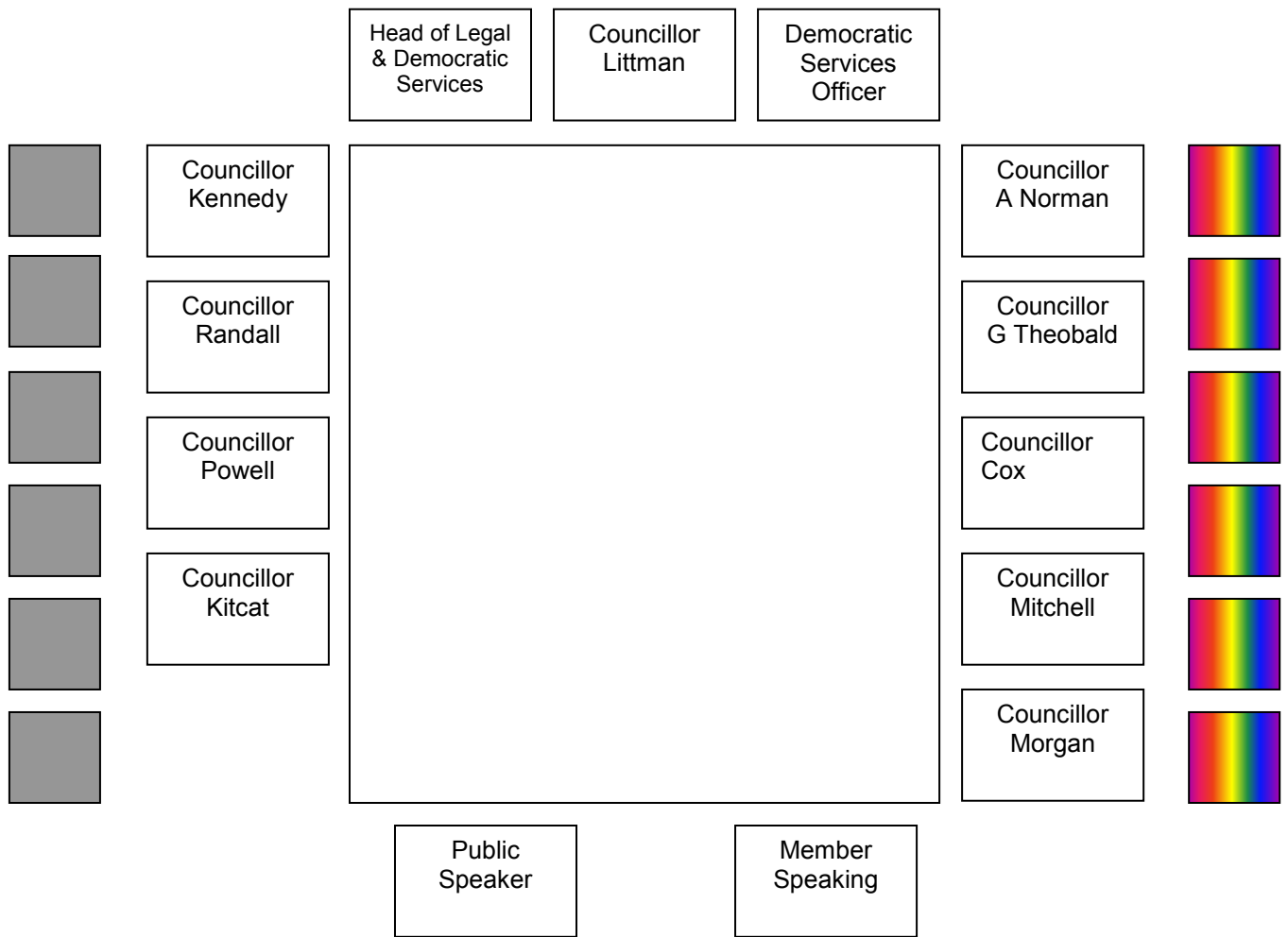
Brighton & Hove  
City Council

# Governance Committee

Title:	<b>Governance Committee</b>
Date:	<b>20 March 2012</b>
Time:	<b>4.00pm</b>
Venue	<b>Council Chamber, Hove Town Hall</b>
Members:	<b>Councillors:</b> Littman (Chair), A Norman, Cox, Kennedy, J Kitcat, Mitchell, Morgan, Powell, Randall and G Theobald
Contact:	<b>Lisa Johnson</b> Senior Democratic Services Officer 29-1228 lisa.johnson@brighton-hove.gov.uk

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# Democratic Services: Meeting Layout



## AGENDA

### 62. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

*NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

### 63. MINUTES OF THE PREVIOUS MEETING

1 - 8

Minutes of the meeting held on 10 January 2012 (copy attached).

### 64. CHAIR'S COMMUNICATIONS

### 65. CALLOVER

*NOTE: Public Questions, Written Questions from Councillors, Petitions, Deputations, Letters from Councillors and Notices of Motion will be reserved automatically.*

### 66. PETITIONS

No petitions received by date of publication.

### 67. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 13 March 2012)

No public questions received by date of publication.

## **GOVERNANCE COMMITTEE**

### **68. DEPUTATIONS**

(The closing date for receipt of deputations is 12 noon on 13 March 2012)

No deputations received by date of publication.

### **69. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS**

No written questions, letters or Notices of Motion were submitted by Councillors for the meeting.

### **70. POLLING PLACE REVIEW**

**9 - 24**

Report of the Strategic Director, Resources (copy attached)

*Contact Officer: Paul Holloway Tel: 29-2005*  
*Ward Affected: East Brighton; Goldsmid; Hangleton & Knoll; Hove Park; Withdean*

### **71. ATTENDANCE MANAGEMENT PROCEDURE**

**25 - 34**

Report of the Strategic Director, Resources (copy attached)

*Contact Officer: Liz Boswell Tel: 29 - 1307*  
*Ward Affected: All Wards*

### **72. PROPOSED MEETINGS TIMETABLE 2012/13**

**35 - 48**

Report of the Strategic Director, (copy attached)

*Contact Officer: Mark Wall Tel: 29-1006*  
*Ward Affected: All Wards*

### **73. SOUTH DOWNS NATIONAL PARK AUTHORITY - DELEGATION OF DEVELOPMENT CONTROL FUNCTION TO CONSTITUENT AUTHORITIES**

**49 - 52**

Report of the Strategic Director, Place (copy attached)

*Contact Officer: Paul Vidler Tel: 29-1292*  
*Ward Affected: All Wards*

### **74. REVIEW OF MEMBERS ALLOWANCES**

*Contact Officer: Mark Wall Tel: 29-1006*  
*Ward Affected: All Wards*

## GOVERNANCE COMMITTEE

### 75. PAY POLICY STATEMENT 53 - 64

Contact Officer: *Charlotte Thomas* Tel: 29-1290  
Ward Affected: *All Wards*

### 76. COMMITTEE REPORT FOR REVIEW OF PART 9.4 OF THE CONSTITUTION 65 - 82

Contact Officer: *Oliver Dixon* Tel: 29-1512  
Ward Affected: *All Wards*

### 77. REVIEW OF CONSTITUTION 83 - 278

Contact Officer: *Abraham Ghebre-Ghiorghis* Tel: 29-1500  
Ward Affected: *All Wards*

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk). Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Lisa Johnson, (29-1228, email [lisa.johnson@brighton-hove.gov.uk](mailto:lisa.johnson@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Monday, 12 March 2012



**BRIGHTON & HOVE CITY COUNCIL**

**GOVERNANCE COMMITTEE**

**4.00 pm 10 JANUARY 2012**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Littman (Chair), A Norman (Deputy Chair), Bowden, Cobb, Cox, J Kitcat, Mitchell, Morgan, Powell and Randall

**PART ONE**

**49. PROCEDURAL BUSINESS**

**49a Declaration of Substitutes**

49a.1 Councillor Bowden attended as a substitute for Councillor Kennedy  
Councillor Cobb attended as a substitute for Councillor Theobald

**49b Declarations of Interest**

49b.1 There were none.

**49c Exclusion of Press and Public**

49c.1 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential or exempt information (as detailed in Section 100A(3) of the Act).

49c.2 **RESOLVED** – That the press and public not be excluded from the meeting.

**50. MINUTES OF THE PREVIOUS MEETING**

**RESOLVED** - That the minutes of the meeting held on 15 November 2011 be approved as a correct record.

**51. CHAIR'S COMMUNICATIONS**

- 51.1 The Chair noted that Councillor Cox had joined the Governance Committee and welcomed him to the meeting.
- 51.2 The Chair referred to item 59 on the agenda, which provided further updates on the Localism Act, and confirmed that additional reports on this matter would come to future meetings of the Governance Committee.

**52. CALLOVER**

**RESOLVED** – That all the items be reserved for discussion.

**53. PETITIONS**

There were none.

**54. PUBLIC QUESTIONS**

There were none.

**55. DEPUTATIONS**

There were none.

**56. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS**

There were none.

**57. BRIGHTON & HOVE CITY COUNCIL HEALTH & WELLBEING BOARD DEVELOPMENT**

- 57.1 The Committee considered a report of the Strategic Director, People and Director of Public Health and Adult Social Care concerning the establishment of a Health and Wellbeing Board. The report summarised the proposed approach to establishing a Health and Wellbeing Board, and sought approval for the approach outlined for the establishment of a Shadow Health and Wellbeing Board in April 2012 as set out in the Terms of Reference.



- 57.2 An amendment to the draft Terms of Reference was proposed by Council Randall and seconded by Councillor Kitcat. The proposed amendment was circulated to the members. The amendment related to the second bullet point in paragraph 3 'Membership' of the draft Terms of Reference and read:  
*'Six additional elected Members which, taken together with the Elected Member as Chair set above, will be allocated to the different groups in proportion to the number of seats they have at Council'.*  
Council Kitcat spoke on the amendment and said the six additional members would ensure that there would be a majority of councillors on the Health and Wellbeing Board, which would make the Board as democratic as possible.
- 57.3 Councillor A Norman noted the proposed amendment and whilst agreeing that it would allow councillors to be more involved, had concerns that a great deal of consultation had taken place and the working group had carefully considered the membership. Councillor Norman suggested it might be more appropriate for the proposed amendment to be considered first by the working group.
- 57.4 Councillor Bowden supported the amendment as, whilst he did not want the Board to be too big and unwieldy, he felt additional Members on the Board would allow for a more democratic decision making process and would assist officers who may find themselves in a difficult situation having to vote on certain issues.
- 57.5 Councillor Mitchell had hoped that membership of the Board would be small, but accepted that it was important to protect officers from having to make some decisions. Councillor Mitchell asked whether the Board would be able to monitor and comment on what the partner agencies spent. The Committee were advised that the Board would be able to look at health outcomes for the city, and consider the proposals of how to meet them, but would not be looking at the actual contracts etc.
- 57.6 Councillor Cobb noted the suggested amendment and stated that she had similar concerns to Councillor Norman, and felt that the working group should have considered them first. Councillor Cobb suggested that another option would be to remove the voting rights of the three Directors (as listed in the Terms of Reference Membership), and allow the Chair to have the casting vote. This would alleviate the need for officers to make decisions.
- 57.7 Councillor Morgan asked for clarification on whether the Board would be looking at issues such as alcohol abuse, mental health etc and whether there would be any overlap with other committees or boards. Councillor Morgan was advised that the Board would be looking at those types of areas, and if there were any overlaps they should become apparent during the shadow year.

- 57.8 Councillor Powell asked whether it was the intention for the Board to replace the Children and Young People Overview and Scrutiny Committee or the Adult Social Care and Housing Overview and Scrutiny Committee. Councillor Powell was advised that the proposals for the new committees would be agreed in April, and the role of the Health and Wellbeing Board would be looked when proposing the new committees. Councillor Powell asked if there would be a scrutiny function within the Board, and was advised that the Board would be focusing on the health needs of the city and looking at whether those needs were being met.
- 57.9 Councillor Bowden referred to the suggestion made by Councillor Cobb that the directors on the Board don't have the right to vote and asked if that were legally possible. Councillor Bowden was advised that the directors were required to be full members with equal rights and therefore they would have to be able to vote.
- 57.10 The Head of Legal and Democratic Services confirmed that it was intention for the arrangements of the shadow board to be as close as possible to the final board. It was not the intention for the Health and Wellbeing Board to replace other boards or committees, and having the shadow board would allow for any overlaps to be noted.
- 57.11 Councillor Norman noted that the government recommendations were to have one Member on the Board, and the working group had increased that to three Members. The suggested further increase was on the recommendation of the administration and not the working group and was concerned that to agree an increase at the meeting was inappropriate without it being looked at again by the working group.
- 57.12 Councillor Kitcat stated that the Health and Wellbeing Board would not be reporting to Council and it was important that councillors came first in any making any decision.
- 57.13 Councillor Randall confirmed that the suggested change to the membership had been discussed at the recent Leaders Group meeting.
- 57.14 Councillor Littman noted that there would be 14 members on the Board and therefore all the councillors, representing the political parties, would need to agree for issues to be agreed by the Board.
- 57.15 A vote was taken on the proposed amendment and the amendment was agreed.

## **RESOLVED**

- 1 That Governance Committee recommends to Council the establishment of a Shadow Health and Wellbeing Board from April 2012 as set out in the report and in accordance with the draft Terms of Reference attached at Appendix One, with the following amendment:  
'That the second bullet point in paragraph 3 (Membership) reads: 'Six additional elected Members which, taken together with the Elected Member as Chair set out above, will be allocated to the different groups in proportion to the number of seats they have at Council.'

2. That Governance Committee refers the report to Cabinet for information.

## **58. OPEN PUBLIC SERVICES WHITE PAPER**

- 58.1 The Committee considered the report of the Strategic Director, Resources on the Open Public Services White Paper. The report summarised the proposals in the White Paper 'Open Public Services' published in July 2011 and considered related initiatives such as the Localism Act and the Public Services (Social Value) Bill. It was likely the matter would receive Royal Assent in May 2012.
- 58.2 Councillor Mitchell thanked officers for an interesting report, and asked whether it was likely the councils would receive additional funding to run the Neighbourhood Services, and who would monitor the Commissioned Services. Councillor Kitcat addressed the issue of funding, and stated that there was no anticipation of additional funding and therefore any costs would have to come from within the current budget. With regard to monitoring, Councillor Mitchell was advised that consideration would have to be given to either providing scrutiny or enhancing the role of councillors.
- 58.3 Councillor Randall stated that he had met with Junior Ministers and the government were looking for pilot schemes. A number of areas within the city had already expressed an interest, and if the city became a pilot there could be some support from government.
- 58.4 Councillor Randall referred to the Public Services (Social Value) Bill, and that the implications for the way public bodies would have to look at procurement was interesting.
- 58.5 Councillor Powell referred to paragraph 3.6 of the report and asked when the Local Account would be reported to the CMM and the Adult Social Care and Housing Scrutiny Committee. Officers did not know the date but said they would Councillor Powell know.
- 58.6 Councillor Cox said the new legislation was exciting and would allow neighbourhoods and third sector groups to become more involved.

### **RESOLVED**

That Governance Committee noted the information contained in the report and requested officers provide further briefings once the response to consultation and implementation plan for the Open Public Services White Paper was published.

## **59. LOCALISM ACT**

59.1 The Committee considered a report of the Strategic Director, Resources on the implementation of the Localism Act.

59.2 At Full Council on 15 December 2011, it was agreed in principle to change the governance arrangements to a committee system with effect from Annual Council in May 2012. The report set out the programme of work required to change to a committee system.

### **RESOLVED**

That Governance Committee noted the information contained in the report.

## **60. ADOPTION AND SURROGACY POLICY**

60.1 The Committee considered the report of the Strategic Director, Resources on the Adoption and Surrogacy Policy. The report recommended the Adoption Policy be brought into line with the occupational maternity provisions and extend the provision to surrogate parents. The Committee were advised that there was a typing error in paragraph 3.3, and '18 weeks' should read '39 weeks'.

60.2 Councillor Kitcat supported the proposals and felt that as the Council wanted to encourage adoption it was a positive thing.

60.3 Councillor Randall thanked the officers for the report and said that he supported it.

60.4 Councillor Mitchell stated she was very happy with the report, and also supported it.

60.5 Councillor Norman fully supported the proposals.

60.6 Councillor Cobb referred to paragraph one of the policy, and asked why it would not apply to foster carers or step parents. Councillor Cobb was advised that there was a separate policy for foster carers and step parents would probably be only formally adopting a child rather than the child being new member of a family.

### **RESOLVED**

1. That Governance Committee agreed the amended Adoption & Surrogacy Policy as set out in Appendix One to the report.
2. That Governance Committee agreed that an employee who became a legal parent of a surrogate child be allowed access to the Adoption & Surrogacy Policy.

3. That Governance Committee agreed that five days paid leave be granted for the Adoption Preparation and Assessment Process.
4. That Governance Committee agreed that the proposals be backdated to 1 January 2012 to enable those employees who were close to being matched with a child benefited from the policy.

**61. GOVERNANCE COMMITTEE WORK PLAN**

**61.1 RESOLVED**

That the Work Plan be noted.

The meeting concluded at

Signed

Chair

Dated this

day of



# GOVERNANCE COMMITTEE

## Agenda Item 70

Brighton & Hove City Council

<b>Subject:</b>	<b>Polling Place Review</b>		
<b>Date of Meeting:</b>	<b>20 March 2012</b>		
<b>Report of:</b>	<b>Strategic Director, Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Paul Holloway</b>	<b>Tel:</b> 29-2005
	<b>E-mail:</b>	<b>paul.holloway@brighton-hove.gov.uk</b>	
<b>Wards Affected:</b>	<b>East Brighton, Hangleton &amp; Knoll, Hove Park, Goldsmid, St Peter's &amp; North Laine, Wish and Withdean</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 A full review of polling districts and polling places, which comprised a formalised series of measures involving consultation, representations and publishing of information, was carried out in the autumn of 2010. Under the Electoral Administration Act 2006, the Council must carry out such a review at least every four years, and the review was timetabled so that any changes took effect for the City Council elections in May 2011.
- 1.2 Following the City Council elections, issues have arisen about six of the Council's designated polling stations.
- 1.3 East Brighton Ward – the Headteacher of St Mark's CE Primary School, on behalf of pupils, parents and teachers, has requested that the Council seek alternative premises because the closure of the school on polling day is disruptive to the education process.
- 1.4 Hangleton & Knoll Ward – the Headteacher of West Blatchington Primary School, on behalf of pupils, parents and teachers, has requested that the Council seek alternative premises because the closure of the school on polling day is disruptive to the education process. In addition, disabled access to the school is poor, with a flight of steps to the main entrance.

- 1.5 Hove Park and Goldsmid Wards – the Headteacher of Cottesmore St Mary’s RC Primary School, on behalf of pupils, parents and teachers, has requested that the Council seek alternative premises because the closure of the school on polling day is disruptive to the education process.
- 1.6 St Peter’s & North Laine Ward – the Friends Centre, Stroudley Road, is not available for use as a polling station in the next elections.
- 1.7 Wish Ward – the Pavilion, Aldrington Recreation Ground, Saxon Road, is not available for use as a polling station in the next elections.
- 1.8 Withdean Ward – the Headteacher of Balfour Primary School, on behalf of pupils, parents and teachers, has requested that the Council seek alternative premises, because of the impact of the infant and junior schools merging and the disruption to the school.
- 1.9 The Returning Officer’s staff have visited the areas concerned, in order to assess the suitability of alternative premises as polling places. Various options have been considered and it is proposed that:
  - a) the Manor Gym be put forward as a venue to replace St Mark’s CE Primary School
  - b) Hangleton Community Centre be put forward as an option to replace West Blatchington Primary School
  - c) views are sought about the continued use of Cottesmore St Mary’s RC Primary School
  - d) St Bartholomew’s CE Primary School be put forward as an option to replace the Friends Centre
  - e) a portable polling station be put forward as an option to replace the Pavilion, Saxon Road
  - f) Dorothy Stringer High School be put forward as an option to replace Balfour Primary School
- 1.10 At its meeting on 1 February 2011, the Governance Committee approved the recommendation to delegate to the Returning Officer (the Chief Executive), following consultation with the Group Leaders and respective ward councillors, the designation of alternative polling places in the event of any polling place not being available at any particular election.
- 1.11 As there is sufficient time before the next scheduled elections in November 2012, there is an opportunity to carry out a wider consultation on the proposals for these seven wards. It is proposed to undertake this consultation as we have successfully carried out previously in line with the council’s recommended practices.



## **2. RECOMMENDATION:**

- 2.1 That the Governance Committee approves the attached consultation document and the consultation process outlined at section 4.
- 2.2 That, on completion of the consultation exercise referred to above, officers bring a report to the relevant Council committee for the approval of recommendations for alternative polling places in the affected wards.

## **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Under the Representation of the People Act 1983, the Council has a duty to divide its area into polling districts and to designate a polling place for each district for UK Parliamentary elections and other elections. It also has to keep these arrangements under review. .
- 3.2 The principles underlying the Council's approach to polling districts and polling places are:
  - a) To try and identify new polling places in areas where the existing provision is inadequate or inconvenient.
  - b) To ensure, as far as practicable, that any new polling places are accessible to people with disabilities.
  - c) To ensure that all electors have such reasonable facilities for voting as are practicable in the circumstances.
  - d) To try and minimise disruption to schools.

## **4. CONSULTATION**

- 4.1 The consultation period for this review will run from 23 March to 1 June 2012. Public notice of the review will be given, and the consultation document will be sent to ward councillors, Members of Parliament, local political parties, the current polling station contacts and other interested groups or persons, including those who have particular expertise in relation to access to premises or facilities for persons who have different forms of disability.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 In the main, the polling place review will have a minimal impact in terms of hire costs. However, the cost of a portable polling station in the Wish ward, will be approximately £2,000 and this will be met from within existing resources.

*Finance Officer Consulted: Mike Bentley*

*Date: 01/03/12*

### Legal Implications:

- 5.2 The legislative framework for reviews of polling districts and places consists of:  
(i) sections 18A to 18 E and Schedule A1 of the Representation of the People Act 1983; and  
(ii) The Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006 (SI 2006/2965).

Under the council's existing constitution, the Governance Committee has power to exercise functions relating to electoral matters. Under the council's new committee system of governance expected to come into effect from Annual Council 2012, these functions would – under existing proposals – be transferred to a newly established Policy & Resources Committee. The definitive governance structure and scheme of delegation to committees will not be confirmed until Full Council passes a resolution to that effect on 26 April 2012.

*Lawyer Consulted: Oliver Dixon*

*Date: 2 March 2012*

### Equalities Implications:

- 5.3 The Council must ensure that so far as is reasonable and practical every polling place for which it is responsible is accessible to people who are disabled.

### Sustainability Implications:

- 5.4 There are no implications.

### Crime & Disorder Implications:

- 5.5 There are no implications.

### Risk and Opportunity Management Implications:

5.6 There are no implications.

Corporate / Citywide Implications:

5.7 The recommendations are in line with council priorities, specifically for open and effective city leadership.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Consultation document – review of polling places, spring 2012

### **Documents In Members' Rooms**

None

### **Background Documents**

1. Review of Polling Districts and Polling Places Consultation Paper – 25 October 2010.
2. Electoral Commission Circular EC19/2010 – Review of polling districts, polling places and polling stations

**Appendix 1**

Partial Review of Polling Districts and  
Polling Places

East Brighton, Hangleton & Knoll, Hove  
Park, Goldsmid, St Peter's & North Laine,  
Wish and Withdean Wards of  
Brighton & Hove City Council

Consultation Document

Consultation Period runs from 23 March to 1 June 2012

## **1. Background to the Review**

Under the Representation of the People Act 1983, the council has a duty to divide its area into polling districts and to designate a polling place for each district for UK Parliamentary elections. It also has to keep these arrangements under review. The arrangements made for parliamentary elections are also used at other elections.

The Electoral Administration Act 2006 introduced a duty on all local authorities in Great Britain to review their polling districts and polling places at least once every four years. A full review including wide consultation was carried out in autumn 2010, and changes took effect for the City Council elections in May 2011.

Following the City Council elections, issues arose about two of the council's designated polling stations and a partial review was carried out in autumn 2011. Further issues have now arisen about six more polling stations, and a partial review is therefore now necessary in the wards of East Brighton, Hangleton & Knoll, Hove Park, Goldsmid, St Peter's & North Laine, Wish and Withdean.

## **2. Definitions**

"Polling districts" are geographical electoral areas into which wards and constituencies may be sub-divided.

"Polling places" are the buildings or areas designated by the council where electors in a polling district go to vote in person.

The polling place should in normal circumstances be situated within the polling district for which it is designated, but in some circumstances, for example where no suitable polling place can be found, then the polling place may be designated outside the polling district.

"Polling stations" are the number of issuing desks in the building that is the designated polling place, which generally range from one to three. The Returning Officer determines the number of polling stations depending on the electorate at a particular election. Wherever possible there should be no more than 2,500 electors allotted to a polling station.

### 3. The Review Process

The Returning Officer's proposals have been included in this consultation paper.

The council invites comments on the proposals. Public notice about the consultation will be given. The consultation paper will be sent to councillors, Members of Parliament, local political parties, and any other interested groups or persons, including those who have particular expertise in relation to access to premises or facilities for persons who have different forms of disability.

### 4. The Review Timetable

The timetable for the review is set out below:

Consultation document to be circulated	Friday 23 March 2012
Closing date for representations	Friday 1 June 2012
Final proposals published via Agenda papers and website	Monday 9 July 2012
Council's Governance Committee meeting – approval of polling place changes	Tuesday 17 July 2012
Completion of review and publication of revised electoral register	1 September 2012
Police and Crime Commissioner elections	Thursday 15 November 2012

### 5. The Proposals

This document sets out details of current polling district and polling places for the five wards in question, and details of issues and any proposed changes.

The principles behind these proposals are:

- a) To try and identify new polling places in areas where the existing provision is inadequate or inconvenient.
- b) To ensure, as far as practicable, that any new polling places are accessible to people with disabilities.

c) To ensure that all electors have such reasonable facilities for voting as are practicable in the circumstances.

d) To try and minimise disruption to schools.

## **6. Making comments**

Any elector may make representations. Representations must be received by **Friday 1 June 2012**, and should be addressed to:

Electoral Services  
Brighton & Hove City Council  
FREEPOST BR 2003  
Town Hall  
Brighton  
BN1 1ZW

or emailed to: [electors@brighton-hove.gov.uk](mailto:electors@brighton-hove.gov.uk)



## Polling station scheme and Returning Officer's Proposals

Electorates as at 1 February 2012

### East Brighton Ward, Kemptown Constituency

Polling District	Electorate	Existing Polling Place	Number of polling stations
DS	1256	Valley Social Centre, Whitehawk Way	1
DT	1024	Valley Social Centre, Whitehawk Way	1
DU	1980	Whitehawk Inn, Whitehawk Road	1
DV	1525	St Mark's CE Primary School, Manor Road	1
DW	1149	TS Nautilus, 39a Chesham Road	1
DX	1872	Kemp Town Crypt Community Centre, St George's Road	1
DY	490	Craven Vale Resource Centre, Craven Road	1
DZ	646	Bristol Estate Community Centre, Donald Hall Road	1

The Headteacher of St Mark's CE Primary School, Manor Road, has raised concerns about the use of the school as a polling station, because of the disruption caused to the school timetable and children's education.

Although the Returning Officer is entitled to use schools as polling stations<sup>1</sup>, it is reasonable to look for alternative premises if they object to being used.

The Returning Officer's staff have visited the Manor Gym, Manor Road, and consider this to be a suitable venue for polling. It is in the same road next to St Mark's CE Primary School. It is also close to local conveniences and public transport. Access to the Gym is very good, and there are suitable facilities for voters.

**Q1 Do you approve of the Manor Gym being used as a polling station for DV polling district?**

**Q2 Are there any other alternatives that the Council should consider?**

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<sup>1</sup> Rule 22, Election Rules, Schedule 1, Representation of the People Act 1983

## Hangleton & Knoll Ward, Hove Constituency

Polling District	Electorate	Existing Polling Place	Number of polling stations
PU	2173	St Richard's Community Centre, Egmont Road	1
PV	1673	Oasis Christian Fellowship Hall, Hangleton Way	1
PW	1732	St Helen's Church Hall, Hangleton Way	1
PX	1689	West Blatchington Infant School, Hangleton Way	1
PY	1325	West Blatchington Windmill North Barn, Holmes Avenue	1
PZ	2129	Hounsom Memorial Church Hall, Nevill Avenue	1

The Headteacher of West Blatchington Infant School, has raised concerns about the use of the school as a polling station, because of the disruption caused to the school timetable and children's education.

Although the Returning Officer is entitled to use schools as polling stations<sup>2</sup>, it is reasonable to look for alternative premises if they object to being used.

The Returning Officer's staff have visited Hangleton Community Centre, Harmsworth Crescent, and consider this to be a suitable venue for polling. It is not far from the school. It is also close to local conveniences and public transport. Access to the Community Centre is very good, and there are suitable facilities for voters.

**Q3 Do you approve of Hangleton Community Centre being used as a polling station for PX polling district?**

**Q4 Are there any other alternatives that the Council should consider?**

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<sup>2</sup> Rule 22, Election Rules, Schedule 1, Representation of the People Act 1983

## **Hove Park and Goldsmid Wards, Hove Constituency**

<b>Polling District</b>	<b>Electorate</b>	<b>Existing Polling Place</b>	<b>Number of polling stations</b>
OX	3652	Hove Park Upper School, Nevill Road	2
OY	1863	St Peter's Church Hall, Hangleton Road	1
OZ	2336	Cottesmore St Mary's RC Primary School, The Upper Drive	1
NV	3784	Somerhill Junior School, Somerhill Road	2
NW	2011	All Saints Church Hall, Eaton Road	1
NX	2016	Vallance Community Centre, Sackville Road	1
NY	1714	Cottesmore St Mary's RC Primary School, The Upper Drive	1
NZ	1553	Avondale Centre, Montefiore Road	1

The Headteacher of Cottesmore St Mary's RC Primary School, has raised concerns about the use of the school as a polling station, because of the disruption caused to the school timetable and children's education.

Although the Returning Officer is entitled to use schools as polling stations<sup>3</sup>, it is reasonable to look for alternative premises if they object to being used.

The Returning Officer's staff have approached a range of alternative premises, which are either unavailable or not suitable, including Mowden (Lancing College Preparatory) School, Cardinal Newman Catholic School, the Pavilion and Avenue Tennis Club, and Brighton & Hove School for Girls.

One possible option is Hove Rugby Club. There is disabled access via a temporary ramp, and there are reasonable facilities for voters. However, the privacy of voters could be compromised at this venue, and access across the recreation ground could be of concern, especially after dark. It is therefore proposed that Cottesmore St Mary's RC Primary School be retained as the polling station for the OZ and NY polling districts.

**Q5 Do you agree that Cottesmore St Mary's RC Primary School should be retained as the polling station for the OZ and NY polling districts?**

**Q6 Are there any other alternatives that the Council should consider?**

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<sup>3</sup> Rule 22, Election Rules, Schedule 1, Representation of the People Act 1983

## **St Peter's & North Laine Ward, Pavilion Constituency**

<b>Polling District</b>	<b>Electorate</b>	<b>Existing Polling Place</b>	<b>Number of polling stations</b>
KS	842	Friends Centre, Brighton Junction, Stroudley Road	1
KT	1970	St Paul's CE School, St Nicholas Road	1
KU	1607	West Hill Hall, Compton Avenue	1
KV	2177	Calvary Evangelical Church Hall, 72 Viaduct Road	1
KW	937	Downs Infant School, Ditchling Road	1
KX	3079	Wagner Memorial (St Martin's) Hall, Lewes Road	2
KY	1145	Brighton & Hove Foyer, Pelham Street	1
KZ	1550	Brighton Church and Community Centre, North Road	1

The polling district KS was created in 2008, to cater for the new development and increased population. The polling place used for this district was St Bartholomew's CE Primary School, Ann Street.

On 1 February 2011, the council designated the Friends Centre, Brighton Junction, Stroudley Road, as the polling place for KS, as an alternative to St Bartholomew's CE Primary School.

The Friends Centre is not available for the elections on 15 November 2012. As the voters in the district are already familiar with St Bartholomew's School, it is recommended that the school be reinstated as the polling place for KS.

**Q7 Do you agree that St Bartholomew's CE Primary School should be re-designated as the polling station for the KS polling district?**

**Q8 Are there any other alternatives that the Council should consider?**

### **Wish Ward, Hove Constituency**

<b>Polling District</b>	<b>Electorate</b>	<b>Existing Polling Place</b>	<b>Number of polling stations</b>
SV	2048	St Leonard's Church Hall, Glebe Villas	1
SW	1389	Aldrington Recreation Ground Pavilion, Saxon Road	1
SX	1369	Aldrington Recreation Ground Pavilion, Wish Road	1
SY	1396	Children's Centre, West Hove Infant School	1
SZ	782	Sanders House Communal Room, Ingram Crescent West	1

The Pavilion at Aldrington Recreation Ground, Saxon Road, is not available for use as a polling station because it has been leased to a private playgroup.

Alternative premises have not been found. Subject to a site visit by the portacabin company, it is recommended that a portable polling station be sited on the recreation ground near the pavilion.

**Q9 Do you approve of a portable polling station being used as a polling station for the SW polling district?**

**Q10 Are there any other alternatives that the Council should consider?**

## **Withdean Ward, Pavilion Constituency**

<b>Polling District</b>	<b>Electorate</b>	<b>Existing Polling Place</b>	<b>Number of polling stations</b>
IU	2193	Church of the Good Shepherd Hall, Dyke Road	1
IV	1953	Minor Club House, Withdean Sports Complex	1
IW	1872	The Ascension Church Hall, Westdene	1
IX	1422	Varndean College, Surrenden Road	1
IY	989	Balfour Junior School, Balfour Road	1
IZ	2155	Knogle Hall, Knogle Road	1

The Headteacher of Balfour Primary School has raised concerns about the use of the school as a polling station, because of the impact of the infant and junior schools merging and the disruption to the school.

The Returning Officer's staff have looked at a range of alternative premises, and there appear to be two viable options which would be suitable in terms of accessibility and facilities for voters.

It is possible that Varndean College, which is already used as a polling station for IX polling district, could also serve the IY polling district. However, there could be an issue for voters having to travel further to vote, and there could be significant congestion.

A more suitable option would be Dorothy Stringer High School, which is very close to Balfour Junior School. Access to the High School is very good, and there are suitable facilities for voters. The High School is happy to accommodate a polling station, and after assessing the risks would be minded to close the school, and build election day into their school timetable as a teacher training day.

**Q11 Do you approve of Dorothy Stringer High School being used as a polling station for IY polling district?**

**Q12 Are there any other alternatives that the Council should consider?**

<b>Subject:</b>	<b>Attendance Management Procedure</b>		
<b>Date of Meeting:</b>	<b>20 March 2012</b>		
<b>Report of:</b>	<b>Strategic Director Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Charlotte Thomas</b>	<b>Tel: 291290</b>
	<b>Email:</b>	<b>Charlotte.thomas@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 When the Attendance Management Procedure was introduced in April 2011, a commitment was given to review how well the policy was working in practice after six months. That review took place in October and involved extensive discussions with the Trade Unions and members of the Workers' Forums.
- 1.2 The review's findings were presented to the Governance Committee at its meeting in November. Given the very real concerns expressed by colleagues about the mandatory nature of the formal absence review meetings, the Head of HR recommended that the Committee could consider the option of amending the Procedure so that the formal Absence Review meetings were no longer a mandatory requirement when an employee's sickness reached an attendance concern level. However, as there had not been an opportunity to seek the views of the Corporate Management Team and other managers on this possible change before the meeting, Members were asked to defer a decision until consultation had taken place.
- 1.3 This report sets out the findings from the consultation exercise as well as the views of the Strategic Leadership Board regarding the mandatory nature of the formal absence review meetings under the current Procedure.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee note the views of all parties who have contributed to the review of this Procedure and thank them for their input.
- 2.2 That the Committee agree to the current Attendance Management Procedure being amended to remove the mandatory requirement to always hold a formal Absence Review meeting when an employee's sickness reaches an attendance concern level.
- 2.3 That the Committee agree to amending the current Procedure to ensure that managers always hold a Return to Work discussion when an employee returns to work after a period of sickness absence.

- 2.4 That the Committee notes that further training for managers will be provided to equip them to determine when it is appropriate to convene a formal Absence Review meeting where an employee's sickness absence reaches an attendance concern level.
- 2.5 That the Committee instructs Officers to make the necessary amendments to the Attendance Management Procedure to give effect to recommendations in 2.2 to 2.4 inclusive to take effect from 1 April 2012.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 When the Attendance Management Procedure was introduced in April 2011, a commitment was given to review how well the policy was working in practice after six months. That review took place in October and involved extensive discussions with the Trade Unions and members of the Workers' Forums.

#### **Findings of the review**

- 3.2 Although a number of issues were raised, the one that caused the greatest concern related to the mandatory requirement for managers to hold a formal Absence Review meeting with every employee whose absence reached an attendance concern level.
- 3.3 This aspect of the Procedure was introduced to address the perceived inconsistency in managing sickness absence and many managers supported this approach.
- 3.4 However, it was evident that the Trade Unions and the Workers' Forums, particularly the Disabled Workers' Forum, felt that requiring employees to attend a formal Absence Review meeting in all cases was "heavy handed" and was placing extra pressure on individuals who were already anxious about having had time off work through sickness.
- 3.5 It was felt that the level of anxiety was particularly acute for individuals who were asked to attend a formal review meeting after having just returned to work after an extended period of absence as a result of a disability or serious life-threatening illness or where there was a difficult working relationship between the employee and their manager.
- 3.6 The Forum argued that the fact the manager may, in the event, use their discretion not to issue a warning at the end of the review meeting did nothing to alleviate the anxiety felt by the individual.
- 3.7 The review's findings were presented to the Governance Committee at its last meeting in November.



3.8 Given the very real concerns expressed by colleagues over the mandatory nature of the formal Absence Review meetings, the Head of HR recommended to the Committee that, following consultation with the Corporate Management Team and other managers, Members could consider the option of making amendments to the Procedure. These were to:

- place greater emphasis on the need for managers to hold Return to Work discussions with employees after every absence
- remove the mandatory nature of the formal Absence Review meetings. However, there would be an expectation that they would need to be held where the manager was not satisfied, having taken into account any existing or new reasonable adjustments that had been made, that the employee's attendance would be maintained at a satisfactory level.

3.9 Over the last couple of months, the views of the Corporate Management Team (CMT) and their own management teams have been sought over the possible changes to the Procedure. Their feedback is summarised below.

#### **Results of consultation with CMT and other managers**

3.10 There was general consensus that:

- early intervention is essential if sickness absence is to be managed effectively
- the process should be supportive
- the process should encourage open and honest discussions between individuals and managers to enable appropriate support and/or reasonable adjustments, where applicable, to be implemented to help the individual improve their attendance
- the Procedure needs to ensure consistency, transparency and equity of treatment for individuals
- the Procedure must be flexible to allow managers discretion over the issuing of warnings following a formal review meeting.

3.11 However, there were different views on whether the holding of a formal Absence Review meeting should remain mandatory for every employee whose absence reached an attendance concern level.

3.12 A number of service areas including Adult Social Care, Children and Families and City Regulation and Infrastructure considered that the Procedure should remain unchanged. They felt that the mandatory nature of these formal meetings ensured a consistent approach and provided the opportunity to discuss in detail health issues and any reasonable adjustments or other support that may encourage improved attendance.

3.13 Whilst they acknowledged some staff might find these formal meetings stressful, managers sought to conduct them in a positive and supportive manner. They also pointed out that, whilst formal meetings were held in all cases where an employee's absence reached a concern level, managers still had the discretion not to issue a warning if this was appropriate given the circumstances.

- 3.14 Although some services supported the current policy, others including Communities, City Services, Housing & Inclusion and some Resource Units would not be opposed to these changes. Indeed, despite the current agreed corporate position, some service areas were not holding Absence Review meetings in all cases but exercising discretion depending upon the circumstances.

### **Views of the Strategic Leadership Board**

- 3.15 The Strategic Leadership Board (SLB) was asked to consider the results of the consultation exercise and to give a view on whether they would support a change to the current Procedure.
- 3.16 Having consulted with representatives of the Disabled Workers' Forum, and taken account of the views expressed by CMT, SLB are of the view, on balance, that:
- managers must apply the corporate Attendance Management Procedure in all instances of sickness absence
  - the mandatory requirement to hold formal Absence Review meetings when an employee's sickness absence reaches an attendance concern level should be removed from the current Procedure
  - Return to Work discussions should be mandatory and should cover
    - the reasons for the absence
    - factors that may have contributed to the sickness such as an underlying medical condition or disability
    - the nature of any support the employee may need including reasonable adjustments or referral to occupational health.
- 3.17 Notwithstanding the above, SLB also felt it was important for managers to regularly discuss any health issues with their employees outside of the formal procedural framework e.g. in one-to-ones to ensure that they were able to provide effective support and identify any action that may be needed to help individuals improve their attendance.
- 3.18 In addition, SLB recognised that there was a need to provide skills training to equip managers to hold these sensitive discussions with employees and to help them come to fair and reasonable decisions taking into account the circumstances of each individual's case.

### **Views of the Staff Workers' Forums**

- 3.19 Detailed feedback on the proposed changes was only provided by the Disabled Workers' Forum. The other two Forums responded saying that they endorsed the Disabled Workers' Forum views.
- 3.20 The Disabled Workers' Forum welcomed the changes being proposed to the current Attendance Management Procedure and supported the requirement for managers to meet informally with disabled employees on a regular basis e.g. in one-to-ones to discuss how their staff could best be supported in the workplace.

- 3.21 They considered that this was particularly important where the individual had had a large number of disability-related absences. These meetings would provide an opportunity for the manager to seek advice from other sources such as Occupational health, HR's coaching and advice team, the Disabled Workers' Forum or other disability specialists on the type of reasonable adjustments that might be appropriate.
- 3.22 The Disabled Workers' Forum also requested that a number of other changes be made to the Procedure. These are summarised below in italics followed by management's response to the points raised:

- *The Attendance Management Procedure should not be applied to disabled employees in the same way as for non-disabled individuals. They believe that to do so would disproportionately affect disabled employees and therefore would be indirectly discriminatory practice. They wished to see disability-related sickness being recorded separately from other sickness absence so that it would be disregarded when determining whether an attendance concern level had been reached or when managers were taking decisions about the individual's employment such as promotion or selection for redundancy.*

The Equality Act 2010 does not require employers to disregard disability-related absence when operating their sickness management procedures only that any action taken under the procedure, including dismissal, does not constitute unlawful discrimination. The council has a duty to ensure that reasonable adjustments are made, wherever practicable, to support employees with a disability to help them achieve a satisfactory attendance level.

The council already requires managers to indicate on the Return to Work Discussion Form and the managers' absence recording screen on PIER whether or not any sickness absence is disability-related.

- *The Forum have requested that disabled employees who need to attend consultations or for treatment to improve or manage a disability during work time should have their absence recorded as "disability leave" in accordance with the legal requirement for the council to make reasonable adjustments.*

There is no statutory requirement for an employer to provide "disability leave". However, the Procedure as it is currently written already provides for paid time off to be granted in such circumstances. This is good practice and would be classed as a reasonable adjustment.

- *The Disabled Workers' Forum wished to see the abolition of the formal Absence Review meeting following an individual's return from an extended period of sickness absence. Instead they felt that managers should meet informally with the member of staff to discuss the phased return to work and any reasonable adjustments that might be required during that initial period or on longer-term basis.*

The proposed changes to the Procedure would mean that a manager would have discretion over whether or not to require an employee to attend a formal review meeting when returning to work after an extended period of sickness absence.

- *The Forum has requested that any formal warnings issued for disability-related absences since the new Attendance Management Procedure was introduced in April 2011 be rescinded.*

As mentioned above, an employee whose attendance is giving cause for concern due to a disability-related condition can be issued with a warning. Where an individual considered that a warning was not justified they would have had the opportunity to appeal the decision. At the appeal hearing, another manager would have considered the case and come to a view as to whether the warning was a fair and reasonable decision given the circumstances of the particular case. It would therefore not be appropriate to rescind any warnings already issued under the Procedure.

- *The Forum have asked that the Procedure should include a statement stating that disabled employees should not be discriminated against in relation to their disability-related sickness absence.*

The council agrees that disabled employees should not be unlawfully discriminated against in relation to their disability-related sickness absence.

- *The Forum have stated that they wish to see mandatory training for managers to help them decide when it would be appropriate to hold informal, support meetings with individuals and when formal absence review meetings under the Procedure should be convened.*

The Procedure already requires managers to seek advice from HR where they are dealing with disability related issues. In addition to revising the Absence Management e-learning module to reflect the amended Procedure, the coaching and advice team will offer skills training for managers, either through workshops or one-to-one coaching sessions, to help their decision-making in this area and to ensure a fair and consistent approach to sickness absence management for both disabled and non-disabled employees. It is proposed, due to the current pressure on resources within HR, to prioritise this training for those managers who lack confidence and skill in dealing with these issues (especially those in services with high sickness rates). It is not feasible to accommodate a compulsory training programme for all managers without compromising existing work priorities.

- *The Forum wished to see the revised Procedure implemented from 1 April 2012 or, if this was not practicable, as soon as possible thereafter.*

The council would support this.

### **Views of the Trade Unions**

3.23 The Trade Unions' feedback is summarised below. Although they supported the proposed amendments to the Procedure, they considered that:

- *Disability-related sickness absence should be disregarded for the purposes of determining whether an employee's sickness absence had reached an attendance concern level.*

The Procedure states that when a manager is dealing with disability related issues they should seek advice. Please see paragraph 3.22 above.

- *it was unfair to pro rata the attendance concern levels for part-time employees.*

It was only the 10 day attendance concern level that was pro rata'd for part-time employees. The council does not consider that the application of its policy has been unfair. However, the council has decided to remove this provision from the Procedure.

- *the Procedure should be amended to make it clear that a formal warning can only be issued following a formal Absence Review meeting.*

The council considers that this is already clear within the current procedure. However, as it is a concern for the trade union side a statement to this effect will be included in the Procedure.

- *the wording included in the standard letter sent to an employee who was being issued with a formal warning was inappropriate. The main concern centred on the fact that the letter states that the individual's sickness record was "unacceptable".*

We will re-word the standard letters.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 The Strategic Leadership Board, Corporate Management Team and other managers have been consulted over the option of removing the mandatory nature of the formal Absence Review meeting when an employee's sickness absence reaches an attendance concern level. Their views are set out in this report.
- 4.2 The results of the consultation with senior management have been discussed with the Trade Unions and Workers' Forums and their views are also included in this report.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### **5.1 Financial Implications:**

The adherence to absence management procedures supports the effective management of staffing budgets and resource management. The proposed changes in the procedure are not expected to have any direct financial implications. The training support can be managed within existing budgets through prioritisation of the programme.

*Finance Officer consulted: Anne Silley*

*Date 09/03/2012*

## 5.2 Legal Implications:

The changes made to the Attendance Management Procedure do not have any legal implications. The duties imposed on the Council by the Equality Act 2010 in relation to the need to make reasonable adjustments where applicable, and the duty to not discriminate on the basis of a person's disability remain unchanged and unaffected by the changes proposed in this report.

*Lawyer consulted: Sarita Arthur-Crow*

*Date: 08/03/2012*

## 5.3 Equalities Implications:

The Procedure complies with the provisions set out in the Equality Act 2010. Equalities data for any employees dismissed under the Attendance Management Procedure will take place as part of our annual equalities monitoring of key HR policies.

## 5.4 Sustainability Implications:

None.

## 5.5 Crime & Disorder Implications:

None.

## 5.6 Risk and Opportunity Management Implications:

5.6.1 The continued implementation of the Procedure will help managers to reduce working days lost to sick absence by:

- increasing their confidence and capability to manage attendance
- providing more timely support for employees with potentially long-term conditions
- increasing engagement with, and understanding of, the council's attendance standards and formal procedures.

5.6.2 There are additional benefits in staff productivity, wellbeing and morale by reducing the need for people to cover for absent team members.

## 5.7 Public Health Implications:

None.

## 5.8 Corporate / Citywide Implications:

Reduced sickness absence will result in the more consistent delivery of services to Brighton and Hove residents and lower agency costs.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. None

### **Documents in Members' Rooms**

1. None

### **Background Documents**

1. None





# GOVERNANCE COMMITTEE

## Agenda Item

Brighton & Hove City Council

**Subject:** Proposed Meetings Timetable 2012/13  
**Date of Meeting:** 20<sup>th</sup> March 2012  
**Report of:** Director of Resources  
**Contact Officer:** Name: Mark Wall Tel: 29-1006  
E-mail: mark.wall@brighton-hove.gov.uk  
**Wards Affected:** All

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To look at the proposed schedule of meetings for the municipal year 2012/13 based on the proposed new governance arrangements.

#### 2. RECOMMENDATIONS:

- 2.1 That the proposed timetable of meetings for 2012/13 be approved.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The proposed timetable for 2012/13 provides for an eight week cycle of meetings, taking into account school terms, a summer break and public holidays. In summary, the proposals are:-

##### Full Council and Committees:

6 Ordinary Council meetings, plus the Annual Council and Budget Council

Policy & Resources:	8 weekly
Adult Care & Health	8 weekly
Children & Young People	8 weekly
Economic Development & Culture	8 weekly
Housing	8 weekly
Environment & Sustainability	8 weekly
Transport	8 weekly
Audit & Standards:	Quarterly
Corporate Parenting Sub	Quarterly
Personnel Appeals:	Panels arranged as required

##### Regulatory Committees

Planning:	3 weekly
Licensing:	3 meetings a year
Licensing Panels	As required (average 40)

##### Overview & Scrutiny:

Overview & Scrutiny Committee:	8 weekly
Health & Wellbeing Overview & Scrutiny Committee:	8 weekly

### Partnerships:

Joint Commissioning Board:	One
Shadow Health & Wellbeing Board	Quarterly
Housing Management Consultative Sub	8 weekly
Community Safety Forum	Quarterly

- 3.2 The proposed timetable for 2012/13 provides for a total of 108 meetings, excluding meetings of the Licensing Panels, Personnel Appeals and the Community Safety Forum (see Appendix 1).

### **Governing Principles for the Meetings Timetable**

- 3.3 The following guidelines have been applied in reviewing the meetings timetable:

- As far as possible clashes of meetings have been avoided. However, inevitably, given the constraints of avoiding school/public/religious holidays and the number of meetings to be accommodated on specific days of the week, there are occasions where there are overlaps of meetings.
- What appear at the moment to be “free” days will be filled by Licensing Panel hearings, Personnel Appeals and the various Chairs’ and political group meetings.
- As far as possible meetings have not been scheduled on Fridays.
- As far as possible school holidays, religious holidays and party conference weeks have been avoided, although it has not been possible to keep those weeks completely clear.
- Meeting start times generally are scheduled for 4pm or later to encourage public attendance, unless a preferred time is otherwise known e.g. Planning and Licensing Committees. However, Committees can determine whether to continue with the programmed start time or if an alternative time would be more appropriate for their particular meeting.

- 3.4 There must be a sufficient number of meetings to enable the council business to be transacted. The schedule of Council and Committee meetings is designed to ensure that:

- Committee and Scrutiny reports can be received without undue delay;
- Consideration of the various plans and strategies to be adopted by Full Council can be accommodated;
- there is scope to accommodate city-wide debates if necessary; and
- Public interest and participation through questions, deputations and petitions continues to be facilitated.

- 3.5 The Overview & Scrutiny Committee is programmed to meet once a cycle in line with the Overview and Scrutiny rules.

- 3.6 Whilst every effort will be made to keep meetings on the dates listed there may be a need to alter them and additional meetings may be required for dedicated debates on key issues or particular plans and strategies.

3.7 As usual, a number of further meetings, which are not part of the formal meetings cycle, have been programmed to meet on a regular basis e.g. the Community Safety Forum and the Housing Management Consultative Sub-Committee.

3.8 The time table also lists the dates and times of other meetings such as the Police and Fire Authorities and the LSP; and as such there are occasional clashes with council meetings which are unavoidable.

#### **4. CONSULTATION**

4.1 The Leaders Group and appropriate officers have been consulted on the proposed timetable and appropriate committee and council dates set to meet statutory requirements.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

5.1 There are no financial implications arising from the report.

*Finance officer consulted: Anne Silley*

*Date: 08/03/12*

##### Legal Implications:

5.2 The proposed timetables of meetings does not prevent the calling of Special Meetings or the use of Urgency Sub-Committee meetings should circumstances arise, however it does enable a more fluent scheduling of meetings to be maintained throughout the municipal year.

5.3 The proposed timetable allows for continued compliance with the Access to Information Procedure Rules set out in Part 7.1 of the Constitution

*Lawyer consulted: Abraham Ghebre-Ghiorghis Date: 08/03/12*

##### Equalities Implications:

5.4 The majority of meetings are scheduled for 4pm or later to encourage public attendance and interest. Holiday periods are also avoided as far as is feasible.

##### Sustainability Implications:

5.5 There are no sustainability implications arising from the report.

##### Crime & Disorder Implications:

5.6 There are no crime & disorder implications arising from this report.

##### Risk and Opportunity Management Implications:

5.7 The scheduling of meetings aims to accommodate the decision-making processes for the year, but there is always the possibility of additional meetings having to be called.

Public Health Implications:

- 5.8 There are no public health implications arising from this report.

Corporate / Citywide Implications:

- 5.9 The scheduling of meetings accommodates the Council priority for open and effective city leadership.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Proposed Timetable for 2012/13

**Documents in Members' Rooms**

None

**Background Documents**

1. Timetable of Meetings for 2011/12

**BRIGHTON & HOVE CITY COUNCIL**

**TIMETABLE OF MEETINGS  
2012/13**

**PROPOSED SCHEDULE FOR COMMITTEE SYSTEM**

2012	APRIL/MAY	MAY	MAY	MAY	MAY/JUNE	JUNE	JUNE
MONDAY	30 Housing Management Consultative Cttee 3.00pm	7 BH	14	21	28 Overview & Scrutiny Cttee 4.00pm	4 BH	11 Personnel Appeals 10am
TUESDAY	1	8	15 Site Visits for Planning 2.00pm Pre-application presentation	22	29 Housing Management Consultative Sub-Cttee 3.00pm	5 BH <i>Queen's Diamond Jubilee</i>	12 Children & Young People Cttee 4.00pm Health, Wellbeing & Scrutiny Cttee 4.00pm
WEDNESDAY	2	9	16	23	30 *Shadow Health & Wellbeing Board 4.30pm	6 SH	13
THURSDAY	3	10 Cabinet 4.00pm	17 ANNUAL COUNCIL 4.30pm	24	31 Sussex Police Authority 2.00pm	7 SH East Sussex Fire Authority 10.30am	14 Economic Development & Culture Cttee 4.00pm
FRIDAY	4	11	18	25	1 Planning Committee 6-monthly training	8 SH	15 Personnel Appeals 10am

2012	JUNE	JUNE	JUNE	JULY	JULY	JULY	JULY	JULY/AUG
MONDAY	18 Community Safety Forum 4.00pm	25 Personnel Appeals 10am Adult Care & Health Cttee 4.00pm	2 JCB 5.00pm	9 Personnel Appeals 10am	16	23	30	SH
TUESDAY	19 LSP 4.00pm Environment & Sustainability Cttee 4.00pm	26 Site Visits for Planning 2.00pm Pre-application presentation	3 Audit & Standards Cttee 5.00pm	10 Corporate Parenting Forum 5.00pm Transport Cttee 4.00pm	17 Site Visits for Planning 2.00pm Pre-application presentation	24 Health, Wellbeing & Scrutiny Cttee 4.00pm	31	SH
WEDNESDAY	20 Housing Cttee 4.00pm	27 Planning Cttee 2.00pm	4 Corporate Parenting Sub-Cttee 4.00pm	11	18	25	1	SH
THURSDAY	21 Licensing Cttee 3.00pm	28 Personnel Appeals 10am	5 Policy & Resources Cttee 4.00pm	12	19 Planning Cttee 2.00pm	26	2	SH
FRIDAY	22 Personnel Appeals 10am	29 Personnel Appeals 10am	6 COUNCIL 4.30pm	13 Personnel Appeals 10am	20 COUNCIL 4.30pm <i>Ramadan</i>	27	3	SH

2012	AUGUST	AUGUST	AUGUST	AUGUST	AUGUST	SEPTEMBER	SEPTEMBER	SEPTEMBER
MONDAY	6 SH	13 SH	20 SH	27 BH	3 SH	10 Green Party Conference <b>Personnel Appeals 10am Overview &amp; Scrutiny Cttee 4.00pm</b>	17 <i>Rosh Hashanah</i> <b>Children &amp; Young People Cttee 4.00pm</b>	
TUESDAY	7 SH Site Visits for Planning 2.00pm <i>Pre-application presentation</i>	14 SH	21 SH	28 SH Site Visits for Planning 2.00pm <i>Pre-application presentation</i>	4 SH <b>Housing Management Consultative Sub-Cttee 3.00pm</b>	11 SH <b>Health, Wellbeing Overview &amp; Scrutiny Cttee 4.00pm</b>	18 Site Visits for Planning 2.00pm <i>Pre-application presentation</i> <b>LSP 4.00pm</b>	
WEDNESDAY	8 SH <b>Planning Cttee 2.00pm</b>	15 SH	22 SH	29 SH	5 SH	12 <b>*Shadow Health &amp; Wellbeing Board 4.30pm</b>	19 <b>Planning Cttee 2.00pm</b>	
THURSDAY	9 SH	16 SH	23 SH	30 SH <b>Planning Cttee 2.00pm</b>	6 SH	13 <b>East Sussex Fire Authority 10.30am</b>	20 <b>Economic Development &amp; Culture Cttee 4.00pm</b>	
FRIDAY	10 SH	17 SH	24 SH	31 SH	7 SH <b>Personnel Appeals 10am</b>	14 Green Party Conference <b>Personnel Appeals 10am</b>	21 <b>Planning Cttee 2.00pm</b>	



2012	SEPTEMBER	OCTOBER	OCTOBER	OCTOBER	OCTOBER	OCTOBER/NOV	NOVEMBER
MONDAY	24 Adult Care & Health Cttee 4.00pm	1 Labour Party Conference Personnel Appeals 10am	8 Shemini Atzeret Conservative Party Conference Community Safety Forum 4.00pm	15	22 Personnel Appeals 10am	29 SH	5 Guy Fawkes Night Personnel Appeals 10am Overview & Scrutiny Cttee 4.00pm
TUESDAY	25 Transport Cttee 4.00pm	2 Labour Party Conference Audit & Standards Cttee 5.00pm	9 Simchat Torah Conservative Party Conference Corporate Parenting Forum 5.00pm Site Visits for Planning 2.00pm Pre-application presentation	16 Navaratri	23 Housing Management Consultative Sub-Cttee 3.00pm	30 SH Site Visits for Planning 2.00pm Pre-application presentation Health, Wellbeing & Overview & Scrutiny Cttee 4.00pm	6
WEDNESDAY	26 Yom Kippur	3 Labour Party Conference	10 Conservative Party Conference	17	24	31 SH	7
THURSDAY	27 Housing Cttee 4.00pm	4 Labour Party Conference	11 Conservative Party Conference Planning Cttee 2.00pm	18 Corporate Parenting Sub-Cttee 4.00pm	25 COUNCIL 4.30pm	1 SH Planning Cttee 2.00pm	8
FRIDAY	28	5 Personnel Appeals 10am	12 Policy & Resources Cttee 4.00pm	19	26 Eid al Adha Personnel Appeals 10am	2 SH	9 Personnel Appeals 10am

2012	NOVEMBER	NOVEMBER	NOVEMBER	NOVEMBER	DECEMBER	DECEMBER	DECEMBER	DECEMBER
MONDAY	12	19	26	3	10	17	24	SH
		<b>Personnel Appeals 10am</b>		<b>Personnel Appeals 10am</b>	<b>Community Safety Forum 4.00pm</b>			
	<b>Children &amp; Young People Cttee 4.00pm</b>	<b>Adult Care &amp; Health Cttee 4.00pm</b>						
TUESDAY	13	20	27	4	11	18	25	BH
	<i>Diwali</i>	Site Visits for Planning 2.00pm <i>Pre-application presentation</i>		<b>LSP 4.00pm</b>	Site Visits for Planning 2.00pm <i>Pre-application presentation</i>	<b>Health, Wellbeing Overview &amp; Scrutiny Cttee 4.00pm</b>	<i>Christmas Day</i>	
	<b>Transport Cttee 4.00pm</b>		<b>Audit &amp; Standards Cttee 5.00pm</b>		<b>Environment &amp; Sustainability Cttee 4.00pm</b>	<b>Housing Management Consultative Sub-Cttee 3.00pm</b>		
WEDNESDAY	14	21	28	5	12	19	26	BH
				<b>*Shadow Health &amp; Wellbeing Board 4.30pm</b>			<i>Boxing Day</i>	
	<b>Housing Cttee 4.00pm</b>	<b>Planning Cttee 2.00pm</b>			<b>Planning Cttee 2.00pm</b>			
THURSDAY	15	22	29	6	13	20	27	SH
	<i>Muharram</i>							
	<b>Economic Development &amp; Culture Cttee 4.00pm</b>	<b>Licensing Cttee 3.00pm</b>	<b>Policy &amp; Resources Cttee 4.00pm</b>		<b>COUNCIL 4.30pm</b>			
FRIDAY	16	23	30	7	14	21	28	SH
		<b>Personnel Appeals 10am</b>	<i>St. Andrew's Day</i>	<b>Planning Committee 6-monthly training</b>				

2012/13	DEC/JANUARY	JANUARY	JANUARY	JANUARY	JAN/FEB	FEBRUARY	FEBRUARY
MONDAY	31 SH	7 Personnel Appeals 10am Overview & Scrutiny Cttee 4.00pm	14 <i>Makar Sakranti</i> Children & Young People Cttee 4.00pm	21 Adult Care & Health Cttee 4.00pm	28 Personnel Appeals 10am	4 Personnel Appeals 10am	11
TUESDAY	1 <i>New Years Day</i> BH	8 Site Visits for Planning 2.00pm Pre-application presentation	15 Transport Cttee 4.00pm	22 Audit & Standards Cttee 5.00pm	29 Site Visits for Planning 2.00pm Pre-application presentation	5 Environment & Sustainability Cttee 4.00pm	12 <i>Shrove Tuesday</i> Housing Management Consultative Sub-Cttee 3.00pm
WEDNESDAY	2 SH	9 Planning Cttee 2.00pm	16 Housing Cttee 4.00pm	23 Corporate Parenting Sub-Cttee 4.00pm	30 Planning Cttee 2.00pm	6 Planning Cttee 2.00pm	13 <i>Ash Wednesday</i>
THURSDAY	3 SH	10 Economic Development & Culture Cttee 4.00pm	17 Policy & Resources Cttee 4.00pm	24 <i>Mawlid al-Nabi</i>	31 COUNCIL 4.30pm	7 Personnel Appeals 10am	14 Budget Policy & Resources Cttee 4.00pm
FRIDAY	4 SH	11 Personnel Appeals 10am	18 Personnel Appeals 10am	25	1 Personnel Appeals 10am	8 Personnel Appeals 10am	15 <i>Vasant Panchami</i>

2013	FEBRUARY	FEB/MARCH	MARCH	MARCH	MARCH	MARCH	APRIL
MONDAY	18 SH	25 Community Safety Forum 4.00pm	4 Personnel Appeals 10am Overview & Scrutiny Cttee 4.00pm	11 Children & Young People Cttee 4.00pm	18 Adult Care & Health Cttee 4.00pm	25 Personnel Appeals 10am	1 Easter Monday BH
TUESDAY	19 SH Site Visits for Planning 2.00pm Pre-application presentation Health, Wellbeing & Scrutiny Cttee 4.00pm	26	5 Transport Cttee 4.00pm	12 Site Visits for Planning 2.00pm Pre-application presentation	19 Housing Management Consultative Sub-Cttee 3.00pm	26 Pesach (Passover)	2 SH Site Visits for Planning 2.00pm Pre-application presentation
WEDNESDAY	20 SH Planning Cttee 2.00pm	27	6 Housing Cttee 4.00pm	13 Planning Cttee 2.00pm	20 *Shadow Health & Wellbeing Board 4.30pm	27 Holi	3 SH
THURSDAY	21 SH Planning Cttee 2.00pm	28 BUDGET COUNCIL 4.30pm	7 Economic Development & Culture Cttee 4.00pm	14 Licensing Cttee 3.00pm	21 Policy & Resources Cttee 4.00pm	28 COUNCIL 4.30pm	Planning Cttee 2.00pm 4 SH
FRIDAY	22 SH	1 St David's Day	8 Personnel Appeals 10am	15 Personnel Appeals 10am	22 Personnel Appeals 10am	29 Vaisakhi Good Friday	5 SH

2013	APRIL	APRIL	APRIL	APRIL	APRIL/MAY	MAY	MAY	MAY
MONDAY	8	SH	15 <i>Yom HaAtzma'ut</i> <b>Personnel Appeals 10am</b>	22	29 <b>Personnel Appeals 10am</b>	6 BH	13 <b>Personnel Appeals 10am</b>	20
TUESDAY	9	SH	16 <b>Environment &amp; Sustainability Cttee 4.00pm</b>	23 <i>St George's Day</i> Site Visits for Planning 2.00pm <i>Pre-application presentation</i> <b>Health, Wellbeing &amp; Overview &amp; Scrutiny Cttee 4.00pm</b>	30 <b>Transport Cttee 4.00pm</b>	7	14 Site Visits for Planning 2.00pm <i>Pre-application presentation</i>	21
WEDNESDAY	10	SH	17	24	1	8	15 <i>Shavu'ot</i>	22
THURSDAY	11 <i>Hindu New Year</i>	SH	18 <b>Corporate Parenting Sub-Cttee 4.00pm</b>	25 <b>Planning Cttee 2.00pm</b>	2 <b>Housing Cttee 4.00pm</b>	9	16 <b>Planning Cttee 2.00pm</b>	23
FRIDAY	12	SH	19 <b>Personnel Appeals 10am</b>	26 <b>Economic Development &amp; Culture Cttee 4.00pm</b>	3 <b>Policy &amp; Resources Cttee 4.00pm</b>	10 <b>COUNCIL 4.30pm</b>	17	<b>ANNUAL COUNCIL 4.30pm</b> 24



<b>Subject:</b>	<b>South Downs National Park Authority – termination of Development Control Agency Arrangements in Brighton and Hove</b>		
<b>Date of Meeting:</b>	20 March 2012	Governance Committee	
	<b>22 March 2012</b>	<b>Council</b>	
<b>Report of:</b>	<b>Strategic Director, Place</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Paul Vidler</b>	<b>Tel: 29-2192</b>
	<b>Email:</b>	<b>paul.vidler@brighton-hove.gov.uk</b>	
<b>Wards affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The South Downs National Park Authority (SDNPA) became the Local Planning Authority for the National Park on 1 April 2011. The Council has entered into an Agency Agreement under section 101 of the Local Government Act 1972 with the SDNPA to provide Development Control services for that part of the National Park within the City on a temporary basis of up to three years.
- 1.2 This report reviews the working arrangements under the Agency Agreement and seeks the agreement of the Governance Committee to terminate the Agreement.

**2. RECOMMENDATIONS:**

- 2.1 That Governance Committee recommend that Council agrees that the Agency Agreement dated 21 June 2011 between the SDNPA and the Council relating to the provision of planning services in Brighton and Hove be terminated on a date to be agreed by the SDNPA and the Strategic Director, Place.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Following the creation of the South Downs National Park on 31 March 2010, the SDNPA became the Local Planning Authority for the National Park on 1 April 2011. The SDNPA decided initially to concentrate on its plan making (policy) and delegate back to the 15 constituent authorities its Development Control functions.
- 3.2 At the meeting of the Governance Committee on 13 July 2010 it was resolved that Full Council be recommended to agree the delegation of Development Control functions from the SDNPA to the Council. This was agreed by Full Council on 15 July 2010.

- 3.3 Since 1 April 2011, the Council has been providing Development Control services on behalf of the SDNPA in accordance with an Agency Agreement dated 21 June 2011 under Section 101 of the Local Government Act 1972. This includes pre-application advice, the consideration and determination of planning applications and the provision of the planning enforcement service.
- 3.4 It was anticipated when entering into the Agreement that the Council would be dealing with a low number of planning applications in the National Park. In the first three quarters of the current year, April - December 2011, 13 applications have been received. Of these, two were recovered by the SDNPA for its own determination. Compared to the annual number of applications received by the Council (3,495 in 2010/11) this is an insignificant number.
- 3.5 It is not considered that the liaison with SDNPA officers and the administrative arrangements required is proportionate to the consideration and determination of such a low number of applications. In addition, the funding arrangements in the Agreement are cost neutral to the Council.
- 3.6 The Agreement allows for the service to be provided by the Council on a temporary basis. It is appropriate to review the Agreement at this time as the SDNPA is currently setting up its own in-house planning application system to be operational from April this year. This was one of the principal reasons for setting up the Agency Agreement with the constituent authorities.
- 3.7 The SDNPA is now progressing work on planning policy and conservation area reviews in the City.
- 3.8 Having reviewed the background to and operation of, the current working arrangements, for the reasons set out above, it is considered appropriate for the Council to terminate the Agency Agreement. From discussions with SDNPA officers, it is anticipated that the Agreement will terminate on 31 March 2012 or shortly after, subject to the SDNPA planning application system becoming operational.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 No community engagement or consultation has been carried out because this matter relates to an administrative function carried out by the Council on behalf of the Local Planning Authority for the National Park.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 Revenue: The sum receivable from the South Downs National Park Authority is calculated to cover the costs of providing the planning service. Based on an estimate of 15 applications for the year within the S.D.N.P.A boundary, the council is due to receive the sum of £13,578.

*Finance Officer Consulted: Name Karen Brookshaw Date: 14/02/12*



Legal Implications:

- 5.2 As noted in the Report the Council has entered into an Agency Agreement with the South Downs National Park Authority (SDNPA) to carry out certain planning services on behalf of the Authority within Brighton and Hove. The Agreement provides for the Council to carry out these services for a period of three years, terminating on 31 March 2014, but subject to earlier termination. The Agreement provides for the giving of a minimum of 12 month's notice should either party wish to terminate the same prior to the expiry of the three year period but the SDNPA has agreed to waive this requirement. However, the Council is required to indemnify the SDNPA against any claims or other liabilities arising as a consequence of early termination.
- 5.3 It is not considered that any adverse human rights implications arise from this report.

*Lawyer Consulted:*                      *Name Hilary Woodward*                      *Date: 10/2/12*

Equalities Implications:

- 5.4 None identified.

Sustainability Implications:

- 5.5 None identified.

Crime & Disorder Implications:

- 5.6 None identified.

Risk and Opportunity Management Implications:

- 5.7 None identified.

Public Health Implications:

- 5.8 None identified.

Corporate / Citywide Implications:

- 5.9 As Local Planning Authority, the SDNPA would continue to provide the Development Control service for those parts of the City within the National Park. Prior to adopting its own planning policies, the SDNPA will continue to implement and take into account the current development plan policies adopted by the Council.

**SUPPORTING DOCUMENTATION**

**Appendices:**

None

## **Documents in Members' Rooms**

None

## **Background Documents**

1. Report to Governance Committee 13 July 2010 - South Downs National Park Authority – termination of Development Control Agency Arrangements in Brighton and Hove
2. Agency Agreement dated 21 June 2011 relating to the provision of planning services in Brighton & Hove

<b>Subject:</b>	<b>Pay Policy Statement</b>		
<b>Date of Meeting:</b>	<b>20 March 2012</b>		
<b>Report of:</b>	<b>Strategic Director Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Charlotte Thomas</b>	<b>Tel: 291290</b>
	<b>Email:</b>	<b>Charlotte.thomas@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Localism Act 2011 requires local authorities to produce a pay policy statement for 2012/13 and for each subsequent financial year. The aim is to increase accountability, transparency and fairness in the setting of local pay. These statements must set out the council's policies on a range of issues relating to the pay of its workforce, particularly its senior and lowest paid staff. The provisions in the Act do not seek to determine what decisions on pay should be taken or what policies should be in place, but require councils to be more open about their policies and how decisions are made.
- 1.2 The pay policy statement must be approved annually by Council before the start of the financial year to which it relates. This report seeks approval of the Governance Committee to recommend to Council the attached pay policy statement for adoption from 1st April 2012.

**2. RECOMMENDATIONS:**

- 2.1 That Governance Committee recommends to Council the adoption of the pay policy statement attached at Appendix A.
- 2.2 That Governance Committee notes the proposal to extend the role of the current Member Appointment Panel to become a Recruitment and Remuneration Panel which is responsible for the provision of advice on the council's pay policy and the starting salary of new appointees to Chief Officer posts. The extended role of the Panel will come into force when the new constitution is approved and adopted by full council on 26<sup>th</sup> April 2012.
- 2.3 That Governance Committee notes the requirement that Council approve a pay policy statement annually.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Localism Act 2011 requires local authorities to produce an annual pay policy statement prior to the year to which they relate, commencing with the financial year 2012. The pay policy statement must be approved by Council but it may amend its statement by resolution of Council if required during the year to which it relates. Schools staff fall outside the scope of this legislation.
- 3.2 The statement must provide a definition of lowest-paid employees adopted by the council for the purposes of the statement and it must include the council's policies relating to:-
- the level and elements of remuneration for each chief officer
  - remuneration of chief officers on recruitment
  - increases and additions to remuneration for each chief officer
  - the use of performance related pay for each chief officer
  - the use of bonuses for chief officers
  - the approach to the payment of chief officers on their ceasing to hold office or to be employed by the authority, and
  - the publication of and access to information relating to remuneration of chief officers.
- 3.3 Chief Officers, for the purpose of this legislation, are those who report to the Chief Executive and their direct reports
- 3.4 The Department for Communities and Local Government has produced guidance, 'Openness and Accountability in Local Pay', regarding the statutory requirement for councils to produce pay policy statements. This guidance states that full council should be offered the opportunity to vote before large salary packages are offered in respect of a new appointment. The Secretary of State considers the appropriate threshold to be £100,000. This has been incorporated into this council's pay policy statement and it is important that any vote on such a package takes into account equal pay considerations. It would be difficult to change the grade of any post other than that of the Chief Executive without considering the impact on the grade of other chief officer posts at the same level.
- 3.5 The Act does not require specific numerical data on pay and reward to be published as part of a council's pay policy statement. However, the guidance suggests that consideration be given to how the pay policy statement fits with data on pay and reward that council's are already required to publish under the Code of Recommended Practice for Local Authorities on Data Transparency and by the Accounts and Audit (England) Regulations 2011. Our pay policy statement will contain hyperlinks, which will be live with effect from 22<sup>nd</sup> March 2012, to relevant documents which will be published on the council's website.
- 3.6 The Act requires authorities to explain what they think the relationship should be between the remuneration of its chief officers and its employees who are not chief officers. The statement includes the pay multiple between these groups of employees.

- 3.7 The guidance suggests that councils consider Will Hutton's recommendations on the value of a system of 'earn back' pay. It was his view that senior staff should have an element of their basic pay placed at risk to be earned back each year through meeting pre-agreed objectives. This was to ensure that public services do not offer rewards for failure. The council does not operate performance related pay or any bonus system for its chief officers. Employees, with the exception of Strategic Directors and Director of Finance are entitled to progress incrementally through a grade, subject to satisfactory performance, until they reach the top of the grade.
- 3.8 The council currently operates a task and finish Member Appointments Panel for recruitment to those posts that attract Chief Officer conditions of employment. It is recommended that this panel becomes a Recruitment and Remuneration Panel and is responsible for the provision of advice on the council's pay policy statement and the starting salary of new appointees to Chief Officer posts, in addition to its existing role of advising on the appointment of designated senior officers. Under the current Constitution the Strategic Director Resources has the power to amend the role of the Member Appointment Panel. The proposed revised role of the Panel will come into effect when the new constitution is approved by full council on 26<sup>th</sup> April 2012.
- 3.9 The pay policy statement provides links through to our existing policies on redundancy, retirement and other compensation payments. These policies set out who is responsible for decisions on such payments. It is the council's policy that employees who accept a financial package on voluntary termination of their employment with the council are not re-employed or engaged as a self employed contractor or through an agency for a minimum period of two years.
- 3.10 The pay policy statement excludes all schools based staff including Headteachers.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 The purpose of this pay policy statement is to provide transparency on how local decisions on pay are made.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The annual pay policy statement supports good governance and allows benchmarking comparisons with other local authorities. The pay assumptions within the budget for 2012/13 are consistent with this policy.

*Finance Officer Consulted: Name Anne Silley Date: 09/03/12*

##### Legal Implications:

5.2 The proposed Pay Policy Statement complies with the requirements of s38 Localism Act 2011 and the statutory Guidance issued under that Section. The Statement is also consistent with existing (and continuing) Data Protection and Employment legislation.

*Lawyer Consulted:*

*Elizabeth Culbert*

*Date: 08/09/12*

5.3 Equalities Implications:

The publication of a pay policy statement increases transparency over pay and promotes fairness.

5.4 Sustainability Implications:

None

5.5 Crime & Disorder Implications:

None

5.6 Risk and Opportunity Management Implications:

The provision of this pay policy statement provides greater transparency to enable the public to understand and challenge local decisions of pay and reward of the council's workforce.

5.7 Public Health Implications:

None

5.8 Corporate / Citywide Implications:

The pay policy statement provides local taxpayers with information on how the council makes local decisions on pay and thus provides greater openness and transparency to assist the public assess value for money.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

Appendix A Pay Policy Statement

### **Background Documents**

1. The Localism Act 2011
2. Openness and accountability in local pay: Guidance under section 40 of the Localism Act
3. Code of Recommended Practice for Local Authorities on Data Transparency





## Brighton & Hove City Council Pay Policy Statement 2012/13

### 1 Aim

Brighton & Hove City Council wants to ensure that the City and its residents receive high quality services and excellent value for money. In the context of managing scarce resources, pay levels need to be set at a level that will enable the council to attract and retain high calibre individuals without being overly generous or imprudent with public funds.

To achieve this the council requires a workforce at all levels that is conscientious, professional and reliable and which has the relevant up-to-date skills and knowledge to deliver a high quality service to the residents of and visitors to Brighton and Hove.

The council depends on a high calibre senior management team able to provide leadership and to work in close partnership with other private, public and voluntary agencies across the City. The senior team need to work with partners to assess and understand the level of need across the City and to commission and deliver services. At the same time they need to be able to lead change programmes and reduce costs to deliver better outcomes for customers. An innovative, skilled and experienced workforce is vital to the delivery of our vision and this is at the heart of our pay policy. This principle applies from the lowest to highest paid employee.

Whilst recognising the market rates for pay, the council seeks to ensure pay policies that are based on fairness and equality and allow the workforce to live healthy and happy lives. The council has introduced a 'Living Wage' and is working to reduce the pay gap between the highest and the lowest paid. The median pay for the council's Chief Officers is 3.17 times the median pay of all employees who are not Chief Officers. (\*This is based on the 12 month period to February 2012.)

### 2 Scope

This document complies with our statutory responsibility to produce a pay policy statement annually pursuant to s38(1) of the Localism Act 2011. This policy statement requires approval by a full council meeting. The council wishes to ensure that local taxpayers are able to take an informed view on all aspects of the council's remuneration arrangements and the pay policy statement will be published on the council's website.

This policy statement applies to all employees of the council and 'casual workers', except for those staff based in schools.

### **3 Definitions**

Brighton & Hove City Council defines its lowest paid employees as those who are paid on the lowest spinal column point of our grading structure. A full time post is based on a 37 hour week. This is our local 'Living Wage' and is applied to casual workers as well as employees. Chief Officers are defined as those who report directly to the Chief Executive. In Brighton & Hove these are currently the Strategic Directors and Heads of Delivery Units. Those who report to these posts, for the purpose of this policy statement, are also defined as Chief Officers.

#### **Senior Structure**

For the purposes of this pay policy statement the Strategic Leadership Board comprises the Chief Executive, four Strategic Directors, the Director of Finance, and the Director of Adult Social Services (DASS)/Lead Commissioner for Adult Social Care and Health.

The Corporate Management Team comprises the members of the Strategic Leadership Board, the other Lead Commissioners, the Heads of Delivery Units and the Heads of Resource Units. ([LINK to structure chart.](#))

#### **National Pay and Conditions**

There are a number of national agreements produced through collective bargaining arrangements for different groups of local government staff. The main negotiating bodies relevant to our workforce and their scope are listed below. Brighton & Hove City Council operates these national conditions as amended by local agreements.

The National Joint Council (NJC) for Local Government Services negotiates collective agreements on pay and conditions for local authority employees who are not covered by other specialist negotiating bodies (eg teachers).

The Joint Negotiating Committee for Chief Officers of Local Authorities (JNC) covers the pay and conditions for Chief Officers.

The Soulbury Committee negotiates the pay and conditions for advisory staff in local education authorities (LEAs), such as: educational improvement professionals (previously advisers and inspectors) or educational psychologists.

The Joint Negotiating Committee for Youth and Community Workers covers the pay and conditions of youth and community workers.

## **4 Governance**

The Council's Governance Committee<sup>1</sup> is responsible for setting policy on pay and conditions of employment. Brighton & Hove City Council has adopted the National Joint Council terms and conditions for local authority staff. Chief Officers, including the Chief Executive, are similarly employed on nationally negotiated JNC or NJC terms and conditions but their pay is determined locally.

Where it is proposed to offer a salary package of £100,000 or more full council will have the opportunity to vote on the salary package prior to the appointment being made.

The relevant sub-committee or the Chief Executive makes the appointment of staff in accordance with the Officer Employment Procedure Rules. The Council's Recruitment and Remuneration Panel is responsible for advising on appointments, including the remuneration, to posts that attract the JNC conditions of service and advising on pay policy ([LINK to Constitution](#)).

## **5 Grading Structure**

The council uses a recognised, analytical job evaluation scheme to ensure there is an objective process for determining the relative size of jobs and thus allocating jobs to the appropriate grade. This is used for all posts, apart from those of the Chief Executive and Strategic Directors and staff employed on Soulbury and Youth Worker conditions of service. Our current pay and grading structure was implemented during 2010 and our new minimum spinal column point was set at the level of the Council's 'Living Wage' with effect 1<sup>st</sup> September 2011.

## **6 Progression**

All posts, apart from that of the Chief Executive, Strategic Directors and the Director of Finance, are employed on grades containing spinal column points. Employees progress through their grade each year, rising by one incremental point, subject to satisfactory performance until reaching the maximum point of the grade. Pay awards for NJC and JNC staff are negotiated nationally. ([LINK to NJC and JNC grades.](#)) Where a member of staff is the subject of formal disciplinary and capability processes, increments may be withheld.

Employees may be accelerated up the pay grade by a maximum of two spinal column points to recognise exceptional performance. [LINK to Additional Payments Policy](#)

<sup>1</sup> As from May 2012 it is expected that this function will be discharged by Policy and Resources Committee.

## **7 Remuneration on Appointment**

Staff are usually appointed on the minimum spinal column point of the grade. However, where there are difficulties recruiting to a post or where an individual can demonstrate significant valuable previous experience, appointment may be agreed at a higher spinal column point within the grade.

The Council's Recruitment and Remuneration Panel is responsible for advising the Chief Executive on the appropriate starting salary for any new JNC appointments.

## **8 Chief Executive**

The Chief Executive's salary is set to ensure that it is competitive when compared to roles of a similar size and complexity elsewhere and with regard to the challenges, additional hours and working arrangements required to achieve the requirements of the role. The salary is on a single fixed salary point.

The Chief Executive is entitled to receive a fee as set by the Central Government for acting as the local returning officer for elections. ([LINK to actual earnings and earnings forecast for 2012/13](#))

The Chief Executive will be reimbursed the cost of one professional association fee in addition to the membership fee of one local authority association relevant to the duties and responsibilities inherent in the role.

## **9 Strategic Directors**

The pay and grading of Strategic Directors is determined by the requirements of the role and by reference to the labour market for roles of a similar size and complexity. They are on a single fixed salary point. Nationally negotiated cost of living awards are applied.

Strategic Directors are entitled to be reimbursed the cost of one professional association fee in addition to the membership fee of one local authority association relevant to the duties and responsibilities inherent their role. ([LINK to actual earnings and earnings forecast for 2012/13](#))

## **10 Corporate Management Team (excluding Strategic Directors)**

As part of the change to the Council's senior management structure in 2010, the Council commissioned the 'Local Government Employers' to undertake a review of the pay structure. This was to enable the council to attract and retain suitably skilled staff to transform the council's operating model to a commissioning based approach. The new pay structure for these posts places

the jobs at or just below the mid–market level when the salaries are compared to those paid by other similar local authorities for jobs of a similar size and complexity.

## **11 Additional Payments**

In order to ensure sufficient flexibility to reward staff who are undertaking additional responsibilities the Council’s policy on Additional Payments ([LINK](#)) provides for Acting Up Allowances or a one-off Honorarium Payment to be made in specific circumstances.

## **12 Market Supplements**

The Council may pay a market supplement where there are shortages of individuals with particular skills and experience.

## **13 Travel and Expenses**

Travel and Expenses may be reimbursed in accordance with the NJC policy limited to Band 2 for mileage expenses.

## **14 Annual Leave**

Annual leave entitlements vary according to the terms and conditions of employment. Annual leave entitlements are published on the Council’s website. ([LINK](#))

## **15 Pension Scheme**

Membership of the Local Government Pension Scheme is subject to the rules of the scheme and contribution rates are set by legislation ([LINK to Rates on ESCC website](#)). Where individuals are already in receipt of a local government pension they are subject to the rules on abatement of pension within the scheme.

## **16 Redundancy, Retirement and other Compensation Payments**

The council’s approach to dismissals on the grounds of redundancy or efficiency of the service and in the case of early retirement can be found in the following policies on our website: Redundancy, Retirement and other Compensation Payments policy statement and Retirement at Brighton & Hove.

In exceptional circumstances the council will agree to settle a claim or potential dispute upon the termination of employment by way of a compensation payment. This is agreed by the Head of Human Resources. In

the case of Chief Officers any such payment would also require the agreement of the Monitoring Officer and the Director of Finance. The District Auditor is consulted about any potential offers to Chief Officers.

#### **17 Remuneration of Staff – Contract for Services**

Individuals employed on a contract for services will be paid at a rate consistent with the pay of directly employed staff performing a comparable role and will consider where relevant, a premium to take into account any relevant market factors. It is the council's policy to minimise the use of consultants wherever possible.

#### **18 Remuneration of Staff – Publication of Information**

The council publishes details of staff earnings in accordance with legal requirements on transparency ([LINK](#)) together with the annual pay ratio between the highest paid salary and the median average salary of the whole workforce. Further information is contained in the Annual Report and Accounts ([LINK](#)) in accordance with the Audit of Accounts legislation.

<b>Subject:</b>	<b>Review of Part 9.4 of the Council's Constitution: guidance to members and officers serving on outside bodies</b>		
<b>Date of Meeting:</b>	Standards Committee – 17 January 2012 Governance Committee – 20 March 2012 <b>Council – 22 March 2012</b>		
<b>Report of:</b>	<b>Strategic Director Resources</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Oliver Dixon</b>	<b>Tel:</b> 291512
	<b>Email:</b>	<a href="mailto:oliver.dixon@brighton-hove.gov.uk">oliver.dixon@brighton-hove.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 One of the functions of the Standards Committee is to carry out periodic reviews of those parts of the council's constitution relating to member and/or officer conduct. This report addresses Part 9.4 of the constitution: guidance to Members and officers serving on outside bodies.
- 1.2 A number of changes to the regulatory framework relevant to outside appointments have occurred since Part 9.4 was last reviewed. This report highlights those and other changes and proposes an amended version of Part 9.4, which the Committee is asked to recommend to Governance Committee and Full Council.

**2. RECOMMENDATIONS:**

- 2.1 That Governance Committee agrees the amended version of Part 9.4 of the council's constitution, as set out in Appendix 1, and recommends it to Full Council for approval.

**3. RELEVANT BACKGROUND INFORMATION**

- 3.1 Part 9.4 of the council's constitution comprises guidance for Members and officers serving on outside bodies. At Annual Council, Members are appointed to a range of outside bodies, to serve in their capacity as a councillor. In addition, Members may be appointed directly by the outside body itself to serve in a private capacity (for instance as a member of the community) rather than as an elected member of the council, or they may be a serving member of that body before being elected a Member of the council. In all cases, it is important both for the Members and bodies concerned that appointees understand the duties and responsibilities that accompany the appointment.

- 3.2 It is several years since the content of the guidance was substantively revised, and during that time there have been a number of changes to the regulatory framework relevant to outside appointments. Of these, the most significant has been the provisions in the Companies Act 2006 which have put the common law duties of company directors onto a statutory footing – see paragraph 2.7 of the amended guidance.
- 3.3 In addition, the proposed amendments reflect recent changes to other relevant legislation and policy, in particular the Bribery Act 2010 – see paragraph 7.5 of the amended guidance – and the council’s general indemnity for Members and officers appointed or nominated to serve on outside bodies. The indemnity came into force in July 2005 and is provided for under the Local Authorities (Indemnities for Members and Officers) Order 2004 and therefore subject to certain requirements and exclusions; it is referred to in the amended version of the guidance at paragraph 1.8.

#### **4. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 There are no direct financial implications from the recommendations. However, through complying with the updated guidance, the risk of corporate and/or individual liability is reduced, thus limiting the council's potential exposure to financial penalties or paying out on indemnities.

*Finance Officer Consulted: Anne Silley*

*Date: 05/01/12*

##### Legal Implications:

- 5.2 The proposed amended guidance takes into account relevant legislation and sets out the legal duties and potential liability of members and officers appointed to or serving on outside bodies.

Proposed amendments to Part 9.4 of the constitution require the approval of Full Council following consideration by Standards Committee and Governance Committee.

*Lawyer Consulted: Oliver Dixon*

*Date: 03/01/12*

##### Equalities Implications:

- 5.3 Any outside organisation to which a Member or officer is appointed is likely to be subject to the Equality Act 2010 which, amongst other things, prohibits unfair treatment in the workplace, when providing goods, services or facilities, and in the management and disposal of premises. Members and officers may wish to satisfy themselves that any organisation to which they are appointed is adhering to the relevant parts of that Act.

##### Sustainability Implications:

- 5.4 There are no sustainability implications arising directly from this report



#### Crime & Disorder Implications:

- 5.5 The guidance has been updated to reflect the latest regulatory environment applicable to appointments to outside bodies. By following the guidance, Members and officers should reduce their potential criminal liability under relevant legislation.

#### Risk and Opportunity Management Implications:

- 5.7 Those appointed to outside bodies need to be aware of the legal duties and prohibitions that accompany such appointments and the potential liability associated with breaching those provisions. Equally, becoming part of the management of an outside body gives members and officers an opportunity to complement and enhance their council role.

#### Corporate / Citywide Implications:

- 5.8 The proposed amended guidance should provide assurance to an external body that when a Member or officer of the council is appointed to it, that person is aware of their key duties and liabilities on appointment and thereby contributes to the good governance of the body in question.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. 'Guidance for Members and Officers Appointed to Outside Bodies' in its proposed amended form. For ease of reference, amendments are shown as tracked changes

#### **Documents in Members' Rooms**

None

#### **Background Documents**

1. The Local Authorities (Indemnities for Members and Officers) Order 2004
2. The Companies Act 2006
3. The Bribery Act 2010



**PART 9.4 GUIDANCE FOR MEMBERS AND OFFICERS  
SERVING ON OUTSIDE BODIES**

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**CONTENTS**

1. Introduction
2. Companies
3. Charities
4. Unincorporated Associations
5. Registration and Disclosure of Outside Interests for Members
6. Disclosure of Outside Interests for Officers
7. Gifts, Hospitality and Bribery

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## GUIDANCE FOR MEMBERS AND OFFICERS SERVING ON OUTSIDE BODIES

### I. INTRODUCTION

- I.1 This guide is intended to give a general overview of the issues which affect Members and officers who are appointed to outside bodies. The ~~council's~~ ~~Monitoring Officer or legal team~~ will be able to provide further advice to expand upon any of the issues raised.
- ~~Deleted: C~~  
~~Deleted: Corporate Law Team~~
- I.2 Each year, either at the ~~council's~~ annual meeting or ~~cabinet~~ meetings, Members are appointed to a range of outside bodies. The list of appointments is published in the ~~minutes of those meetings~~. ~~Equally, Members may be appointed directly by the outside body itself to serve in a private capacity (for instance as a member of the community) rather than as an elected member of the council, or they may be a serving member of that body before being elected a Member of the council.~~
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- I.3 ~~The roles of Members or officers on outside bodies will depend upon the legal nature of that organisation and the capacity in which they are appointed to act. It may, for example, involve acting as a company director, the trustee of a charity, or a member on a management committee.~~
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- I.4 In participating in outside bodies, Members and officers may take account of the ~~council's~~ wishes but they must ultimately make independent judgements in line with their duty of care to the outside body. They must also act according to the framework set by the outside body and take an active and informed role in the management of the outside body's affairs. This involves attending meetings on a regular basis and carrying out their duties to the best of their abilities. In addition, they must follow as far as applicable the ~~council's~~ Code of Conduct for Members or the Code of Conduct for Officers.
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- I.5 Members should be aware that they will have to disclose membership of the outside body in their dealings with the ~~council~~ and where a conflict of interest arises it is likely that they will have to withdraw from any consideration by the ~~council~~ of any matter affecting the outside body. Members should bear this in mind when deciding whether or not to accept a particular nomination. In the case of officers, arrangements should be made to refer the matter to another officer to deal with whenever a conflict of interest arises.
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- I.6 ~~Whilst there is no legal obligation on Members or officers to report back to the council on their involvement in outside companies to which they have been nominated by the council, it is good practice to do so; this is best achieved by way of an annual report to the relevant committee or cabinet meeting.~~ In the case of officers, their participation should be discussed on a more regular basis with their line managers at supervision or appraisal meetings.
- ~~Deleted: Cabinet Meeting or Committee~~  
~~Deleted: Good practice dictates that the requirement to report back should apply to involvement in all outside bodies on behalf of the Council. In the case of Members, this entails reporting back to the relevant Cabinet Meeting or Committee at least on an annual basis~~

1.7 The most common types of outside bodies in which Members or officers may become involved are considered in more detail below and include:-

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- (a) Limited Liability Companies
- (b) Charities
- (c) Unincorporated Associations

### 1.8 Indemnities and Insurance.

1.8.1 The primary responsibility for providing proper indemnities and insurance cover to protect Members and officers when acting for outside bodies lies with those bodies. However, officers will assist in checking that there is a corporate or organisational structure which, on its face, appears adequate and that some form of indemnity exists to provide protection to the council's appointee or nominee.

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1.8.2 As there may be occasions when the insurance or other indemnity arrangements made by the outside body prove inadequate to protect the council's appointee or nominee from liability, the council has put in place a general indemnity for its Members and officers so appointed or nominated. It would only apply where the indemnity or insurance offered by the outside body did not provide adequate cover.

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1.8.3 Subject to paragraph 1.8.4, the indemnity provided by the council applies only to those officers or Members whom the council has appointed or nominated to an outside body.

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1.8.4 Where a Member or officer is serving on an outside body having been nominated by the body itself, or where the Member/officer was already serving on the body when elected a Member of the council/employed by the council, the indemnity would apply only where that Member or officer was acting at the request of, or with the approval of, the council.

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1.8.5 The indemnity provided by the council to Members or officers appointed by the council to serve on an outside body is subject to certain requirements and exclusions. In general, the indemnity may only be granted where the Member or officer believed his/her action was within the powers of the council or that the Member or officer believed that statements he/she made relating to the powers of the council were true; and may not be granted in respect of any criminal offence or fraudulent or reckless act taken by the Member or officer. A complete copy of the indemnity (as approved by Policy & Resources Committee in 2005) may be obtained from the council's legal team.

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## 2. COMPANIES

- 2.1 The obligations imposed by company law are onerous and there are severe penalties for non-compliance with many of the duties imposed on directors. It is important for Members and officers appointed to act as company directors to ensure that they understand the duties and obligations which the law imposes on them.
- 2.2 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. A company is distinct from its members, who may be either shareholders or guarantors.
- 2.3 Whether a company is limited by shares or by guarantee, the day to day management of the company is usually vested in the directors. The members ultimately control the company by electing the directors and deciding the major issues at general meetings. The main differences are as follows:-
- in a company limited by shares the shareholders share the ownership of the company and its profits and if the company is wound up each shareholder is liable to pay an amount equivalent to the nominal value of his or her shareholding;
  - a company limited by guarantee does not normally seek to make a profit and in the event of the company being wound up, the members guarantee to make a payment to the level of their guarantee (usually a nominal figure of £1.00). Hence companies limited by guarantee are more commonly used for voluntary and public bodies, especially where charitable status is sought.
- 2.4 A company is controlled by reference to its 'constitution', which is contained in the Memorandum and Articles of Association. These documents will set out the powers of the company, and the rules by which it is to be managed. Any act carried out by the company that is outside the powers set out in the Memorandum will be unlawful, and a director involved in such an act may be personally liable for any resulting losses.
- 2.5 In general Members and officers should avoid taking executive or managerial responsibility for the company's activities because the duties of executive or managing directors can be particularly onerous. This is because executive directors are directly responsible for particular aspects of the company's affairs. For example, a finance director will have responsibility for the company's financial position, which could give rise to liability for allowing the company to trade while insolvent if the company goes into liquidation. However, all directors, including part-time and non-executive directors, are required to make themselves fully aware of the company's financial position and should attend Board meetings regularly. Ignorance of transactions entered into by the

company through a failure to make proper enquiries may not be an adequate defence to a charge of negligence brought against such a director.

2.6 In some situations, the Council may nominate Members or officers to act as “observers” on the board of directors of a company. Although such observers have no specific legal status, Members and officers should be aware that if an observer’s involvement increases to such an extent that it could be said that there is an active engagement in the management of the company, he or she may be deemed to be a “shadow director” which may entail liabilities. Any person appointed to this role should therefore ensure that the extent of their role as an observer is clearly defined and agreed to avoid involvement in managing or directing the management of the company.

2.7 Under the Companies Act 2006 (‘the Act’), directors owe a number of legal duties to their company. These are duties to:

- Act within powers (section 171 of the Act)
- Promote the success of the company (section 172)
- Exercise independent judgement (section 173). Although it is permissible to take account of the interests of a third party (in this case the council), a director cannot vote simply in accordance with the council’s instructions.
- Exercise reasonable skill, care and diligence (section 174)
- Avoid conflicts of interest (section 175). There may be actual or potential conflicts between the interests of the company and those of the council. A Member or officer cannot waive their statutory responsibilities as a director; hence they may have to cease to act as a Member or officer in relation to the particular matter. In extreme cases, the only proper way for the conflict to be resolved may be for the Member or officer to resign either from the company or from the council.
- Not accept benefits from third parties (section 176)
- Declare interest in a proposed transaction or arrangement with the company (section 177). Directors must therefore disclose any interests they or their family may have in relation to the company’s contracts. Whether they are then allowed to vote will depend on the company’s Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration so they must obtain the consent of the Council if they are to receive any remuneration from a company to which they have been appointed by the Council.

Members acting as directors should be aware of these duties, particularly those which could lead to:

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- A conflict with their role as member of the local authority (for example, the duties to promote the success of the company, to exercise independent judgement, and to avoid conflicts of interest).
- Personal liability for the debts of the company

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▼ The fact that a director is appointed to a company board as a representative of the council does not diminish these duties.

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▼ Liabilities and Indemnities

**Deleted:** The director will be an agent of the company and their whose principal duties and liabilities are as follows:¶

¶ Directors' Duties¶

¶ (1) . A fiduciary duty to the company to act honestly and in good faith and in the best interests of the company as a whole. ¶

¶ A general duty to exercise reasonable care and skill in acting in the company's affairs, commensurate with his or her knowledge and experience, including seeking professional advice when necessary.

2.8 Directors cannot be indemnified by a company against liability arising out of negligence, fraud or breach of duty or trust. The company's Articles of Association may however allow for directors to be indemnified by the company in respect of the cost of defending such proceedings, where the director concerned is granted relief by the court or acquitted.

**Deleted:** <#>A duty to exercise independent judgement when dealing with the company's affairs. Although it is permissible to take account of the interests of a third party (in this case the Council) a director cannot vote simply in accordance with the Council's instructions.¶

<#>¶ A duty to avoid conflicts of ... [1]

2.9 The Council does have limited powers to provide indemnities for Members or officers when appointing them to act as directors, and to buy insurance to cover any losses which they may suffer through acting conscientiously as a director (see paragraph 1.8.2 above). It is also appropriate for a company to purchase insurance to protect its directors against claims of negligence, breach of trust or duty, or other default. Before taking up an appointment, directors should ensure that such insurance is in place and that the provision of the insurance is within the powers of the company.

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3. **CHARITIES**

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3.1 Many outside bodies with which Members or officers will be involved will be charities.

**Deleted:** A duty not to make a private profit from their position

3.2 A charitable organisation is one which is formed for one or more of the following charitable purposes:

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- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community.

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**Deleted:** <#>A duty to ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the rele... [4]



- 3.3 It must operate for the public benefit and have exclusively charitable purposes. It must be registered with the Charity Commissioners. The Commissioner oversee the operations of all charities, and grant consent to various transactions involving charities, where the law requires this.
- 3.4 The law relating to charities imposes a number of duties and liabilities on those controlling the organisation. They are normally referred to as 'trustees' which will include the directors (of a company limited by guarantee) and the management committee of an unincorporated association.

#### Trustees' Duties

- 3.5 Trustees have the following duties:
- (1) A duty to act in accordance with the charities governing instrument and to protect the charity's assets.
  - (2) A duty to comply with the Charities Acts and other legislation affecting the charity.
  - (3) A duty not to make a private profit from their position.
  - (4) A duty to act with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
  - (5) A duty to ensure that the information relating to the trust and trustees is registered with the Charity Commissioners and that annual accounts and returns are completed and sent.
  - (6) Where charitable income exceeds £10,000, a duty to ensure that letters, adverts, cheques etc. bear a statement that the organisation is a registered charity.

#### Trustees' Liabilities and Indemnities

- 3.6 Trustees have the following liabilities:
- (1) To make good any deficiency where trust property has been used for the trustee's own purposes, or for purposes not in accordance with the purposes of the trust.
  - (2) Personal liability for losses or claims where the trustee has acted outside the scope of the trust deed.

- (3) Personal liability where the trustee has not shown the required standard of care.
- 3.7 An indemnity may be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts. If premiums are to be paid out of the charitable funds the trustees will need the consent of the Charity Commissioners unless the trust deed allows it.
- 3.8 Further guidance and advice can be obtained from the Charities Commission. A trustee who seeks advice from the Charity Commissioners in a particular situation and acts on that advice will generally avoid personal liability.

#### **4. UNINCORPORATED ASSOCIATIONS**

- 4.1 An unincorporated association is an informal organisation which may arise whenever several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
- 4.2 The rules governing the members' duties and liabilities will usually be set out in a written constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for the election by the members of a management committee, which will be responsible for the everyday running of the organisation. The constitution may also provide for members to have annual general meetings, to deal with business such as the accounts and the appointment of the management committee.
- 4.3 As the association is not a separate legal entity from its members, it cannot hold property in its own name. Any property which it controls will therefore have to be vested in an individual, or individuals, who are usually called the trustees of the association. They will hold the asset, subject to the direction of the members, or (more usually) the management committee.
- 4.4 Where an unincorporated association is a registered charity the members of the management committee may also be charity trustees. As such their role and responsibilities will be determined not only by the association's constitution but also by the general law relating to trusts and charities as referred to above.

##### Duties

- 4.5 The members of the management committee, and the trustees appointed to hold any assets for the association, must act within the constitution, and must take reasonable care in exercising their powers.

### Liabilities and Indemnities

- 4.6 Generally management committee members are liable for the acts or omissions of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.
- 4.7 Management committee members will have personal liability if they act outside the authority given to them or if they do not comply with the law.
- 4.8 It is possible (subject to the rules in the constitution) for insurance to be taken out, to cover trustees and members of the management committee for their potential liabilities. As with other outside bodies, Members and officers should satisfy themselves that the organisation has adequate insurance cover in this respect.

## **5. REGISTRATION AND DISCLOSURE OF OUTSIDE INTERESTS FOR MEMBERS**

- 5.1 In accordance with Part III of the Local Government Act 2000, the Council has adopted a Code of Conduct for Members. Each Member of the authority, elected or co-opted, has signed an undertaking to observe the provisions of the Code. The Code of Conduct for Members is set out in full in the Council's constitution (Part 9) and its provisions continue to apply to Members in respect of their appointments to outside bodies.

### Registration of Interests

- 5.2 The Code of Conduct for Members requires every Member to notify the Monitoring Officer of any registrable interests which he/she holds, within 28 days of election or appointment. In addition, the Member must notify the Monitoring Officer of any change in his/her registrable interests within 28 days of becoming aware of that change. A copy of the relevant declaration form and a form for amendments are set out in the Council's constitution at Part 9.2.

### Disclosure of Interests

- 5.3 There are a number of rules which Members must be aware of, which may limit the extent to which they are able to take part in debates or votes on issues. These rules extend to matters involving outside bodies. The rules require that, in certain situations, Members should disclose the fact that they have an interest in the matter under discussion. They may also be required not to take part in any debate or discussion on the matter, and may have to leave the meeting during the item.

### Personal Interests

- 5.4 A Member appointed to an outside body will have a personal interest in that body. Provided that it is not also a prejudicial interest (see below), the Member only needs to declare the personal interest if and when he/she speaks on the matter at a Council meeting.

### Prejudicial Interests

- 5.5 A Member will probably have a prejudicial interest in a matter relating to the outside body if he/she is a member of or in a position of general control or management on the outside body and the interest falls into one of the following two categories:-
- (a) the matter affects the financial position of the outside body (e.g. an application for grant funding to the outside body); or
  - (b) the matter relates to an approval, consent, license, permission or registration that affects the outside body (e.g. an application by the outside body for planning permission).
- 5.6 If a Member has a prejudicial interest in a matter under discussion he/she must declare the nature of that interest as soon as it becomes apparent to him/her. The Member should then leave the meeting room, unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If that is the case, the Member can make his/her representations, in accordance with the decision making bodies rules, but must then immediately leave the meeting room. A Member with a prejudicial interest cannot remain in the public gallery to observe or vote on the matter.

### Bias

- 5.7 Where there is no prejudicial interest in a matter, a Member's duties as a director or trustee or a member of a management committee may still mean that he/she should not participate in a decision because of a legitimate fear of lack of impartiality, or bias, which could potentially invalidate the decision.
- 5.8 Bias will not be assumed by mere membership of an outside body. However, where the outside body has a line which is being advocated by the Member, it is likely that the Court would find bias on that issue and therefore the Member should not take part in a discussion or decision at a Council meeting on that issue. In such circumstances, it would be appropriate to seek advice from the Council's Monitoring Officer or Head of Law.

## 6. DISCLOSURE OF OUTSIDE INTERESTS FOR OFFICERS

### Declaration of Interests

- 6.1 Section 117(1) of the Local Government Act 1972 requires that if it comes to the knowledge of any officer of a local authority that the authority has entered or proposes to enter into any contract in which he/she has a pecuniary interest, whether or not he/she would actually be a party to the contract, he/she must give notice in writing to the authority. A pecuniary interest should be interpreted as any circumstance in which he/she or a member of his/her immediate family stand to gain or lose financially as a result of the contract.

### Conflicts of interest

- 6.2 Where an officer has been appointed to an outside body by the Council and a conflict of interest arises, this should always be disclosed to the officer's immediate manager who should, in appropriate cases, seek advice from the Council's Corporate Law Team. Such conflicts may be dealt with in a number of different ways, depending on the nature and seriousness of the conflict. If the conflict is insubstantial then it should simply be recorded and no further action need be taken. Where there is a discrete conflict this may preclude the officer from undertaking a particular discrete task, such as dealing with the administration of a planning application, but would not be incompatible with the general performance of their job. In the case of a more serious incompatible conflict it may be determined that the nature of the conflict of interest is such that the officer must resign their position on the outside body and/or re-arrange their duties in a manner which avoids the conflict.

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## 7. GIFTS, HOSPITALITY and BRIBERY

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- 7.1 Members and officers must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as Councillors or officers of the authority. In the case of officers accepting any such gift or consideration from anyone who has or is seeking a contract with the authority, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove the contrary. It is therefore very important to be completely open about any significant gift or hospitality to avoid the suspicion of misconduct.
- 7.2 Members are required by the Code of Conduct for Members to notify the Monitoring Officer, in writing, on receipt of any gift or hospitality with a value of more than £25, whatever the motivation for such a gift. Members should note that they only need to register gifts and hospitality worth more than £25 that are received in connection with their official duties as a Member. Gifts received by Members in a personal/private capacity do not need to be registered.

7.3 Officers are required to disclose offers and receipts of gifts and hospitality which must be recorded in the register of gifts and hospitality, in accordance with the Code of Conduct for Employees. Officers should read the detailed guidance in the Code of Conduct for Employees which explains what must be declared and where there is discretion to declare.

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7.4 A particular issue arises for officers seconded to work on outside bodies, as section 117(2) of the Local Government Act 1972 provides that an officer shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his/her proper remuneration. Where an officer is to be seconded and might be in receipt of any remuneration, bonus or allowances from the authority to which he/she is to be seconded, the seconding authority must agree that his/her proper remuneration shall henceforth include any remuneration, bonus or allowances paid to the officer by the body to which he/she is seconded.

7.5 Members and officers appointed to outside bodies need also to be aware of their potential liability under the Bribery Act 2010. This Act created a number of new criminal offences, of which the most relevant in the context of this guidance are:

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- bribing another person
- receiving a bribe
- failure by a commercial organisation to prevent bribery

The Act defines bribery as offering, promising or giving someone a financial or other advantage either –  
to encourage that person to perform their functions or activities improperly or to reward that person for having already done so; or

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in the knowledge or belief that the acceptance of the advantage would itself constitute the improper performance of the recipient's functions or activities

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7.6 Personal liability. Where any of the offences referred to in paragraph 7.5 are committed by a company, a senior officer of that company is liable to be prosecuted for the same offence if it is proved to have been committed with their consent or connivance. No indemnity or insurance is available to Members or officers found guilty in this situation.

7.7 As regards the offence of a commercial organisation failing to prevent bribery, Members and officers should note the following (taken from Ministry of Justice guidance): so long as the organisation is incorporated (by whatever means), or is a partnership, it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.

7.8 Members and officers should also refer to the council's counter-fraud strategy for further details of (i) the bribery risks facing the council, its Members and officers, and (ii) advice on the measures that Members and officers should take to mitigate the risks identified.

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A duty to exercise independent judgement when dealing with the company's affairs. Although it is permissible to take account of the interests of a third party (in this case the Council) a director cannot vote simply in accordance with the Council's instructions.

A duty to avoid conflicts of interests

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There may be actual or potential conflicts between the interests of the company and those of the Council. A Member or officer cannot waive their statutory responsibilities as a director and so they may have to cease to act as a Councillor or officer in relation to the particular matter. In extreme cases, the only proper way for the conflict to be resolved may be for the Member or officer to resign either from the company or from the Council.

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Directors must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration so they must obtain the consent of the Council if they are to receive any remuneration from a company to which they have been appointed by the Council.

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A duty to ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies.



<b>Subject:</b>	<b>A New Constitution for Brighton &amp; Hove City Council</b>	
<b>Date of Meeting:</b>	<b>20<sup>th</sup> March 2012– Governance Committee 26<sup>th</sup> April 2012 – Special Council</b>	
<b>Report of:</b>	<b>Monitoring Officer</b>	
<b>Contact Officers:</b>	<b>Abraham Ghebre-Ghiorghis</b>	<b>Tel: 29-1500</b>
	<b>abraham.ghebre-ghiorghis@brighton-hove.gov.uk</b>	
	<b>Elizabeth Culbert</b>	<b>Tel: 29-1515</b>
	<b>elizabeth.culbert@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>	

**FOR GENERAL RELEASE****1. Summary and Policy context**

- 1.1 The Localism Act 2011, which received Royal Assent in November 2011, gives local authorities the option of adopting a committee-based system of governance. Prior to this change, the only permissible systems of governance available to Brighton & Hove City Council were an elected mayor and cabinet or a strong leader and cabinet model.
- 1.2 In December 2011 full council resolved, in principle, to move to a committee system at the earliest opportunity and instructed officers to develop proposals. Following the resolution, a New Constitution Member Working Group consisting of Councillors J Kitcat (Chair), Peltzer-Dunn and Morgan was set up to work with officers. The Working Group and the Leaders Group have now completed the work and the key documents from the proposed constitution are attached as Appendix 1 to this report.
- 1.3 This report seeks approval to adopt a committee based system of governance with effect from Annual Council on 17<sup>th</sup> May 2012.

**2. Recommendations**

- 2.1 The Governance Committee recommends to Council:-
- i) That the Council resolves, in accordance with section 9KC of the Local Government Act 2000, to change its governance arrangements from leader and cabinet to a committee system;

- ii) That the parts of the constitution set out in Appendix 1 (being the parts where there are substantive changes) be approved;
- iii) That the transitional arrangements in relation to the Audit and Standards Committees, as set out in paragraph 16.3, be approved and adopted until such time that the relevant Regulations relating to standards are made and come into force;
- iv) That the current scheme of delegations to officers be approved subject to the changes set out at Appendix 5 and any other consequential modifications;
- v) That the rest of the existing constitution be approved and adopted, subject to such amendments as are necessary to make them fit for a committee system;
- vi) That the Monitoring Officer be authorised to make the minor and consequential changes referred to in paragraphs 2.1(iv) and 2.1(v);
- vii) That the constitution set out in Appendix 1, with the addition of the parts referred to in 2.1 (v) above, be approved and adopted as the Council's constitution in accordance with the requirements of the Local Government Act 2000 and relevant Regulations, Orders and Directions made by the Secretary of State;
- viii) That the new system of governance and the new constitution come in force immediately after the conclusion of annual council on 17<sup>th</sup> May 2012;
- ix) That the Chief Executive is authorised to take all steps necessary or incidental to the implementation of the new governance arrangements, including the power to make such transitional arrangements as are necessary for the orderly implementation of the proposals;
- x) That officers are instructed to make copies of the Council's new constitution available at its principal offices and to publish a notice describing the new arrangements, in accordance with s9KC of the Local Government Act 2000;
- xi) To note that the issue of Member's Allowances is dealt with separately elsewhere on the agenda and that any proposed Code of Conduct will be referred to Council as part of recommendations from the Standards Committee.

### **3. Background**

3.1 For most local authorities, governance is a dry subject and not of much interest. Not so in Brighton and Hove! Over the last ten years, the Council has been at the cutting edge of innovation when it comes to governance.

#### **3.2 Executive Board in waiting (1998 – 2001).**

3.2.1 Following the election of a new Government in 1997, proposals emerged to change local authority governance arrangements. Whilst most local authorities waited for legislation, Brighton and Hove introduced an "Executive Board in Waiting" and "Executive Decision Making" system of governance. The EBIW and EDMs were not legally decision-making meetings. They were advisory. Following the meeting, an officer had to make a decision using his/her delegated powers but in effect always followed the advisory resolutions of the EBIW/EDM. This required an innovative application of the law and careful implementation in practice.

### **3.3 Elected Mayor**

3.3.1 The Council was on schedule to become the first local authority to adopt an elected Mayor in 2000/2001. Local authorities had to submit their governance proposals to the Secretary of State. If their proposal included an elected mayor, then the proposal had to be put to a referendum. Local authorities were also required to state what the fall-back positions would be if the proposals for an elected mayor were rejected in a referendum. One of the options available as a fall-back proposal was “alternative arrangements” which was basically a committee system with scrutiny. However, this option was available only as a fall-back proposal not as a first choice.

3.3.3 On 18<sup>th</sup> October 2001, a referendum on the elected mayor proposal was held. The proposal was rejected and therefore the council proceeded to adopt the alternative arrangements as a fall-back option.

### **3.4 Alternative Arrangements (2002-2008)**

3.4.1. The Council was the only authority of its size to adopt alternative arrangements. Despite initial concerns about a potential gridlock, the system operated effectively, including implementing major infrastructure projects. The arrangements did cause some technical issues of interpretation in some areas. For example, when the government introduced the Children Act 2004 and the legislation relating to Health Scrutiny, they assumed that all County Councils and Unitary Authorities had executive systems. We therefore had to apply innovative ways of giving effect to the legislation so that it did not make a difference in practice.

### **3.5 Leader and Cabinet System (2008-2012)**

3.5.1 The Government was anxious to ensure that all large councils adopted an executive system of governance. The Local Government and Public Involvement in Health Act 2007 compelled the Council to move to a leader and cabinet model, with three sections in the Act specifically dealing with Brighton & Hove, without mentioning the Council by name. The Council thus moved to a new style leader and cabinet model at its annual council meeting in May 2008.

3.5.2 The new leader and cabinet system implemented in Brighton and Hove was developed by cross-party consensus and, as far as we are aware, is one of the most open and inclusive executive systems in the country. For example, the decision was taken to hold all Cabinet and Cabinet Member Meetings in public, with full access to elected Members and the public to those meetings in terms of presenting petitions, deputations and letters. The Council also adopted a petitions scheme with a relatively low threshold to enable petitions to trigger full council debates.

### **3.6 Moving Forward to a New System of Governance**

3.6.1 The Localism Act 2011 makes it possible for local authorities to choose one of three options: (a) an elected mayor and a cabinet, (b) a leader and a cabinet, and (c) a committee system. The largest 12 local authorities are required to hold a

referendum for an elected mayor. Brighton & Hove is the 13<sup>th</sup> or 14 largest local authority by population depending on which version of the population size one takes and was therefore not required to hold a referendum.

- 3.6.2 Given the opportunity presented by the Act, full council resolved in principle in December 2011 to move to a committee system with effect from annual council in May 2012. The legislation states that the earliest that a local authority can change its governance arrangements is at the annual council following the passing of a resolution by full council.

#### 4. The Design Principles

- 4.1 In order to ensure that the Council's new constitution is as effective as possible, the Member Working Group and the Leaders Group agreed a set of design principles. These are set out in Appendix 2 to this report and include:

- (1) Openness and Transparency
- (2) Accountability
- (3) Efficiency
- (4) Soundness
- (5) Affordability
- (6) The third way, and
- (7) Forward Looking

- 4.2 It is important to emphasise the need for the constitution and ways of working to reflect modern best practice. It is therefore proposed to maximise the use of information technology and to have streamlined, efficient and quick decision-making practices and procedures. It is also proposed to keep the best bits of the executive system including overview and scrutiny, the petitions scheme, a revised forward plan, public questions at all meetings and public speaking at planning committees.

- 4.3 The proposed committee structure is designed to be streamlined and cost effective. The table below shows the number of decision-making bodies/committees under the different arrangements over the years.

<b>Structure</b>	<b>Number of decision making bodies</b>
Alternative Arrangements (2002)	21
Leader and Cabinet (2008 - Present)	24
Committee System (Proposed) From May 2012 onwards	19

- 4.4 With possible further reduction in the number of committees (for example the JCB) this will be the most streamlined Member structure the Council has had since it came into existence in 1997.

## **5. Working Assumptions**

- 5.1 In order to develop a constitution that reflects the political and organisational culture of the council as well as the city, certain assumptions were made. These are set out in Appendix 3 of this report. They in turn informed the development of the constitution.
- 5.2 The following paragraphs of this report explain key aspects of the constitution, flagging up any issues of significance. A structure chart showing the different committees and sub-committees is attached as Appendix 4.

## **6. Full Council**

- 6.1 In an executive system “sovereignty” is divided between council and the executive as most powers are given by parliament directly to the Leader rather than through Council. Under the committee system, full council is the sovereign body. Committees and officers have authority only to the extent that full council permits it through the scheme of delegations under the constitution or through specific authorisations.
- 6.2 Under both alternative arrangements and the executive system, certain functions were reserved to full council by law. These were supplemented by a number of plans and strategies which the Council chose to designate as full Council function. These, taken together, constitute the policy framework. It is proposed that all these plans and strategies continue to be reserved to full council. It means only full council may approve or amend them. Section 3.1 of the constitution (Appendix 1) lists these plans and strategies. In addition to the policy framework, the following functions are proposed to be reserved to full council:
- Appointment of the Chief Executive
  - Budget Setting
  - Terms of Reference of Committees
  - Appointment to outside bodies
  - Members’ Allowances
  - Adoption of and amendments to the Code of Conduct for Members
  - Conferring honorary titles and changing name of the area
  - Approving byelaws and promoting local legislation
- 6.3 Although full council, as sovereign body, can exercise all council functions, including reversing decisions taken by committees or officers, there are some exceptions:
- (a) the Health & Wellbeing Board and the Audit and Standards Committee will have certain functions vested in them directly by parliament which are not subject to council approval;
  - (b) certain functions are vested in statutory officers such as the Chief Executive, the Director of Children’s Services, the Monitoring Officer, the Chief Finance Officer and the Director of Adult Social Services. These are

exercisable by the relevant officer and full council cannot interfere in such decisions;

- (c) the powers of council have to be exercised in accordance with administrative law principles. This means that normally decisions taken by a committee under delegated powers stand and cannot be reversed by council unless the original decision is unlawful or there is significant relevant evidence that was not taken into account when the original decision was made which justifies a reversal of the decision. The need for consistency, certainty and finality means that full council should not be used as an appellate body against decisions taken by committees. Save in very exceptional circumstances, decisions taken lawfully by a committee or an officer under delegated powers are final and binding.

## **7. The Health & Wellbeing Board**

7.1 This is a committee set up under the Health and Social Care Bill. Until the legislation receives Royal Assent and comes into force (expected April 2013) this will operate as a shadow board.

7.2 The main *statutory* functions of the committee are:

- Preparing the Joint Strategic Needs Assessment (JSNA)
- Preparing a Health & Wellbeing Strategy
- Encouraging co-operation and joint working in the provision of health & social care services.

In addition, local authorities are authorised to give the committee other functions they consider appropriate.

7.3 During the shadow period, the Health and Wellbeing Board will operate as an advisory body. Unusually for a committee of a local authority, it requires specific officers (including the Directors of Children's Services and Adult Social Services and some health officials) to be voting co-optees. The Council is not able to exercise any of the Health and Wellbeing Board's functions listed above and it is expected that the Secretary of State will make regulations exempting the committee from many of the procedural requirements that apply to committees.

## **8. Adult Care & Health & JCB**

8.1 The Adult Care & Health Committee will replace the existing Adult Social Care & Health CMM. It is proposed to review the need for the Joint Commissioning Board (JCB) in the light of the change to a committee system and also the creation of the Health and Wellbeing Board. The JCB is a joint meeting of the Council and the PCT currently required under our joint working (Section 75) arrangements for adult social care and health services. The existing Section 75 arrangements need to be reviewed and appropriate arrangements made with the successor bodies to the PCT.

8.2 The JCB operates as a separate but concurrent meeting of the PCT and the Council. This means that, under the new committee system, all members of the council's Adult Care and Health Committee would be entitled to attend. However, this has the risk of disproportionately high representation from the

Council. It is therefore proposed that, in line with previous custom and practice, only a limited number of Members, agreed between the political groups, will attend.

## **9. Children & Young People & CYPTB**

- 9.1 The new Children & Young People Committee will replace the existing Children & Young People's CMM. It will also incorporate the Children & Young People's Trust Board (CYPTB). The CYPTB was required to approve the Children and Young People's Plan. This is no longer a requirement and therefore the Board no longer has any statutory functions. The legislative requirement for a CYPTB has not yet been removed despite its functions having been removed and therefore the Children & Young People's Committee will be the CYPTB for the purposes of the Children Act 2004 until that anomaly is addressed. Following a review of the current co-optees to the CYPTB, it is proposed that a number of these are co-opted into the Children & Young People's Committee.

## **10. Economic Development & Culture**

- 10.1 This committee will cover all functions currently comprised in the delegations to the Cabinet Member for Planning, Economy, Employment and Regeneration and those comprised in the delegations to the Cabinet Member for Culture. It will be responsible, among other things for planning policy that does not require full council approval.

## **11. Housing and Housing Management Consultative Sub Committee**

- 11.1 The Housing Committee will take over responsibility from Housing CMM. The Housing Management Consultative Committee will retain its existing role, but will be advising the Housing Committee rather than the Cabinet Member.
- 11.2 The Tenant Innovation Group is currently looking at ways of engaging with tenants more effectively, including the development of tenant scrutiny in line with the requirements of the Localism Act. As part of its work programme, the group will be asked to consider the future role of the Housing Management Consultative Committee, how that sits with the Tenant Scrutiny model, and whether the emerging structures provide for a better model for involving tenants in decision making. The council will be informed and guided by the proposals of the Tenant Innovation Group.

## **12. Policy & Resources Committee**

- 12.1 This will be the main committee of the Council and will be responsible for any decisions that have corporate budgetary or policy implications. It is expected to be chaired by the Leader of the Council with group leaders and chairs of key policy committees as members. Any decisions at member level that involve the acquisition or disposal of land will be reserved to the Policy & Resources Committee. It will also act as the committee responsible for equalities, communities, strategy, partnerships, human resources and as the general purposes committee.

12.2 The Policy & Resources Committee will have two sub-committees. The Personnel Appeals Sub-Committee deals with appeals against dismissals and grievances. The Corporate Parenting Sub-Committee will operate as an advisory sub-committee in connection with the discharge of council functions regarding children in care and care leavers. It is being set up to highlight the importance of the Council's role as a corporate parent and one of its functions will be to ensure appropriate training for members on the Council's responsibilities.

### **13. Environment and Sustainability Committee**

13.1 This committee will replace the functions of the Cabinet Member for Environment & Sustainability. Its remit covers parks and green spaces, environmental health, trading standards, Romany, Travellers and Gypsies, waste, coastal protection and flood defence, seafront issues, bereavement and coroners services and sustainability.

### **14. Transport Committee**

14.1 This committee replaces the functions of the Cabinet Member for Transport. It will be responsible for highways management, traffic management and transport, parking and public space (including the Council's functions regarding spaces to which the public have rights of access, such as the highway and street furniture on the highway).

### **15. Planning and Licensing Committee**

15.1 The proposals involve no changes to current arrangements regarding Planning & Licensing Committee and Licensing Panels.

### **16. Audit and Standards Committee**

16.1 The Localism Act introduces measures that change the current standards regime. This means a Standards Committee does not have to have Parish Council co-optees and is required to have only one, non-voting, independent member. The Standards Committee will no longer have power to impose sanctions. Most of the work of standards has also, up to now, been conducted by the Standards Panel that considers complaints against members. It is therefore proposed to merge the two committees and adopt agenda planning that keeps the overall business of the committees to manageable levels. This may also involve a two part agenda so that members or independent members who do not wish to stay for the whole session would not have to do so.

16.2 The Commencement Order bringing the changes to the standards regime into force has not been made yet. There is also a need for secondary legislation to make provision for the registration and declaration of members' interests.

16.3 Until the relevant standards provisions come into force, it will be necessary to continue to operate under the existing system. This means voting independent members and Parish Council representatives will continue to be members of the committee until the new regime commences. It is therefore proposed that:



- a) the merger of the two committee takes place on the date that the constitution comes into force;
- b) the committee, as an interim measure, adopts a two part agenda starting with standards followed by audit;
- c) the independent member chairs the committee when sitting as a Standards Committee and a Councillor chairs the meeting when the committee acts as an Audit Committee;
- d) the existing independent members (3) and Parish Council representatives (2) continue as members of the committee with voting rights on standards matters;
- e) the above arrangements cease to operate once the provisions of the Localism Act relating to standards come into force;
- f) Once the new regime is in force, the Audit and Standards Committee is authorised to adopt such arrangements (including chairing) as are consistent with the requirements of the law and having regard to the advice of the Monitoring Officer and the Director of Finance.

## **17. Overview and Scrutiny Committee**

- 17.1 Looking at the operation of scrutiny functions over the last few years, the biggest success, in terms of outcomes, has been the work done by scrutiny panels (ad-hoc or select committees) which has informed council decisions and policy formulation. The positive impact of external expert witnesses and co-optees has also been exceptional.
- 17.2 The change to a committee system means the number of Members serving on policy committees will reduce the pool of Members available to do scrutiny work. In addition, given the cross-party nature of the committees, there will be an “in-committee” challenge to decision making.
- 17.3 Taking the above into account, it is proposed to reduce the number of scrutiny committees to two. The Health and Wellbeing Overview & Scrutiny Committee will deal with scrutiny of health, children’s services and adult social care. All other scrutiny functions, including overall responsibility for co-ordinating work programmes and reviewing procedures, will be done by the Overview & Scrutiny Committee. The Overview and Scrutiny Committee will be the designated Crime and Disorder Committee as required by the Police and Justice Act 2006 and will undertake scrutiny of flood and coastal erosion plans as required by the Localism Act 2011.
- 17.4 Under the Localism Act 2011, scrutiny is not a mandatory requirement for councils adopting committee arrangements. However, given the significant positive impact of scrutiny in identifying evidence-led, cross-party solutions to problems and in formulating policy in controversial areas (such as travellers), it is proposed that overview and scrutiny is retained in a reformed and refocused way to fit a committee system.
- 17.5 There are no regulations in force requiring a scrutiny function to have a facility for calling in decisions taken but not implemented. However, given the existing regulations that apply to alternative arrangements have this, and given the

indications from Government that the new regulations are likely to contain similar provisions, it is considered appropriate to include a provision for call-in. However, as the committee taking decisions will have voting members from the largest group and the opposition, it is not considered that this facility should be used frequently. It is therefore proposed to limit call-in to cases where five or more members from two or more political groups request it.

- 17.6 Two types of Overview and Scrutiny Review Panels are identified in the procedures. These are Policy Review Panels and Scrutiny Review Panels (Part 3.2 of the constitution). These cover the different types of in-depth work the Panels may consider – namely investigating areas of concern regarding decisions or actions taken by the Council (Scrutiny Review Panels) or policy review and development (Policy Review Panels).
- 17.7 Also included in the new proposals are arrangements for “Councillor Call for Action”. This is a procedure which enables any member of the council to refer to an overview and scrutiny committee any local issue which directly affects their ward. The Localism Act 2011 broadened the scope of Councillor Call for Action by extending it beyond matters that relate to council functions to any local matter, whether it relates to a council function or not.

## **18 Police and Crime Panel**

- 18.1 This is a panel to be set up under the Police Reform of Social Responsibility Act 2011 and is responsible for scrutinising the work of the elected Police and Crime Commissioner (PCC) for Sussex. Although it technically has the status of a joint committee of all local authorities in Sussex, including District Councils, the Council’s role is largely limited to appointing a representative to the panel. The terms of reference included in the constitution are for illustrative purposes and drafted based on the legislation as it stands. They will need to be replaced by the final terms of reference to reflect further secondary legislation and in time for the election of the PCC in November 2012.

## **19. Advisory Bodies**

- 19.1 There are no proposed changes to the advisory commissions, panels and fora contained in the constitution except to change reporting lines and other references from Cabinet or Cabinet Members to the relevant committees. The only exception is the Arts Commission which it is proposed be re-named as the Arts and Creative Industries Commission with slightly amended terms of reference. These changes are proposed to update the terms of reference to more accurately reflect the work the Commission does and its city-wide focus.

## **20. Officer Delegations**

- 20.1 There are no substantive changes to officer delegations and anything that requires Member approval under the current arrangements will continue to do so under the new arrangements. The amendments to officer delegations will simply make the scheme committee fit by replacing references to Cabinet or Cabinet Members to references to the relevant Committee or Chair. The only exception

to this relates to property acquisition and disposal and hackney carriage fares, addressed below.

- 20.2 All powers currently delegated to officers regarding the acquisition and disposal of properties (other than housing and where there is a legal right to acquire the land) will be transferred to the Strategic Director: Resources. There will also be changes to transfer the function of setting hackney carriage and private hire fares from Officers back to the Licensing Committee.
- 20.3 It is likely that the scheme of delegations to officers will need amending to reflect any changes to the senior officer arrangements to reflect the resourcing decisions taken at budget Council. Any proposed changes will be brought to Governance Committee and Council.
- 20.4 A note summarising the position as it will be when the new constitution is adopted is included at Appendix 5.

## **21. Size and Composition of Committees**

- 21.1 The proposed size and membership of committees is set out in Article 6 of the constitution. A table showing the proposed size and likely allocation is included in Appendix 6. This also shows the numbers of non Councillor Co-optees.

## **22. Co-optees**

- 22.1 The Council's constitution is based on representative democracy so that, unless the circumstances require otherwise, all decisions will be taken by a decision making body made up of elected members. A protocol for how co-option would apply is attached as Appendix 7 for guidance.

## **23. Council Procedure Rules**

- 23.1 The proposed Council Procedure Rules are based on the existing rules. Other than removing anything that refers to the executive and making it committee-fit, the only change is to permit (not require) electronic voting. This leaves open the options as and when members wish to use the facility.

## **24. Officer Employment Procedure Rules**

- 24.1 The recruitment procedure expands the remit of the Member appointments panel to include looking at remuneration for senior officers and the statement of pay policy. It will not have decision-making powers, but the recommendations of the panel tend to be accepted and implemented.

## **25. Petitions Scheme**

- 25.1 As the petitions scheme is an important factor in the Council's public participation arrangements, it has been decided to include it in the Constitution for completeness. No changes are proposed to the rules except to make them committee-fit.

## **26. Other parts of the Constitution**

- 26.1 The full contents of the Constitution are set out on the first page of Appendix 1. The documents in bold are included in the draft before Governance Committee and Council. The other documents are those where no substantive changes have been made and any amendments involve simply making them committee fit. These parts of the constitution have therefore not been included with these papers to avoid unnecessary and avoidable printing of paper.
- 26.2 A full copy of the draft Constitution is available on the Wave and a copy will be left in each of the members' rooms.

## **27. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 27.1 The decision to move to a committee system of governance was made by a meeting of full council in December 2011. The design principles, working assumptions, draft structure and draft constitution documents have all been considered by the New Constitution Working Group and the Leaders Group.
- 27.2 The constitution and a summary document will be available to the public both at Council offices and on the Council's website.

## **28. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 28.1 The legal resources to support the change to the committee system can be contained within existing budgets. The ongoing costs of support to the new committee system has been included within the 2012/13 budget. There will be additional costs from printing and officer time, estimated at £45k, but the service will work to reduce these, for example, by exploring more effective use of technology and realignment of officer resources.

*Finance Officer Consulted: Anne Silley*

*Date: 08/03/12*

### Legal Implications:

- 28.2 These are addressed in the body of the report.

*Lawyer Consulted: Elizabeth Culbert*

*Date: 06/03/12*

### Equalities Implications:

- 28.3 There is no adverse impact of the move to the new system that has been identified in relation to individuals with protected characteristics. An Equality Impact Assessment has been undertaken to consider any potential adverse impact and mitigating steps.

#### Sustainability Implications:

- 28.4 There will be a need to increase the number of agendas and documents that are printed under the new system, in order to ensure that all Members of Committees receive the papers on which they will be making decisions. IT solutions which may be able to alleviate this impact are being actively pursued.

#### Crime & Disorder Implications:

- 28.5 The new Police and Crime Panel will be the new body responsible for holding the Police Commissioner to account. The Overview and Scrutiny Committee will be the body that is designated as the Council's Crime and Disorder Committee for the purpose of the Crime and Disorder Act 2006. There are no adverse implications arising from the proposals in this report.

#### Risk and Opportunity Management Implications:

- 28.6 The change to a committee system will introduce a system of decision making that will be new to many Members and officers in the Council. Training and information giving sessions are planned for the range of affected groups to ensure that the transition is smooth.
- 28.7 The change to a committee system will also need to be carefully communicated to the public and the Council's partners to ensure that there is an awareness of the meetings that will take place and their functions. Also it will be important to reiterate that all the existing mechanisms for accessing council decision making will be in place.

#### Public Health Implications:

- 28.8 The new constitution reflects the establishment of the shadow Health and Wellbeing Board which will consider the priorities and key strategies for public health in the City.

#### Corporate / Citywide Implications:

- 28.9 Whilst adopting a new system of governance is a significant change, the proposals will continue to enshrine open and accountable decision making, with a broad range of opportunities for the public and partners to participate.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. Key documents from the proposed new constitution
2. Design Principles document
3. Working Assumptions document
4. Proposed committee structure chart
5. Note regarding officer delegations
6. Table showing proposed size and allocation of Committees
7. Protocol in relation to co-optees.

### **Documents in Members' Rooms**

1. Brighton & Hove City Council Constitution – May 2012

### **Background Documents**

1. None

## **Index to Brighton & Hove City Council Constitution**

**Note: Items shown in bold (which represent parts of the constitution where substantial amendments have been made) are included in the attached papers**

Items in simple text (which represent parts of the constitution where little or no substantial changes have been made) are available on the Council's website and in Members' rooms.

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## **PART 2 ARTICLES OF THE CONSTITUTION**

### **ARTICLE 1 – THE CONSTITUTION**

#### **1.01 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this constitution.

#### **1.02 The Constitution**

This constitution, and all its appendices, is the constitution of Brighton & Hove City Council.

#### **1.03 Purpose of the Constitution**

The purpose of the constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their wards and local residents effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) provide a powerful and effective means of holding decision-makers to public account;
- (f) ensure that those responsible for decision making are clearly identifiable to local people and that the Council explains the reasons for decisions;
- (g) ensure that no one will review or scrutinise a decision in which they were directly involved; and
- (h) provide a means of improving the delivery of services to the community.

#### **1.04 Interpretation and Review of the Constitution**

Where the constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the constitution as set out in Article 13 – Review, Revision, Suspension, Interpretation and Publication of the Constitution.

## **ARTICLE 2 – MEMBERS OF THE COUNCIL**

### **2.01 Composition and eligibility**

- (a) **Composition.** The Council comprises of 54 Members (otherwise called Councillors). There are 21 electoral wards and 2 or 3 Members are elected by the voters of each ward. One of the Councillors is elected annually as the Mayor by the elected Members to chair the Council meetings and attend to ceremonial duties.
- (b) **Eligibility.** Only registered voters of the city or those living or working there will be eligible to hold the office of Councillor.

### **2.02 Election and terms of Councillors**

**Election and terms.** The regular election of Councillors will be held on the first Thursday in May every four years. The next local elections will take place in May 2015. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.03 Roles and functions of all Councillors**

- (a) **Key roles.** All Councillors will:
  - (i) maintain the highest standards of conduct and ethics;
  - (ii) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocates of and for their communities;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) balance different interests identified within the ward and represent the ward as a whole;
  - (vi) be involved in decision-making and scrutinising decisions made by others under the scrutiny arrangements;
  - (vii) be available to represent the Council on other bodies; and
  - (viii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making.

**(b) Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their role as Councillors and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 7 of this constitution.

**2.05 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Code of Conduct for Member/Officer Relations set out in Part 8 of this constitution.

**2.06 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 9 of this constitution.

## ARTICLE 3 – CITIZENS AND THE COUNCIL

### 3.01 Citizens' rights

Citizens have the rights set out below. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 7 of this constitution:

- (a) **Voting.** Citizens on the electoral roll for the area have the right to vote in any European, national or local elections.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council, its Committees and Sub-committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the Forward Plan what key decisions will be taken by Members or Officers and when;
  - (iii) see non-confidential reports and background papers, and a record of decisions made by the Council, its Committees and Sub-committees;
  - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by Overview and Scrutiny Panels subject to compliance with the relevant procedures.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Monitoring Officer about a breach of the Local Code of Conduct for Members.

### 3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm property owned by the Council, Councillors or officers. They should also comply with the law (including byelaws) and the Council's procedures in dealing with the Council.

## **ARTICLE 4 – THE MAYOR**

### **4.01 Role and function of the Mayor**

The Mayor will be elected by Council annually. The Mayor and in his/her absence, the Deputy Mayor, will have the following roles, functions and responsibilities:

#### **(a) Chairing the Council Meeting**

- (i) to uphold and promote the purposes of the constitution, and to interpret the constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and (subject to the arrangements for scrutiny discussed in Article 7) a place at which Members are able to ask questions of the Leader and the Chairs of Committees and Sub-Committees;
- (iv) to promote public involvement in the Council's activities.

#### **(b) Civic and Ceremonial Role**

The Mayor shall be the first citizen of the City of Brighton & Hove and shall have the following civic responsibilities:

- (i) to attend such civic and ceremonial functions as the Council and the Mayor may determine generally or in appropriate cases.
- (ii) to promote the Council as a whole and act as a focal point for the community.

## **ARTICLE 5 – THE FULL COUNCIL**

5.01 The full Council is made up of the 54 elected Members of the Council.

5.02 The responsibilities of full Council include:

- Approving all key plans and strategies collectively known as the Policy Framework
- Approving the budget
- Adopting the constitution
- Appointments to Outside Bodies
- Adopting a Members Allowances scheme
- Adopting a Local Code of Conduct for Members

5.03 The full details of the functions and procedures of the Council are set out in Part 3 of the constitution.

## ARTICLE 6 – COMMITTEES AND SUB-COMMITTEES

### 6.01 Introduction

The implementation of the Council’s budget and policy framework, and the discharge of its regulatory functions, is undertaken by a number of Committees and Sub-Committees with powers delegated from the full Council. The Council has also devolved powers to Partnership Boards with health bodies, under the National Health Service Act 2006 and the Children Act 2004, (and, subject to Parliamentary approval, the Health and Social Care Bill).

The Council will appoint or make appointments to the Committees, Sub-Committees, Joint Committees and Partnership Boards as set out in the left hand column of the tables below. An indication of the functions of each Committee/Sub-Committee/Joint Committee/Partnership Board is shown in column 3 of the table. The terms of reference and powers delegated to each Committee, Sub-Committee, Joint Committee and Partnership Board are more particularly set out in Part 4 of the constitution.

### 6.02 Policy and Regulatory Committees

Committee/Sub-Committee	Membership	Functions
Housing Committee	10 Members of the authority	This Committee has overall responsibility for the Council’s housing functions including; Council housing, private sector housing, strategic housing including the housing investment program, homelessness and allocations, tenancy relations, housing loans and grants, and has responsibility for housing related support services.
Housing Management Consultative Sub-Committee	8 Members of the authority plus 13 non-voting co-optees.	This Sub-Committee of the Housing Committee advises the Council in the discharge of its functions as a housing landlord, including residential leases granted by the Council. The Sub-Committee includes non-voting tenant and leaseholder representatives
Adult Care & Health Committee (See also Joint Commissioning Board at 6.03 below)	10 Members of the authority	This Committee is responsible for adult social services and, overseen by the Joint Commissioning Board, the joint delivery of a number of adult social care and health services with the health service. The Committee is also responsible for the exercise of the Council’s functions in respect of public health relating to adults which, subject to Parliamentary approval, transfer to the Council under the Health and Social Care Bill.

Children and Young People Committee	10 Members of the authority and up to 11 non voting co-optees	This Committee is responsible for education, social care services and health services to children and young people and exercises the functions of the Council as Local Education Authority. The Committee is also responsible for the exercise of the Council's functions in respect of public health relating to children which, subject to Parliamentary approval, transfer to the Council under the Health and Social Care Bill. The Committee is also the Council's Children and Young Peoples Trust Board for the purposes of the Children Act 2004
Environment & Sustainability Committee	10 Members of the authority	This Committee is responsible for sustainability, parks and green spaces, Romany, Travellers and Gypsies, waste, coast protection and flood defence, the seafront, environmental health, trading standards and the bereavement and coroner's services.
Transport Committee	10 Members of the authority	This Committee is responsible for highways management, traffic management and transport, parking, and related public space.
Economic Development and Culture	10 Members of the authority	This Committee discharges the Council's functions in relation to culture, arts and heritage; tourism and marketing; libraries and museums; events; leisure, sports and recreation; planning policy; economic growth and regeneration; major built environment projects; conservation and design; building control; and as local planning authority (except for the development control functions delegated to the Planning Committee).
Planning Committee	12 Members of the authority and 2 non voting co-optees (Conservation Advisory Group and Federation of Disabled People).	This Committee exercises the Council's functions in relation to development control matters.
Policy and Resources Committee	10 Members of the authority	This Committee has overall responsibility for the financial and other resources of the authority, for developing the authority's strategy and policy based on national government and local priorities and for the



		development of partnership working. It also has responsibility for many of the services delivered to residents and customers, including electoral and ceremonial matters, legal services, complaints services, equalities and community safety, revenues and benefits, registration, and local land charges.
Personnel Appeals Panel	3 Members of the authority	This Panel, which has the status of a Sub-Committee of Policy and Resources Committee, deals with appeals against dismissals, grading and other grievances in accordance with agreed human resources procedures.
Corporate Parenting Sub Committee	5 Members of the authority and up to four non voting co-optees	This Sub-Committee of Policy and Resources is responsible for the development, implementation and monitoring of the Council's Corporate Parenting Strategy and provides challenge to ensure that the Council's duty as Corporate Parent is discharged effectively and consistently.
Licensing Committee	15 Members	This Committee discharges the Council's functions under the Licensing Act 2003. The Licensing Committee also has responsibility for all licensing and registration functions not covered by the Licensing Act 2003. The day to day decisions on individual applications are dealt with by the Licensing Panel. The approval of the Statement of Licensing Policy is reserved to the full council. N.B. The Licensing Committee may operate as two separate committees with identical membership. The functions of the two separate committees relate to Licensing Act and non-Licensing Act functions respectively.
Licensing Panel	3 Members of the authority	The Licensing Panel is a Sub-Committee of the Licensing Committee. It hears applications under the Licensing Act 2003 where the matter is authorised or required to be dealt with by a Committee. The Panel also deals with appeals against licensing and registration decisions and cases where officers do not have the power to make determinations. It also has general powers to hear and determine matters, which include serving as the appellate

		Committee where there is a right of appeal from a decision of an officer and no other arrangements have been made under the constitution. The Sub-Committee may operate as two separate committees with identical membership. The functions of the two separate sub-committees relate to Licensing Act and non-Licensing Act functions respectively.
Audit & Standards Committee	8 Members of the Council plus <i>[until 30 June 2012, 3 independent Members who are not members of the Council and 2 Rottingdean Parish Council Members, and thereafter] 2 independent advisers</i>	The Audit and Standards Committee deals with (a) financial governance and stewardship, risk management and audit and (b) issues of conduct among Members which includes dealing with complaints against Members, granting dispensations regarding Members' interests and promoting high ethical standards generally.
Standards Panel	Members drawn from the Audit and Standards Committee	The Panel is a Sub-Committee of the Audit and Standards Committee and its main delegated functions relate to the determination of alleged breaches of the Code of Conduct for Members.

### 6.03 Joint Committees and Partnership Boards

Committee/Sub-Committee	Membership	Functions
Joint Commissioning Board	Two groups, each with one vote, being (a) Council Members and (b) members of the Brighton & Hove Primary Care Trust	In relation to adults, the Board exercises a number of social care and health functions of the Council and Brighton & Hove Primary Care Trust under arrangements made pursuant to section 75 National Health Service Act 2006.
Health and Wellbeing Board	7 Members of the authority plus 7 further voting members determined having regard to the requirements of the Health and Social Care Bill	This Board is established as a shadow board in anticipation of the Health and Social Care Bill being enacted. The Health and Wellbeing Board in its shadow form is responsible for advising the Council, the Sussex PCT and the Clinical Commissioning Group on work to improve the health and wellbeing of the population of Brighton & Hove through the development of improved

		and integrated health and social care services. In particular it will be responsible for preparing a Joint Health and Wellbeing Strategy and a Joint Strategic Needs Assessment.
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#### 6.04 Other Committees

Committee/Sub-Committee	Membership	Functions
Overview and Scrutiny Committee	10 Members of the authority	This Committee discharges on behalf of the Council all overview and scrutiny functions, except those delegated to the Health and Wellbeing Overview and Scrutiny Committee. It considers requests for scrutiny reviews and establishes policy review and scrutiny review Panels to undertake task and finish work. It is the Crime and Disorder Committee for the purposes of the Police and Justice Act 2006. It also undertakes scrutiny of flood risk and coastal erosion plans as required by Localism Act 2011.
Health and Wellbeing Overview and Scrutiny Committee	8 Members of the authority plus 3 non voting co-optees and voting education co-optees where these are required by legislation	This Committee discharges on behalf of the Council all overview and scrutiny functions in relation to health, children and young people (including education) and adult social care.
Scrutiny Review Panels and Policy Review Panels	As determined by the Overview and Scrutiny Committee	The Overview and Scrutiny Committee has power to set up Scrutiny or Policy Panels. Each Panel meets until it has produced a report on the subject it was required to examine.
Police and Crime Panel [ <i>to be constituted by November 2012</i> ]	As determined under the relevant legislation (the Council has the right to appoint one Member)	The Police and Crime Panel is a joint committee of all local authorities in East and West Sussex and its function is to scrutinise the elected Police and Crime Commissioner.

## 6.05 Delegations to Officers

Some of the functions of the Committees and Sub-Committees and other bodies listed above may be discharged by an officer under delegated powers. Details of the functions of Committees and Sub-Committees delegated to officers are contained in the Scheme of Delegation to Officers at Part 6 of the constitution and summarised at Article 10.

## 6.06 Urgency Committee/Sub-Committees

- (a) The Council shall establish an Urgency Committee to exercise its powers. The membership of the Urgency Committee shall consist of 7 Members. The Urgency Committee may exercise its powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Council. Every decision of the Urgency Committee shall be reported for information to the next ordinary meeting of the full Council.
- (b) Each Committee of the Council may appoint an Urgency Sub-Committee to exercise its powers. The Membership of such Urgency Sub-Committee shall consist of the Chair of the Committee, and two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups. Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the Committee as appropriate.

## 6.07 Establishment of additional advisory bodies

The Council or the Policy and Resources Committee may from time to time establish task groups, consultative forums, commissions, working groups, ad hoc panels or other advisory bodies, the membership of which shall be drawn from Members of the Council and/or non-voting co-optees. The proceedings of any such group shall be reported to the appropriate Committee and should include any recommendations or advice from that group. No Committee or Sub-Committee may delegate its functions to any such group.

Advisory Group/Forum	Membership	Functions
City Sustainability Partnership	4 Members of the authority and co-optees from the business community and voluntary sector and relevant Environment Agencies	To lead on the revision, implementation and monitoring of the Council's sustainability strategy and to champion the priorities of the national Sustainable Development Strategy: "Securing the Future".
Community Safety	10 Members of the	To enable community consultation

Forum	authority and representatives of relevant communities of interest	and to play a key role in identifying the priorities for the three year community safety and crime reduction strategies and to oversee the implementation of those strategies. To report to council's Policy and Resources Committees.
Area Housing Panels (x4)	All ward councillors within the boundaries of the Panel, plus tenant/resident association representatives	To consider reports relating to the Council's role as landlord, including performance, services, budgets, major repairs programme development and delivery, policy issues and service development, within the boundaries of the Area Panel and to make recommendations to the Housing Management Consultative Sub-Committee.
Joint Staff Consultation Forum	6 Members of the authority plus employee representatives	To provide a mechanism for regular communication and consultation in support of Brighton & Hove Council's approach to working in partnership with its recognised trade unions and professional associations and to maintain a healthy employee relations climate.
Arts and Creative Industries Commission	6 Members of the Council and up to 24 representatives from relevant local sectors	To help the Council support, promote and develop the arts and creative industries in Brighton & Hove.
Independent Remuneration Panel	Between 3 and 5 members who are not Members of the authority	To produce reports to the Council making recommendations in respect of Members' allowances.
Brighton & Hove City Sports Forum	36 representatives appointed by Strategic Director Place and 4 Members of the Council	To take an overview of the delivery of the sports strategy for Brighton & Hove and to advise the Economic Development and Culture Committee.
Conservation Advisory Group	Membership is drawn from representative local groups and societies	This group advises the Council on the implementation of its Conservation Strategy, major planning applications or council proposals affecting the development of policies for the protection of the historic built environment. The Group reports principally to the Planning Committee.

## **ARTICLE 7 – OVERVIEW AND SCRUTINY COMMITTEES**

### **7.01 Introduction**

- (a) Overview and Scrutiny is an important element of the Council's constitution. The Committees and/or Panels which may be established from time to time to carry out Overview and Scrutiny represent powerful public forums through which Councillors can monitor the implementation of the Council's policies and the quality of its services; make recommendations on the discharge of the authority's functions and/or other matters affecting Brighton & Hove and hold the Committees to account for their decisions and actions;
- (b) Overview and Scrutiny is concerned with the overall well being of the City and all factors affecting this including not only Council services but those of other agencies (with a particular statutory role in respect of health services) and other matters. Overview and Scrutiny is an important mechanism for community Councillors to represent their wards and are a focus for stakeholder and community involvement.
- (c) This Article outlines the basic elements of the Overview and Scrutiny function. It should be read in conjunction with the Overview and Scrutiny Procedure Rules, which appear at Part 5 of the constitution and provide a more detailed framework for the operation of Overview and Scrutiny at Brighton & Hove.

### **7.02 Undertaking and co-ordinating Overview and Scrutiny**

- (a) The Council will appoint an Overview and Scrutiny Committee (OSC) to discharge the functions conferred by the Local Government Act 2000 as amended by the Localism Act 2011 in relation to all aspects of the Council's services and/or administration; and all matters affecting the economic, social and environmental well being of the City and/or its inhabitants.
- (b) The OSC will coordinate and manage the Overview and Scrutiny function. It may appoint ad hoc Overview and Scrutiny Review and Policy Review Panels to undertake time-limited investigations or reviews as required. It will be the Council's Crime and Disorder Committee to the extent required by the Police and Justice Act 2006.
- (c) The Health Overview and Scrutiny Committee (HWOSC) will have delegated powers to discharge the overview and scrutiny function in relation to local health services as set out in the National Health Service Act 2006.

### **7.03 The Overview and Scrutiny function**

The membership arrangements and detailed terms of reference of the Overview and Scrutiny Committee and the Health Overview and Scrutiny Committee are set out in the Overview and Scrutiny Rules at Part 5 of this

constitution. Within these terms of reference, Overview and Scrutiny has the following functions:

- (i) to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) to make reports and/or recommendations to the full Council or any Committee or Sub-Committee of the Council or any Joint Committee on which the Authority is represented or any Sub-Committee of such a Joint Committee in connection with the discharge of any of the Council's functions;
- (iii) to consider any matter affecting the area or its inhabitants and make reports or recommendations to the full Council or any Committee or Sub-Committee of the Council or any Joint Committee on which the Authority is represented or any Sub-Committee of such a Joint Committee in respect of such matters;
- (iv) to exercise the right to call-in, for reconsideration, decisions made by the Committees but not yet implemented;
- (v) to review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas and to make recommendations arising from the outcome of the Scrutiny process;
- (vi) to liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (vii) to review and scrutinise the performance of other agencies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee/Panel and local people about their activities and performance.

### **7.05 Annual report**

The Overview and Scrutiny Committee will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

### **7.06 Proceedings of Overview and Scrutiny Committees/Panels**

The Overview and Scrutiny Committee, the HWOSC and their Review Panels and will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules in Part 5 of this constitution.

## **ARTICLE 8 – THE AUDIT AND STANDARDS COMMITTEE**

### **8.01 Audit and Standards Committee**

The Audit and Standards Committee will be the Council's Standards Committee for the purpose of the Local Government Act 2000 and then (*anticipated from 1 July 2012*) the Localism Act 2011.

### **8.02 Role and Composition**

- (a) The Audit and Standards Committee deals with:-
- financial governance and stewardship, risk management and audit and
  - issues of conduct among Members which includes dealing with complaints against Members, granting dispensations regarding Members' interests and promoting high ethical standards generally;
- (b) The full terms of reference of the Audit and Standards Committee are set out in the Scheme of Delegation to Committees and Sub-Committees at Part 4 of the constitution.
- (c) The Audit and Standards Committee consists of X Councillors and two independent persons to advise on standards matters, neither of whom are Councillors or officers of the Council.
- (d) All members of the Audit and Standards Committee are entitled to vote at meetings, but not the independent persons who advise on standards matters.
- (e) The Standards Panel, which has the status of a Sub-Committee of the Audit and Standards Committee, deals with (a) allegations that Members or Co-opted Members have breached the Code of Conduct and (b) the granting of dispensations to Members or Co-opted Members with pecuniary interests.
- (f) *For the period from the adoption of this constitution until the relevant provisions of the Localism Act 2011 come into force (anticipated from 1 July 2012), there will be transitional arrangements. Membership of and voting at the Audit and Standards Committee and the Standards Panel will remain as under the previous constitution, in so far as these matters relate to the 3 independent persons and the 2 representatives of Rottingdean Parish Council who serve as members of the Committee and the Panel.*



## **ARTICLE 9 – JOINT ARRANGEMENTS**

### **9.01 Arrangements to promote well being**

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- (c) exercise on behalf of that person or body any functions of that person or body.

### **9.02 Joint local government arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these other local authorities.
- (b) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's Scheme of Delegations in Part 4 of this constitution.

### **9.03 Delegation to and from other local authorities**

- (a) The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The decision whether or not to accept such a delegation from another local authority shall be reserved to the full Council.

### **9.04 Contracting out**

The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

### **9.05 Joint arrangements with other public bodies**

Under Section 75 National Health Service Act 2006,t Section 10 of the Children Act 2004, and, subject to Parliamentary approval, the Health and Social Care Bill, local authorities, national health bodies and a number of other bodies have powers to delegate the exercise of some of their functions to each other and to co-operate in the exercise of their functions.

## **9.06 Existing Arrangements**

Some of the arrangements the Council has established for the joint exercise of functions or is otherwise involved in include:

- (a) The Joint Commissioning Board, in connection with the delivery of adult social services and health care;
- (b) The Health and Wellbeing Board, in connection with improving the health and well being of the population of Brighton & Hove.

## ARTICLE 10 – OFFICERS

### 10.01 Terminology

The use of the word “officers” means all employees and staff engaged by the Council to carry out its functions.

### 10.02 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated Chief Officers. Their functions are more particularly set out in part 6 of the constitution:

Post	Main Functions and areas of responsibility
<b>Chief Executive</b>	<ol style="list-style-type: none"><li>1. Head of Paid Service under section 4 of the Local Government and Housing Act 1989</li><li>2. Overall corporate management and operational responsibility (including overall management responsibility for all officers)</li><li>3. Provision of professional advice to all parties in the decision making process</li><li>4. Responsibility for various matters in relation to Members (including taking declarations of acceptance of office and receiving resignations)</li><li>5. Representing the Council on partnership and external bodies (as required by statute or the Council)</li><li>6. Exercising functions delegated to other officers unless the function is required by law or the scheme of delegation to be exercised by another person (e.g. Monitoring Officer and Chief Finance Officer duties)</li><li>7. Acting as the Returning Officer with overall responsibility for conduct of Local and National Elections overall responsibility for conduct of Local and National Elections</li></ol>
<b>Strategic Director of People</b>	<ol style="list-style-type: none"><li>1. Director of Children’s Services under section 18 of the Children Act 2004</li><li>2. Children, Young People and Families</li><li>3. Schools, Skills and Learning</li><li>4. Adult social care and health, including section 75 joint working arrangements, (except where this function is legally required or under a rule of professional practice to be exercised by the Director of Adult Social Services)</li></ol>

<b>Strategic Director of Place</b>	<ol style="list-style-type: none"> <li>1. Environmental awareness</li> <li>2. Planning (including building control, development control, planning strategy and sustainability)</li> <li>3. Waste (including collection, recycling, disposal and cleansing)</li> <li>4. Public safety (including environmental health, licensing and trading standards)</li> <li>5. Parks and green spaces</li> <li>6. Transport (including management of highways, traffic and parking)</li> <li>7. Economic development and regeneration</li> <li>8. Housing</li> </ol>
<b>Strategic Director of Communities</b>	<ol style="list-style-type: none"> <li>1. Arts and creative industries</li> <li>2. Venues (including the Brighton Centre)</li> <li>3. The Royal Pavilion, the libraries and the museums</li> <li>4. Tourism and Leisure</li> <li>5. Communities and Equality</li> <li>6. Seafront</li> <li>7. Community Safety and Drug Action Teams</li> <li>8. Events</li> </ol>
<b>Strategic Director of Resources</b>	<ol style="list-style-type: none"> <li>1. Legal Services (except those delegated to the Head of Legal &amp; Democratic Services as Solicitor to the Council)</li> <li>2. Democratic Services, ie services to Members of the Council</li> <li>3. Overview and Scrutiny</li> <li>4. Policy, Analysis and Performance</li> <li>5. Human Resources and Development</li> <li>6. Property &amp; Design</li> <li>7. Information and Communication Technology</li> <li>8. Corporate Communications</li> </ol>
<b>Director of Finance</b>	<ol style="list-style-type: none"> <li>1. Chief Finance Officer, responsible for the proper administration of the Council's financial affairs under section 151 Local Government Act 1972</li> <li>2. Internal audit and business risk</li> <li>3. Strategic finance</li> <li>4. Procurement</li> </ol>
<b>Director of Adult Services and Social Care</b>	Director of Adult Social Services under section 6(A1) of the Local Authority Social Services Act 1970

- (c) **Other senior officers.** The Council will engage persons for the following posts, whose functions are more particularly set out in part 6 of the Constitution.

<b>Head of Legal &amp; Democratic Services</b>	Monitoring Officer under sections 5 and 5A of the Local Government and Housing Act 1989 and the Local Government Act 2000
<b>Head of Children &amp; Families</b>	<ol style="list-style-type: none"> <li>1. Social Care</li> <li>2. Fostering &amp; Adoption</li> <li>3. Integrated disabilities</li> <li>4. School &amp; Community</li> <li>5. Early Years</li> <li>6. Young People</li> </ol>
<b>Head of Adults – Assessment</b>	<ol style="list-style-type: none"> <li>1. Community assessment</li> <li>2. Hospital assessment</li> <li>3. Learning disabilities – assessment</li> <li>4. Integrated working with Sussex Partnership Trust and Sussex Community NHS Trust</li> </ol>
<b>Head of Adults – Provider</b>	<ol style="list-style-type: none"> <li>1. Older people</li> <li>2. Learning disabilities – provider</li> <li>3. Supported employment</li> </ol>
<b>Head of Planning &amp; Public Protection</b>	<ol style="list-style-type: none"> <li>1. Environmental health &amp; licensing</li> <li>2. Trading Standards</li> <li>3. Planning</li> <li>4. Development control</li> <li>5. Building control</li> <li>6. Drug &amp; Alcohol Action Teams</li> <li>7. Community Safety</li> </ol>
<b>Head of City Services</b>	<ol style="list-style-type: none"> <li>1. Libraries</li> <li>2. Revenues and benefits</li> <li>3. Life events</li> <li>4. Access services</li> <li>5. Schools admissions</li> <li>6. Family information service</li> <li>7. Electoral services</li> </ol>
<b>Head of Tourism &amp; Leisure</b>	<ol style="list-style-type: none"> <li>1. Tourism</li> <li>2. City marketing</li> <li>3. Venues</li> <li>4. Museums</li> <li>5. Royal Pavilion</li> <li>6. Events/Outdoor events</li> <li>7. Seafront</li> <li>8. Sports facilities</li> <li>9. Sports development</li> </ol>
<b>Head of Housing &amp; Social Inclusion</b>	<ol style="list-style-type: none"> <li>1. Housing management</li> <li>2. Social inclusion</li> <li>3. Travellers</li> </ol>

<b>Head of City Infrastructure</b>	<ol style="list-style-type: none"> <li>1. City Clean</li> <li>2. Parks</li> <li>3. Highway Parking</li> </ol>
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- (d) **Structure.** The Chief Executive will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers.
- (e) **Authorisation.** Under the Council's Scheme of Delegation to Officers in part 6 of the constitution the powers delegated to the officers listed above may be exercised by other officers reporting to those officers.

### 10.03 Functions of the Chief Executive

- (a) **Discharge of functions by the Council.** The Chief Executive will report to full Council and/or the Policy and Resources Committee as he/she considers appropriate on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Proper officer for access to information.** The Chief Executive will ensure that there are arrangements in place for decisions, together with the reasons for those decisions and relevant officer reports and background papers to be made publicly available as soon as possible.
- (c) **Restrictions on functions.** The Chief Executive, as the Head of Paid Service, may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 10.04 Functions of the Monitoring Officer

- (a) **Maintaining the constitution.** The Monitoring Officer will maintain an up-to- date version of the constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the full Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Audit and Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee.

- (d) **Code of Conduct for Members.** The Monitoring Officer will ensure that all allegations of breaches of the Code of Conduct for Members are dealt with under the approved procedures.
- (e) **Conducting investigations.** When necessary, the Monitoring Officer will conduct investigations into allegations of breaches of the Code of Conduct for Members and issue reports to the Standards Panel to assist the Panel in determining whether or not the Code has been breached.
- (f) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity to all Councillors.
- (g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer.

#### **10.05 Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take financial decisions, maladministration, financial impropriety, probity to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will be responsible for providing financial information to the media, members of the public and the community where appropriate.

#### **10.06 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **10.07 Conduct**

Officers will comply with the Code of Conduct for Employees and the Code of Conduct for Member/Officer Relations set out in Part 8 of the constitution.

### **10.08 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 8 of the constitution.



## **ARTICLE 11 – DECISION MAKING**

### **11.01 Responsibility for decision making**

The Council will issue and keep up to date a record of which part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 4 and 6 of this constitution (Scheme of Delegations to Committee and Sub-Committees and Scheme of Delegation to Officers).

### **11.02 Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (the authority will give particular consideration to the implications for human rights of any proposals at an early stage in the decision making process);
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes.

### **11.03 Types of decision**

- (a) **Decisions reserved to full council** relating to the functions listed in part 3 of the constitution will be made by the full Council and not delegated.
- (b) **Key decisions**

These are decisions which are likely to:-

- result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates, namely above £500k per annum;
- or**
- be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

**(c) Forum for key decisions**

Key decisions can be made at Policy and Resources, by Committees and Sub Committees in accordance with the Scheme of Delegation to Committees and Sub Committees or by officers in accordance with the Scheme of Delegations to Officers.

**11.04 Decision making by the full Council**

Subject to Article 5, the Council meeting will follow the Council Procedure Rules set out in Part 3 of this constitution when considering any matter.

**11.05 Decision making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 5 of this constitution when considering any matter.

**11.06 Decision making by other Committees and Sub-Committees established by the Council**

Subject to Article 11.07, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 3 of this constitution as apply to them.

**11.07 Decision making by Council bodies acting as tribunals or in partnership with other bodies**

The Council, a Committee/Sub-Committee or an officer

- (a) acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights
- (b) acting or meeting with any other body pursuant to any arrangements under section 75 of the National Health Service Act 2006, section 10 the Children Act 2004, the Health and Social Care Bill (subject to Parliamentary approval) or any other partnership arrangements will follow any proper procedures which have been agreed with that body for those arrangements.

## **ARTICLE 12 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **12.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 7 of this constitution.

### **12.02 Contracts**

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 7 of this constitution.

### **12.03 Legal proceedings**

The Head of Law is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Law considers that such action is necessary to protect the Council's interests.

### **12.04 Seal of the Council**

- (a) The common seal of the Council shall be kept in a safe place in the custody of the Head of Law.
- (b) The common seal of the Council shall be affixed to a document only on the authority of:
  - (i) a resolution of the Council;
  - (ii) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
  - (iii) a decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.
- (c) The affixing of the common seal shall be attested by the Monitoring Officer, the Head of Law, the Deputy Head of Law, a Principal Solicitor, Managing Principal Solicitor or the Senior Lawyer (Property) of the Council, or another solicitor authorised by the Head of Law. An entry of every sealing of a document shall be made, and numbered consecutively, in a book kept for the purpose, and shall be signed by the person who shall have attested the seal.

### **12.05 Authentication of documents**

Without prejudice to the powers delegated to the Monitoring Officer and the Head of Law under the Scheme of Delegation to Officers, where any document is necessary to any legal procedure or proceedings on behalf of the Council, it may be signed by the Monitoring Officer, the Head of Law, a Principal Solicitor, Senior Lawyer (Property) or other person authorised by the Monitoring Officer.

## ARTICLE 13 - REVIEW AND REVISION, SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

### 13.01 Duty to monitor and review the constitution

The Policy and Resources Committee will monitor and review the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. The Chief Executive and the Monitoring Officer will report to the Committee from time to time on the operation of the constitution.

### 13.02 Protocol for monitoring and review of the constitution

A key role for the Chief Executive and the Monitoring Officer is to be aware of the strengths and weaknesses of the constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the officers may:

- (a) observe meetings of different parts of the Member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with them by Members, officers, the public and/or other relevant stakeholders;
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 13.03 Changes to the constitution

- (a) **Approval.** Subject to (b) and (c) below changes to the constitution will only be approved by the full Council after consideration of the proposal by the Policy and Resources Committee, the Audit and Standards Committee, the Chief Executive, or the Monitoring Officer.
- (b) The changes described in the left-hand column of the table below may be made by the person or body mentioned in the right-hand column of the table.

(i)	The establishment, abolition or changes to terms of reference, of any Sub-Committee, Advisory Body, or Joint Committee	Policy and Resources Committee
(ii)	Delegation of functions of a Committee to an existing Sub-Committee	Policy and Resources Committee or the relevant Committee
(iii)	Changes to the Scheme of Delegation to Officers	Policy and Resources Committee

(iv)	Delegation of powers from a Committee or Sub-Committee to an officer	The relevant Committee or Sub-Committee
(v)	Access to Information Procedure Rules	Head of Law
(vi)	Financial Regulations and Standard Financial Procedures	Chief Finance Officer
(vii)	Officer Employment Procedure Rules	Strategic Director Resources
(viii)	Protocol for Public Representations at Planning Committee	Planning Committee
(ix)	Forms for declaration of interests and for declaration of gifts and hospitality under the Code of Conduct for Employees	Strategic Director of Resources
(x)	Protocol for Public Questions at Committees and Sub-committees	Head of Law
(xi)	Code of Corporate Governance	Audit and Standards Committee

- (c) The Monitoring Officer may make consequential amendments to the constitution to give effect to a decision of full Council or other body authorised to change the constitution under this Article. Paragraph 11 of the introduction to the Scheme of Delegation to Officers also provides authority for the Monitoring Officer to make consequential changes to the constitution.

#### **13.04 Suspension of the constitution**

The Articles of this constitution may not be suspended. The Council Procedure Rules may be suspended in accordance with paragraph 1.7 of those Rules.

#### **13.05 Interpretation**

The ruling of the Mayor as to the construction or application of this constitution or as to any proceedings of the Council shall not be challenged at any meeting of the full Council. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

### **13.06 Publication**

- (a) The Head of Democratic Services will give a printed copy of this constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Strategic Director of Resources will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer and the Strategic Director of Communities will ensure that the summary of the constitution is made widely available within the area and is updated as necessary.

## **ARTICLE 14 – ROLE AND POWERS OF COMMITTEE AND SUB-COMMITTEE CHAIRS**

### **14.01 Appointment and general Role**

- (a) The Council's Procedure Rules (20) permit it to appoint, from amongst its voting Members, Chairs of Committees and Sub-Committees. Chairs are normally appointed annually, at the Council's annual general meeting in May. If the Council does not appoint a Chair in any particular case, the Chair is elected by the Committee or Sub-Committee. The Procedure Rules (20.5) bar any Member of the Council from being Chair of more than one Committee without the permission of the Council.
- (b) Usually the annual appointments made by the Council include one or more Deputy Chairs for each Committee and Sub-Committee. Deputies are generally able to exercise the powers vested in their Chairs if the Chairs are unavailable.
- (c) As further explained in paragraphs 14.03 and 14.04 below, the role of Chair has some aspects which are formally recognised by law and relate to the conduct of meetings. Also the Chair is usually, in practice, a lead Member in a particular area of the Council's work. Paragraph 14.02 outlines the way Chairs are expected to fulfil their roles.

### **14.02 Fulfilling the Role of Chair**

The Council expects that its Chairs will:-

- have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee or Sub-Committee which they chair;
- lead in the development of the work of the Committee or Sub-Committee which they chair, also taking into account the wider vision, such as corporate, cross-service and partnership issues;
- lead in service delivery and the implementation of policies approved by the Council where these relate to the Committee or Sub-Committee which they chair;
- be the spokesperson for the Committee or Sub-Committee which they chair;
- meet regularly to progress the Committee's or Sub-Committee's objectives with Deputy Chairs, Opposition Spokespersons, officers, and as appropriate other people, groups and organisations;
- represent and pursue the interests of the Committee or Sub-Committee which they chair in the community and if appropriate at regional and wider levels;
- in accordance with Council's Constitution and the provisions summarised at paragraphs 14.03 and 14.04 below, ensure that:
  - (1) the meetings of the Committee or Sub-Committee which they chair are properly conducted and
  - (2) reports of proceedings are forwarded on as necessary, for example to full Council;

- support the performance of the Council’s overview and scrutiny functions and participate in overview and scrutiny reviews as appropriate;
- maintain professional working relationships and establish mutual respect with all Members and officers;
- be a promoter and upholder of
  - (1) equalities throughout the City - particularly the Council’s equalities policies;
  - (2) high standards of ethical conduct by the Council’s Members and officers – particularly the Council’s Code of Conduct for Members.

### **14.03 Legal powers and Duties**

- (a) The responsibility of a Chair for the proper conduct of meetings is formally recognised in law. There are provisions in the Local Government Act 1972 which apply to the holding and chairing of meetings, but much of the detail is supplied in the Council’s Procedure Rules, which are standing orders made under powers in the 1972 Act. For any eventuality not covered in the legislation or the Procedure Rules, it may be possible to turn to the body of common law which the Courts have developed in relation to meetings.
- (b) The following are specific functions which a Chair has under the Local Government Act 1972:-
  - a power to exercise a second (casting) vote in the event of an equality of votes on any matter;
  - a duty to sign the minutes of the previous meeting;
  - a power to agree the addition of a late item of business to the agenda, if the Chair is of the opinion that it should be considered at the meeting as a matter of urgency.
- (c) To help the Committee or Sub-Committee which they chair make effective decisions, Chairs will not only ensure that the procedural rules applying to their Committee or Sub-Committee are observed, but also that any decisions made are sound at law. With assistance from officers as necessary, Chairs will ensure that the Committee or Sub-Committee (1) observes any particular legal duties relevant to a proposed decision and (2) has regard as necessary to any general duties such as:-
  - best value;
  - compliance with the Human Rights Act 1998;
  - equalities;
  - the general fiduciary duties to its Council Taxpayers to act with financial prudence.
- (d) Finally, the Chair will ensure that the Committee or Sub-Committee reaches its decisions rationally, taking into account relevant factors and disregarding those which are irrelevant.



#### **14.04 Powers and Duties under the Council's Constitution**

Under the Council's Constitution, the role and powers of Chairs are recognised in a number of ways, including the following:-

- (a) Appointment as Chair:- Under the Council's Procedure Rules (20.1) Chairs will normally be appointed at the Council's annual general meeting.
- (b) Settling the Agenda:- Under the Council's Procedure Rules (23.2 and 23.6) Chairs have power to direct that items of business be placed on the agenda of their Committee or Sub-Committee and the order in which business is arranged on the agenda.
- (c) Conducting the meeting:- Under the Procedure Rules (in particular 27) the Chair controls the proper conduct of meetings of his or her Committee or Sub-Committee. The Chair has discretion to depart from the formality of the Rules of Debate applicable to full Council meetings and such discretion is regularly exercised.
- (d) Involvement at Urgency and other Sub-Committees:- The Council's Procedure Rules (22) make Chairs ex-officio members of any Urgency Sub-Committee of the Committee they chair and permit them to attend and speak at any meeting of a Sub-Committee appointed by their Committee.
- (e) Reserve Power to call special Meetings:- The Council's Procedure Rules (19.2) permit a Chair to call a special meeting of his or her Committee or Sub-Committee at any time.
- (f) Reporting to full Council:- It usually falls to Chairs to present any reports which need approval of full Council, under the Council's Procedure Rules (24.2).
- (g) Duty to be available for Questions:- The Council's Procedure Rules (9.2) permit any Member of the Council to give written notice and ask questions of any Chair at full Council meetings. Also a Chair (9.17) can be questioned about any report which he or she is putting before the Council.
- (h) Right to be consulted:- Under the Council's Scheme of Delegations to Officers, a number of delegated powers can only be exercised by officers after consultation with the relevant Chair.
- (i) Special Responsibility Allowance:- In recognition of the role played by Chairs, Schedule 1 of the Council's Members Allowances Scheme allocates differing levels of special responsibility allowance payment to Chairs, the levels of payment being based on the levels responsibility.

## **ARTICLE 15 – ROLE AND POWERS OF THE LEADER OF THE COUNCIL**

### **15.01 Appointment and general Role**

- (a) The Council's Procedure Rules (18.10) permit Council to appoint, from among its voting Members, a Leader of the Council (referred to in this Article as the "Leader"). The Leader is normally appointed annually, at the Council's annual general meeting in May. If the Council does not appoint a Leader, the Leader of the largest political group becomes the Leader.
- (b) Usually the annual appointments made by the Council include one or more Deputy Leaders who are generally able to exercise the powers vested in the Leader if he or she is unavailable.
- (c) As further explained in paragraphs 15.03 and 15.04 below, the role of the Leader is not a formal legal role, but he or she is in practice the executive head of the Council, and the Member with greatest responsibility for driving forward the broad policies of the Council. Paragraph 15.02 outlines the way the Leader is expected to fulfil his or her role.

### **15.02 Fulfilling the Role of Leader**

The Council expects that the Leader will:-

- be the political (rather than ceremonial) leader of the Council, for the benefit of all the City's communities - its citizens, taxpayers, businesses, public bodies and other public authorities;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in the development of the Council's vision for the future, policy framework, budgets and strategies;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in service delivery and the implementation of policies approved by the Council;
- represent and pursue the interests of the Council in the community and at international, national and regional levels;
- act as Chair of the Policy and Resources Committee, fulfil the role of Leader at full Council meetings and carry out as necessary the other functions mentioned at paragraph 15.04 below;
- lead in providing policy direction and guidance to the Chief Executive and Chief Officers;
- meet regularly to progress the Council's objectives with Committee Chairs, the Chief Executive and Chief Officers, Leaders of other political groups on the Council, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament etc;
- support the performance of the Council's overview and scrutiny functions and participate in overview and scrutiny reviews as appropriate;
- maintain professional working relationships and establish mutual respect with all Members and officers;

- be a promoter and upholder of
  - (1) equalities throughout the City - particularly the Council's equalities policies;
  - (2) high standards of ethical conduct by the Council's Members' and officers – particularly the Council's Code of Conduct for Members.

### **15.03 Legal Powers and Duties**

As the Council operates a Committee System, the Leader has no formal legal powers and duties vested in him or her under the Local Government Act 1972 or the Local Government Act 2000.

However, in practice, all local authorities need to appoint Leaders and each Leader will hold the most significant elected Member role within his or her authority. As described in paragraph 15.02 above, the Council's Leader will be the Council's political/elected head, the focus for policy direction and community development, and also the chief advocate and ambassador for the whole of the City.

### **15.04 Powers and Duties etc under the Council's Constitution**

Under the Council's Constitution, the Leader is recognised in the following ways:-

- Chairing Policy and Resources Committee:- The Leader will normally be appointed at the Council's annual general meeting as Chair of the Council's most senior committee, the Policy and Resources Committee. (If the Council did not appoint the Chair, it would fall to the Committee to make an appointment and it would be expected that the Leader would be appointed.) This Committee is responsible for the Council's broad policies and its finances.
- Power to attend and speak:- The Council's Procedure Rules (18.10) permit the Leader to attend and speak at any meeting of a Committee or Sub-Committee of the Council, but he or she can only vote if appointed as a voting member of the committee or Sub-Committee.
- Reserve Power to call extraordinary Council Meetings:- The Council's Procedure Rules (4.3) permit the Leader, if neither the Mayor nor the Deputy Mayor is available, to call extraordinary meetings of the full Council.
- Duty to be available for Questions:- The Council's Procedure Rules (10.2) permit any Member of the Council to give written notice and ask questions of the Leader at full Council meetings.
- Involvement in Major Emergencies:- The Leader must be informed if an emergency is likely to be or has been declared under the Council's emergency planning or business continuity procedures. Also, officers must consult the Leader before they take any emergency action which would otherwise need committee authority.

- Special Responsibility Allowance:- In recognition of the role played by the Leader, Schedule 1 of the Council's Members Allowances Scheme allocates the highest special responsibility allowance payment to the joint role of Leader and Chair of Policy and Resources Committee.

## **PART 3 – COUNCIL**

### **PART 3.1 COUNCIL FUNCTIONS**

Council is the supreme decision making body and may with some exceptions exercise any of the functions vested in Brighton & Hove City Council by law. It may also delegate many of those functions to a Committee, a Sub-Committee or an officer. In this scheme of delegation the term “full council” is used to refer to the Council exercising functions itself as opposed to acting through Committees, Sub-Committees or officers.

#### **3.01 Functions of the full Council**

The following functions may only be exercised by the Full Council:

- (a) **Constitution**
  - (i) Adopting the constitution.
  - (ii) Amending the constitution, save that Article 13 of the constitution may provide for certain sections of the constitution to be amended by a Committee, a Sub-Committee or an officer.
  
- (b) **Policy and Budget**

Approving or adopting the policy framework (see 'Meanings' below), the budget and any application to the Secretary of State in respect of any Housing Land Transfer providing that the Council may, at the time of adopting the policy framework, the budget etc., authorise a Committee, Sub-Committee, the Cabinet, a Cabinet Member or an officer to amend, modify or vary (but not revoke) the same to the extent that this is permitted under the relevant regulations.
  
- (c) **Terms of Reference of Committees**

Agreeing and/or amending the terms of reference of Committees discharging Council functions and deciding on their composition. Where the allocation of seats on a Committee or Sub-Committee has been agreed by the Council, the Chief Executive shall have delegated authority to appoint individual members to the Committee or Sub-Committee in accordance with the wishes of the relevant political group(s).
  
- (d) **Appointments to Outside Bodies**

Appointing representatives to outside bodies unless the appointment has been delegated to a Committee, Sub-Committee or an officer.
  
- (e) **Members' Allowances**

Adopting and amending from time to time the scheme for Members' Allowances.
  
- (f) **Code of Conduct**

Adopting a Local Code of Conduct in order to maintain high ethical standards in accordance with the requirements of the Localism Act 2011.

- (g) **Titles**  
Changing the name of the area, conferring the title of Honorary Alderman, Honorary Recorder or Freedom of the City.
- (h) **Appointment of Chief Executive**  
Confirming the appointment of the Chief Executive, who shall be the Head of Paid Service.
- (i) **Byelaws and Local Legislation**  
Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.
- (j) **General**  
All other matters which by law must be reserved to Full Council.

### 3.02 Meanings

#### (a) Policy Framework.

The policy framework means the following plans and strategies:-

- (i) **those likely to be required by law to be adopted by Full Council**
  - Statement of Pay Policy
  - Libraries Plan;
  - Sustainable Community Strategy;
  - Crime and Disorder Reduction Strategy;
  - Local Transport Plan;
  - Plans with Development Plan Document status ;
  - Youth Justice Plan;
  - Statement of Licensing Policy pursuant to the Licensing Act 2003;
  - Statement of Gambling Policy pursuant to the Gambling Act 2005.
- (ii) **those which the Council has determined should be adopted by Full Council as part of the Policy Framework:**
  - Official Feed and Food Controls Service Plan;
  - City Employment and Skills Plan;
  - Sustainability Strategy (*or the successor to this strategy*);
  - Corporate Plan;
  - Health and Safety Annual Service Plan;
  - Equality and Inclusion Policy;
  - City Performance Plan
  - Traveller Strategy
  - Housing Strategy
  - Housing Allocations Policy
  - School Admission Arrangements\*

\* For the purposes of the policy framework, “School Admission Arrangements” shall comprise the council’s admissions policy (as represented by the admissions booklet for primary and secondary schools) and the School Organisation Plan.

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or approval of applications to the Secretary of State to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### **3.03 Council meetings**

There are three types of Council meeting:

- (a) the Annual Meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 3 of this constitution.

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## **COUNCIL PROCEDURE RULES**

### **Part 1: Introduction**

- 1.1 **Application** These procedure rules apply to meetings of the Council, Committees or Sub-Committees of the Council. Where there is any inconsistency between these rules and the Budget and Policy Framework Rules or Overview & Scrutiny Procedure Rules, the latter shall prevail. In the application of these rules to Committees & Sub-Committees, greater informality may be exercised at the discretion of the Chairman.

#### **Amendment of Rules**

- 1.2 These Procedure Rules may only be varied, revoked or added to by resolution of the Council. No arrangements shall be made whereby any Committee, Sub-Committee or officer may exercise any power of the Council to vary, revoke or add to these Procedure Rules.
- 1.3 Except where recommended by a Committee, any motion to amend, revoke or add to these Procedure Rules shall be referred without discussion to the Policy and Resources Committee for consideration and report.

#### **Interpretation**

- 1.4 The ruling of the Mayor or person presiding at the meeting as to the construction or application of any of these Procedure Rules shall not be challenged at any meeting.
- 1.5 The definition section (Rule 33) shall apply for the purpose of interpreting expressions used in these rules. The headings and sub-headings are not part of the Procedure Rules.

#### **Service of Notices and Other Documents**

- 1.6 Any notice, requisition, or other document which under these Procedure Rules is required to be given or delivered to the Chief Executive or to his office may be sent by letter, fax or e-mail, but shall not have been properly given or delivered until it has been received by the Chief Executive at Kings House, Grand Avenue, Hove.

#### **Suspension of Rules**

- 1.7 Subject to 1.8 below, these Procedure Rules may be suspended by the Council provided that notice of the intention to move suspension has been included in the agenda for the meeting or at least one half of the number of Members of the Council are present. Suspension can only be for the duration of the meeting.

- 1.8 This Procedure Rule and Procedure Rules 12.1, and 29.4, are not capable of being suspended.

## **Part 2: Meetings of the Council**

**Note:** Annual meetings take place once a year as required by law and the Council may have ordinary meetings (meetings on days scheduled in advance) or extraordinary meetings (unscheduled meetings to deal with matters that cannot wait until the scheduled Council meeting).

### **Rule 2: Annual Meeting**

#### **Timing**

- 2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place during March, April or May. In accordance with custom and practice, wherever reasonably practicable, the Annual Meeting shall take place on a Thursday in May.

#### **Agenda**

- 2.2 The Annual Meeting of the Council will:
- (a) elect a person to preside if the Mayor is not present
  - (b) elect the Mayor
  - (c) elect the Deputy Mayor
  - (d) approve the minutes of the last meeting
  - (e) receive any announcements from the Mayor and/or the Chief Executive
  - (f) elect the Leader of the Council if required (see Rule 25)
  - (g) appoint at least one Overview and Scrutiny Committee, an Audit and Standards Committee and such other Committees as the Council considers appropriate
  - (h) receive nominations to outside bodies where the making of appointments to those bodies is a Council function.
  - (i) consider any business set out in the notice convening the meeting.
- 2.3 The order of business set out in 2.2 may be varied by the Mayor.

### **Rule 3: Ordinary Meetings of the Council**

#### **Meeting Days**

- 3.1 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council or the Policy and Resources Committee.

#### **Time and Place**

- 3.2 The time and place of the meeting will be determined by the Chief Executive. The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. Except in cases of urgency, at least five clear working days before a meeting, the Chief Executive will send a summons signed by him/her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

### **Rule 4: Extraordinary Meetings of the Council**

#### **Extraordinary Meeting called by the Mayor**

- 4.1 The Mayor may at any time call an extraordinary meeting of the Council and shall do so when such a meeting is required under the Budget and Policy Framework Procedure Rules.
- 4.2 If the Mayor is unable to act for any reason, the Deputy Mayor may at any time call an extraordinary meeting of the Council.
- 4.3 If the offices of both Mayor and Deputy Mayor are vacant, or if neither the Mayor nor Deputy Mayor are able to act for any reason, the Leader of the Council or the Policy and Resources Committee may at any time call an extraordinary meeting of the Council.

#### **Extraordinary Meeting Requisitioned by Members**

- 4.4 An extraordinary meeting of the Council may be called by submission of a requisition signed by at least five Members, specifying the business to be transacted. The requisition shall be delivered to the Chief Executive (see Procedure Rule 1.6). The meeting shall be called within 7 days of receipt of the requisition by the Chief Executive to take place as soon as reasonably practicable.

#### **Extraordinary Meeting called by Council or Officers**

- 4.5 Extraordinary meetings of the Council may also be called by the Chief Executive, the Monitoring Officer; or by resolution of the Council meeting itself.

- 4.6 No extraordinary meeting shall be called unless it is proposed to transact at the meeting business which, in accordance with statute and these Procedure Rules, may be transacted at a meeting of the Council.

#### **Rule 5: Person Presiding at Meetings of the Council**

- 5.1 Any power of the Mayor in relation to the conduct of a meeting of the Council may be exercised by the person presiding at the meeting.
- 5.2 If it is necessary to choose a person to preside in the absence of the Mayor and Deputy Mayor the Chief Executive shall invite nominations, and shall conduct the discussion in accordance with the powers of the Mayor.

#### **Rule 6: Quorum of Meetings of the Council**

##### **Quorum**

- 6.1 The quorum for Council meetings shall be 14.
- 6.2 If, at the beginning of or during any meeting of the Council, the Mayor declares that there is not a quorum present, the meeting shall stand adjourned for 15 minutes.
- 6.3 If after 15 minutes, the Mayor should declare that there is still no quorum present, the meeting shall not take place or shall end, as the case may be. Remaining business shall be considered at a time and date fixed by the Mayor. If the Mayor does not fix a date, the remaining business shall be considered at the next ordinary meeting.

#### **Rule 7: Order of Business at Meetings of the Council**

- 7.1 The order of business at every meeting of the Council shall normally be:
- (a) In the absence of the Mayor and Deputy Mayor to choose a Member of the Council to preside;
  - (b) To receive declarations of interest;
  - (c) At the Annual Meeting, or at any other meeting after the office of Mayor has become vacant, to elect a Mayor;
  - (d) At the Annual Meeting, or at any other meeting after the office of Deputy Mayor has become vacant, to elect a Deputy Mayor;
  - (e) To approve as a correct record the minutes of the last meeting of the Council, and of any earlier meeting of which the minutes have not been already approved, and for the person presiding to sign them;

- (f) To receive communications from the Mayor;
- (g) Where the meeting has been requisitioned under Procedure Rule 4, to consider the business specified;
- (h) To consider business expressly required by statute to be decided by the Council;
- (i) To receive petitions and e-petitions;
- (j) The asking and answering of questions from members of the public;
- (k) The hearing of depositions from members of the public;
- (l) To consider petitions to be debated by the Council;
- (m) The asking and answering of questions by Members;
- (n) To consider items of business (if any) remaining from the last meeting;
- (o) To receive and consider reports, minutes and recommendations of Committees;
- (p) To consider any reports of Overview and Scrutiny Committees for debate
- (q) To consider notices of motion;
- (r) To consider any other business specified in the summons for the meeting including business for which a motion to exclude the press and public is to be put to the Council.

### **Variation of Order of Business**

- 7.2 The order of business in paragraph 7.1 may be varied by direction of the Mayor or by resolution of the Council.

### **Urgent Items**

- 7.3 If the Mayor decides that an item of business not included in the agenda for the meeting may be taken for reasons of urgency, such reasons must be specified and noted in the minutes and that item will be taken at the end of other items of business unless otherwise decided in accordance with paragraph 7.2 above.

## **Withdrawal of items from the Agenda**

- 7.4 After consulting the Group Leaders (or a group member acting on behalf of a political group) the Mayor may remove or withdraw any item of business from the agenda for the meeting. Consultation may take place before or during the meeting and the Mayor may (if he/she considers appropriate) adjourn the meeting for the purposes of undertaking the consultation.

## **Part 3: Notices of Motion, Questions, Petitions & Deputations**

### **Rule 8: Notices of Motion**

#### **Procedural Requirements**

- 8.1 Notice of every motion, other than a motion which under Procedure Rule 13 may be moved without notice, shall be given in writing. It shall be signed by not fewer than two Members of the Council and delivered to the Chief Executive (see Procedure Rules 1.6) by not later than 10.00 am on the eighth working day before the relevant Council meeting.

#### **Number of Notices of Motion**

- 8.2 The maximum number of notices of motion to be presented at a Council meeting shall be as follows:
- the three largest Political Groups: 2 each
  - any other Group: 1
- 8.3 Any Member not belonging to a Political Group may present not more than 1 notice of motion, at the discretion of the Mayor.
- 8.4 Where Members of a Political Group submit more than the permitted maximum number of notices of motion, the Group shall decide which of these it wishes to table. In the absence of such a decision, notices of motion from members of a Group shall be taken in the order in which they are received, up to the permitted maximum number.

#### **Substantive and declaratory Motions**

- 8.5 A notice of motion shall be placed on the agenda for the Council meeting unless the Members submitting the motion ask that it be first considered by a Committee or Sub-Committee. However, if the motion includes a proposal for the Council to take any substantive action or incur any expenditure (substantive motion) it shall only be considered to the extent that either the matter is noted by the Council or is referred to the relevant Committee or Sub-Committee for consideration.



- 8.6 The Policy and Resources Committee or the Monitoring Officer may issue guidance on the application of rule 8.5 above.

### **Members Right to Speak**

- 8.7 When a notice of motion is taken at a meeting of a Committee or a Sub-Committee, a Member who has signed the motion shall have the right to attend and address the meeting.

### **Reporting of outcome of Notice of Motion**

- 8.8 A notice of motion referred to a Sub-Committee will be reported to the next meeting of the parent Committee and to the next meeting of the Council under Procedure Rule 24. A notice of motion referred to a Committee will be reported to the next meeting of the Council for information.

### **Moving a Motion**

- 8.9 A motion of which notice has been given must be moved at Council either by a Member who gave the notice or by some other authorised Member (authorised by the Mayor). If no such Member moves the motion it shall be postponed by consent of the Council, or treated as withdrawn.

### **Relevance**

- 8.10 Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the authority, the area of Brighton & Hove and/or its inhabitants.

### **Consultation**

- 8.11 Where the Council is in the process of consulting with the public on a proposal, no notice of motion expressing support or objecting to the proposals shall be accepted.

## **Rule 9: Questions**

### **Relevance**

- 9.1 Any question asked under this Procedure Rule shall be relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or some or all of the inhabitants of that area, and does not relate to any personal or individual matter.

## **Written Questions from Members**

### **Notice**

- 9.2 If a Member of the Council wishes to ask a question at a meeting of the Council of: (a) the Mayor, (b) the Leader of the Council, (c) the Chair of any Committee or Sub-Committee (or in the Chair's absence the Deputy Chair), or, (d) a Member of the Council appointed by the Authority to any external body or joint authority, he/she shall give notice in writing to the Chief Executive of the question (see Procedure Rule 1.6) by not later than 10.00 am on the eighth working day before the meeting at which the question is to be asked.

### **List of Questions**

- 9.3 A list of the questions of which notice has been given shall be circulated to Members of the Council at, or before, the meeting at which they are to be asked.

### **Waiver of notice requirements**

- 9.4 If the Mayor considers that, by reason of special circumstances, it is desirable that a question shall be asked at a meeting of the Council although due notice of the question has not been given, and if the Mayor is satisfied that as much notice as is possible has been given to the person of whom it is to be asked, he/she may permit the question to be asked.

### **Answers**

- 9.5 The questions included on the list of questions at 9.3 above shall be taken as read at the Council meeting. The question will be answered by a written answer made available at the Council meeting, but the person to whom the question has been put may decline to answer it on the condition that he/she provides a written reason for such a decision at that time. No supplementary questions shall be permitted on written questions.

### **Form of Answers**

- 9.6 An answer to a question may be given by the person to whom it is addressed or by a person on his/her behalf, and may take the form of a written answer, which shall be circulated to Members of the Council as soon as reasonably practicable.

## **Oral Questions from Members**

- 9.7 A period of not more than 30 minutes shall be allowed for oral questions from Members, at the expiry of which the meeting shall proceed to the next business.

- 9.8 If a Member of the Council wishes to ask an oral question at a meeting of the Council of: (a) the Mayor, (b) the Leader of the Council, (c) the Chair of any Committee or Sub-Committee (or in the Chair's absence the Deputy Chair), or, (d) a Member of the Council appointed by the Authority to any external body or joint authority, he/she shall give notice in writing to the Chief Executive of the subject matter of question (see Procedure Rule 1.6) by not later than 10.00 am on the eighth working day before the meeting at which the question is to be asked.
- 9.9 Oral questions shall relate to matters of general policy only. Questions of a technical or purely operational nature may be disallowed by the Mayor, or the Member to whom such a question is directed may decline to answer or state that a written answer will be provided.
- 9.10 In deciding whether a question is technical or operational in nature, as opposed to a matter of general policy, the Mayor and Members shall have regard to any guidance issued by the Monitoring Officer.
- 9.11 Oral questions shall be taken in the following order:
- Leader of the Official Opposition
  - Leader of the Labour & Co-operative Group
  - Members of the Green, Conservative and Labour & Co-operative Groups (in that order)
- 9.12 Each Group shall submit to the Mayor in advance of the meeting the order in which they wish their questions to be taken. The Mayor shall have regard to, but not be bound by, these submissions.
- 9.13 The Mayor may allow the Independent Member to ask a question.
- 9.14 A Member may ask no more than one oral question at the same Council meeting.
- 9.15 A Member asking an oral question (but no others) may ask one relevant supplementary question which shall be put and answered without discussion.

### **Application of Rules to Other Meetings**

- 9.16 The rules as to oral questions from Members set out in procedure rules 9.8-9.15 shall not apply to meetings of Committees and Sub-Committees. Instead the procedure on written questions shall apply to such meetings providing that a Member who asked a question may ask one relevant supplementary question which shall be put and answered without discussion.

## **Oral Questions from Members on Reports**

- 9.17 A Member of the Council may ask the Chair or other Member of a Committee who will be moving, or has moved, the reception of a report an oral question upon an item of the report, either at the time provided for Members' Questions under Procedure Rule 7.1 or when that item is under consideration by the Council. The Member who will be moving, or has moved, the reception of that report may, at his/her discretion, nominate another Member to reply to the question.

## **Public Questions**

### **Public Question Time**

- 9.18 A period of not more than fifteen minutes shall be allowed for questions submitted by a member of the public who either lives or works in the area of the authority at each ordinary meeting of the Council.

### **List of Questions**

- 9.19 A list of the questions of which notice has been given shall be circulated to Members of the Council at, or before, the meeting at which they are to be asked.

### **Procedural Requirements**

- 9.20 A public question shall be put at a Council meeting provided that:-
- (a) a copy of the question has been delivered to the office of the Chief Executive (see Procedure Rule 1.6) by not later than 12 noon on the fifth working day prior to the day of the Council meeting at which it is to be asked;
  - (b) the name and address of the questioner is indicated on the question;
  - (c) the questioner is present at the time when the question is put.

### **Length of Questions**

- 9.21 A question shall not exceed 100 words in length. The Chief Executive, after consultation with the questioner, may summarise a question to comply with this requirement.

### **Content of Questions**

- 9.22 The Chief Executive may reject a question if it:
- is not about a matter for which the Authority has a responsibility or which affects the City;

- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council, a Committee meeting or a Sub-Committee meeting in the past six months; or
- requires the disclosure of confidential or exempt information.

### **Formal Referral of Questions**

- 9.23 If the Mayor considers that it would be more appropriate to do so, a question received for submission to Council may instead be referred to the relevant Committee or Sub-Committee (but not Joint-Committee) for answer and shall be dealt with in accordance with the Council's Protocol for Public Questions at Committee and Sub-Committee meetings.

### **Waiver of notice requirement**

- 9.24 If the Mayor considers that, by reason of special circumstances, it is desirable that a question shall be asked at a meeting of the Council although due notice of the question has not been given, and if the Mayor is satisfied that as much notice as is possible has been given to the person of whom it is to be asked, he/she may permit the question to be asked.

### **Putting Questions**

- 9.25 Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions. Any question shall be notified to the relevant Member of the Council and shall be put to such Member at the Council meeting by the questioner.

### **Answers**

- 9.26 Every question shall be put and answered without discussion, but the person to whom a question has been put may decline to answer. The person who asked the question may ask one relevant supplementary question, which shall be put and answered without discussion.

### **Form of Answers**

- 9.27 An answer may take the form of:-
- (a) a direct oral answer; or
  - (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
  - (c) where the reply to the question cannot conveniently be given orally, a written answer given to the member of the public submitting the question and circulated to the Council.

- 9.28 No questioner may submit more than one question for answer at the same meeting.
- 9.29 Any question properly submitted but not dealt with at the Council meeting shall be answered in writing to the questioner as soon as reasonably practicable after the meeting.

## **Rule 10: Petitions**

### **Presentation of Petitions**

- 10.1 At a meeting of the Council any Member of the Council or a Member of the public may present a petition which is submitted in accordance with the Council's scheme for handling petitions.
- 10.2 The presentation of the petition shall be limited to not more than three minutes, and shall be confined to reading out, or summarising, the prayer of the petition and indicating the number and description of the signatories.
- 10.3 Petitions shall be presented in the order in which notice of them is received by the Mayor.

### **Action following Petitions**

- 10.4 A petition with less than 1250 signatories presented to the Council meeting shall be received without discussion and shall be included on the agenda for the next available meeting of the relevant Committee or Sub-Committee. The Member of the Council or member of the public presenting the petition shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in accordance with the requirements of the Council's Petitions Scheme.

### **Debate on Petitions**

- 10.5 A qualifying petition with 1250 or more signatures will trigger a debate at Full Council, except where the petition is asking for a senior officer to give evidence.
- 10.6 A petition meeting the criteria set out at 10.5 above may be debated at the meeting at which it is presented or at a later meeting.
- 10.7 There shall be a guillotine on the debate on the petition of 15 minutes, after which the vote will be put, unless the Mayor at his or her discretion extends the debate.
- 10.8 The Council will decide how to respond to the petition and shall decide either:-
- To take the action the petition requests;

- Not to take the action the petition requests for reasons stated in the debate;
- To commission further investigation into the matter prior to consideration at a future meeting of the Council, which may include holding an inquiry or public meeting, commissioning research or reference to a particular committee or body for their views;
- To refer the petition to the relevant Committee or Sub-Committee, in which case the Council may make recommendations to the relevant Committee or Sub-Committee.

### **Officer Evidence**

10.9 The officers to be called to give evidence at a public meeting under section 16 Local Democracy, Economic Development and Construction Act 2009 and pursuant to the Council's scheme for handling petitions are:-

- The Chief Executive
- Directors

### **Rule 11: Deputations**

11.1 A period of not more than fifteen minutes shall be allowed at each ordinary meeting of the Council for the hearing of deputations from members of the public.

#### **Procedural Requirements**

- 11.2 A deputation shall be heard provided that by not later than 12 noon on the fifth working day prior to the day of the relevant Council meeting:
- (a) notice has been given to the Chief Executive in accordance with Procedure Rule 1.6, which complies with paragraphs (b) to (d) below;
  - (b) the subject matter of the deputation is notified in writing. A deputation shall not exceed one side of A4 in length. Accompanying material may be supplied and should comprise no more than 2 sides of A4 paper;
  - (c) the names, addresses and organisation (if any) of the persons forming the deputation, to be no more than six, indicating which one person is to speak, are notified in writing (note - the addresses of those persons forming the deputation will not be published by the council, but details of the ward(s) in which they are located will be circulated to the Council meeting).

### **Relevance**

- 11.3 Any deputation under this Procedure Rule shall be relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or some or all of the inhabitants of that area, and does not relate to any personal or individual matter.

### **Time allocated for presentation**

- 11.4 Each deputation may be heard for a maximum of 5 minutes following which one Member of the Council, nominated by the Mayor, may speak in response. It shall then be moved by the Mayor and voted on without discussion that the deputation be thanked for attending and its subject matter noted.

### **Action following Deputation**

- 11.5 The subject matter of a deputation heard at the Council meeting shall be included on the agenda for the next available meeting of the relevant Committee or Sub-Committee. The persons forming the deputation shall be invited to attend any meeting to which it is referred; and shall be informed subsequently of any action taken or proposed in relation to the matters set out in the deputation.

## **Part 4: Conduct of Meetings**

### **Rule 12: Minutes**

- 12.1 Minutes of every meeting of the Council, Committees and Sub-Committees shall be submitted to and signed at the next following ordinary meeting of the body concerned.
- 12.2 The Mayor or Chairman shall put the question that the minutes submitted to the meeting be approved as a correct record.
- 12.3 No discussion shall take place upon the minutes, except upon their accuracy. Any question as to accuracy shall be raised by motion. The Mayor or Chairman shall then sign the minutes.
- 12.4 The minutes shall record the names of Members present and any decisions taken at the meeting. To assist with the record of attendance all members present during the whole or part of any meeting must sign their names on an attendance sheet before the conclusion of the meeting.
- 12.5 The minutes will be recorded in a book of loose leaf pages and when signing the minutes, the Mayor or Chairman shall sign each page of the approved minutes.



- 12.6 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### **Rule 13: Motions and Amendments**

#### **Motions where notice is not required**

- 13.1 The following motions may be moved without notice at any meeting:
- (a) to elect in the event of a vacancy a Mayor, or Deputy Mayor, or Chair, or Deputy Chair or to appoint a person to preside at the meeting at which the motion is made;
  - (b) motions relating to the accuracy of the minutes;
  - (c) motions relating to a change in the order of business;
  - (d) motions extending the time limit for speeches;
  - (e) “that the Council (or Committee or Sub-Committee) proceed to the next business”;
  - (f) “that the question be now put”;
  - (g) “that the debate be now adjourned”;
  - (h) “that the Council (or Committee or Sub-Committee) do now adjourn”;
  - (i) motions as to the termination of meetings;
  - (j) motions relating to the suspension of Procedure Rules without notice;
  - (k) motions to exclude the public from a meeting where there is likely to be otherwise disclosure of exempt or confidential information, in accordance with the Access to Information Procedure Rules set out in Part 7 of the constitution;
  - (l) motions giving consent of the Council, Committee or Sub-Committee where it is required under these Procedure Rules;
  - (m) motions to appoint a Committee or Member arising from an item on the summons for the meeting;

- (n) motions to refer a petition which has been presented to the Council or any other matter to a Committee or Sub-Committee or other appropriate body or individual for consideration;
- (o) motions relating to deputations under Procedure Rule 11.4.

### **Moving Recommendations**

- 13.2 On consideration of a report or a recommendation from a Committee, Sub-Committee or officer, the adoption of the report or recommendation and any resolutions consequential upon that adoption may be moved without notice.

### **Amendment to Motions**

- 13.3 Subject to the requirements of procedure rule 15.4 as to notice, an amendment to a motion may be moved, but shall be relevant to the motion. No amendment shall be moved to an amendment.
- 13.4 An amendment shall be either to refer the matter to a Committee, Sub-Committee or an officer for consideration, to leave out some or all words, or to insert or to add other words, but such omission, insertion or addition of words shall not have the effect of simply negating the motion before the meeting

### **Alteration/Withdrawal or Amendments of Motions**

- 13.5 With the consent of the meeting, signified without discussion, a Member may:
- (a) alter a motion of which he/she has given notice;
  - (b) with the further consent of the seconder, alter a motion which has been moved and seconded; if the alteration is one which could be made as an amendment.
- 13.6 With the consent of the seconder and the meeting, signified without discussion, the mover of a motion or an amendment may withdraw it. No Member shall speak to such a motion or amendment after the mover has asked consent for its withdrawal, unless such consent has been refused.

### **The 6 Month Rule**

- 13.7 At a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period. Such a motion may be moved if it is recommended by a Committee or Sub-Committee or notice of such motion has been given by as many Members as will constitute a quorum of the Council (14) on the summons to the meeting.

## **Consent**

- 13.8 Where the consent of the Council, Committee or Sub-Committee is required for anything, that consent may be given either by the Mayor or Chairman asking the meeting whether there are any objections to the consent being given, and if no objection is raised, giving that consent, or if objection is raised, or if the Mayor or Chair so chooses, by a motion moved, seconded and put to the meeting.

## **Rule 14: Written Reports**

- 14.1 No report upon which decisions are proposed to be made shall be taken at any meeting of the Council, a Committee or Sub-Committee, unless it is in writing.
- 14.2 Verbal amendments and additions to written reports may be made unless the effect is to nullify the recommendations in the report and replace them with others, other than for special reasons which must be recorded in the minutes.
- 14.3 Where petitions under Procedure Rule 10, Members' letters under Procedure Rule 23.3, motions under Procedure Rule 8 or deputations under Procedure Rule 11, are referred to a committee unaccompanied by a written report, the committee may discuss the petition, letter, motion or deputation, as the case may be, in general terms and note the same, or ask for an officer report on the matter. No decision which requires the Council to take substantive action or incur expenditure may be taken in response to a request in a petition, notice of motion etc, in the absence of an officer report.

## **Rule 15: Rules of Debate (All Meetings)**

### **General**

- 15.1 The rules of debate in this Procedure Rule shall apply to all meetings of the Council, Committees and Sub-Committees. In the case of Committees and Sub-Committees, however, the Council recognises that a greater informality may be exercised by the Chairman in order to efficiently transact the business before the meeting. Such informality shall be at the discretion of the Chairman.

### **Seconding Motions and Amendments**

- 15.2 A motion or amendment shall not be discussed unless it has been proposed and seconded.

### **Reserving Speech**

- 15.3 When seconding a motion or amendment, a Member may reserve his/her speech until a later period of the debate before declaring his/her intention to do so.

### **Notice of Amendments**

- 15.4 Copies of amendments will be prepared and circulated prior to the start of a Council meeting only if such amendments are presented to the Chief Executive by 10.00am on the day of the Council meeting. Amendments for which notice has not been given shall be permitted at any time, provided they are moved and seconded. The Mayor or Chair may require that such amendments shall be put in writing and handed to him/her before they are discussed further.

### **One amendment at a time**

- 15.5 Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of.
- 15.6 If an amendment is not carried, other amendments may be moved to the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion to which any further amendment may be moved.

### **Speeches**

- 15.7 If two or more Members offer to speak, the Mayor or Chairman shall call on one to speak.
- 15.8 When speaking, a Member shall address the Mayor or Chairman.
- 15.9 A Member shall direct his/her speech to the question under discussion, or to a personal explanation or to a point of order under the provisions of the next paragraph.

### **Point of Order**

- 15.10 A Member claiming to speak on a point of order or in personal explanation shall be entitled to be heard forthwith. The point of order shall relate only to an alleged breach of a specified statutory provision or a specified Procedure Rule, and the way in which the member raising it considers that it has been broken. Personal explanation shall be confined to some material part of the speech by him/her which may appear from the current debate to have been misunderstood.

- 15.11 The ruling of the person presiding on a point of order or on the admissibility of a personal explanation shall not be open to discussion except on a motion of which due notice has been given.

### **Procedural Motions**

- 15.12 When a motion is under debate, no other motion shall be moved except the following:

- (a) to withdraw or amend the motion;
- (b) a closure motion under the next paragraph;
- (c) a motion dealing with the prevention of disorder;
- (d) a motion to exclude the press and public.

### **Closure Motions**

- 15.13 The following closure motions shall be permitted during discussion of another motion. They shall be moved, seconded and put without discussion. If the motion is moved and seconded, then the person presiding shall proceed as follows:

- (a) **“that the meeting proceed to the next business”**. The person presiding shall permit the mover of the original motion to reply, and then put to the vote the motion to proceed to the next business; if that motion is carried the original motion shall lapse;
- (b) **“that the question be now put”**. If the person presiding is of the opinion that the matter before the meeting has been insufficiently discussed he/she may refuse to accept the motion; if he/she accepts the motion, he shall put to the vote forthwith the motion that the question be now put; if this is carried, he/she shall permit the mover of the original motion (at meetings of the Council) any right of reply to which he/she is entitled and then put that motion to the vote;
- (c) **“that the debate be now adjourned”** or **“that the meeting do now adjourn”**. If the person presiding is of the opinion that the matter before the meeting has been sufficiently discussed, he/she may refuse to accept either of these motions, and instead put the motion that the question be now put; if he/she is of the opinion that the matter has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, he/she shall put the adjournment motion to the vote without giving the mover of the original motion a right of reply on that occasion; the original motion or remaining business shall then stand over as uncompleted business until the next meeting of the Council, Committee or Sub-Committee, as the case may be.

## **Rule 16: Rules of Debate (Council Meetings Only)**

### **General**

- 16.1 A Member shall stand when speaking unless unable to do so.
- 16.2 When a Member is speaking, the other Members shall remain seated, unless rising to a point of order or in personal explanation.
- 16.3 Whenever the Mayor rises during a debate, a Member then standing shall resume his/her seat and the Council shall be silent.

### **Speech Times**

- 16.4 Except with the consent of the Council, signified without comment, the mover of a motion shall not speak for more than 5 minutes and no other speaker shall speak for more than 3 minutes. For the purposes of this paragraph a person who moves an amendment is not moving a motion, and the length of time allotted to the mover of a motion does not include any time permitted under a right of reply. Any extension of time for speeches consented to by the Council shall be limited to 5 minutes.
- 16.5 A Member who has spoken on any motion shall not speak again while it is the subject of debate, except:
  - (a) to speak once on an amendment moved by another Member;
  - (b) if the motion has been amended since he/she last spoke, to move a further amendment;
  - (c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment to which he/she spoke was carried;
  - (d) in exercise of a right of reply under paragraph 16.6 below or within a closure motion debate;
  - (e) on a point of order or by way of personal explanation as defined in 15.10.

### **Right to reply**

- 16.6 The mover of a motion has a right of reply at the close of debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on the amendment. The mover of an amendment shall have no right of reply to the debate on that amendment.

## **Motions and related reports**

- 16.7 Where a notice of motion submitted to the Council meeting in accordance with Procedure Rule 8 relates to a matter which is also the subject of a report from a Committee to the same Council meeting, the Mayor may at his/her discretion, and for procedural purposes only, treat the notice of motion as if it were an amendment to the report of the Committee, providing that both the mover of the notice of motion and the Member moving the report will have a right of reply.

## **Right to reply when Amendment is accepted**

- 16.8 Where the mover of a motion is permitted to alter the same under procedure rule 13.5 and such an alteration incorporates an amendment moved by another Member, the mover of the original motion shall retain ownership of the motion and be entitled to a right of reply at the conclusion of the debate.

## **Rule 17: Termination of Meeting**

- 17.1 Without prejudice to 17.2 below, when a period of four hours excluding adjournments has elapsed since the commencement of a meeting of the Council, the Mayor shall move, without comment, that the meeting ends and that business be concluded in accordance with Procedure Rule 17.5.
- 17.2 At a time when a period of not less than four hours excluding adjournments has elapsed since the commencement of the meeting of the Council a Member of the Council may move, without comment, that the meeting shall end at a time to be specified in the motion.
- 17.3 The Mayor may refuse to accept the motion moved under 17.2 above if a similar motion has been rejected earlier in the same meeting.
- 17.4 If a motion under 17.2 is accepted, it shall be seconded and put to a vote without comment.
- 17.5 If the motion under 17.1 or 17.2 is passed then immediately after the vote (in the case of a motion under rule 17.1 or when the time specified in the motion arrives (in the case of a motion under 17.2):
- (a) no further points of order shall be raised except by the Mayor;
  - (b) the Mayor shall then interrupt the discussion of the question then before the meeting;
  - (c) unless the mover of the motion then under discussion seeks leave to withdraw that motion, the Mayor shall allow him/her to reply to the debate for not more than three minutes;

- (d) unless the motion then under discussion is withdrawn, the Mayor shall put, without further discussion, all the questions necessary to dispose of that motion;
- (e) the Mayor shall put, without discussion, all the questions necessary to complete consideration of any reports which remain on the agenda for the meeting, unless the Committee Chair (or a person on his/her behalf) indicates a wish to the contrary;
- (f) the Mayor shall call each Member who has given notice of a motion to be moved at that meeting to move the motion (unless previously withdrawn) without comment, shall permit any motions so moved to be seconded without comment, and shall forthwith put any motions to the vote;
- (g) finally, the Mayor shall close the meeting.

## **Part 5: Committees and Sub-Committees**

### **Rule 18: Appointment of Committees, Sub-Committees and Representatives on Outside Bodies**

#### **Appointment of Committees**

##### 18.1 At its Annual Meeting the Council:

- (a) may resolve, upon a recommendation from the Chief Executive or the Policy and Resources Committee consequent upon reviewing the Committee structure, which Committees shall be appointed, what shall be the terms of reference of each of those Committees, and of how many voting Members each Committee shall consist;
- (b) may resolve that non-voting members (co-optees) shall also be appointed to any such Committee;
- (c) shall specify the number of non-voting members and the functions in relation to the Committee each such person so appointed may exercise;
- (d) may resolve what limitations if any should be placed on the powers of any such Committee to arrange for the discharge by a Sub-Committee of any functions which it itself may discharge.
- (e) may receive nominations of Councillors to serve on outside bodies and may make appointments to such bodies except where this function has been delegated to a Committee, Sub-Committee or an officer.

##### 18.2 The terms of reference of Committees as agreed from time to time are set out in Parts 5 and 6 of the constitution.



- 18.3 The Council may at any time amend resolutions made under paragraph 18.1.

#### **Delegation to Sub-Committee**

- 18.4 Every Committee may, subject to the approval of the Policy and Resources Committee, appoint Sub-Committees for such purposes as they think fit, and may (subject to Procedure Rule 18.1(d) above), make arrangements for a Sub-Committee to discharge any of the functions of the Authority which the Committee may discharge. The terms of reference of Sub-Committees as agreed from time to time are set out in Parts 5 and 6 of the constitution.

#### **Continuity of Committees & Sub-Committees**

- 18.5 Each Committee set up under this Procedure Rule, and every Sub-Committee set up by such a Committee, shall continue to discharge the functions committed to them until the Council or Committee, as the case may be, resolves otherwise.

#### **Continuity of holders of Office**

- 18.6 Every person appointed as a voting Member of such a Committee or Sub-Committee and every person appointed to exercise other functions in relation to a Committee shall continue to act as such until such time as the appointment is terminated by the Authority.

#### **Allocation of Seats**

- 18.7 The Chief Executive shall submit a report to the Council or Committee (as the case may be) showing the allocation of seats which would in his/her opinion best meet the requirements of the allocation of seats between political groups. Such report shall be submitted:
- (a) whenever the Council is required to review the allocation of seats on Committees between political groups; or
  - (b) when the Council resolves to carry out such a review; or
  - (c) when a Committee is required to review the allocation of seats on a Sub-Committee between political groups; or
  - (d) when a Committee resolves to carry out such a review.
- 18.8 In the light of such a report the Council or the Committee as the case may be shall determine the allocation of seats to political groups.

### **Appointments in Accordance with the Wishes of Political Groups**

- 18.9 Whenever an appointment of a voting Member for a Committee or Sub-Committee or a representative on an outside body needs to be made in accordance with the wishes of the political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the Chief Executive shall make or terminate the appointment accordingly.

### **Appointment of a Leader**

- 18.10 The Council may appoint, from among its voting Members, a Leader of the Council. If the Council does not appoint a Leader of the Council, the Leader of the largest political group shall be the Leader of the Council.

### **Attendance at Committee Meetings of Leader, Chairmen and Leader of the Official Opposition**

- 18.11 The Chairman or Deputy Chairmen of a Committee may attend and speak at a meeting of any Sub-Committee appointed by that Committee but may not vote unless appointed as a voting Member. The Leader of the Council or in his/her absence the Deputy Leaders may attend and speak at any meeting of a Committee or Sub-Committee appointed by the Council but may not vote unless appointed as a voting Member. The Leader of the Official Opposition may attend and speak at any meeting of a Committee or Sub-Committee appointed by the Council but may not vote unless appointed as a voting Member. These rules shall not apply to Committees or Sub-Committees discharging quasi-judicial or personnel appeals functions (e.g. planning, licensing, personnel appeals, standards assessment or hearing panels),

### **Attendance: All Members**

- 18.12 A Member of the Council who is not otherwise entitled to attend and speak at a Committee or Sub-Committee shall be entitled to do so at a meeting of the Committee or Sub-Committee with the agreement of the Chair of the Committee or Sub-Committee.

### **Advisory Bodies**

- 18.13 The Council or the Policy and Resources Committee may from time to time establish working groups, forums, panels or other advisory bodies in connection with Council functions, the membership of which shall be drawn from Members of the Council and/or co-optees. The proceedings of any such groups shall be reported to the relevant Committee or Sub-Committee and should include any recommendations or advice from that group. No Committee or Sub-Committee may delegate its functions to any such group.

### **Substitutes**

- 18.14 Where Members of the Council who are Members of Committees or Sub-Committees are unable to attend a meeting for whatever reason, a substitute Member may attend and speak and vote in their place for that meeting.
- 18.15 The substitute Member shall be a Member of the Council drawn from the same political group as the Member who is unable to attend the meeting, and must not already be a Member of the relevant Committee or Sub-Committee. The substitute Member must declare themselves as a substitute, and be minuted as such, at the beginning of the meeting or as soon as they arrive.
- 18.16 In the case of particular Committee or Sub-Committees, the Council may approve a panel of substitutes and, in such case, no Member may act as a substitute unless he/she is on the panel of substitutes for the Committee or Sub-Committee concerned.

### **Substitutes in Overview and Scrutiny**

- 18.17 The provisions of Procedure Rule 18.14 to 18.15 regarding substitute Members shall not apply in respect of meetings of Scrutiny Review Panels and Policy Review Panels.

### **Substitution in Licensing**

- 18.18 The requirement under Council Procedure Rule 18.15 for a substitute Member to be drawn from the same political group as the Member who is unable to attend the meeting shall not apply to the Licensing Act 2003 Sub-Committee/Panel.

### **Substitution on Audit and Standards Committee**

- 18.19 Paragraph 18.14 shall not apply in relation to the Audit and Standards Committee. In consequence, no Member may act as a substitute on this committee.

## **Rule 19: Meetings of Committees and Sub-Committees**

### **Time and Date of Meeting**

- 19.1 The Council, the Policy and Resources Committee, or the relevant Committee or Sub-Committee, may fix the date, time and place of ordinary meetings of Committees and Sub-Committees.
- 19.2 The Chairman or Deputy Chairman of the Committee or Sub-Committee may call a special meeting of the Committee or Sub-Committee as the case may be at any time. Questions, petitions, Members' letters or deputations can only be heard at a Special Meeting

where they relate to the matter which is the subject of the Special Meeting.

### **Requisition of a Meeting**

- 19.3 One quarter of the total number of voting Members of a Committee or Sub-Committee may requisition a meeting of the Committee or Sub-Committee. Such requisition must specify the business proposed to be transacted and shall be delivered to the Chief Executive.

## **Rule 20: Chairs and Deputy Chairs of Committees and Sub-Committees**

### **Appointment of Chairmen**

- 20.1 The Council may appoint, from amongst its voting Members, a Chairman and Deputy Chairman or Deputy Chairmen of Committees and Sub-Committees.
- 20.2 If no appointments have been made by the Council under paragraph 20.1 above the Committee or Sub-Committee shall at its first meeting after the Annual Meeting of the Council (or in the case of a vacancy at any meeting) elect from amongst its voting Members a Chairman and Deputy Chairman or Deputy Chairmen.
- 20.3 In the absence of the Chairman or Deputy Chairman at a meeting of a Committee or Sub-Committee, those voting Members present shall elect a person from amongst their number to preside over the meeting.
- 20.4 The Chief Executive or his/her representative shall invite nominations and shall exercise the powers of the Chair in order to regulate the discussion.
- 20.5 No Member of the Council shall be Chairman of more than one Committee without the permission of the Council.

## **Rule 21: Quorum of Committees and Sub-Committees**

- 21.1 No business shall be transacted at any meeting of a Committee or Sub-Committee unless at least **one quarter** of the whole number of voting Members of the Committee or Sub-Committee are present, provided that in no case shall any business be transacted until at least two voting Members are present.
- 21.2.1 The provisions of Procedure Rule 6 shall apply to a meeting of the Committee or Sub-Committee at which a quorum is not present as they would apply if it were a meeting of the Council.

## **Rule 22: Urgency Sub-Committees**

- 22.1 Each Committee of the Council shall appoint an Urgency Sub-Committee to exercise its powers. The membership of such Urgency Sub-Committee shall consist of the Chair of the Committee, and two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups.
- 22.2 Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-Committee shall be reported for information to the next ordinary meeting of the Committee as appropriate.

## **Rule 23: Order of Business in Committees and Sub-Committees**

- 23.1 Except in cases of urgency, at least five clear working days before the date of every meeting of a Committee or Sub-Committee, or as soon as the meeting is called, whichever is the later, the Chief Executive shall send to every voting Member and to every other person entitled to receive the papers of the Committee or Sub-Committee a copy of the agenda for the meeting.
- 23.2 The agenda shall include:
- (a) all items of business which have been, or are deemed to have been, referred to the Committee or Sub-Committee by the Council or by another Committee or Sub-Committee, as the case may be;
  - (b) all reports submitted to the Committee or Sub-Committee by the Chief Executive, Chief Officer or his/her nominee;
  - (c) any item of business directed to be included by the Chairman of the Committee or Sub-Committee.
  - (d) the asking and answering of questions from members of the public, in accordance with the Council's Protocol for Public Questions at Committees and Sub-Committees.

### **Members' Letters**

- 23.3 Any Councillor may submit a letter for inclusion on the agenda for a meeting of any Committee or Sub-Committee, and any such letter shall be so included providing that:
- It is delivered to the Chief Executive (see Procedure Rule 1.6) by 10.00 am on the eighth working day prior to the Committee.
  - In the opinion of the Chief Executive it is relevant to the terms of reference of the Committee or Sub-Committee to which it is

submitted, and contains a substantive proposal for consideration by the Committee or Sub-Committee

- in the opinion of the Chief Executive it is not defamatory, frivolous or offensive.

### **Members' right to speak**

- 23.4 Any Councillor who has submitted a letter which is included on the agenda for a Committee or Sub-Committee under Procedure Rule 23.3 shall be invited to attend the meeting of the Committee or Sub-Committee on which it is so included and may speak for up to three minutes on that item at the meeting.

### **Unaccompanied letters**

- 23.5 If a Councillor's letter included on the agenda for a Committee or Sub-Committee under Procedure Rule 23.3 is unaccompanied by a written officer report, it shall only be considered to the extent that either the matter is noted by the Committee or Sub-Committee or a motion that an officer report be written is carried.
- 23.6 Subject to any directions given by the Chairman of the Committee or Sub-Committee, the items of business shall be arranged in such order as the Chief Executive thinks will best ensure the effective despatch of business.

## **Rule 24: Proceedings of Committees and Sub-Committees**

- 24.1 A report of the proceedings of each Sub-Committee meeting shall be submitted to the next meeting of each Committee which has delegated functions to that Sub-Committee. Due to the nature of its main business, this requirement shall not apply to the Standards Panel, but at the discretion of the Chair items of business may be reported to the Audit and Standards Committee.
- 24.2 Where the relevant Committee so direct, reports of the proceedings of the Committee shall be submitted to Council for reception. The Chairman of the relevant Committee, or in his or her absence the Deputy Chairman or person nominated by the Chairman, shall move the reception of such Committee reports and any recommendations contained therein. Committees may determine whether items are to be put to Council for information or for decision by Council. Committee reports shall distinguish items for information and those for decision by Council.

### **Inclusion of items on Council Agenda**

- 24.3 (a) Items for information shall relate to decisions made by the Committee under delegated powers. The Committee may determine that any agenda item is to be included in the report to Council. In addition, each minority group represented on the

Committee may specify one further item which shall be so included, by notifying the Chief Executive of the item not later than 10.00 am on the eighth working day before the Council meeting to which the report is to be made or, if the Committee meeting takes place after this deadline, immediately at the conclusion of the Committee meeting.

- (b) Items for decision by Council shall be all those where a recommendation is made on matters falling outside the delegated powers of the Committee or where the Committee decides that the decision is to be made by the Council.

24.4 On the reception of such reports any recommendations and items under 24.3 shall be subject to rules of debate under Procedure Rule 15 subject to being reserved for debate during call-over.

#### **Call Over (Reservation of Items for Discussion)**

24.5 Before the Council receives and considers the reports of Committees, the items which appear on the agenda of the Council meeting shall be called over item by item. A Member of the Council wishing to speak on or vote against any item may reserve it for debate immediately the number of the item has been called. After the reports of Committees have been called over the Mayor shall put to the meeting in one motion the reports of the Committees with the exception of those items which have been called and reserved and the Council shall vote on the motion without discussion.

24.6 After the wishes of the Members have been so ascertained, no discussion shall be permitted on any part of the reports which is not a 'reserved item'. The Chairman of each Committee shall separately move each item on the proceedings of that Chairman's Committee which has been reserved.

### **Part 6: Miscellaneous**

#### **Rule 27: Prevention of Disorderly Conduct**

##### **Misbehaviour by a Member**

27.1 If the person presiding at any meeting of the Council, Committee, Sub-Committee, Panel or working party is of the opinion that a Member has misconducted, or is misconducting, himself/herself by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, he/she may notify the meeting of that opinion, and may take any of the following courses, either separately or in sequence:

- (a) he/she may direct the Member to refrain from speaking during all, or part, of the remainder of the meeting;

- (b) he/she may direct the Member to withdraw from all, or part, of the remainder of the meeting;
- (c) he/she may order the Member to be removed from the meeting;
- (d) he/she may adjourn the meeting for 15 minutes or such period as shall seem expedient to him/her.

### **Misbehaviour by a Member of the Public**

- 27.2 If a member of the public interrupts proceedings at any meeting, the person presiding shall order him/her to leave the room where the meeting is being held. If he/she does not leave, the person presiding shall order him/her to be removed. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for 15 minutes or such period as shall seem expedient to him/her.
- 27.3 If there is a general disturbance making orderly business impossible, the Mayor or Chairman may adjourn the meeting for as long as he/she thinks necessary. If there is a general disturbance in any part of the meeting room open to the public the Mayor or Chairman may call for that part to be cleared.

### **Rule 28: Exclusion of Public and Press**

- 28.1 Members of the public and press may only be excluded from meetings of the Council, Committees or Sub-Committees either (i) in accordance with the Access to Information Rules in Part 7 of this constitution; (ii) in accordance with the provisions of Procedure Rule 27 above ('Prevention of Disorderly Conduct'), or (iii) Under common law or statutory powers available to the Council, which shall be exercisable by the relevant Chairman, the Chief Executive or the Monitoring Officer.

### **Rule 29: Voting**

#### **General**

- 29.1 Except where a requisition is made under the next paragraph, the method of voting at meetings of the Council, or Committees and Sub-Committees shall be by show of hands. Voting may be by an electronic method in the case of Council meetings. Unless this constitution provides otherwise, any matter will be decided by a simple majority of the Members voting and present in the room at the time the question was put. If there is an equal number of votes for and against the motion, the Mayor or Chairman will have a second or casting vote. There will be no restriction on how the Mayor/Chairman may choose to exercise a casting vote. If the Mayor/Chairman does not exercise his/her casting vote the motion or proposal shall fall.



### **Recorded Votes**

- 29.2 If a requisition is made by the specified number of Members, before a vote is taken on any question, the voting on that question shall be recorded so as to show whether each Member present gave his/her vote for or against that question or abstained from voting. Voting may be by an electronic method in the case of Council meetings.
- 29.3 The specified number of Members is one-fifth of the Members entitled to vote at the meeting (11 for Council meetings).
- 29.4 Except where a recorded vote has been taken, any Member who is present when the vote was taken may require that his/her vote or abstention shall be recorded in the minutes by informing the Chair forthwith, immediately after the vote is taken.

### **Voting on Appointments**

- 29.5 Where a vote is required on a motion to appoint or elect a Member of the Council to a position to be filled by the Authority, and there are two or more Members nominated for that position, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall each vote for any one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.
- 29.6 If there is a requisition under Rule 29.2 for a recorded vote on the appointment of candidates, rule 29.5 shall apply without the requirement to put the names of those nominated in alphabetical order of surname. Each Councillor shall instead be asked to indicate their preferred candidate when his/her name is called. The rest of the requirements under rule 29.5 shall apply.

### **Rule 30: Attendance**

- 30.1 Every person attending as a Member of a meeting of the Council, Committee or a Sub-Committee shall sign his/her name in the attendance book or on the attendance sheet provided for that purpose.
- 30.2 At the end of each municipal year a report shall be circulated by the Chief Executive as to the number of meetings held by the Council and each Committee and Sub-Committee and the attendance of Members at those meetings.

### **Rule 31: Cameras/TV Cameras/Recording at Council**

- 31.1 Subject to prior approval, which shall be at the absolute discretion of the Mayor or the person presiding at the meeting, one or more accredited representatives of newspapers\* within the meaning of the

Local Government Act 1972 or any other person may be permitted to film, record or transmit the proceedings at Council meetings except for that part of the meeting where the public are excluded pursuant to a resolution passed in accordance with Section 100A(2) or (4) of the Local Government Act 1972 as amended.

[\*representatives of news agencies, radio and television organisations etc. are included within the definition of newspaper representative].

- 31.2 Any person attending a meeting of the Council or of a Committee or Sub-Committee shall observe the Council's rule that mobile telephones must be switched off at all times during such meetings.
- 31.3 The recording of proceedings by authorised personnel for the purposes of web-casting shall be permitted, providing that the Mayor or person presiding at the meeting may withdraw such authorisation if he/she considers it is not conducive to the efficient despatch of business.

### **Rule 32: Smoking at Meetings**

- 32.1 Any person at or attending a meeting of the Council or of a Committee or a Sub-Committee shall observe the Council's rule that no smoking be permitted in such meetings.

### **Rule 33: Definitions**

- 33.1 In these Procedure Rules, unless the context otherwise demands, the following terms have these meanings:

“Authority” - the Brighton & Hove City Council

“Chief Officer” - the same definition as set out in Article 10 of the constitution.

“Committee or Sub-Committee” - a Committee or Sub-Committee of Brighton & Hove City Council

“Council” - Brighton & Hove City Council sitting as the Full Council

“Group Leader” - the Leader of a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990

“Leader of the Council” - the Leader of the Council appointed in accordance with Rule 18.10.

“meeting” - a meeting of the Council, a Committee or Sub-Committee as the case may be

“Member” - in relation to the Council, a Member of the Council; in relation to any Committee or Sub-Committee a person appointed as a

Member of that Committee or Sub-Committee whether or not entitled to vote

“minority group” - a political group which is not the majority group, or in any other case designated as such by a resolution of the Council

“Monitoring Officer” - the person designated under Section 5 of the Local Government & Housing Act 1989

a “motion to exclude the press and public” - a motion under Section 100A of the Local Government Act 1972

“political group” - a political group as defined by the Local Government (Committees and Political Groups) Regulations 1990

"Regulatory Committee/Sub-Committee" - a Committee or Sub-Committee of the Council which has delegated powers to discharge some of the Council's regulatory functions

"Sub-Committee" - a Sub-Committee of Brighton & Hove City Council,

- 33.2 Unless the context otherwise requires, the singular includes the plural and the plural includes the singular; the masculine includes the feminine and the feminine includes the masculine.

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## **PART 4 - SCHEME OF DELEGATION TO COMMITTEES AND SUB-COMMITTEES**

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## INTRODUCTION AND GENERAL DELEGATIONS

### A. Introduction

1. This scheme of delegation sets out the functions of the Council to be discharged by the Council, its Committees and Sub-Committees. It also includes terms of reference of statutory and non-statutory advisory bodies set up by the Council.
2.
  - (a) The functions delegated to Committees and Sub-Committees under this scheme are subject to the Councils Standing Orders, Regulations and procedures.
  - (b) A Committee or Sub-Committee dealing with a matter that has corporate policy or corporate budgetary implications (e.g. committing the Council to expenditure that has serious impact on the overall finances of the authority) will normally refer the matter to the Policy & Resources Committee with recommendations. The Chief Executive may issue practical guidance as to the application of this paragraph. Where the position is not clear, the Chief Executive (in relation to policy matters) or the Director of Finance (in relation to budgetary matters) will make the final determination.
  - (c) Where a committee would otherwise have delegated powers to make decisions, non-compliance with paragraph 2(b) above shall not affect the validity of the decision taken.
  - (d) The acquisition or disposal of land or an interest in land shall be referred to the Policy & Resources Committee for determination. This shall not affect the relevant committees' powers to make decisions on service issues relating to their functions.
3. Where a function is delegated to a Committee, that Committee may delegate the function to its Sub-Committee(s) or an officer and the Sub-Committee(s) may delegate the function to an officer.
4. Where a function is delegated to more than one Committee or Sub-Committee, any one of those Committees or Sub-Committees may exercise the function.
5. All such matters as may be regarded as included by inference shall be comprised with the delegated functions of the Committee or Sub-Committee, and delegated functions shall include all consequential or ancillary matters as necessary.
6. In this scheme a reference to an Act of Parliament shall be deemed to include a reference to any Act by which it is applied, extended, amended, consolidated or replaced. It shall also be deemed to refer to any statutory instrument, regulations, orders, byelaws or the like made or having effect as if made under such Act.

7. Any interpretation of this scheme shall be in accordance with the Council's wishes that the scheme shall not be construed restrictively.
8. The explanatory note at the beginning of the terms of delegation of each Committee and Sub-Committee is for information only and shall not be construed as part of the terms of reference themselves.
9. In this scheme of delegations the "full Council" means Brighton & Hove City Council sitting as the Council (as opposed to acting through Committees, Sub-Committees or officers) and "Council" means Brighton & Hove City Council as a local authority.

#### **B. General Delegated Powers**

Each Committee or Sub-Committee shall have the following powers and duties in relation to its functions in addition to those set out under each Committee and Sub-Committee's terms of reference:

1. To implement best value in relation to its functions;
2. To approve bids for European and national funding for schemes in relation its functions;
3. To control and manage such resources (finance, IT, property etc.) as may from time to time be assigned to it and to authorise the acquisition or disposal of property (other than land) for the purposes of its functions;
4. To declare land surplus to the requirements of the Committee's area of service. Management and future use of the land will be transferred to the Policy & Resources Committee. Any proposed acquisition or disposal of land not covered by the delegation to officers shall be referred to the Policy & Resources Committee;
5. Subject to the Council's employment policies and procedures, to determine all employment matters within its service area;
6. To be responsible for quality and equalities matters in relation to its functions.

#### **C. General Advisory Powers**

Each Committee and Sub-Committee shall have the following advisory functions:

1. To consider and make recommendations to full Council on matters relating to or affecting the Committee or Sub-Committee's functions, including developing plans and strategies forming part of the policy framework for adoption by full Council, where the power to make decisions is reserved to full Council by law, Standing Orders or this scheme of delegations;



2. To consider and make recommendations to another Committee or Sub-Committee on matters related to or affecting its functions;
3. To consider and make recommendations to any body of the Council where it is considered desirable to do so.

## **TERMS OF REFERENCE OF COMMITTEES**

### **POLICY AND RESOURCES COMMITTEE**

#### Explanatory Note

This Committee has overall responsibility for the financial and other resources of the authority, for developing the authority's strategy and policy based on national government and local priorities, and for the development of partnership working. It also has responsibility for many of the services delivered to residents and customers. Its specific functions are set out in the following paragraphs.

#### **Delegated Functions**

To exercise the functions of the Council as follows:

#### **1. Policy and Strategy**

To formulate, co-ordinate and implement corporate policies and strategies and make decisions relating to such matters to the extent that they are not reserved to full Council.

#### **2. Finance and Other Resources**

- (a) To establish the framework for the allocation, control and management of the Council's resources including finance, assets, IT, land and other property;
- (b) To formulate budget proposals for adoption by the Council;
- (c) To calculate of the Council Tax Base;
- (d) To make decisions or grant authorisations on expenditure in accordance with the requirements of financial standing orders;
- (e) To deal with all financial services, including risk management, insurance and external and internal audit arrangements;

#### **3. Partnerships**

- (a) To set up, develop and review partnerships, including, but not limited to, the Local Strategic Partnership;
- (b) To co-ordinate, develop, adopt and review the Sustainable Community Strategy and make recommendations to full Council.

#### **4. Corporate Parenting**

- (a) To discharge the Council's functions as Corporate Parent for its children in care and care leavers, in conjunction with relevant Council Committees, Partnership Boards and other agencies; and
- (b) To receive reports from the Corporate Parenting Sub-Committee in relation to the Council's looked after children.

#### **5. Adult Learning and Employment**

- (a) To discharge the Council's functions under the arrangements with the Skills Funding Agency and Young People's Learning Agency for the provision of adult education; and
- (b) To discharge the Council's regarding the employment of physically disabled persons and youths, providing that the functions regarding youth employment shall be limited to the management of the existing establishment in Hove.

#### **6. Neighbourhood Renewal**

To discharge the Council's functions in respect of neighbourhood renewal, which include:

- (a) developing and implementing the neighbourhood renewal strategy for the City in order to narrow the gap between the most deprived neighbourhoods and the rest of the City, under the themes set by national Government of: housing, health, liveability, crime, education and employment and
- (b) acting as the accountable body for the neighbourhood renewal fund on behalf of the Local Strategic Partnership.

#### **7. Grants**

To deal with grants to community organisations and non-profit making bodies in the area of the Council providing that this shall not include grants in respect of educational charities which are the responsibility of the Children and Young People Committee.

#### **8. Management of Establishments**

To deal with all matters concerning establishments as are more particularly set out under the scheme of delegation to the Strategic Director of Communities and the Head of Tourism and Leisure.

#### **9. Catering Services in Council Establishments**

To deal with all matters in connection with the provision of catering services in Council establishments used primarily by Council employees.

#### **10. Best Value**

To establish the framework for the achievement of Best Value by the Council.

#### **11. Human Resources**

To establish the framework for human resources policies and procedures and discharge the Council's functions as an employer where this is exercisable by a Committee.

#### **12. Property Management**

- (a) To manage land held for the purposes of the functions of the Committee, corporately held property and land declared surplus to the requirements of a Committee or the service area of a Chief Officer by the relevant Committee or Chief Officer.
- (b) To authorise the acquisition or disposal of any land held by the Council providing that any proposal for the transfer of housing land which requires the consent of the Secretary of State shall be referred to full Council with recommendations.

#### **13. Appointment to outside bodies**

To appoint representatives to outside bodies between annual Council meetings where the timing is such that it will be more expedient for the appointment to be made by Policy & Resources Committee rather than full Council.

#### **14. Public Safety – Civil Contingencies**

To exercise the Council's functions in relation to emergency planning and business continuity, including the Council's functions under the Civil Contingencies Act 2004.

#### **15. Community Safety**

To co-ordinate the Council's functions regarding the police and public safety and to take such action as is necessary, including:

- (i) making consultative arrangements under the Police Act 1996;
- (ii) drawing up community safety plans;
- (iii) co-ordinating the Council's functions under the Crime and Disorder Act 1998 including the formulation, with other responsible authorities, of strategies for reducing crime and disorder and the making of child curfew schemes, providing that this shall not include the adoption of the Crime and Disorder Reduction Strategy

## **16. Communities**

To co-ordinate and lead on the Council's functions in connection with community engagement and voluntary organisations.

## **17. Equalities**

To co-ordinate and lead on the Council's functions in relation to Equalities and Inclusion

## **18. Constitution**

- (a) To receive reports on and monitor the operation of the Constitution;
- (b) To make recommendations to Council or Overview & Scrutiny as Appropriate, with a view to improving the effectiveness, accountability and transparency of the decision-making process.

## **19. Members' Allowances**

To consider the recommendations of the Independent Remuneration Panel and advise Council as appropriate.

## **20. General Powers**

- (a) To discharge all other functions of the Council not specifically delegated to another Committee or reserved to full Council under the law, this scheme of delegation, standing orders or procedure rules;
- (b) To deal with matters referred to the Committee by other Committees or Sub-Committees as having corporate budgetary or policy implications.

## **21. Sub-Committees, Task Groups and Consultation Forums**

To be responsible for the setting up, review and abolition of Sub-Committees, permanent task groups, consultation forums and commissions.

## **22. Miscellaneous Service Functions**

To exercise the Council's functions in relation to the following services/functions:

- (a) Electoral and ceremonial matters relevant to the Council;
- (b) Matters concerning the Fire Authority;
- (c) Legal services;
- (d) Complaints services;
- (e) Performance management

- (f) Corporate procurement;
- (h) Health and safety at work (in so far as it relates to the Council as an employer);
- (i) Revenues and Benefits, including Housing Benefit and Council Tax Benefit, the administration, collection and enforcement of Council Tax and Non-Domestic Rates;
- (j) Registration of births, deaths, marriages, partnerships and associated functions;
- (k) Local Land Charges;
- (l) Corporate Information and Communication Technology Services;
- (m) Corporate communications
- (n) Democratic services.

## **PERSONNEL APPEALS PANEL**

### **Explanatory Note**

This Panel has the status of a Sub-Committee of Policy & Resources Committee and will deal with appeals against dismissals, grading and other grievances in accordance with agreed personnel procedures.

### **Delegated Functions**

To exercise the functions of the Council in relation to determining appeals against dismissals, grading and other personnel related grievances in accordance with corporate policies and procedures

**[NOTE:** a pool of trained Councillors will be maintained for this Sub-Committee and members of the pool will be called on in the first instance to form an appeals panel. However, any Councillor will be able to sit on an appeals panel and substitute for any designated member of the Sub-Committee.]

## **CORPORATE PARENTING SUB-COMMITTEE**

### **Explanatory Note**

The Corporate Parenting Sub-Committee has the status of a Sub-Committee of the Policy and Resources Committee. It acts as an advisory committee to the Council, its partners and its Committees on matters related to the Council's looked after children. Its role is to ensure that the Council and its partner agencies have a joint commitment to:-

- (a) Achieving improved outcomes for children in care and care leavers;
- (b) Developing and overseeing implementation of the Corporate Parenting Strategy to drive improved outcomes;
- (c) Providing challenge to ensure that the Council's duties as Corporate Parent are carried out effectively and consistently.

### **Delegated Functions**

1. To assist in the development, operation, monitoring and review of the Council's policies and strategies as they affect children in care and care leavers.
2. To develop, monitor and review a Corporate Parenting Strategy and work plan.
3. To promote a co-ordinated and partnership approach to the delivery of Council services as they affect children in care and care leavers and to challenge services where this is not evidenced or effective.
4. To advise the Council and its Committees on issues relevant to children in care and care leavers and to ensure that policies implemented by the Council which affect these children and young people are effective and appropriate.
5. To review and monitor outcomes for looked after children and care leavers, including data from the Corporate Parenting Report Card and feedback from the Standards & Complaints and Quality Assurance Framework officers in respect of children in care and care leavers.
6. To ensure that clear and accessible information is readily available to children in care and care leavers on the corporate parenting they can expect from the council.
7. To ensure that systems are in place which mean that the views of children and young people are represented in the development of services that affect them.
8. To report to the Council's Policy and Resources Committee and Council on a twice yearly basis.
9. To make recommendations to the relevant Committee where responsibility for a particular function rests with that Committee.



10. To appoint non voting Co-opted Members.
11. To ensure arrangements are made for the training and development of Councillors (and others as appropriate) on the Corporate Parenting role.
12. To receive reports on the discharge of the Council's functions regarding the provision of accommodation for looked after children and care leavers, and to make recommendations to the appropriate body of the Council.

## **HOUSING COMMITTEE**

### **Explanatory Note**

This Committee has overall responsibility for the Council's housing functions, including Council housing, homelessness, allocations and standards of housing in the area.

### **Delegated functions**

1. To discharge the Council's functions as a housing authority and, without prejudice to the generality of this paragraph, to discharge the specific functions set out in the following paragraphs.

### **2. Strategic and Private Sector Housing**

To discharge the Council's functions in relation to:

- (a) The Council's housing strategy;
- (b) Homelessness and the allocation of housing;
- (c) Private sector housing, including taking action to remedy overcrowding, disrepair, unfitness and statutory nuisances; to promote fire safety in private sector housing and the Council's functions in relation to houses in multiple occupation;
- (d) Tenancy relations and the provision of housing advice;
- (e) Housing loans and grants.

### **3. Housing Landlord Functions**

To discharge the Council's functions as a housing landlord including the management of property within the Housing Revenue Account and associated properties.

### **4. Housing Related Support Services**

To exercise the Council's functions for the commissioning of housing related support services.

## **HOUSING MANAGEMENT CONSULTATIVE SUB-COMMITTEE**

### **Explanatory Note**

This is a Sub-Committee of the Housing Committee. The Sub-Committee will act in a consultative capacity in the discharge the Council's functions as a housing landlord, including residential leases granted by the Council. The Sub-Committee will include non-voting tenant representatives.

### **Delegated functions**

#### **1. Tenant Consultation**

- (a) To manage and supervise the Council's tenants participation scheme and such other consultation with tenants as may be necessary;
- (b) To consider reports from officers and presentations received through the tenants' consultation scheme, to advise and to make recommendations to the appropriate Committee.

## **CHILDREN AND YOUNG PEOPLE COMMITTEE**

### **Explanatory Note**

This Committee is responsible for education, children's health and social care services, public health relating to children and young people, including services to young people up to the age of 19, and exercises the council's functions as Local Education Authority. Most of these services are delivered jointly with the Health Service and, to reflect this, the Committee is also the Council's Children and Young People's Trust Board for the purposes of the Children Act 2004.

### **Delegated Functions**

To exercise the functions of the Council:

1. as a Local Education Authority under any enactment relating to education, youth services and the employment of children;
2. in relation to educational charities;
3. in partnership arrangements with other bodies connected with the delivery of education;
4. in relation to social services for children and young people;
5. in partnership arrangements with other bodies connected with the delivery of services for children, young people and families;
6. regarding families in connection with the functions of the Committee set out above or where there are no other arrangements made under this scheme of delegation;
7. under or in connection with the children and young people's partnership arrangements made with health bodies pursuant to section 75 of the National Health Service Act 2006 and section 10 of the Children Act 2004 ("the section 75 Agreements");
8. in relation to children's public health including but not limited to:
  - sexual health
  - physical activity, obesity, tobacco control programme
  - prevention and early detection
  - immunisation
  - mental health
  - NHS health check and workplace health programmes
  - dental health
  - social exclusion
  - seasonal mortality;
9. in relation to those aspects of children's public health which, subject to

Parliamentary approval, will transfer to the council under the Health and Social Care Bill.

NOTE

- (a) All the above functions shall be exercised subject to any limitations in the section 75 Agreements.
- (b) Policy issues which are relevant both to this Committee and the Adult Care & Health Committee may be considered by either of those Committees or by the Policy & Resources Committee.

## **ADULT CARE & HEALTH COMMITTEE**

### **Explanatory Note**

This Committee is responsible for adult social services, public health in relation to adults, and joint delivery of a number of social care and health services with the Health Service- see the section below relating to the Joint Commissioning Board which oversees these arrangements.

### **Delegated Functions**

#### **1. Adult Social Services**

- (a) To exercise the social services functions of the Council in respect of adults;
- (b) To exercise all of the powers of the Council in relation to the issue of certificates to blind people; the issue of badges for motor vehicles for disabled people and the grant of assistance to voluntary organisations exercising functions within its area of delegation;
- (c) To exercise the functions of the Council in relation to the removal to suitable premises of persons in need of care and attention.

#### **3. Public Health**

To exercise the Council's functions in respect of public health relating to adults –

- (i) including but not limited to:
  - sexual health
  - physical activity, obesity, and tobacco control programmes
  - prevention and early detection
  - immunisation
  - mental health
  - NHS Healthcheck and workplace health programmes
  - dental public health
  - social exclusion
  - seasonal mortality;
- (ii) which, subject to Parliamentary approval, will transfer to the Council under the Health and Social Care Bill.

#### **2. Partnership with the Health Service**

To exercise the Council's functions under or in connection with the adult services partnership arrangements made with health bodies pursuant to Section 75 of the National Health Service Act 2006 ("the section 75 Agreements").

## **NOTE**

- (a) All the above functions shall be exercised subject to any limitations in the section 75 Agreements.
- (b) Policy issues which are relevant both to this Committee and the Children & Young People Committee may be considered by either of those Committees or by the Policy & Resources Committee.

## **ECONOMIC DEVELOPMENT & CULTURE COMMITTEE**

### **Explanatory Note**

This Committee is responsible for the council's functions relating to planning policy, employment, economic growth and regeneration, culture, tourism and leisure.

### **Delegated Functions**

#### **1 Planning**

To exercise the Council's functions as local planning authority (to the extent that they are not development control functions delegated to the Planning Committee), including the formulation and development of the Development Plan Documents prior to their adoption by Full Council.

#### **2. Economic Growth and Regeneration**

- (a) To exercise the Council's functions and partnerships regarding the promotion of economic growth and the establishment and development of business.
- (b) To promote and develop the economic fundamentals of the City in areas such as adult skills, productivity, development sites etc.

#### **3. Major Built Environment Projects**

- (a) To oversee the progress of major projects (including major building, infrastructure or other projects involving the erection or significant alteration of major permanent structures or landmarks) undertaken by the Council, and advise the Policy & Resources Committee as appropriate.
- (b) To review major projects and any project Boards having regard to capacity to deliver, corporate priorities and resources, and advise the Policy & Resources Committee as appropriate.

#### **4. Conservation and Design**

To exercise the Council's functions in relation to Conservation and Design including the Hove Borough Council Act 1976.

#### **5. Building Control**

To exercise the Council's functions regarding building control.

#### **6. Culture, Arts and Heritage**

To exercise the Council's functions in relation to culture, including arts, entertainment, cultural activities and heritage.



## **7. Tourism & Marketing**

To exercise the Council's functions in relation to tourism, marketing and conferences.

## **8. Libraries and Museums**

To exercise the Council's functions in relation to libraries, museums, art galleries, historic buildings and their gardens and the functions of the Council regarding public records.

## **9. Events**

To exercise the Council's functions in relation to events, including the annual programme of entertainment events (providing that if the relevant Strategic Director, or other officer with delegated powers, is of the view that the event is a major event or has corporate budgetary or policy implications the matter shall be referred to the Policy & Resources Committee).

## **10. Leisure, Sports and Recreation**

To exercise the Council's functions in relation to the provision and management of leisure, sports and recreation facilities.

## **ENVIRONMENT & SUSTAINABILITY COMMITTEE**

### **Explanatory Note**

This Committee is responsible for the council's functions relating to parks and green spaces, travellers and gypsies, waste, coast protection, the seafront, and sustainability

### **Delegated Functions**

#### **1. Parks and Green Spaces**

To exercise the Council's functions in relation to Parks and Open Spaces to the following extent:-

- (a) provision, management and control of parks and open spaces (except those held for housing purposes);
- (b) making countryside management arrangements in liaison with the South Downs National Park Authority and other environmental bodies;
- (c) provision, management and control of allotments and smallholdings;
- (d) as commons registration authority.

#### **2. Environmental Health**

To exercise the Council's functions in relation to environmental health, air pollution control, health and safety at work (except in so far as it relates to the Council as an employer), public conveniences, food safety, control of nuisances, including noise control and control of dogs.

#### **3. Trading Standards**

To exercise the Council's functions regarding trading standards, including but not limited to consumer protection, product safety, fair trading, metrology, food standards and animal health.

#### **4. Travellers and Gypsies**

To exercise the Council's functions in relation to travellers and gypsies including the management of authorised sites.

#### **5. Waste**

To exercise the Council's functions in relation to waste and as waste collection authority, waste disposal authority and litter authority, including dealing with litter, street cleansing, abandoned vehicles and dog fouling.

## **6. Coast Protection and Flood Defence**

To exercise the Council's functions as a coast protection authority and a lead local flood authority.

## **7. Seafront**

To exercise the Council's functions regarding the esplanade, beach and foreshore.

## **8. Bereavement and Coroner's services;**

To exercise the Council's functions in relation to bereavement services and the Coroner's service.

## **9. Sustainability**

To co-ordinate the Council's role and response to cross-cutting sustainability issues such as reducing carbon emissions, projections of a changing climate locally, improving resource efficiency and developing sustainable energy.

## **TRANSPORT COMMITTEE**

### **Explanatory Note**

This Committee is responsible for the Council's functions relating to highways management, traffic management and transport, parking, and related matters.

### **Delegated Functions**

#### **1. Highways Management**

To exercise the Council's functions in relation to all highways matters and as highway authority, street authority, bridge authority, including but not limited to highways, bridges, private streets and rights of way.

#### **2. Traffic Management and Transport**

- (a) To manage the provision of transport services for service departments including home-school transport and transport for social services;
- (b) To exercise the Council's functions in relation to traffic management and transport and as traffic authority, including but not limited to public passenger transport and the co-ordination of transport for service users;
- (c) To consider and make decisions on proposed traffic orders and rights of way issues where objections have been received and not withdrawn or otherwise resolved;
- (d) To exercise the Council's powers regarding travel concessions.

#### **3. Parking**

To exercise the Council's functions in relation to parking, including on and off street parking and civil parking enforcement.

#### **4. Public Space**

To exercise the council's functions regarding spaces to which the public have rights of access and consisting of the highway, street furniture on the highway and open spaces or parts of open spaces immediately adjacent to the highway to which the public have access.

## **PLANNING COMMITTEE**

### **Explanatory Note**

This Committee exercises the Council's functions in relation to development control matters.

### **Delegated functions**

1. To consider and determine applications for planning permission, listed building consent, and conservation area consent submitted under the Town and Country Planning Acts.
2. To consider and determine applications for the display of advertisements Submitted under the Town and Country Planning (Control of Advertisements) (England) Regulations.
3. To determine whether prior approval applications for the construction, installation, alteration or replacement of telecommunications masts submitted under Part 24 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 should be granted or refused.
4. To exercise any other function of the Council under the Planning Acts whether as a local planning authority or otherwise which may be referred to it by the Strategic Director of Place or the Head of Planning & Public Protection.

**[NOTE:** The Council may approve a restricted pool of Councillors to serve as members or Substitute members of the Committee, all of whom have undergone basic training and continue to undergo the mandatory training for such members. The mandatory training will take place at least twice a year. Where such a pool has been approved, any meeting of the Committee must comprise only Councillors from the pool; no substitution by non-pool Councillors will be allowed.]

## **LICENSING COMMITTEE**

### **Explanatory Note**

The Licensing Committee is responsible for discharging the Council's functions under the Licensing Act 2003. It also has responsibility for all licensing and registration functions not covered by the Licensing Act 2003. The day to day decisions on individual applications are dealt with by the Licensing Panel.

### **Delegated Functions**

#### **1. Licensing Act 2003**

- (a) To discharge all functions which, under the Act, stand referred to a Licensing Committee, including, but not limited to the following:
  - (i) Applications for a personal licences;
  - (ii) Applications for premises licence/club premises certificate;
  - (iii) Applications for provisional statement;
  - (iv) Applications for Interim Authorities.
- (b) The powers of the Committee under 1(a) shall include the power to deal with all applicants for the grant, renewal, variation or revocation of any licence or consent or any actions which a Licensing Committee is required or authorised to take under the Act.
- (c) The delegated powers of the Committee shall not include the adoption or review of the Statement of Licensing Policy (which are functions of Full Council).

#### **2. Gambling Act 2005**

- (a) To discharge all functions which, under the Gambling Act 2005 ('the Act'), stand referred to the Licensing Committee, including but not limited to the following:
  - (i) applications for premises licences;
  - (ii) applications for provisional statements;
  - (iii) applications for club gaming / club machine permits.
- (b) The powers of the Committee under 2(a) shall include the power to deal with all applications for the grant, renewal, variation, cancellation or revocation of any licence or consent or any actions which a Licensing Committee is required or authorised to take under the Act.
- (c) The powers of the Committee shall also include the power to set fees pursuant to section 212 of the Act, but shall not include the power to adopt or review the Licensing Policy, which is a function of Full Council.

### **3. Other Licensing and Registration Functions**

- (a) To discharge all the Council's functions regarding licensing and registration and any associated or connected functions.

#### **Referred Functions**

- 1. To advise Full Council regarding the Statement of Licensing Policy under the Gambling Act 2005.
- 2. To advise Full Council regarding the Statement of Licensing Policy under the Licensing Act 2003
- 3. To advise the Council and other Committees on matters related to functions under the Licensing Act 2003 and the Gambling Act 2005, but are not themselves Licensing Act or Gambling Act functions.

**NOTE:** The Licensing Committee and the Licensing Panel may operate as two separate committees and sub-committees respectively with identical membership. The functions of the two separate committees/sub-committees shall relate to Licensing Act and Gambling Act functions and non-Licensing Act functions respectively.

## **LICENSING PANEL**

### **Explanatory Note**

The Licensing Panel is a Sub-Committee of the Licensing Committee. Its functions are to:-

- Hear applications under the Licensing Act 2003 and the Gambling Act 2005 where the matter is authorised or required to be dealt with by a Committee. These are usually, but not necessarily, cases where officers do not have delegated powers or a hearing is required;
- Deal with appeals against licensing and registration decisions and cases where officers do not have the power to make determinations;
- Serve as the appellate Committee where there is a right of appeal from a decision of an officer and no other arrangements have been made under the constitution; and
- Determine any other matter of a quasi-judicial nature which may be referred to it.

### **Delegated functions**

#### **1. Licensing Act Functions**

- (a) To deal with applications under the Licensing Act 2003 and make determinations on all matters required or authorised by the Act to be dealt with by a Committee.
- (b) The powers under (a) above shall not include the adoption of the Statement of Licensing Policy.
- (c) Where, in the opinion of the Strategic Director of Place or Head of Planning & Public Protection, after consultation with the Chair of the Licensing Committee, an application is a major application having regard to the licensing objectives, the Strategic Director or Head of Service may refer the matter to the Licensing Committee.

#### **2. Gambling Act 2005 Functions**

- (a) To deal with applications under the Gambling Act 2005 and make determinations on all matters required or authorised by the Act to be dealt with by a Committee.
- (b) The powers under (a) above shall not include the adoption of the Statement of Licensing Policy.
- (c) Where, in the opinion of the Strategic Director of Place or Head of Planning & Public Protection, after consultation with the Chair of the Licensing Committee, an application is a major application having regard to the licensing objectives, the Strategic Director or Head of Service may refer the matter to the Licensing Committee.



### **3. Other Licensing and Registration Functions**

Within the policy framework set by the Council or the Licensing Committee, to exercise the Council's functions in relation to licensing and registration providing that the power shall not include the adoption, revocation or amendments of policies.

### **4. Determinations and Appeals**

To hear and determine cases

- (a) where there is a right (under the Human Rights Act 1998 or otherwise) to be given the opportunity to appear before and be heard by a Committee or Sub-Committee of the Council and no other arrangements have been made under the Council's constitution, or
- (b) where the case is referred to the Panel as it is considered to be a suitable forum for the determination of matters of fact and/or law, for example determinations relating to rights of way or the Council's definitive map of rights of way.

### **5. General**

For the avoidance of doubt and without prejudice to the generality of 1 to 3 above, the powers of the Panel under those provisions shall include the power to deal with all applications for the grant, renewal, variation or revocation of any licence or consent or any actions (other than the adoption or review of a Licensing Policy) which a Licensing Committee is required or authorised to take under the Licensing Act 2003 or the Gambling Act 2005

- NOTE:
- (1) Only Councillors who are members of the Licensing Committee may serve as members or substitute members of the Licensing Panel.
  - (2) The Licensing Committee and the Licensing Panel may operate as two separate committees and sub-committees respectively with identical membership. The functions of the two separate committees/sub-committees shall relate to Licensing Act and Gambling Act functions and non-Licensing Act functions respectively.

## **AUDIT & STANDARDS COMMITTEE**

### **Explanatory Note**

The Audit functions of this Committee relate to the Council's arrangements for the discharge of its powers and duties in connection with financial governance and stewardship, risk management and audit. The Committee makes recommendations to the Council, Policy & Resources Committee, Officers or other relevant body within the Council.

The Standards functions of this Committee seek to ensure that the Members, Co-opted Members and Officers of the Council observe high ethical standards in performing their duties. These functions include advising the Council on its Codes of Conduct and administering related complaints and dispensation procedures.

In addition to the Councillors who serve on the Audit and Standards Committee, the Committee includes at least two independent persons who are not Councillors. They are appointed under Chapter 7 of the Localism Act, or otherwise co-opted, and act in an advisory capacity with no voting powers.

In the terms of reference of this Committee a "Member" is an elected Councillor and a "Co-opted Member" is a person co-opted by the Council, for example to advise or assist a Committee or Sub-Committee of the Council.

### **General Audit and Standards Delegated Functions**

To review such parts of the constitution as may be referred to the Committee by the Policy and Resources Committee and to make recommendations to the Policy Resources Committee and the Council.

To appoint, co-opt or (in any case where only the Council has power) to recommend the appointment or co-option of a minimum of two independent persons

- to give general assistance to the Committee in the exercise of its functions; and
- to give views on allegations of failure to comply with a Code of Conduct as required by Chapter 7 of the Localism Act.

To have an overview of

- the Council's whistleblowing policy
- complaints handling and Local Ombudsman investigations

To deal with any audit or ethical standards issues which may arise in relation to partnership working, joint committees and other local authorities or bodies.

To ensure arrangements are made for the training and development of Members, Co-opted Members and Officers on audit, ethical and probity matters, including Code of Conduct issues

To support and advise the Chief Finance Officer and the Monitoring Officer in their statutory roles.

## **Delegated Audit Functions**

To carry out independent scrutiny and examination of the Council's financial and non-financial processes, procedures and practices to the extent that they affect the Council's control environment and exposure to risk, with a view to providing assurance on the adequacy and effectiveness of:

- the work of internal and external audit;
- the governance arrangements of the council and its services;
- the risk management and performance management frameworks and the associated control environment;
- the financial management process;
- arrangements for the prevention and detection of fraud and corruption

To meet the requirements of the Accounts and Audit Regulations Act 2011 in respect of:

- conducting an annual review of the effectiveness of the system of internal control;
- conducting an annual review of the effectiveness of internal audit;
- reviewing the outcome of annual review of governance arrangements and approving the Annual Governance Statement, ensuring it contains any actions for improvement; and
- considering and approving the Council's annual Statement of Accounts.

To consider the External Auditor's Annual Audit and Inspection Plan, Annual Governance Report, Annual Audit Letter and other relevant reports.

Consider and agree the Internal Strategy and Annual Audit Plan, Head of Audit & Business Risk's Annual Internal Audit Report including Opinion, periodic progress reports and other relevant internal audit reports.

To consider and agree the Head of Audit & Business Risk's Annual Fraud & Corruption Report and consider and approve the Council's Counter Fraud Strategy

## **Delegated Standards Functions**

To advise the Council on the adoption, revision or replacement of Codes of Conduct for (a) Members and Co-opted Members and (b) Officers;

To exercise all other functions of the Council in relation to ethical standards, in particular those under Chapter 7 of the Localism Act, including the following:-

- promoting and maintaining high standards of conduct within the Council and monitoring the operations of the Council's Codes of Conduct and registers of interests;
- in relation to allegations that a Member or Co-opted Member has failed to comply with the Code of Conduct, putting in place arrangements to investigate and make decisions;

- supporting the Monitoring Officer in the exercise of that Officer's ethical standards functions, in particular the duty to establish & maintain registers of interests for the Council and for Rottingdean Parish Council;
- in relation to Members or Co-opted Members with pecuniary interests, putting in place arrangements to grant dispensations, in appropriate cases, from the restrictions on speaking and/or voting.

**NOTE:** With the exception of the adoption, revision or replacement of the Codes of Conduct referred to above, the Audit and Standards Committee may develop and adopt its own procedures and protocols.

## **STANDARDS PANEL**

### **Explanatory Note**

The Panel of the Audit and Standards Committee is a Sub-Committee and its main roles are to carry out any functions delegated to it by the Audit and Standards Committee in relation to (a) allegations that Members or Co-opted Members have breached the Code of Conduct and (b) the granting of dispensations to Members or Co-opted Members with pecuniary interests.

Panel membership is determined in accordance with procedures approved by the Audit and Standards Committee.

### **Delegated Functions**

In accordance with procedures approved by the Audit and Standards Committee:-

1. To carry out any arrangements delegated to the Panel by the Audit and Standards Committee in connection with investigating and making decisions on allegations that a Member or Co-opted Member has failed to comply with the Code of Conduct.
2. To hear and determine applications from Members or Co-Opted Members with pecuniary interests and in appropriate cases to grant dispensations from the restrictions on speaking and/or voting at meetings of the Council, its committees, sub-committees, joint committees or joint sub-committees.
3. To discharge any of other functions of the Audit and Standards Committee which the Committee delegates to the Panel.

## **TERMS OF REFERENCE OF PARTNERSHIP BOARDS**

### **THE JOINT COMMISSIONING BOARD**

#### **Explanatory Note**

The Joint Commissioning Board oversees a partnership between the Council and the health bodies which is responsible for commissioning, providing and overseeing a number of adult health and social care services. The partnership is governed by an Agreement between the Council and Brighton & Hove Primary Care Trust under Section 75 of the National Health Service Act 2006 ('the Section 75 Agreement'), covering the delegation of functions and pooling of budgets for services.

The Joint Commissioning Board is the top decision making body for the partnership, with delegated powers to make decisions concerning the commissioning and provision of services on behalf of the parties to the Section 75 Agreement. It is also the senior forum for the discussion of policy and strategy across the partnership as a whole, and is thus responsible for setting the strategic direction for these services.

All the decision-making powers of the Council in relation to the Section 75 Agreement will be exercised by the Adult Care & Health Committee.

#### **Delegated Functions**

To exercise the Council's functions under or in connection with the adult social care and health services partnership arrangements made with health bodies pursuant to Section 75 of the National Health Service Act 2006, in the manner and to the extent that the arrangements permit the Joint Commissioning Board to exercise the functions.

**[NOTE:** fuller details of the governance arrangements relating to the adult social care and health partnership overseen by the Joint Commissioning Board are set out in the Section 75 Agreement.]

## **HEALTH & WELLBEING BOARD**

### **Explanatory Note**

This Board is established as a shadow board in anticipation of the Health and Social Care Bill being enacted. The Health and Wellbeing Board (“the H&W Board”) in its shadow form is responsible for advising the Council, the Sussex Primary Care Trust Board (“SPCT Board”) and the Clinical Commissioning Group (“CC Group”) on work to improve the health and wellbeing of the population of Brighton & Hove through the development of improved and integrated health and social care services. In particular it will be responsible for preparing a Joint Health and Wellbeing Strategy and a Joint Strategic Needs Assessment. The H&W Board’s procedures are similar to those of Council Committees, with modifications to reflect its purpose, composition and shadow status.

The H&W Board comprises 7 Councillors and 7 further members determined having regard to the requirements of the Health and Social Care Bill.

### **Delegated Functions**

1. To carry out its functions in shadow form until the Health and Social Care Bill comes into force (anticipated date 1 April 2013) when the Board will become a fully functioning Committee of the Council.
2. To lead and act as an advisory body to the Council, the SPCT Board and the emerging CC Group on work to improve the health and wellbeing of the people of Brighton & Hove, through the development of improved and integrated health and social care services.
3. In support of the foregoing, to advise the Council, the SPCT Board and the CC Group in relation to the following matters:-
  - (a) Providing city-wide strategic leadership to public health, health and adults and children’s social care commissioning, acting as a focal point for determining and agreeing health and wellbeing outcomes and resolving any related conflicts;
  - (b) Making ready for its future role of preparing and publishing the Joint Strategic Needs Assessment (JSN Assessment) for the City;
  - (c) Preparing and publishing a Joint Health & Wellbeing Strategy (JHW Strategy), monitoring the outcomes goals set out in the JHW Strategy and using its authority to ensure that the public health, health and adults and children’s commissioning and delivery plans of member organisations accurately reflect the Strategy and are integrated across the City;
  - (d) Receiving the annual CC Group’s commissioning plan for comment.

- (e) Supporting joint commissioning and pooled budget arrangements where agreed by the H&W Board that this is appropriate;
- (f) Promoting integration and joint working in health and social care across the locality;
- (g) Establishing and maintaining a dialogue with the Council's Local Strategic Partnership Board, including consulting on its proposed strategies and reporting on outcomes in line with the City's Performance and Risk Management Framework.
- (h) Involving stakeholders, users and the public in quality of life issues and health and wellbeing choices, by
  - communicating and explaining the JHW Strategy;
  - developing and implementing a Communications and Engagement Strategy;
- (i) Representing Brighton & Hove on health and wellbeing issues at all levels, influencing and negotiating on behalf of the members of the Board and working closely with the LINKs/local HealthWatch;
- (j) Ensuring robust arrangements are in place for a smooth transition into the statutory H&W Board by April 2013.



## OVERVIEW AND SCRUTINY COMMITTEES

### Explanatory Note

The terms of reference for the following Committees and Panels

- Overview & Scrutiny Commission
- Health & Wellbeing Overview & Scrutiny Committee
- Scrutiny Review Panels
- Policy Review Panels

are set out in **Part 5** of the Constitution: Terms of Reference and Procedure Rules for Overview & Scrutiny.

## **TERMS OF REFERENCE OF JOINT COMMITTEES**

### **POLICE AND CRIME PANEL**

#### **Explanatory Note**

This Panel is a statutory Joint Committee of Sussex Authorities, responsible for scrutinising the work of the elected Police and Crime Commissioner for Sussex (PCC). Whilst the Panel is there to challenge the PCC, it must also exercise its functions with a view to supporting the effective exercise of the PCC's functions.

The Council appoints one of its Councillors to the Panel. The Panel comprises 15 Councillor (one from each of the 15 Sussex local authorities) and 2 statutory co-optees who must not be Councillors. With the consent of the Secretary of State, the Panel may appoint up to 3 additional co-optees as the total membership of the Panel must not exceed 20.

The Panel is in the process of being constituted by West Sussex County Council (acting as lead authority) and will be operational no later than October 2012 in time for the election of the PCC in November 2012.

#### **Functions (summarised from the Police Reform and Social Responsibility Act 2011)**

To exercise the following functions:-

- a. \*The duty to review the PCC's draft Police & Crime Plan and to report / make recommendations to the PCC.
- b. \*The duty to review the PCC's Annual Report at a public meeting, which the PCC must attend, and to report / make recommendations to the PCC.
- c. \*The duty to review, hold confirmation hearings and report / make recommendations to the PCC on the proposed appointment of PCC's Chief Executive, Chief Finance Officer and Deputy PCC.
- d. \*The duty to review and report / make recommendations on the PCC's proposed precept, which includes a power of veto by a two-thirds majority of the total Panel membership.
- e. The duty to review, hold confirmation hearings and report / make recommendations to the PCC on the proposed appointment by the PCC of a Chief Constable, which includes a power of veto by a two-thirds majority of the total Panel membership.
- f. The duty to scrutinise and make recommendations to the PCC on any proposal by PCC to call for the retirement or resignation of the Chief Constable, including a power to ask Her Majesty's Inspector's of Constabulary for a professional view.

- g. The power to suspend the PCC if charged with an offence carrying a maximum prison term exceeding 2 years.
- h. The duty to appoint an acting PCC where the PCC vacates the post, is incapacitated, or has been suspended.
- i. The duty to operate an informal complaints resolution procedure for complaints about a PCC, except serious complaints matters which must be passed to the Independent Police Complaints Commission.
- j. A general duty to review or scrutinise other decisions / actions of the PCC and make reports / recommendations to the PCC.
- k. The power to require relevant reports and information in the PCC's possession (except those which are operationally sensitive) to enable the Panel to fulfil its statutory obligations.
- l. The power to require the PCC to attend the Panel to answer questions.
- m. The power to delegate any of its functions (except designated "special functions" marked \* above) to such sub-committee(s) as it thinks fit.

## **TERMS OF REFERENCE FOR ADVISORY GROUPS AND FORUMS**

### **ARTS AND CREATIVE INDUSTRIES COMMISSION**

#### **Purpose**

- 1.1 The purpose of the Commission is to support, promote and develop the arts and creative industries in Brighton & Hove.

#### **Objectives and Terms of Reference**

- 2.1 To improve the profile and economic potential of the city's artists and creative organisations.
- 2.2 To oversee policy development in the area of arts and creative industries and contribute to other relevant policy development in the city.
- 2.3 To inform and act as a resource for the Council representing the city's cultural sector.
- 2.4 To promote innovative thinking, best practice and joint working in the sector.
- 2.5 To represent and advocate for the city's arts and creative industries sector in a regional or national capacity as required.

#### **Reporting**

- 3.1 The Commission has a place on the Local Strategic Partnership and responsibilities delegated from that Partnership.
- 3.2 The Commission reports to the Economic Development and Culture Committees on an annual basis.
- 3.3 The Commission operates in an advisory capacity and does not have decision-making powers.

#### **Membership**

- 4.1 The Commission consists of up to 30 members including representatives from across the arts and creative industries, business, tourism, heritage, education sectors and the local authority appointed by the Executive Sub Group of the Commission which has responsibility for membership.
- 4.2 The Chair of the Commission is appointed by the Chief Executive after consultation with the Leaders of the political groups in the Council.
- 4.3 Six of the members of the Commission are Councillors appointed by the Council.

- 4.4 The membership of the commission is reviewed annually by the Executive Sub Group of the Commission.

### **Review**

- 5.1 The work of the Commission will be reviewed annually by the Economic Development and Culture Committee.

## **CITY SUSTAINABILITY PARTNERSHIP**

### **1. Purpose**

- 1.1 The City Sustainable Partnership (“the Partnership”) is an independent, cross sector, strategic partnership, feeding into the family of partnerships on the Local Strategic Partnership (“LSP”).
- 1.2 The purpose of the Partnership is to provide the City and its key stakeholders with strategic leadership on the sustainable development of Brighton & Hove.

### **2. Objectives and Terms of Reference**

- 2.1 To lead on the revision and implementation, monitoring and review of both a Sustainability Strategy and a Climate Change Strategy for the City through the LSP.
- 2.2 To direct the performance of key city stakeholders against the environmental sustainability indicators in the new National Indicator set.
- 2.3 To direct work on the Environmental Sustainability indicators in the Local Area Agreement, for example, the proposed indicator for reducing CO<sub>2</sub> emissions in the local authority area.
- 2.4 To monitor the sustainability performance of the Sustainable Community Strategy and direct changes in policies and practices of key stakeholders to improve this.
- 2.5 To champion the priorities locally of the national Sustainable Development Strategy: Securing the Future, namely:
  - (a) Sustainable Consumption and Production (achieving more with less, considering the impact of products and materials across a whole life cycle);
  - (b) Climate Change and Energy (the urgent need to reduce CO<sub>2</sub> emissions and adapt to the impacts of climate change);
  - (c) Natural Resource Protection and Environmental Enhancement;
  - (d) Sustainable Communities (using engagement and partnership to reduce poverty and environmental degradation).
- 2.6 To develop good and innovative practice sharing and joint work in these areas across the community and voluntary, business and public service sectors in the city.
- 2.7 To fulfil the role of the panel of representatives of local people as set out in the Sustainable Communities Act 2007 i.e. the body with which the City Council

consults and seeks agreement on proposals to government to improve the sustainability of local communities.

### **3. Reporting**

3.1 The Partnership reports to the Council's Policy and Resources Committee in relation to the Sustainable Community Strategy and to the Environment and Sustainability Committee in relation to that committee's role as the Council's sustainability co-ordinator.

3.2 The Partnership may also report to the Local Strategic Partnership and other bodies or Council Committees as appropriate.

3.3 The Commission operates in an advisory capacity and does not have decision-making powers.

### **4. Membership**

4.1 The Partnership comprises 4 Councillors and representatives drawn from (a) the public services, (b) business, (c) the community and voluntary sector and (d) national agencies,

4.2 There is no requirement for the Chair or Vice-Chair to be a Councillor.

4.3 The membership of the Partnership is subject to review by the Council's Policy and Resources Committee.

### **5. Review**

5.1 The work of the Partnership is subject to review by the Policy and Resources Committee.

## **INDEPENDENT REMUNERATION PANEL**

### **1. Purpose**

- 1.1 The principal duties of the statutory Independent Remuneration Panel (“the Panel”), are (a) to advise the Council on its scheme of allowances to be paid to Councillors (“Members”) and co-optees to the Council and (b) to advise Rottingdean Parish Council on its scheme of allowances for Parish Council members.

### **2. Objectives and Terms of Reference**

- 2.1 The functions of the Panel are as set out in Regulation 21 of the Local Authorities (Members’ Allowances) (England) Regulations 2003, namely to produce a report in relation to Members of the Council making recommendations:
- (a) as to the amount of basic allowance which should be payable to Members;
  - (b) as to the duties in respect of which such Members should receive a special responsibility allowance and as to the amount of such allowance;
  - (c) as to whether the allowance scheme should include allowances in respect of the expenses of arranging for the care of children or dependants of such Members and the amount of such allowances;
  - (d) as to the responsibilities or duties in respect of which a travel and subsistence allowance should be available;
  - (e) as to the responsibilities or duties in respect of which a co-optees’ allowance should be available;
  - (f) as to whether payment of allowances may be backdated in accordance with regulation 10(6) in the event of the scheme being amended at any time;
  - (g) as to whether adjustments to the level of allowances may be determined according to an index and, if so, which index and how long that index should apply;
  - (h) as to which Members of an authority are to be entitled to pensions in accordance with a scheme made under section 7 of the Superannuation Act 1972;
  - (i) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable;



- (j) as to whether any allowances to Members should be withheld in the event of the Member concerned being suspended or partially suspended.

2.2 Where the Independent Remuneration Panel exercises its functions in relation to the Parish Council within the authority's area, its functions are as set out in Regulation 28 of the Local Authorities (Members' Allowances) (England) Regulations 2003, namely to produce a report in relation to members of the Parish Council making recommendations:

- (a) as to the amount of parish basic allowance which should be payable to Parish Council members;
- (b) the amount of travelling and subsistence allowance payable to members of such authorities;
- (c) as to whether parish basic allowance should be payable only to the chairman of the Parish Council or to all of its members;
- (d) as to whether, if parish basic allowance should be payable to both the chairman and the other members of any such authority, the allowance payable to the chairman should be set at a level higher than that payable to the other members and, if so, the higher amount so payable;
- (e) as to the responsibilities or duties in respect of which members should receive parish travelling and subsistence allowance.

2.3 In addition to the functions under 2.1 and 2.2 above, the Panel may, if requested to do so by the Monitoring Officer, consider the expenses allowances paid to the Mayor and Deputy Mayor under Sections 3 and 5 of the Local Government Act 1972.

### **3. Reporting**

3.1 The Panel reports through Policy and Resources Committee to the full Council.

### **4. Membership**

4.1 The Panel consists of between three and five members, appointed by the Monitoring Officer after consultation with the Chief Executive. Any person who is a Councillor, or otherwise a co-optee of the Council, or is disqualified from being a Councillor is not eligible for appointment.

4.2 Members of the Panel are appointed for an initial term of three years. The Council may, at its discretion, extend this period. The Council or the member of the Panel may determine the appointment by giving one month's notice.

4.3 The Panel is chaired by a person appointed by the Panel from its members.

- 4.4 The Panel meets on such dates and at such times as the Panel may determine, having regard to the advice from the Monitoring Officer.
- 4.5 The quorum for meetings of the Panel is at least 50% of the members of the Panel.

**5. Review**

- 5.1 The arrangements for the Panel are principally statutory, but otherwise are subject to review by the full Council, through the Policy and Resources Committee.

## **COMMUNITY SAFETY FORUM**

### **1. Purpose**

- 1.1 The Community Safety Forum (“the Forum”) brings together local agencies with the aims of reducing crime and disorder and improving safety and quality of life in Brighton & Hove.

### **2. Objectives and Terms of Reference**

- 2.1 The purpose of the Forum includes the following functions:-

- Providing a place where key voluntary, independent and statutory agencies who play a significant role in the City in reducing crime and disorder and improving safety and quality of life, can work together, and develop their shared expertise and good practice;
- Involving Councillors in that process and ensuring that key decisions which affect the Council as a whole are referred to the Policy and Resources Committee or other appropriate Committee for consideration;
- Enabling consultation between residents, the Police Authority and police and overseeing consultation arrangements which are required to take place every three years to develop the priorities for inclusion within the Community Safety and Crime Reduction Strategy;
- Profiling the work of the Crime and Disorder Reduction Partnership in order to assist in reducing crime and fear of crime.

- 2.2 The Forum also has these terms of reference:-

1. To be the forum for the Crime and Disorder Reduction Partnership and enable the constituent members to jointly develop best practice to reduce crime and disorder and improve community and public safety in accordance with the Crime and Disorder Act 1998;
2. To support constituent members in their delivery of initiatives to reduce crime and improve community safety;
3. To fulfil the requirements for consultation in relation to matters to and from the Police Authority for the purposes of section 96 of the Police Act 1996.
4. To receive reports from the Police Authority, in particular the reports of their regular meetings and subject specific meetings;
5. To receive reports from the meetings of the Fire Authority for the purposes of information and to enable discussion and feedback on those items which affect the partners in the Forum and the Crime and Disorder Reduction Partnership;

6. To receive and consider the Crime and Disorder Audit (every three years) and to make recommendations on its findings for the purpose of identifying priorities for action;
7. To oversee consultation arrangements with local communities and communities of interest, with a view to being satisfied that consultation is inclusive, enables wide participation and that community priorities are reflected in the identification of priorities within (a) the Community Safety and Crime Reduction Strategies and (b) work programmes of the Crime and Disorder Reduction Partnership. To agree the detailed arrangements with the Police Authority;
8. To approve the crime and safety priorities identified for action in the three year Strategy and the action plans which set out the work which will be implemented over the three years to achieve those priorities;
9. To regularly receive information about the implementation and progress of the Community Safety and Crime Reduction Strategy;
10. To contribute to the development of the Youth Justice Plan and to receive reports from the Youth Offending Team about the delivery of the Plan and progress against national and local performance measures;
11. To make recommendations to the Policy and Resources Committee, in relation to matters that require council decisions and where there are links with other strategic priorities of the Council;
12. To have regard to any protocol agreed by Full Council as to the working arrangements between the Forum and the overview and scrutiny committee that is designated the Council's statutory Crime and Disorder Committee;
13. To publicise the work of the Forum and of the Crime and Disorder Reduction Partnership in order to help reduce crime and fear of crime and improve safety.

### **3. Reporting**

- 3.1 The Forum reports principally to the Council's Policy and Resources Committee.
- 3.2 The Forum may also report to other bodies or Council Committees as appropriate.
- 3.3 The Forum operates in an advisory capacity and does not have decision-making powers.

#### **4. Membership**

- 4.1 Membership of the Forum is determined by the Policy & Resources Committee following advice from the Overview & Scrutiny Commission and is drawn from the Council, the police and the local community.
- 4.2 The places allocated to Councillors on the Forum include (a) the Chair of Policy and Resources Committee and (b) the Chair of the overview and scrutiny committee which is designated as the Council's statutory Crime & Disorder Committee.
- 4.3 The Forum is chaired by a Councillor.

#### **5. Review**

- 5.2 The work of the Forum is subject to review by the Policy and Resources Committee.

## **CITY SPORTS FORUM**

### **1. Purpose**

- 1.1 The purpose of the Brighton & Hove City Sports Forum (“the Forum”) is:
1. to represent the wide and diverse voice of sport within the city;
  2. to consider annually the outcome and success of the Strategy against its agreed Action Plan;
  3. to promote the city’s sporting needs and interests in Brighton & Hove, regionally and nationally;
  4. to advise the Council on developments within Sport and active recreation.

### **2. Objectives and Terms of Reference**

- 2.1 The objectives and terms of reference of the Forum are:-
1. To take an overview of delivery of the Sports Strategy for Brighton & Hove.
  2. To provide support for partnership working across all providers of sport and active participation.
  3. To ensure examples of good practice are shared and the benefits extended to other sports and sport providers.
  4. To identify and establish where appropriate short-term ‘project groups’ to focus on Government and Sport England initiatives that would benefit sport in Brighton & Hove, subject to the agreement of the Head of Tourism & Leisure.
  5. To ensure that the sporting community of Brighton & Hove and the city of Brighton & Hove maximises the opportunities created by the 2012 London Olympics and Para-Olympics.
  6. To advise the Economic Development & Culture Committee on sports related matters from time to time.

### **3. Reporting**

- 3.1 The Forum reports principally to the Council's Economic Development & Culture Committee Committee.
- 3.2 The Forum may also report to other bodies or Council Committees as appropriate.

## **4. Membership**

4.1 Invitations to the Sports Forum are to be extended to 40 representatives by the Head of Tourism & Leisure after consultation with the Economic Development & Culture Committee, from across the following groups:

- 4 Councillors
- Voluntary Sports Sector
- Public and private providers of sport and active recreation
- County and regional sports organisations
- Education, skills training, health and community safety

Sports with large numbers of playing teams or affiliated clubs will be represented through their relevant league, district or county association.

4.2 The Forum is to be supported by officers from across the Tourism & Leisure and City Infrastructure Delivery Units:-  
Head of Tourism & Leisure  
Head of City Infrastructure  
Commissioner, Sports & Leisure  
Sport & Physical Activity Manager  
Members of the Sports Development Team and Active for Life project.

Additional support from colleagues across the Council is identified as appropriate.

4.3 The Chair of the Forum for the first 12 months is the Chief Executive of the Council and thereafter is appointed annually by the Chief Executive following nomination by the Forum. No person is to hold the Chair for more than 3 consecutive years.

4.4 The membership of the Forum is subject to review by the Policy and Resources Committee.

## **5. Review**

5.1 The work of the Forum is subject to bi-annual review by the Policy and Resources Committee.

## **CONSERVATION ADVISORY GROUP**

### **1. Purpose**

- 1.1 The purpose of the Conservation Advisory Group (“the Group”) is generally to act as a reference group to advise the Council on the implementation of the Conservation Strategy, on major planning applications or Council proposals affecting Conservation areas, Listed Buildings and on the development of policies for the protection of the historic built environment.

### **2. Objectives and Terms of Reference**

- 2.1 To promote the objectives of conservation and to facilitate communication between the public and the Council on matters of conservation, historic buildings and archaeology.
- 2.2 To encourage the conservation and improvement of conservation areas, buildings of architectural or historic interest, other areas of historical interest and areas of archaeological interest within the city.
- 2.3 To submit to the Council suggestions for action which will preserve or enhance the character or appearance of Conservation Areas within Brighton and Hove and to encourage societies and individuals voluntarily to enhance their local environment.
- 2.4 To act as a source of advice on major planning applications and other proposals, including traffic calming or pedestrianisation proposals, that could affect the character of conservation areas, buildings of architectural or historic interest or historic parks and gardens.
- 2.5 To assist in the development and formulation of policies to enhance and protect conservation areas and buildings of architectural or historic interest in Brighton & Hove.
- 2.6 To report unauthorised work and conditions of planning permissions that have not been complied with.

### **3. Reporting**

- 3.1 The Group principally reports to the Planning Committee. However, the interests of the Group are relevant to a range of Council activities and other Committees may request reports from the Group, when there is a need for input from a conservation perspective.
- 3.2 The minutes of the meeting record an agreed form of words that is reported as the comment of the Group. So far as is practical the Chair approves the minutes within 5 working days of the meeting or the production of the minutes.



## **4. Membership**

### **4.1 Considerations for appointment to the Group:**

- (a) The Group aims for a broad, locally based membership, to ensure that the Council is able to effectively disseminate and collect local conservation information;
- (b) The Group's criteria in relation to local groups and societies, are for membership to be drawn from representative organisations only, which are open to all residents or traders in an area without any selection criteria. Each organisation should hold regular meetings and an annual meeting at which officers of the organisation are democratically elected. Member groups or societies should (i) submit an annual report and the minutes of their AGM, (ii) have as one of their stated or implied aims the conservation of the historic fabric or archaeological interest of their area and (iii) as far as possible represent the whole (or a large proportion) of one of the designated conservation areas of Brighton and Hove;
- (c) Membership is open to English Heritage;
- (d) Membership is open to representatives of Sussex Enterprise or other business or commercial organisations in Brighton and Hove (particularly those that have a significant presence in historic areas);
- (e) Membership is open to nominees from the national amenity societies (such as the National Trust, Victorian Society or Society for the Preservation of Ancient Buildings (SPAB));
- (f) Membership is open to nominees of the Royal Institute of British Architects (RIBA) the Royal Institute of Chartered Surveyors (RICS), the Institute of Historic Building Conservation (IHBC) the Royal Institute of Structural Engineers and the Royal Town Planning Institute (RTPI).

### **4.2 Other constitutional matters**

- (a) The Group is entirely advisory and does not have executive powers;
- (b) The secretariat of the Group is provided by the Council;
- (c) Agendas are produced by officers of the Council in consultation with the Chair;
- (d) The Chair is elected from the membership annually;
- (e) There is an Annual Meeting of the Group in May of each year at which the Chair and Vice Chair are elected;
- (f) The Group may establish sub-groups as required;

- (g) The Group shall advise the Council on nominations for new members of the Group;
- (h) Any sub-groups, nominee (or substitute) representing the Group at Council meetings shall be elected by a vote at a full meeting of the Group;
- (i) The membership of the Group is subject to review by the Council's Policy and Resources Committee.

## **5 Review**

- 5.1 The terms of reference of the Group are subject to review by the Policy and Resources Committee.

## **HOUSING AREA PANELS (X 4)**

### **1. Purpose**

1.1 The role of each of the Council's four Housing Area Panels is to advise the Council in its landlord role as local housing authority, with particular attention to anything affecting the area concerned.

### **2. Objectives and Terms of Reference**

2.1 To consider reports relating to the Council's role as landlord, including performance, services, budgets, major repairs programme development and delivery, policy issues and service development, within the boundaries of the Area Panel and to make recommendations to the Housing Management Consultative Sub-Committee.

### **3. Reporting**

3.1 The Panels usually report to the Housing Management Consultative Sub-Committee, but if necessary their reports may be referred directly to the Housing Committee.

### **4. Membership**

4.1 Each Panel comprises all ward councillors within the boundaries of the Panel, together with tenant and resident association representatives.

### **5. Review**

5.1 The terms of reference of the Panels are subject to review by the Policy and Resources Committee.

## **JOINT STAFF CONSULTATIVE FORUM**

### **1. Purpose**

1.1 The Joint Staff Consultative Forum (“the Forum”) facilitates dialogue between the Council as employer and the Council’s employees.

### **2. Objectives and Terms of Reference**

2.1 The role of the Forum is to provide a mechanism for regular communication and consultation (a) in support of the Council’s approach to working in partnership with its recognised trade unions and professional associations and (b) to maintain a healthy employee relations climate.

### **3. Reporting**

3.1 Matters raised may become the subject of reports to Committee as appropriate.

### **4. Membership**

4.1 The Forum comprises 6 Councillors and employee representatives.

### **5. Review**

5.1 The terms of reference of the Forum are subject to review by the Policy and Resources Committee.

## **PART 5 - OVERVIEW AND SCRUTINY TERMS OF REFERENCE AND PROCEDURE RULES**

### **1. The number and arrangements for Overview and Scrutiny Committees**

- 1.1 The Council will appoint an Overview and Scrutiny Committee and a Health & Wellbeing Overview and Scrutiny Committee.
- 1.2 The Overview and Scrutiny Committee will primarily be a commissioning body, co-ordinating the Overview and Scrutiny work programme through the establishment of time limited Scrutiny Review and Policy Review Panels. The Overview and Scrutiny Committee will also undertake limited direct scrutiny of services relating to Place, Communities, Resources and Finance.
- 1.3 The Health & Wellbeing Overview and Scrutiny Committee will perform the overview and scrutiny function in relation to the health service pursuant to the National Health Service Act 2006 and associated Regulations. It will also have a remit to scrutinise social care and education issues relating to both adults and children.

### **2. Terms of Reference of Committees**

#### **2.1 Overview and Scrutiny Committee**

- 2.1.1 To co-ordinate the work of Overview and Scrutiny as set out under “Functions” below.
- 2.1.2 To be the designated Crime and Disorder Committee as required under the Police and Justice Act 2006.
- 2.1.3 To undertake the scrutiny of flood and coastal erosion plans as required by the Localism Act 2011.
- 2.1.4 To review and scrutinise matters, decisions and service provision relating to the following Council functions and services:-
  - Resources and Finance;
  - Place;
  - Communities.

(The full list of functions under each area is set out in Part 6 of this Constitution under the Scheme of Officer Delegations).

- 2.1.5 To commission time-limited ‘task and finish style’ Scrutiny Review Panels and Policy Review Panels to:
  - Scrutinise specific issues of concern (Section 4 below)
  - Undertake policy review and development work (Section 5 below)

2.1.6 To review and scrutinise any other Council function not otherwise addressed by any other Overview and Scrutiny Committee.

## **2.2 The Health and Wellbeing Overview and Scrutiny Committee**

2.2.1 To exercise powers with regard to the scrutiny of health services pursuant to the National Health Service Act 2006 and in particular:-

- To scrutinise matters relating to the health of the Authority's population and contribute to the development of policy and service to improve health and reduce health inequalities;
- To scrutinise matters relating to public health;
- To undertake all the statutory functions of the health scrutiny committee in accordance with the National Health Service Act 2006;
- To review and scrutinise the impact of the Authority's own services and of key partnerships on the health of its population;
- To encourage the Council as a whole to take into account the implications of their policies and activities on health and health inequalities;
- To make reports and recommendations to the National Health Service, the Council, the committees and sub-committees, and to other relevant bodies and individuals;
- To monitor and review the outcomes of its recommendations.

In all of the above, to liaise with other bodies that represent patients' views in order to seek and take account of the views of the local populations

2.2.2 To perform the Overview and Scrutiny function in relation to all matters, decisions and service provision connecting to Adult Social Care.

2.2.3 To perform the Overview and Scrutiny function in relation to all matters, decisions and service provision connecting to Children and Young People and in particular:

- the provision, planning and management of children's social services
- the provision, planning and management of education
- the health of the authority's children and young people, including contribution to the development of policy and service to improve health and reduce health inequalities, all in accordance with the principles of section 244 National Health Services Act 2006
- all of the functions of the Council as an education authority

2.2.4 To establish time-limited Scrutiny Review and Policy Review Panels in relation to its to terms of reference to:

- Scrutinise specific issues (Section 4)
- Undertake policy development work for council committees (Section 5)

### **3. Functions of Overview and Scrutiny Committees**

#### **3.1 The Overview and Scrutiny Committee and the Health and Wellbeing Overview and Scrutiny Committee will:**

- a) Approve an overview and scrutiny work programme, to ensure that there is efficient use of scrutiny resources and that the potential for duplication of effort is minimised;
- b) Receive requests from Councillors and partner organisations, and suggestions from officers of the council, for particular topics to be scrutinised and determine the appropriate action;
- c) Receive requests for particular pieces of policy work to be undertaken and determine the appropriate action;
- d) Have the power to call-in and review policy committee decisions, or key decisions made by an officer with delegated authority, as set out in the procedures in these Rules;
- e) Undertake initial explorations on requests/proposals for panel reviews and recommend appropriate action;
- f) Receive proposals for the appointment of task-orientated, time limited scrutiny and policy review panels to review in-depth, investigate and report on a particular topic;
- g) Co-ordinate training and development arrangements for Overview and Scrutiny Committee members and co-optees;
- h) Identify good practice in relation to the overview and scrutiny role and develop common practices for all committees that reflect good practice;
- i) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies;
- j) Establish and maintain constructive working relationships with the Policy Committees;
- k) Help ensure positive working relationships with partnerships and external bodies;
- l) Monitor and review the outcomes of its recommendations.
- m) Promote the work of scrutiny, including through the local media;
- n) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;

- o) Ensure that the communities of Brighton & Hove and specific users of services are able to be involved in and inform the work of the committees;

#### **4. Scrutiny Review Panels**

- 4.1 The Overview and Scrutiny Committee and the Health & Wellbeing Overview and Scrutiny Committee may appoint Scrutiny Review Panels to carry out short, sharply focused pieces of scrutiny work. Scrutiny Review Panels investigate areas of concern and the available options. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.
- 4.2 Scrutiny Review Panels will not have Sub-Committee status and the political balance rules in section 15 of the Local Government and Housing Act 1989 will not apply, but they will normally be established on a cross-party basis.
- 4.3 Membership of the Scrutiny Review Panels will be sought from the political groups, taking into account the expertise and experience of available Members, and that no Member may be involved in scrutinising a decision in which he/she has been involved.
- 4.4 There should not normally be provision for substitute Members to attend meetings of Scrutiny Review Panels.
- 4.5 The Overview and Scrutiny Committee and the Health and Wellbeing Overview and Scrutiny Committee shall ensure that the number of Scrutiny Review Panels which it appoints does not exceed the capacity of the Member and Officer resources available to support their work.
- 4.6 In considering whether or not any matter should be agreed for a Scrutiny Review Panel, the Overview and Scrutiny Committees will have regard to:
  - The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the implementation of its policies or other key issues affecting the well being of the City or its communities;
  - Whether there is evidence that the decision-making rules in the constitution have been breached; that the agreed consultation processes have not been followed; or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council;
  - The potential benefits of a review especially in terms of possible improvements to future procedures and/or the quality of Council services;
  - What other avenues may be available to deal with the issue and the extent to which the Councillor or body submitting the request has already tried to resolve the issue through these channels (e.g. a letter to the relevant Member, the complaints procedure, enquiry to the Chief Executive or Chief Officer, Council question etc.);



- The proposed overview and scrutiny approach (a brief synopsis) and resources required, resources available and the need to ensure that the Overview and Scrutiny process as a whole is not overloaded by requests;
- The resources available to support the work as set out at paragraph 4.5 above.

## **5. Policy Review Panels**

- 5.1 The Overview and Scrutiny Committee and the Health and Wellbeing Overview and Scrutiny Committee may appoint Policy Review Panels to carry out short, sharply focused pieces of policy development work.
- 5.2 Policy Review Panels undertake in-depth policy review and development work. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration.
- 5.3 Policy Review Panels will not have Sub-Committee status and the political balance rules in section 15 of the Local Government and Housing Act 1989 will not apply, but they will normally be established on a cross-party basis.
- 5.4 Membership of the Policy Panels will be sought from the political groups, initially from the membership of the parent policy committee, taking into account the expertise and experience of available Members.
- 5.5 There should not normally be provision for substitute Members to attend meetings of Policy Review Panels.
- 5.6 Each Overview and Scrutiny Committee shall ensure that the number of Policy Review Panels which it appoints does not exceed the capacity of the Member and Officer resources available to support their work.
- 5.7 In considering whether or not any matter should be agreed for a Policy Review Panel, the Overview and Scrutiny Committees will have regard to:
- The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the implementation of its policies or other key issues affecting the well being of the City or its communities;
  - The potential benefits of a review especially in terms of possible improvements to future policies and procedures and/or the quality of Council services;
  - The proposed overview and scrutiny approach (a brief synopsis) and resources required, resources available and the need to ensure that the Overview and Scrutiny process as a whole is not overloaded by requests;
  - The resources available to support the work as set out at paragraph 5.6 above.

## **6. Membership of Overview and Scrutiny Committees and Panels**

- 6.1 Any Councillor may sit on an overview and scrutiny committee or panel. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- 6.2 The membership of the overview and scrutiny committees will reflect the political composition of the Council and be subject to section 15 of the Local Government and Housing Act 1989.

## **7. Co-optees**

- 7.2 The Health & Wellbeing Overview and Scrutiny Committee will include non voting co-opted members from the Older People's Council, the Youth Council and LINK/Healthwatch. It may also appoint voting Education Representatives where these are required by legislation.
- 7.3 The Overview and Scrutiny Committees may agree the appointment of non voting co-optees for each Policy or Scrutiny Review Panel. In appointing co-opted Members to review panels, regard will be given to both the expertise of the individual and the representative nature of the position.

## **8. Meetings of the Overview and Scrutiny Committees**

- 8.1 The Overview and Scrutiny Committee will meet on a quarterly basis. The Health & Wellbeing Overview and Scrutiny Committee will meet six times per annum. In addition, an extraordinary meeting may be called by the Chair or the Chief Executive at any time if they consider it necessary or desirable.
- 8.2 Scrutiny Review and Policy Review Panels shall meet as many times as necessary to successfully carry out their investigations, they shall however be time limited in nature.

## **9. Quorum**

- 9.1 The quorum for overview and scrutiny meetings shall be as set out for committees and sub-committees in the Council Procedure Rules in Part 3 of this Constitution.

## **10. Chairs of Overview and Scrutiny Committees/Panels**

- 10.1 The Council will appoint the Chair of Overview and Scrutiny Committees. The Chair of the Health & Wellbeing Overview and Scrutiny Committee shall also be a member of the Overview and Scrutiny Committee.
- 10.2 Each Overview and Scrutiny Committee will appoint the Chair of Scrutiny Review and Policy Review Panels it establishes.

- 10.3 If the Overview and Scrutiny Committee fails to appoint a Chair the Review Panel will make the appointment at its first meeting.
- 10.4 The Chair of the Overview and Scrutiny Committee shall be the lead scrutiny Member.

## **11. Work programme**

- 11.1 The Overview and Scrutiny Committee will be responsible for setting its own work programme.
- 11.2 The Health & Welbeing Overview and Scrutiny Committee will be responsible for setting its own work programme.
- 11.3 The Chairs of the Scrutiny Committees will meet periodically on an informal basis to plan and co-ordinate the process of scrutiny.

## **12. Agenda items**

- 12.1 Agenda items shall be set by the Committee identifying issues which they wish to consider.
- 12.2 Any Member of the Council may notify the Head of Scrutiny that s/he wishes an item relevant to its functions to be included on the agenda for the next available meeting.

## **14. Submission of reports from Overview and Scrutiny**

- 14.1 Once it has formed recommendations on any matter, an Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive of the Council or relevant organisation for consideration at the relevant decision-making body.
- 14.2 If an Overview and Scrutiny Committee cannot agree on one single final report then up to one minority report may be prepared and submitted for consideration by the Policy Committee meeting with the majority report.
- 14.3 The Policy Committee shall consider the report within eight weeks of it being submitted to the Chief Executive or at its next scheduled meeting, whichever is the later, and shall prepare a response to the recommendations detailing whether each recommendation is agreed or not agreed.
- 14.4 The Chair of the Policy or Scrutiny Review Panel or relevant Overview and Scrutiny Committee shall be invited to the Committee meeting at which the report is considered.
- 14.5 For Scrutiny and Policy Review Panel reports, the report, together with the Policy Committee response, shall be reported to full Council for information.

## **15. Annual report**

- 15.1 The Overview and Scrutiny Committee will report annually to full Council on the work of scrutiny and make recommendations for future work programmes and amended working methods if appropriate.

## **16 Distribution of reports by the Overview and Scrutiny Committee when exercising the functions of the Crime and Disorder Committee**

- 16.1 Where the Crime and Disorder Committee makes a report or recommendations to the Council with respect to the discharge by the responsible authorities\* of their crime and disorder functions, it shall provide a copy to –
- (a) each of the responsible authorities, and
  - (b) each of the persons with whom, and bodies with which, the responsible authorities have a duty to co-operate under the relevant legislation.

[\* ‘Responsible authorities’ are defined in the relevant legislation.]

- 16.2 Where the Crime and Disorder Committee makes a report or recommendation to the Council with respect to any local crime and disorder matter referred to it by a Member, it must –
- (a) provide a copy of the report or recommendations to that Member, and
  - (b) provide a copy of the report or recommendations to such of –
    - (i) the responsible authorities, and
    - (ii) the co-operating persons and bodiesas it thinks appropriate.

## **17. Councillor Call for Action**

- 17.1 The “Councillor Call for Action” (CCfA) as set out in Section 119 of the Local Government and Public Involvement in Health Act 2007 and amended by the Localism Act 2011 enables any member of the council to refer to an overview and scrutiny committee any local issue which directly affects their ward.
- 17.2 The CCfA is an additional means for Councillors, as community leaders, to raise issues of local community concern, for consideration by the Council’s overview and scrutiny function, on behalf of residents.
- 17.3 A CCfA should only be raised where other means of resolving the matter have been exhausted. Any Member of the Council may raise a CCfA, which should be sent to the Head of Scrutiny. In seeking to raise a CCfA a Councillor needs to:
- State why they consider the issue should be looked at by the Overview and Scrutiny Committee;
  - Give a brief synopsis of what the main areas of concern are;
  - Supply evidence in support of the CCfA;
  - Indicate areas or groups affected by the CCfA;
  - Summarise mediation and attempts at resolution undertaken;
  - Indicate deadlines associated with the CCfA of which the Overview and Scrutiny Committee needs to be aware.

- 17.4 Upon receipt of a CCfA, the relevant Overview and Scrutiny Committee will use the following criteria to decide whether or not to take the matter further:
- Is the committee satisfied that all reasonable attempts have been made to resolve the issue by the ward councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?
  - Has the committee considered a similar issue recently – if yes, have the circumstances or evidence changed?
  - Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing.
  - Relevant time pressures on resolving the CCfA should be taken into account.
  - Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
  - Does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring member's ward?
  - Is the matter an excluded matter, as set out in paragraph 16.12 of these rules?
- 17.5 In considering the CCfA, the Overview and Scrutiny Committee will invite the relevant Members and officers to discuss the issue with the Overview and Scrutiny Committee and answer any questions, if the committee considers this relevant.
- 17.6 If the committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons. If the committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme.
- 17.7 Overview and Scrutiny Committees in considering a CCfA may undertake any of the activities as outlined in the Overview and Scrutiny Procedure Rules.
- 17.8 The power to refer a matter is available only where the matter is of direct concern to the ward which the Councillor represents. A Councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for Councillors in multi-member wards to agree – any of them may refer a matter.
- 17.9 It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.
- 17.10 The following matters are excluded from referral as a CCfA:
- Individual complaints concerning personal grievances or commercial issues.

- Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
  - (a) Planning and licensing applications and appeals
  - (b) Council Tax/Housing Benefits complaints and queries
  - (c) Issues currently under dispute in a court of law
- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of an Overview and Scrutiny Committee or any of its Panels.

## **18. Call-in**

- 18.1 Call-in is a process by which Overview and Scrutiny Committees can recommend that a decision made by a Policy Committee but not yet implemented be reconsidered by the body which made the decision, or recommend that the full Council consider whether that body should reconsider the decision.
- 18.2 Call-in does not provide for the Overview and Scrutiny Committee or the full Council to substitute its own decision, but merely to refer the matter back to the decision-maker. A decision maker can only be asked to reconsider any particular decision once.
- 18.3 Call-in should only be used in very exceptional circumstances – for example where Members have evidence that a decision was not taken in accordance with Article 11 of the constitution. Day to day management and operational decisions taken by officers may not be called-in.
- 18.4 Any decision made by Policy Committee, or a key decision made by an officer under delegated powers shall be published by means of a notice at the main offices of the Council and where possible by electronic means, normally within 2 working days of being made. All Members will be sent, if possible by electronic means, copies of all such decision notices at the time of publication.
- 18.5 Any decision made by the Policy Committee, or a key decision made by an officer under delegated powers may be called in up to five working days from the date of the meeting at which the decision was taken.
- 18.6 During this period, any five Members of the Council, from a minimum of two political groups may request that a decision be called-in for Scrutiny by the relevant Overview and Scrutiny Committee.
- 18.7 Such a request shall be made in writing to the Chief Executive and shall include the reason(s) for the request and any alternative decision proposed. The Chief Executive may refuse to accept a request which in his/her opinion is frivolous, vexatious or defamatory, or where no reason is given.
- 18.8 If the Chief Executive accepts the request he/she shall call-in the decision. This shall have the effect of suspending the decision coming in force and the Chief Executive shall inform the decision maker e.g. Committee Members, or

officer and the relevant Chief Officer(s) of the call-in. The Chief Executive shall then call a meeting of the relevant Overview and Scrutiny Committee as appropriate to scrutinise the decision, where possible after consultation with the relevant Chair, and in any case within 7 working days of accepting the call-in request, unless a meeting of the appropriate Committee is already scheduled to take place within this period.

- 18.9 In deciding whether or not to refer a decision back, the relevant Overview and Scrutiny Committee shall have regard to:
- any further information which may have become available since the decision was made
  - the implications of any delay; and
  - whether reconsideration is likely to result in a different decision.
  - The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities,
  - Whether there is evidence that the decision-making rules in the constitution have been breached;
  - that the agreed consultation processes have not been followed;
  - or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council;
  - What other avenues may be available to deal with the issue and the extent to which the Councillor or body submitting the request has already tried to resolve the issue through these channels (e.g. a letter to the relevant Member, the complaints procedure, enquiry to the Chief Executive or Chief Officer, Council question etc.)
- 18.10 If, having scrutinised the decision, the relevant Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns. If it considers the decision is contrary to the policy framework or budget agreed by the Council, the matter may be referred to the full Council to determine whether or not it should be referred back to the decision making body.
- 18.11 If the relevant Overview and Scrutiny Committee does not meet within 7 working days of the Chief Executive accepting a call-in request, or does meet but does not refer the matter back to the decision making body or to the Council, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of the period of 7 working days from the call-in request being accepted, whichever is the earlier.
- 18.12 If the decision is referred back to the decision making body, that body shall then reconsider, either at its next programmed meeting or at a special meeting called for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.
- 18.13 If the relevant Overview and Scrutiny Committee refers the matter to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the

Council will refer any decision to which it objects back to the decision making body, together with the Council's views on the decision. In this case the decision making body shall consider, either at its next programmed meeting or at a special meeting convened for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.

- 18.14 If the Council does not meet within two weeks of the matter being referred to it, or if it does meet but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of that two week period, whichever is the earlier.

## **19. Call-in and urgency**

- 19.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state if in the opinion of the decision making body the decision is an urgent one and subject to the agreement of the Chief Executive, or in his/her absence the officer acting for him, such a decision shall not be subject to call-in.
- 19.2 The Chief Executive or the Officer acting on his/her behalf shall consult the leaders of the Political Groups before agreeing to the exemption. Any decision to which the call-in process does not apply for reasons of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 19.3 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to the Overview and Scrutiny Committee with proposals for review if necessary.

## **20. Call In and Joint Committees**

- 20.1 The principle of call in applies to decisions made by Joint Committees on which the Council is represented. The detailed arrangements relating to call in of Joint Committee decisions shall be agreed between the constituent authorities and included in the Constitution of the Joint Committee.

## **21. Matters excluded from Scrutiny**

- 21.1 Overview and Scrutiny Committees should not normally scrutinise individual decisions made in respect of development control, licensing, registration, consents and other permissions. In particular they are not an alternative to normal appeals procedures. However, they may make reports and recommendations on such functions as part of wider scrutiny reviews.
- 21.2 The scrutiny process is not appropriate for issues involving individual complaints or cases, or for which a separate process already exists e.g. personnel/disciplinary matters, ethical matters or allegations of fraud.



## **PART 7.1 ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, its Committees Sub-Committees and (subject to the Overview and Scrutiny Procedure Rules) public meetings of Scrutiny Review Panels and Policy Review Panels (together called “meetings”). They summarise the public’s rights to attend meetings and to inspect and copy documents, full particulars of which are contained in Part VA of the Local Government Act 1972.

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this constitution or the law.

### **3 RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules.

### **4. NOTICES OF MEETING**

The Council will give at least five clear working days’ notice of any of its meetings by posting details of the meeting at Brighton Town Hall and Hove Town Hall. Where meetings are called at short notice for reasons of urgency, notice of the meetings shall be given as soon as practicable.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE AND AT THE MEETING**

The Council will make copies of the agenda and all reports which do not contain confidential or exempt information available for public inspection at a designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item is added to the agenda. Where a report which does not contain confidential or exempt information is issued after the agenda has been sent out, the designated officer shall make such report available to the public as soon as the report is completed and sent to Councillors. The Council will make a reasonable number of copies of the agenda and of reports which do not contain confidential or exempt information available for use of members of the public present at the meeting.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and any reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- (c) if the proper officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

## **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available for public inspection copies of the following for six years after a meeting:

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

Also the Council will (subject to copyright of any person other than the Council) supply copies or extracts of any of the above on payment of such reasonable copying fee as may be required.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report

but do not include published works or those which disclose exempt or confidential information (as defined in Rule 9).

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers and (subject to copyright of any person other than the Council) supply a copy or an extract on payment of such reasonable copying fee as may be required.

## **9. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **9.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information (defined at Rule 9.3 below) would be disclosed.

### **9.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information (defined at Rule 9.4 below) would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Schedule 1 Part 1 Article 6 of the Human Rights Act 1998 ("Right to a Fair Trial") may be applicable. In such cases there is a presumption that the relevant part of the meeting will be held in public unless a partial or completely private hearing is deemed necessary for one of the reasons specified in Article 6. These reasons include cases where exclusion of the public is considered to be required in the interests of juveniles or for the protection of the private life of the parties.

### **9.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information the public disclosure of which is prohibited by or under any enactment or by the order of a Court.

## 9.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories in column 1 below (subject to any qualifications in column 2 below):

Category	Qualifications
<p>1. Information relating to any individual.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>2. Information which is likely to reveal the identity of any individual.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>This includes contemplated as well as past or current activities.</p>	<p>Information within paragraph 3 is not exempt by virtue of paragraph 3 if it is required to be</p> <p>(a) registered under any one of the following:- the Companies Acts (as defined in section 2 of the Companies Act 2006), the Friendly Societies Acts of 1974 or 1992, the Industrial and Provident Societies Acts 1965 to 1978, or the Charities Act 2011 or</p> <p>(b) recorded in the public file of any building society under the Building Societies Act 1986.</p> <p>Information is not exempt information if it relates to proposed development for</p>

	<p>which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the Council or a Minister of the Crown and employees of, or officer-holders under the Council.</p> <p>Labour relations matter means—(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act) or (b) any dispute about a matter falling within paragraph (a).</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country</p>

<p>are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>The information may be treated as exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

**10. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication". Also, where any report is excluded from the public on the basis that it contains exempt (rather than confidential) information, the report will be marked with the category of exempt information likely to be disclosed.

**11. DISORDERLY CONDUCT ETC**

The public's rights of admission to meetings set out in the Rules above are subject to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

**12. AUDIT AND STANDARDS COMMITTEES AND STANDARDS HEARING PANELS**

Where a meeting of the Audit and Standards Committee, or a Hearing Panel of the Audit and Standards Committee, is convened to consider certain specific types of reference from an Ethical Standards Officer under the provisions of the Local Government Act 2000, there are three further categories of exempt information to be added (without any qualifications) to the 7 categories in Rule 9.4 above. These are:-

7A. Information which is subject to any obligation of confidentiality;

7B. Information which relates in any way to matters concerning national security and

7C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3) or 64(2) of that Act.

[Note:- A new standards regime is being introduced and the provisions of the Local Government Act 2000 relating to standards are due to be repealed. It is likely that paragraphs 7A, 7B and 7C will cease to apply from 30 June 2012.]

## **13. THE COUNCIL'S COMMITTEE WORK PROGRAMME**

### **13.1 Contents of the Work Programme**

The Work Programme will be produced on an ongoing basis to cover all forthcoming Committee and Sub-Committee decisions. It will be updated monthly.

The Work Programme will contain matters which are believed will be the subject of decisions made at Committee meetings. Key decisions will be distinguished from other decisions. A "key decision" for the purposes of these rules is as defined in Article 11.03(b) of this Constitution.

### **13.2 Publication of the Work Programme**

The Work Programme will be published on the Council's website.

### **13.3 Exempt & Confidential Information**

Exempt information need not be included in the Work Programme and confidential information cannot be included.

## **14. REPORT TO COUNCIL**

### **14.1 When an overview and scrutiny committee can require a report**

If an overview and scrutiny committee thinks that a key decision has been taken which was not included in the Work Programme the committee may require the submission of a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by (the chairman or any 3 members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

### **14.2 Reports to Council**

Where, in accordance with Rule 14.1, an overview & scrutiny committee require the submission of a report to the Council, the Committee or Sub-Committee will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 10 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after

that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Committee or Sub-Committee is of the opinion that it was not a key decision the reasons for that opinion.

## **15. RECORD OF DECISIONS**

After any meeting of a Committee or Sub-Committee, whether held in public or private, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any conflicts of interest declared and any dispensation granted by the Audit and Standards Committee.

## **16. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **16.1 Rights to copies**

Subject to Rule 16.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of Committees or Sub-Committees and which contains material relating to any business transacted at a public or private meeting of the Committee or Sub-Committee

### **16.2 Limit on rights**

An overview and scrutiny committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise (any such exempt or confidential information to be treated as such); or
- (c) the advice of a political adviser or assistant (if any).

## **17. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **17.1 Material relating to previous business**

All Members will be entitled to inspect any document which is in the possession or under the control of the Council and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser or assistant.

Subject to the advice of the Monitoring Officer, Members may in certain circumstances be able to inspect a wider range of documents on a confidential basis if it is shown to be necessary to carry out their role as Councillors.

Further guidance on Members' access to information is contained in the protocol for Member-Officer Relations.



## **17.2 Nature of rights**

These rights of a Member are additional to any other right he/she may have under the law.

## **PART 7.2 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The framework for decision-making**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 5. Once a budget or a policy framework is in place, it will be the responsibility of the Committees to implement it.

### **2. Process for developing the budget and policy framework**

Each year the Policy and Resources Committee will agree a programme for establishing the budget and policy framework for the following year. This programme will include provision for the Council to consider the recommendations of the relevant Committee(s) in respect of the content of the plans and strategies that make up the policy framework.

### **3. In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by Committees or officers with delegated authority must be in line with it. However, in approving the policy and budgetary framework, the Council may specify the extent of virement within the budget (in accordance with the Financial Standing Orders and Regulations at Part 7 of this Constitution) and degree of in-year changes to the policy framework which may be undertaken by Committees. In approving any plan or strategy forming part of the policy framework the Council will consider whether or not to delegate the power to amend, modify or vary that plan or strategy. Any other changes to the policy and budgetary framework are reserved to the Council.

## **PART 7.5 OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Introduction**

- 1.1 These rules are intended to give effect to the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 and will form the standing orders prescribed therein regarding employment matters.

### **2. Interpretation**

- 2.1 For the purposes of these Officer Employment Procedure Rules the following words shall have the following meanings-

"Head of Paid Service" means the Chief Executive of the Council

"Chief Officer" means, subject to the following provisions the Strategic Directors of-

- Communities
- People
- Place
- Resources

and the Director of Finance.

"Deputy Chief Officer" means, a Lead Commissioner, Head of a Delivery Unit or Head of a Resource or a Finance Unit

### **3. Recruitment and appointment – general**

#### **3.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or an officer of the Council; or of the partner of such persons; or have a personal friendship with a Member of the Council
- (b) No candidate so related to a Member or an officer or a personal friend of a Member will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

#### **3.2 Seeking support for appointment.**

- (a) Subject to paragraph (c) below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment as an officer with the Council. The content of this paragraph will be included in any recruitment information.

- (b) Subject to paragraph (c) below, no Member will seek support for any person for any appointment as an officer with the Council.
- (c) Nothing in paragraphs (a) and (b) above will preclude a Member from giving written reference for a candidate for submission with an application for appointment

#### **4. Recruitment of Head of Paid Service, Chief Officers and Deputy Chief Officers**

- 4.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:
  - (a) draw up a statement specifying:
    - (i) the duties of the officer concerned; and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

#### **5. Appointment of Head of Paid Service**

- 5.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council.

#### **6. Appointment of Chief Officers and Deputy Chief Officers, the Monitoring Officer and the Chief Finance Officer; and administrative arrangements**

- 6.1 A Committee or Sub-Committee of the Council will appoint Chief Officers, Deputy Chief Officers, the Monitoring Officer and the Chief Finance Officer providing that the Chief Executive (in relation to Chief Officers or Heads of Delivery Units) or the relevant Strategic Director (in relation to Lead Commissioners, Heads of Resource Units or Finance Units as appropriate) may appoint such officers where the appointment is on an Acting basis or where the appointment is of a candidate recommended by a selection panel consisting of Members.
- 6.2 Whenever a Panel is convened in accordance with paragraph 6.1 above, it shall be constituted as follows:
  - The Panel shall consist of 6 Members appointed to reflect the political composition of the Council providing all the Groups in the Council are represented.

- The Strategic Director of Resources shall appoint Members of the Panel in accordance with the wishes of the relevant Group/Convenor.
- The Panel shall be chaired by a member of the Group with the largest number of seats in the Council.
- The Panel shall endeavour to reach a decision by consensus. If there is no consensus, the matter shall be put to a vote. If there is an equality of votes, the Chairman shall have a casting vote.
- The Strategic Director of Resources is authorised to take all steps necessary or incidental to supporting this appointments process

## **7. Statement of Pay Policy**

7.1 A statement on the Council's pay policy will be published annually.

## **8. Remuneration of Senior Officers**

8.1 The Chief Executive may consult the Panel set up under paragraph 6.2 above in connection with the remuneration of Chief Officers as defined in section 43 of the Localism Act 2011 and in connection with the statement of pay policy under section 38 of the Localism Act 2011.

## **9. Other Appointments**

9.1 **Officers below Deputy Chief Officer.** Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his or her nominee, and may not be made by Members.

9.2 **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group if such an appointment is made.

## **10. Disciplinary Action - Head of Paid Service, Monitoring Officer and Chief Finance Officer**

10.1 **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

10.2 **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

## **11. Disciplinary Action - Chief Officers and Deputy Chief Officers**

11.1 A Committee or Sub-Committee of the Council may hear an appeal against disciplinary action or dismissal of a Chief Officer or a Deputy Chief Officer in accordance with the Council's disciplinary procedure rules.

## **12. Disciplinary Action - Other Officers**

- 12.1 Members will not be involved in the disciplinary action against any officer below Deputy Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disability, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action against officers.

## **13. Dismissal**

- 13.1 Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disability, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissal of officers.

## **PART 8.10 PETITIONS SCHEME**

### **How to petition the council – Petitions Scheme**

#### **Petitions**

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. You can send us a paper petition and/or set up an e-petition online.

#### **How to submit a petition**

Petitions submitted to the council must include -

- a clear and concise statement covering the subject of the petition;
- what action the petitioners wish the council to take;
- the name, address and contact details of the petition organiser so that we can contact them to explain how we will respond to the petition;\*
- the name, address and signature of any person supporting the petition.

Petitions can be signed by any person of any age who lives, works or studies in Brighton & Hove or who uses services provided by Brighton & Hove City Council.

Petitions must relate to what the council does or relate to an improvement in the economic, social or environmental well-being of the area covered by Brighton & Hove City Council to which any of our partner authorities<sup>1</sup> could contribute.

\* The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

#### **Where to send a petition**

**Paper** petitions should be sent to Democratic Services, Brighton & Hove City Council, King's House, Grand Avenue, Hove, East Sussex BN3 2LS at least 10 days before the meeting at which you would like the petition to be presented. (For full Democratic Services contact details see end of this scheme.)

**E-petitions** - follow this link to create, sign and submit an e-petition<sup>2</sup>.

#### **What the council will do when it receives a petition**

The council will send an **acknowledgement** of all petitions to the petition organiser **within 10 working days** of receipt. This acknowledgement will set out what we plan to do with the petition and when they can expect to hear from us again. The petition will also be published on our website. Whenever possible, we will also publish all correspondence relating to the petition (all personal details will be removed).

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<sup>1</sup> See page 7 of this document for details

<sup>2</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Once submitted, the petition organiser will be offered the choice as to whether they wish the petition to be:-

- i) presented at the next full council meeting to decide how we will respond; or
- ii) referred directly to the appropriate committee or sub-committee of the council to decide how we will respond; or
- iii) responded to by the relevant officer of the council.

If the petition organiser wishes to refer the petition to a full council meeting or directly to the relevant decision-making meeting, they will be invited to attend the meeting and will be offered the opportunity to either present the petition themselves or for a councillor or someone else to present it on their behalf. Dates and times of all council meetings can be found here<sup>3</sup>.

If the petition organiser would like to present their petition to the council, or would like their councillor or someone else to present it on their behalf, they need to contact Democratic Services on 01273 291006 at least 10 working days before the meeting and we will talk you through the process.

If the petition organiser prefers to receive a response from the relevant officer without the petition being presented at a meeting, a response will be sent to them within 21 working days of the closure of the petition and will be posted on the council's website.

### **Full council debates**

If a petition contains more than 1,250 signatures and is **not** a petition requesting officer evidence<sup>4</sup>, it will be debated by the full council. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend before a decision is made about how we will respond.

The council will try to consider the petition at its next meeting. This may not always be possible and the petition will then be considered at the next meeting.

The petition organiser will be given 3 minutes to present the petition at the meeting. The petition will then be discussed by councillors for a maximum of 15 minutes. They will then decide how to respond to it at this meeting. Councillors may decide -

- to take the action the petition requests;
- not to take the action requested for reasons put forward in the debate; or
- to commission further investigation into the matter, for example by a relevant committee.

The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

### **Officer evidence**

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<sup>3</sup> <http://present.brighton-hove.gov.uk/ieListMeetings.aspx?XXR=0&Year=2012&CIId=117>

<sup>4</sup> See page 3 of this document



A petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If a petition contains at least 750 signatures, the relevant senior officer<sup>5</sup> will give evidence at a public meeting of an overview and scrutiny committee of the council.

The overview and scrutiny committee<sup>6</sup> may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call a relevant councillor to attend the meeting. Committee members will ask the questions at this meeting. However, the petition organiser will be able to suggest questions to the chair of the committee by contacting the Head of Scrutiny up to three working days before the meeting. For all overview & scrutiny committees please email [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk) or call the Head of Scrutiny on 01273-291110. The overview and scrutiny meeting does not have the power to make or change decisions but may make a report or recommendations to the relevant decision making meeting. A copy of the overview and scrutiny report or recommendations will be sent to the petition organiser and published on our website.

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell the petition organiser when and where the meeting will take place. If the petition needs more investigation, we will tell them the steps we plan to take.

## Exceptions

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here - Influence council decisions – make your voice heard<sup>7</sup>

We will not take action on any petition which is considered by the council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate and, if this is the case, we will explain our reasons in our acknowledgement of the petition. In the period immediately before an election or referendum we may need to deal with a petition differently – if this is the case we will discuss with the petition organiser the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons. To ensure that people know what we are doing in response to

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<sup>5</sup> See page 7 of this document: 'Who can be called to account?'

<sup>6</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=c1187479>

<sup>7</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=c1211337>

the petitions we receive, we will publish the details of all the petitions submitted to us on our website. However, there may be cases where this would be inappropriate.

### **How the council will respond to a petition**

The council's response to a petition will depend on what it asks for and how many people have signed it. Among the options that we may consider are -

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by an overview and scrutiny committee of the council;\*
- calling a referendum;
- writing to the petition organiser setting out our views about the request in the petition.

\* Overview and scrutiny committees are committees of councillors who are responsible for looking at the work of the council and have the power to hold the council's decision makers to account.

If a petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners<sup>8</sup> and where possible will work with these partners to respond to a petition.

If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will tell the petition organiser the reasons for this.

Find more information on the services for which the council is responsible<sup>9</sup>.

If a petition is about something that a different council is responsible for, we will give consideration to what the best method is for responding to it. This might mean simply forwarding the petition to the other council, but could involve other steps. We will always notify the petition organiser of the action we have taken.

### **E-petitions**

The council welcomes e-petitions<sup>10</sup> which are created and submitted through our website. E-petitions must follow the same guidelines<sup>11</sup> as paper petitions. The petition organiser will need to provide us with their name, postal address and email

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<sup>8</sup> <http://www.bandhsp.co.uk/>

<sup>9</sup> <http://www.brighton-hove.gov.uk/index.cfm?request=a8>

<sup>10</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

<sup>11</sup> See page 1 of this document

address. They will also need to decide how long they would like their petition to be open for signatures. Most petitions run for 4 months, but they can choose a shorter or longer time, up to a maximum of 6 months.

When creating an e-petition, it may take five working days before it is published online. This is because we have to check that the content of a petition is suitable before it is made available for signature.

If we feel we cannot publish a petition for some reason, we will contact the petition organiser within this time to explain. They will be able to change and resubmit their petition if they wish. If they do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the council's website.

When an e-petition has closed for signature, it will automatically be submitted to the council. In the same way as a paper petition, we will send the petition organiser acknowledgement of receipt within 10 working days confirming what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website. If the petition organiser would like to present their e-petition to a meeting of the council, or would like a councillor to present it, they should contact the council's Democratic Services team on 01273-291006 at least 10 working days before the meeting to find out more about the process.

## **Frequently Asked Questions**

### **How do I start an e-petition?**

On the e-petitions homepage<sup>12</sup>, select the 'submit a new e-petition' option.

Enter your petition title which the system will automatically check against existing e-petitions to allow you to see if a similar one has been considered recently.

There is also a drop down box which allows you to associate your e-petition with any existing issue in the council's Committee Work Programme. The Committee Work Programme details all of the key decisions to be taken by the council in the coming months.

You will then need to fill in the online form. This will be submitted to the council's Democratic Services team who may contact you to discuss your e-petition before it goes live.

### **How do I 'sign' an e-petition?**

You can see all the e-petitions currently available for signature on the current email petitions<sup>13</sup> page of our website.

- You can only sign an e-petition once.
- When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address.

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<sup>12</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

<sup>13</sup> <http://present.brighton-hove.gov.uk/mgePetitionListDisplay.aspx?bcr=1>

- When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition.
- People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.
- From time to time, the council may also submit an e-petition itself to gauge public feeling on a particular issue.

### **Can I still submit a paper petition?**

You can submit petitions in both forms – you can have a paper version and an online version, although repeat names will be removed. Both forms should run for the same period of time and must be submitted together. When submitting an e-petition request, please let us know if you are running a paper petition as well and this can be highlighted on the website.

### **What can I do if I feel my petition has not been dealt with properly?**

If you feel that the council has not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the adequacy of the steps that the council has taken in response to your petition.

It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

Your requests for review should be sent to the Head of Scrutiny, Kings House, Grand Avenue, Hove, East Sussex BN3 2LS or by email to [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk)

The committee will try to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee decide we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include setting up an investigation, making recommendations to the relevant council committee, sub-committee or officer and arranging for the matter to be considered at a meeting of the full council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website

### **Who are the council's partner authorities?**

For the purpose of this scheme, each of the following is a partner authority:-

- East Sussex Fire and Rescue Service (East Sussex Fire Authority);
- South Downs National Park Authority;
- East Sussex Police;
- a chief officer of police;

- a joint waste authority;
- The South East England Development Agency (SEEDA);
- National Health Services for Brighton & Hove;
- Surrey and Sussex Probation Trust;
- South Downs National Health Service Trust;
- the Arts Council of England;
- the English Sports Council;
- the Environment Agency;
- the Health and Safety Executive;
- the Historic Buildings and Monuments Commission;
- the Learning and Skills Council for England;
- the Museums, Libraries and Archives Council;
- Natural England;
- the Secretary of State, in relation to functions which he carries out —
  - for securing local employment under section 2 of the Employment and Training Act 1973; and
  - as highway and traffic authority for trunk roads (such as the A27 Brighton bypass) and special roads.

### **Who can be called to account?**

The senior officers who may be called to give evidence in response to a petition are -

- Chief Executive;
- Strategic Director of Resources;
- Strategic Director of People;
- Strategic Director Place;
- Strategic Director of Communities;
- Director of Finance; and
- (if not one of the above) the officers appointed as Directors of adult social services and of children's services

## Help and advice

If you need any help or advice about petitions, please contact Democratic Services, Brighton & Hove City Council, King's House, Grand Avenue, Hove, East Sussex BN3 2LS, phone 01273-291006, e-mail [mark.wall@brighton-hove.gov.uk](mailto:mark.wall@brighton-hove.gov.uk)

## Alternative formats and languages

If you would like this information published by Brighton & Hove Council in large print, braille, audio tape, in pictures and symbols, or in a community language please call Democratic Services on 01273 291006.

**Translation? Tick this box and take to any council office.**

ترجمة؟ ضع علامة في المربع وخذها إلى مكتب البلدية. Arabic

অনুবাদ? বক্সে টিক চিহ্ন দিয়ে কাউন্সিল অফিসে নিয়ে যান। Bengali

需要翻譯? 請在這方格內加剔, 並送回任何市議會的辦事處。Cantonese

ترجمه؟ لطفاً این مربع را علامتگذاری نموده و آن را به هر یک از دفاتر شهرداری ارائه نمایید. Farsi

Traduction? Veuillez cocher la case et apporter au council. French

需要翻译? 请在这方格内划勾, 并送回任何市议会的办事处。Mandarin

Tłumaczenie? Zaznacz to okienko i zwróć do któregoś z biura samorządu lokalnego (council office). Polish

Tradução? Coloque um visto na quadrícula e leve a uma qualquer repartição de poder local (council office). Portuguese

Tercümesi için kareyi işaretleyiniz ve bir semt belediye burosuna veriniz Turkish

other (please state)

**This can also be made available in large print, Braille, or on CD or audio tape**

### DESIGN PRINCIPLES

In developing the constitution, the Council will be guided by the following principles

#### 1. **Openness and Transparency**

Anyone who has dealings with the Council should be able to understand easily who is responsible for decisions and how best to make representations to the decision-maker. Subject to any legal requirements, decisions at Member level will always be taken in public.

#### 2. **Accountability**

The new constitution will include arrangements enabling people to find out about decisions which have been taken and for those decisions to be scrutinised by Members who did not take part in the decision. There will also be the opportunity to ask questions and a facility to complain about failure in services or Member conduct.

#### 3. **Efficiency**

The arrangements for decision-making will ensure the capability for decisions to be made quickly in response to changing circumstances and the developing needs and aspirations of local communities. The arrangements will seek to keep the number of decision-making bodies and meetings to the minimum necessary consistent with the need to make decisions quickly.

#### 4. **Soundness**

The constitution will comply with all legal requirements, including the Local Government Act 1972, the Human Rights Act 2000, the Localism Act 2011 and all other relevant laws and statutory guidance as well as reflecting good practice.

#### 5. **Affordability**

A decision-making system based on committees requires more resources to service the meetings than is the case in an executive system. However, by using every available opportunity to streamline decision-making, use available technology optimising the officer arrangements, it is intended to contain the cost of running the new system within existing resources.

#### 6. **The third way**

Although technically a “committee system” under the Local Government Act 1972, the new constitution will, in practice, retain the best parts of the executive system that are consistent with the legal framework (such as the forward plan, scrutiny etc.) This coupled with other initiatives referred to under 7 below, will make it look and feel different from the traditional committee or executive system. It will not be a simple “going back.” It will be moving forward.

## **7. Forward Looking**

Opportunities will be identified and offered to use all available technology and modern ways of working to make the decision-making process and the democratic engagement one of the best e-enabled and customer-friendly ones in the country. Over a period of time, we will consider extending web-casting, electronic agendas, “virtual meetings,” electronic voting, public question and answer sessions on issues of city-wide importance. These will be subject to consultation with Members, resource implications and feasibility studies. This is intended to help Members and the public to access documents easily and avoid over-dependence on bulky paperwork as well as reducing costs.



### Working Assumptions

#### 1. No Shared Administration

It is assumed that there will be no formal or informal coalition or shared administration. There are therefore no suggested processes to reflect such arrangements.

#### 2. Leader and Deputy Leaders

Council will have a Leader appointed by full Council. Failing such appointment, the Leader of the Political Group with the largest number of seats will be the Leader of the Council. The Council may appoint up to two Deputy Leaders.

#### 3. Full Council

In addition to matters that are reserved to full Council by law, all matters reserved to full Council under existing arrangements will continue to be so reserved.

Except in exceptional circumstances defined by the constitution, full Council will not normally reverse decisions taken by a Committee under delegated powers

#### 4. Policy & Resources Committee

In addition to matters specifically delegated to it, P&R will have the following functions:

- To act as a general purposes committee
- To deal with all matters which, in the opinion of the [Chief Executive/Monitoring Officer/Director of Finance] have corporate policy or corporate budgetary implications. Such power shall operate concurrently with, and not to the exclusion of, the committee which has delegated powers in relation to the function.
- To act as the personnel committee for policy purposes

#### 5. Public Health

It is proposed that public health issues are dealt with by the Health and Wellbeing Board, the Adult Social Care and Health and the Children and Young People Committees as appropriate. Until the legal transfer of the public health function to the Council on 1<sup>st</sup> April 2013, the public health role will be focussed on preparation and making transitional arrangements.

## **6. JCB and CYPTB**

It is proposed to review the need for these subject to ensuring that any matters requiring decision under the section 75 arrangements can be dealt with and there is support from health partners.

## **7. Governance Functions**

It is proposed to abolish the Governance Committee and transfer its functions to the Policy & Resources Committee. It serves a useful purpose in a Cabinet System to deal with any non-executive functions outside planning and licensing, especially in a Council with no overall control. This becomes unnecessary in a non-executive system as there will be a cross party P&R Committee which can undertake these functions.

## **8. Environment and Economic Development**

It is proposed to retain the current functional areas, one concentrating on transport and public space and another on Environment and sustainability. The functions currently comprised in the Cabinet Member for PEER regarding Economic Regeneration, major projects etc will form part of the new Economic Development and Culture Committee.

## **9. Audit and Standards**

Given the workload of the existing two committees, it is proposed to merge them into one committee, but keep a Standards hearing panel with sub-committee status to hear complaints against Members. The Hearing Panel would be chaired by an Independent Member.

## **10. Overview & Scrutiny**

It is proposed to keep two Overview & Scrutiny Committees, which will commission scrutiny by setting up task and finish policy or scrutiny panels or undertake scrutiny work themselves. The overview and Scrutiny Committee will be the statutory Crime & Disorder Committee, Flood Risk as well as HO&SC. Call-in will be retained with a requirement to have the support of at least 5 members from at least two political groups.

The proposals do not affect the establishment of a tenant Scrutiny panel which would not operate as a formal committee of the Council.

## **11. Neighbourhood Councils**

It is assumed that, as and when established, these will be overseen by P&R with decisions being taken using officer delegated powers.

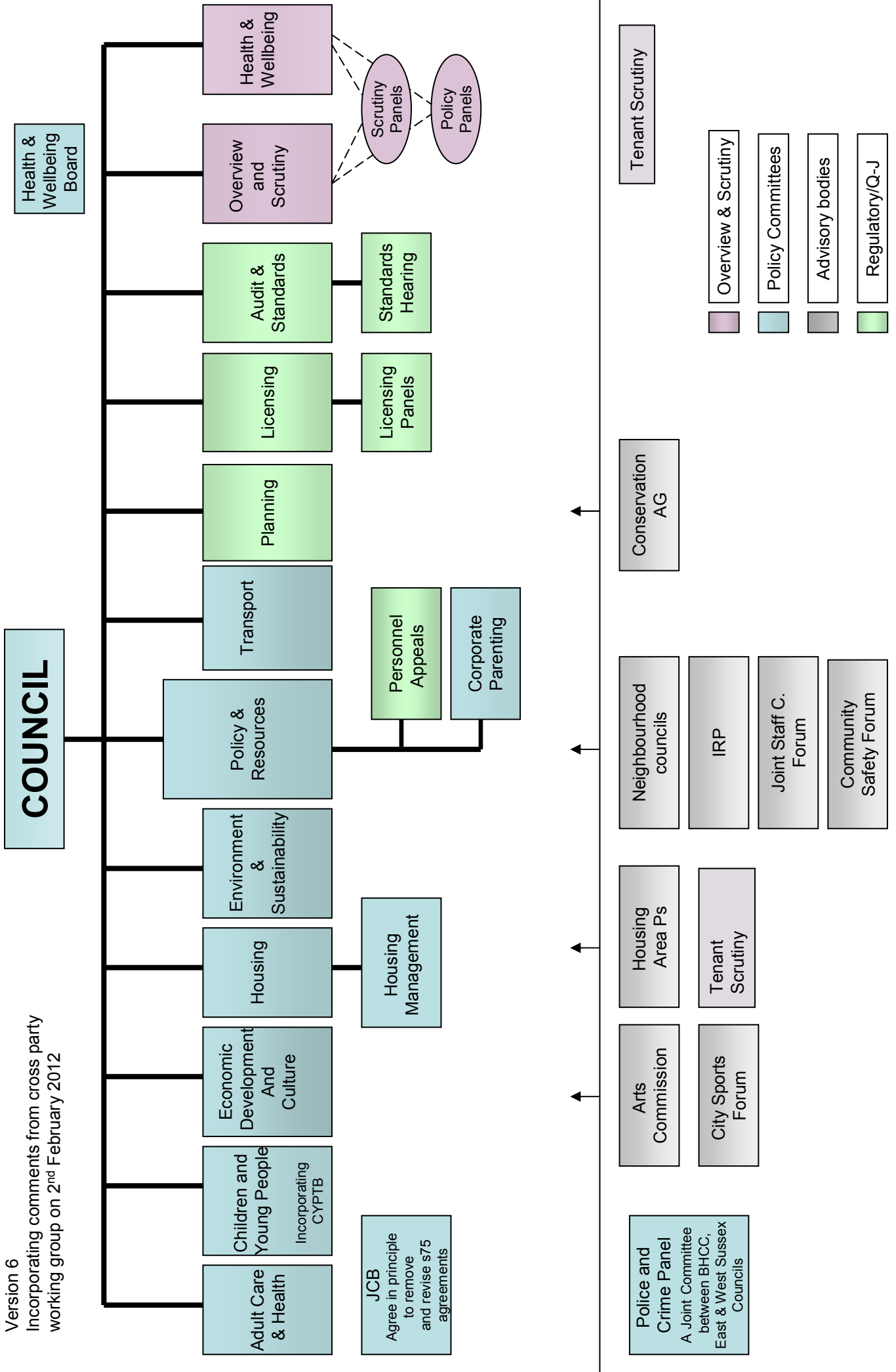
## **12. Procedures and processes**

The presumption is that contract and financial standing orders, rules of procedure and other technical rules will be retained by making them fit for a committee system without changing any of the substantive powers or thresholds or affecting the need to seek member level approval.



Appendix 4

Version 6  
 Incorporating comments from cross party  
 working group on 2<sup>nd</sup> February 2012





## CHANGES TO OFFICER DELEGATIONS

### 1. Drafting assumptions

The drafting of the scheme of delegations assumes, where possible, no change to the level of delegations to Officers. Any changes to the Senior Officer arrangements will need to be reflected in the scheme of delegations when agreed. For the purpose of this exercise, it is assumed that the officer arrangements, with the exceptions set out under 2 below, remain essentially the same.

### 2. Substantive Changes

There are only two significant changes to the scheme of delegations to officers:

- (a) **Property:** the power to acquire and disposal of land within officer delegation limits will be transferred from Service Managers to the Strategic Director: Resources to implement the corporate landlord initiative and to mirror the arrangements at committee level whereby the acquisition and disposal of land is reserved to the Policy & Resources Committee. The management functions will remain with the service manager. There will be some exceptions to this relating to right to buy and short leases and other housing related acquisitions and disposals which are all exempt from this. It is proposed that the Chief Executive is give authority to make transitional arrangements where necessary
  
- (b) **Hackney Carriage fares:** under the executive system the setting of hackney carriage fares was an executive function. Because the Council wanted this, as far as possible, to remain with the Licensing Committee, the Strategic Director: Place, was granted delegated powers exercisable after consulting the Licensing Committee and in accordance with the recommendations of the Committee. If the Officer disagreed with the recommendation, the matter was referred to the Cabinet Member for Environment. This meant the Licensing Committee was, de facto, the decision-making committee. As there is no need for this circuitous route in a committee system, the power will be given to the Licensing Committee and removed from Officers.

### 3. No other changes

With the exception of those mentioned above, there are no other substantive changes. All the other changes are simply to make Officer Delegations reflect the

committee system (i.e. make them committee-fit.) For example, references to the need to consult a cabinet Member are replaced by the need to consult the relevant Committee Chair. Everything currently requiring member approval will continue to require member approval and everything that can be decided at Officer level will continue to be so.



Brighton & Hove City Council		Possible Allocations for Annual Council			
	No. Members 54	Green 23	Conservative 18	Labour 13	54
	No. Seats to be Allocated	Allocation Split			Co-optees
	<b>139</b>	<b>59</b>	<b>46</b>	<b>34</b>	<b>139</b>
1	Policy & Resources Committee	10	3	2	10
2	Licensing (Non 2003) Committee	15	5	4	15
3	Planning Committee	12	4	3	12 *2
4	Adult Social Care & Health	10	3	3	10
5	Children & Young People	10	3	3	10 **11
6	Economic Development & Culture	10	4	2	10
7	Housing	10	3	2	10
8	Environment & Sustainability	10	3	2	10
9	Transport	10	3	2	10
10	Audit & Standards Committee	8	3	2	8 ***2
11	O&SC	10	3	3	10
12	Health & Wellbeing OSC	8	3	2	8 ****6
13	Housing Management Consultative Sub	8	3	2	8
14	Corporate Parenting Sub	5	2	1	5 Up to 4
15	Personnel Appeals Sub	3	1	1	3
	<b>Proposed breakdown</b>	<b>59</b>	<b>46</b>	<b>34</b>	<b>139</b>

\*Planning currently has a co-opted CAAG member and it is proposed to include a co-opted member from the Federation of Disabled People

\*\* CYPTB currently has 17 co-optees and the proposal is to rationalise this to 11 under the new Committee

\*\*\*Audit & Standards will have 5 co-optees during the transition period

\*\*\*\* 3 non-voting co-optees are proposed on the HWB OSC and 3 voting education reps where these are required by legislation

<b>Overall Allocations</b>	<b>Green</b>	<b>Con</b>	<b>Lab</b>	
	139	46.33	33.46	
Rounded up	59	46	34	80
Percentage split on Council	42.59%	33.33%	24.07%	99.99%
Percentage split of Seats	42.44%	33.09%	24.46%	99.99%
<b>Bodies not included</b>				
		<b>Conservative</b>	<b>Labour</b>	
Health & Wellbeing Board	7	2	2	7
Licensing 2003 (Act)*	15	5	4	15
Licensing Panels	3	1	1	3
Community Safety Forum	10	3	3	10
Urgency Committees	3	1	1	3
		<b>Green Allocation Split</b>		

## PROTOCOL ON CO-OPTION

### Meaning of “Co-optee”

The expression co-optee is used to describe members of committees, sub-committees or panels who are not Councillors or Officers.

### Role of Co-optees

The Council recognises the valuable input and different perspective they bring into the Council's decision-making process. Their role depends in what capacity they are appointed, which could be as representatives of an organisation of an interest group or they may be co-opted for their expertise or experience.

Co-optees role is to complementing, rather than replace, the role of elected Members who remain accountable to the electorate and are ultimately responsible for decision making.

### Presumption on co-option

The usual presumption is that all committees, sub-committees will consist of Councillors. The co-option of non-councillors into committees or panels would normally be limited to cases where:

- (a) there is a statutory requirement to co-opt non-councillors (for example Standards Committee or the scrutiny of education)
- (b) where the Council sets a scrutiny or policy panel and the committee that sets it up considers that a co-optee or co-optees would bring some expertise or experience that would enhance the deliberations of the panel.
- (c) in exceptional cases where the unique nature of the function of the committee or body makes co-option desirable (for example the Corporate Parenting Sub-Committee)

### Expenses

Co-optees would normally be paid only disbursements or out of pocket expenses. With some exceptions set out in the scheme for members' allowances, no co-optee will be paid an allowance.

### Voting

Co-optees have no voting rights except where this is granted by law (such as church representatives in the scrutiny committee dealing with education or the independent member/s of the standards committee).

### Invitees

Where co-option is not appropriate, the Chair of the relevant committee, sub-committee or panel may, at his/her discretion, invite non-councillors to attend a meeting and speak. Such invitation may, in exceptional cases, be a standing invitation, but no standing invitation with speaking rights shall be granted.

No invitee has speaking or voting rights and, unlike a co-optee, they are not members of the committee or body. This means they have to leave the meeting when exempt business is transacted.

**Further advice and guidance**

This protocol is intended by way of a general basic information. Should anyone need more detailed or specific advice, you may contact The Monitoring Officer or Head of Democratic Services on 291500 or 291006 respectively.