

Council6th April 2017**Agenda Item 96**

Brighton & Hove City Council

Subject:	Review of the Constitution – February 2017– Extract from the proceedings of the Policy, Resources & Growth Committee meeting held on the 9th February 2017		
Date of Meeting:	6 April 2017		
Report of:	Executive Lead for Strategy, Governance & Law		
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Wards Affected:	All		

FOR GENERAL RELEASE***Action Required of Council:***

To receive the item referred from the Policy, Resources & Growth Committee for decision:

- (1) That the Committee approves the recommendations set out at paragraphs 3.20 and 3.21 (Scheme of Delegations, including to Field Officers) and notes the information at paragraphs 3.8 and 3.9 (Officer Employment Procedure Rules).
- (2) That the Committee recommends to full Council the proposed changes to the Council's constitution as set out at paragraphs 3.2 to 3.19 in the report and Appendices 1-3 (together with the amendment to paragraph 2(c) in Appendix 3)
- (3) That the Chief Executive and Monitoring Officer be authorised to take all steps necessary or incidental to the implementation of the changes agreed by the Committee or Full Council and that the Monitoring Officer be authorised to amend and re-publish the Council's constitutional documents to incorporate the changes.
- (4) That, subject to resolution (5) below, the changes comes into force immediately following approval by PR&G and full Council.
- (5) That the changes referred to in paragraph 3.6 (limiting the time for debates on reports for information) come into force following annual Council and that the changes referred to in paragraphs 3.19 to 3.23 (delegations regarding field offices) come into force as soon as the field officers are appointed.

Recommendation:

That the proposed changes to the Council's constitution recommended in resolution (2) above be approved and adopted.

Paragraphs 3.2 to 3.19 of the report:

Audit and Standards Committee

- 3.2 Revised terms of reference have been agreed by the Audit and Standards Committee Working Group, which met at the direction of the Audit and Standards Committee in November 2016.
- 3.3 The proposed new terms of reference are attached at Appendix 1 with tracked changes. The changes update the current terms of reference and bring them in line with current best practice in this area.

Council Procedure Rules

- 3.4 Amendments to committee reports are required to be submitted before 10am on the date of committee. Officers have raised concerns about substantive and complex amendments requiring legal and financial advice being submitted close to or after the deadline. This creates issues for the committee in being able to consider an amendment if the relevant financial or legal implications are not available.
- 3.5 In addition, where members seek to move oral amendments, this can make the proposals difficult to follow. It is therefore recommended that express provision be inserted into the Council Procedure Rules requiring the proposer to provide written copies of any late amendments. The proposed additional wording is shown at Appendix 2 with tracked changes.

Council meetings

- 3.6 The CWG considered a number of proposals regarding the timing and efficient running of Council meetings. The CWG supported the proposal to introduce a time limit of 15 minutes on the time allowed for consideration of reports for information (as opposed to decision) at full Council from the start of the next municipal year.
- 3.7 CWG noted the need to secure collaboration between the Groups, as well as the desire to ensure that Council meetings were more evenly spread throughout the year.

Review of the Officer Employment Procedure Rules

- 3.8 The terms and conditions of service for the Chief Executive are laid down by the Joint Negotiating Committee (JNC) for Chief Executives of Local Authorities. With effect from 13 October 2016, a new model procedure for dealing with disciplinary matters became part of the Chief Executive's conditions of service.

- 3.9 As a result of these changes, it is necessary to review the Officer Employment Procedure Rules at Part 7.6 to ensure that disciplinary matters relating to the Chief Executive will be undertaken in accordance with the JNC model procedure. Policy, Resources & Growth Committee is asked to note that the Officer Employment Procedure Rules will be reviewed to ensure that they comply with legislative requirements and with the JNC Terms and Conditions of Service.

Budget and Policy Framework

- 3.10 Where a decision of committee has consequences for the Council's ability to manage within the budget it has allocated, there is currently no requirement that the relevant decision include specific detail setting out how the budget deficit will be met.
- 3.11 It is proposed that this be remedied by specifying a requirement that any committee making a decision which creates a financial commitment on the Council that sits outside the agreed budget and policy framework shall specify the detail of how the relevant commitment will be funded. Any alternative proposal must also be consistent with virement rules set out in the Council's Financial Regulations.
- 3.12 It is proposed that the additional wording set out at Appendix Three be included in the Scheme of Delegations to Committees and Sub-Committees and the Budget and Policy Framework Part 7.2.

Proposal to remove the requirement to consult a valuer before officers exercise their authority to enter into leases

- 3.13 In April 2009, the Cabinet Member for Housing authorised the Council to lease accommodation for up to 10 years for the purposes of providing long term temporary accommodation for households who were homeless, including those who ASC and Children's services had a duty to provide accommodation for.
- 3.14 Authority to negotiate the final heads of Terms with each landlord was delegated to the Director ASC & Housing in consultation with the Council's Valuer (as well as the Head of Law and Finance and Property). However, this process is prone to cause delay.
- 3.15 Both Housing and Property & Design agree that the expertise in relation to appropriate valuation of leases for temporary accommodation rests with the Housing Service.
- 3.16 It is proposed that the requirement relating to consulting the Council's Valuer before officers exercise their authority to enter into leases for up to 10 years is removed. It is recommended that authority be given to amend the Constitution in these terms subject to the following assurances:-
- The lease templates used are agreed by Legal Services;
 - The leases are sealed by Legal Services at completion;

- Internal Audit review a sample of the leases twice per year;
- The proposed rent is signed off by the Acquisitions Manager and the payments signed off by the Head of Temporary Accommodation & Allocations.

Incorporation of PREVENT duty to Schemes of Delegation

- 3.17 It is proposed to incorporate reference to the PREVENT duty for local authorities to the Scheme of Delegation to Committees and Sub-Committees (Neighbourhoods, Communities and Equalities Committee) and the Scheme of Delegations to Officers (Executive Director Neighbourhoods, Communities and Housing). This duty was introduced by s26 of the Counter Terrorism and Security Act 2015 and it requires local authorities, in the exercise of their functions, to have 'due regard to the need to prevent people from being drawn into terrorism'.

Changes to the NCE Committee

- 3.18 The CWG proposed that the name of the Neighbourhoods, Communities and Equalities Committee be amended to include the word 'Inclusion' so that the Committee would be named the Neighbourhoods, Inclusion, Communities and Equalities Committee (NICE).

Scheme of Delegations to Officers, including Field Officer delegations

- 3.19 It is proposed that new 'Field Officer' posts be created to carry out enforcement and inspection activities across the full range of Council functions. This will enable officer resources to be maximised so as to increase overall effectiveness.

Revised paragraph 2(c) in appendix 3:

- (c) Where any Committee or Sub-Committee, subsequent to approval of the budget at Budget Council, intends to make a change which creates a financial commitment (including removal or deferral of approved savings) which is not provided for within the approved budget and policy framework set by full Council, the Committee shall identify from which funds the relevant commitment shall be met, **or alternatively, propose other savings measures for consideration by Policy, Resources & Growth Committee.** Any such proposals must be consistent with virement rules set out in the Council's Financial Regulations.

BRIGHTON & HOVE CITY COUNCIL

POLICY, RESOURCES & GROWTH COMMITTEE

4.00pm 9 FEBRUARY 2017
COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Morgan (Chair), Hamilton (Deputy Chair), G Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Chapman, Janio, Mitchell, A Norman, Sykes and Wealls.

PART ONE**129 REVIEW OF THE CONSTITUTION**

- 129.1 The Committee considered a report of the Executive Lead Officer for Strategy, Governance & Law in relation to Review of the Constitution. The report proposed changes to the Council's Constitution for approval by the Committee and Council. The issues set out in the report had been considered by the cross party Constitutional Working Group and Leaders Group.
- 129.2 Councillor G. Theobald expressed his concern in relation to paragraph 3.11 in the report which required any Committee making a decision outside the budget policy framework to specify how this would be done – he was concerned this could obstruct elected Members being able to propose amendments at Committees. Officers confirmed that any Member would be well within their rights to ask Officers to assist in finding this information; the responsibility would be with the Committee to ensure the funding was costed to prevent unfunded commitments.
- 129.3 In response to Councillor Sykes it was confirmed that whilst Budget Council made resourcing decisions these could be changed by service Committees within their agreed virement, if a decision was outside the budget 'envelope' this decision would have to be referred to the Policy, Resources & Growth Committee as it had the power to make such budget decisions.
- 129.4 Councillor Janio proposed an amendment to Appendix Three, paragraph 2(c) to insert the words shown below in italics, and read:
- (c) Where any Committee or Sub-Committee, subsequent to approval of the budget at Budget Council, intends to make a change which creates a financial commitment (including removal or deferral of approved savings) which is not provided for within the approved budget and policy framework set by full Council, the Committee shall identify from which funds the relevant commitment shall be met, **or alternatively, propose other savings measures for *consideration by Policy, Resources & Growth Committee***. Any such proposals must be consistent with virement rules set out in the Council's Financial Regulations.

- 129.5 Councillor G. Theobald formally seconded amendment, and this was then put to the vote and **carried**.
- 129.6 Councillor A. Norman highlighted the proposed changes to the Audit & Standards Committee's terms of reference; the changes had come from a self-review looking at three main areas: playing a more effective role to create a control environment; supporting greater help from Members and creating more flexible means to focus on issues. All Members on the Committee and the Independent Persons had worked to achieve the aims which had led to more detailed reviews, more training and more internal meetings. Part of this work had been to review the terms of reference to ensure that the Committee acted as a critical friend to the Council, and make it clear that the Committee had a special role to secure value for money by explicitly stating this.
- 129.7 In response to Councillor G. Theobald it was explained that the currently agreed standards framework was considered to be the minimum that was legally required. The Council was obliged to have arrangements for dealing with complaints, this had to have a degree of objectivity and have independent persons. The Council had reduced the committee burden by combining the work with that of the committee audit functions, whilst most authorities still had a standalone standards committee. It was the view of the Monitoring Officer that it would be difficult to minimise the regime further.
- 129.8 The Chair then put the amended recommendations to the vote. These were **carried** with 6 in support and 4 against.
- 129.9 **RESOLVED:**
- (1) That the Committee approves the recommendations set out at paragraphs 3.20 and 3.21 (Scheme of Delegations, including to Field Officers) and notes the information at paragraphs 3.8 and 3.9 (Officer Employment Procedure Rules).
 - (2) That the Committee recommends to full Council the proposed changes to the Council's constitution as set out at paragraphs 3.2 to 3.19 in the report and Appendices 1-3 (together with the amendment to paragraph 2(c) in Appendix 3)
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- 129.10 **RESOLVED TO RECOMMEND:** That the proposed changes to the Council's constitution recommended in resolution (2) above be approved and adopted.