

Council2nd November 2017**Agenda Item 38**

Brighton & Hove City Council

Subject: Review of the Constitution October 2017

Extract from the proceedings of the Policy, Resources & Growth Committee Meeting held on the 12 October 2017

Date of Meeting: 2 November 2017**Report of:** Executive Lead for Strategy, Governance & Law**Contact Officer:** Name: **John Peel** Tel: 29-1058E-mail: john.peel@brighton-hove.gov.uk**Wards Affected:** All**FOR GENERAL RELEASE*****Action Required of the Full Council:***

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

Recommendation:

That the Policy, Resources & Growth Committee recommends to full Council the proposed changes to the Council's constitution as set out at paragraphs 3.12 to 3.19 in the report and Appendices 4-6 as amended.

BRIGHTON & HOVE CITY COUNCIL
POLICY, RESOURCES & GROWTH COMMITTEE

4.00pm 12 OCTOBER 2017

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillor Morgan (Chair), Councillor Hamilton (Deputy Chair), Janio (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Bell, Mitchell, Peltzer Dunn, Sykes, Wealls and Yates.

PART ONE

47 REVIEW OF THE CONSTITUTION - OCTOBER 2017

- 47.1 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 (CWG).
- 47.2 Referring to page 140 of the agenda, Councillor Wealls noted that social impact bonds were wide ranging and therefore covered several directorates and he was concerned that the mechanism might not work in practice if delegated to the Neighbourhoods, Inclusion Communities & Equalities (NICE) Committee alone.
- 47.3 The Executive Lead Officer, Strategy, Governance & Law replied that it was intended that social impact bonds would operate within the remit of the NICE Committee. If it was found that this caused constraint in practice, the issue could be revisited.
- 47.4 Councillor Wealls enquired whether the paragraph should be amended to reflect a broader operation.
- 47.5 The Executive Lead Officer, Strategy, Governance & Law stated that the existing wording was likely to be sufficient in his view and officers could work to that understanding in practice.
- 47.6 Referring to paragraph 3.6, Councillor Sykes stated that the issue of delegation to officers in relation to property transaction thresholds had not been discussed by the Policy Panel. Furthermore, the Terms of Reference for the Asset Management Board (AMB) included a section to continually consider that delegated threshold.
- 47.7 The Executive Lead Officer, Strategy, Governance & Law stated that the CWG was of the view that the threshold should not change and apologised if the view of the AMB had

been misrepresented. In the event that the AMB did want to vary the threshold, that could be considered by this committee.

- 47.8 Councillor Mitchell stated that as Chair of the Policy Review Panel, she understood there had been discussion but no firm view or decision made on delegated thresholds and the Panel had left it to the AMB to consider.
- 47.9 The Executive Lead Officer, Strategy, Governance & Law stated that the issue would be resubmitted to the CWG to consider.
- 47.10 Councillor Mac Cafferty stated that whilst he acknowledged that there had been consultation with the CWG and Leaders Group on amendments to the constitution, this was now the third or fourth time the committee had considered a review and that he felt a public consultation was necessary in order to prevent the council's rules and procedures becoming self-referential. Furthermore, Councillor Mac Cafferty believed it unreasonable that the recent LGA Peer Review had been continually referenced when it was not in the public domain and the findings had not been considered and all references to the Review should be excluded from reports until that had occurred.
- 47.11 The Executive Lead Officer, Strategy, Governance & Law stated that many of the changes to the Constitution related to the internal workings of the council and on that basis, it was not considered an appropriate use of resources to undertake a public consultation. In relation to the LGA Peer Review, the Executive Lead Officer, Strategy, Governance & Law clarified that this was not a confidential report and could be accessed under a Freedom of Information (FOI) request. An assessment on how to progress the findings was currently being undertaken.
- 47.12 Councillor Mac Cafferty stated that minor textual amendments over a period of three to four years could lead to major changes as a net effect and he hoped the CWG would consider public consultation in the future. The Executive Lead Officer, Strategy, Governance & Law agreed to raise this with the Constitutional Working Group.
- 47.13 Referring to paragraph 3.10 and page 133 of the report, that considered whether a councillor could request an application be considered by Planning Committee, Councillor Peltzer Dunn noted that he had often received requests from residents that applications be considered by committee on the basis of fulfilling democratic duty and not leaving the decision to delegated officer powers. Councillor Peltzer Dunn stated that the proposals would make that process much more difficult firstly because the councillor would be asked whether they were in support or opposed the application when often councillors might seek to be ambivalent about the application. Furthermore, Councillor Peltzer Dunn noted that section a) Appendix 3 requested of the public objections relating to material planning considerations yet section c) did not make such a request of Members and that appeared unfair.
- 47.14 The Executive Lead Officer, Strategy, Governance & Law noted that there was no proposal to amend section a). In relation to section c), the Executive Lead Officer, Strategy, Governance & Law stated that councillors represented the wider communities that elected them and it was democratic right for Members to articulate their concerns or wishes and on that basis, it was legitimate to give more weight to their views as community representatives. The Executive Lead Officer, Strategy, Governance & Law

noted that there was a difficulty perceived in that a very high number of applications were being referred without explanation to Planning Committee that placed strain on the amount of business it had to transact and was slowing its decision making process. Therefore, it was proposed that when requesting an application be considered by the Committee, Members add a few sentences as to why. The proposal for that to be based on a support or objection to the application was to enable the case officer to decide whether to refer it to the committee as, if the outcome the Member is seeking is the same as the Officer's proposal, it would avoid the need to refer it to committee. The Executive Lead Officer, Strategy, Governance & Law added that a short letter from Members outlining reasons for referring any application to the committee that did not set out support or opposition to the application would, in his view, also be acceptable. The Executive Lead Officer, Strategy, Governance & Law noted that the request to make the proposed changes had come from the cross-party Planning Members Working Group based on their experience and he felt it would be better, if there are any changes, for the proposal to be considered by that Group first.

- 47.15 Councillor Peltzer Dunn thanked the Executive Lead Officer, Strategy, Governance & Law for his assurance that Members could write to ask applications be considered by the Planning Committee without the need to state their view, be that support or opposition. Councillor Peltzer Dunn reiterated that he believed that material planning considerations should also apply to Members.
- 47.16 The Executive Lead Officer, Strategy, Governance & Law replied that the issue would be referred to the cross-party Members Group for their consideration.
- 47.17 Councillor Janio stated his concern that increased delegation was being given the Executive Director, Neighbourhoods, Communities & Housing and there was a risk that the portfolio could become unmanageable. Councillor Janio stated that an amendment should be made to section 6 b) of Appendix 5 to read "To exercise the Council's functions in relation to social impact bonds *delivered by the community and voluntary sector*". Councillor Janio stated that this was to confirm that the NICE Committee could oversee social impact bonds delivered by the community and voluntary sector but not those covering other areas such as health.
- 47.18 The Committee were in agreement with the change.
- 47.19 Councillor Yates noted that paragraph 3.19 and the related Rule 18 in Appendix 6 relating to substitution at meetings did not give any clarity on the formal process for how a substitute was appointed. Councillor Yates relayed several incidents from past meetings in demonstration of why he believed a mechanism was needed.
- 47.20 The Chair then put the recommendations, as amended, to the vote which was agreed.
- 47.21 **RESOLVED:** That the Policy, Resources & Growth Committee approves the recommendations set out at paragraphs 3.2 to 3.11 (Scheme of Officer Delegations) and Appendices 1-3.
- 47.22 **RESOLVED TO RECOMMEND:** That the Policy, Resources & Growth Committee recommends to full Council the proposed changes to the Council's constitution as set out at paragraphs 3.12 to 3.19 in the report and Appendices 4-6 as amended.