

Subject:	Changes to Party-Political Composition of the Council and Constitutional Implications		
Date of Meeting:	23 July 2020		
Report of:	Chief Executive		
Contact Officer:	Name:	Abraham Ghebre-Ghiorghis	Tel: 01273 291500
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Ward(s) affected:	All		

FOR GENERAL RELEASE

By reason of the special circumstances, and in accordance with section 100B(4)(b) of the 1972 Act, the Mayor has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency for the following reason: given the change in the party-political composition of the Council and following discussions between the different political groups it is essential that new arrangements are put in place for the political leadership of the Council to reflect the balance of Member representation in the Council.

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that the report had to be compiled at short notice having regard to matters referred to above.

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 This report proposes changes in the political leadership of the Council (Leader and other positions of special responsibility) to reflect developments over the last few days that resulted in changes to the balance of political party representation in the Council. It proposes the appointment of a new Leader, Deputy Leader, Chairs of Committees and sub-committees and Opposition Spokespersons.

2. RECOMMENDATIONS:

- 2.1 That Council agrees to Appoint Councillor Mac Cafferty as Leader of the Council and Councillors Clare and Shanks as Deputy Leaders of the Council on a job-share basis to replace Councillors Platts and Allcock;
- 2.2. That Councillor Platts be appointed as the Leader of the Official Opposition
- 2.3. That Council notes that the Leaders/Convenors and Deputy Leaders/Convenors of the different Groups remain unchanged.

- 2.4. That Council agrees the appointment of the Chairs, Deputy Chairs and Opposition Spokespersons to the different committees and sub-committees as set out in the Appendix to this report.
- 2.5. Council agrees that the changes set out in paragraphs 2.1 to 2.4 come into force with immediate effect.
- 2.6. That Council agrees, under Council Procedure Rule 1.7, to suspend Council Procedure Rules for this meeting to the extent necessary to enable today's business to be conducted in accordance with the revised arrangements set out in paragraph 7.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 In the last week or so, there have been changes in the party-political composition of the Council. Two previous members of the Labour Group have left the Group. This means the current political composition of the Council is:

Green: 19

Labour: 18

Conservative: 13, and

Independents: 4

- 3.2 Because the change in membership involved Members leaving a political group, rather than forming a new Group or joining another group ("crossing the floor"), there is no mandatory legal requirement to review the allocation of seats in committees. The Council's constitution also provides that, once appointed to positions of responsibility, Members continue in that role until Council makes a different decision. It would therefore be legally and constitutionally possible for the Council to continue with the current arrangements. However, this would not be consistent with general custom and practice of the Council over the years when the largest party formed the administration. It would also not reflect general expectation that the party with a majority of seats in the Council, or has the support of the majority of members, forms the administration.

4. OPTIONS FOR FORMING ADMINISTRATION IN A NO OVERALL CONTROL SITUATION

- 4.1 In the context of local government in authorities running a committee system, the term "administration" is used to describe the Leader, Deputy Leader and the Chairs of Committees (especially the policy committees) supported by a common policy programme. In the event of no political group winning overall majority at the local elections (or there are changes mid-term with the proportion of seats held by each party changing but the Council remaining in no overall control) there are a number of options as to the formation of an administration. The following are some of the political leadership options for running the business of a Council with no overall majority:

Option 1. A minority administration with no agreement

This involves an administration consisting of the largest group in the Council with no agreement or understanding with one or more smaller parties and with every decision being taken on a case by case basis. This option would be difficult to

implement in practice without some degree of express or tacit understanding between the Groups.

Option 2. A minority administration with a protocol or memorandum of understanding

This would involve the largest group forming the administration but with a protocol or memorandum of understanding between that group and one or more of the smaller groups. This is closest to the set up that has been in place for the last couple of administrations.

Option 3. Minority Administration with Confidence and Supply agreement

The concept of confidence and supply is used mainly, but not exclusively, in the context of national government rather than local authorities. In general, it involves one or more of the smaller parties voting with the government or administration on confidence motions and on the budget. They are free to vote on other issues on a case by case basis.

Option 4 Coalition or joint administration

This involves two or more political groups sharing power and with agreed political priorities. Most local authorities in coalition arrangements prefer to describe these arrangements as “joint administration.”

Option 5. An all-party administration

This involves an arrangement where the administration consists of members of all political groups represented in the Council. Its advantage is that it is inclusive, but it also means it may take a great deal of effort to get an agreed programme of policies.

5. A WAY FORWARD

- 5.1. The Chief Executive has had discussions with the three Group Leaders in the Council. A proposal for a shared administration was explored but no agreement was reached for today’s meeting. There is an expectation that this will be explored further, and the Group Leaders have indicated that they will continue to work together in the best interests of the city. Based on Officers’ assessment of the situation and the feedback we have had from the different groups, it is Officers’ view that the best way forward would seem to be for the Green Group, as the largest Group within the Council, to form the administration and the Labour Group to become the Official opposition. This would be consistent with the custom and practice in Brighton & Hove whereby the largest party forms the administration. There was one occasion, before the last local elections, when this did not happen partly because of the proximity of the changes to the local elections.
- 5.2 The formation of a new minority administration will be underpinned by the No Overall Control Protocol agreed between the Groups following the last local elections and which will continue in force. This includes arrangements (such as Leaders Group, pre-committee briefings, access to information and press protocol) to enable a smooth running of the Council’s business.

- 5.3 The change of administration involves appointing a new leader and new chairs of the different committees and sub-committees. The appointment of the Leader must be done at full Council. Under the Council's constitution, if there is a vacancy and full Council fails to appoint a Leader, the leader of the largest group in the council becomes the leader. The appointment of Chairs of Committees is also done at Council. If full Council fails to appoint a Chair, the relevant committee itself can appoint a Chair at its next meeting. Given the need for elected member leadership, and to avoid a gap being created, it is proposed that these appointments take place today and come into force with immediate effect.

6. PROPOSED APPOINTMENTS

- 6.1 Having regard to the principles set out above, it is proposed that the following changes are introduced:
- a. **Leader and Chairs:** It is proposed the Leader, Deputy Leader and Chairs and Deputy Chairs for each of the Committees and Sub-Committees in the Council are appointed from Members proposed by the Green Group as set out in the appendix to this report
 - b. **Official Opposition:** It is proposed that the Labour Group form the official opposition with the Leader of the Labour Group as the Leader of the Official Opposition and with the persons named in the appendix as the Official Opposition spokespersons and opposition spokespersons for the relevant committees and sub-committees of the Council.
 - d. **Audit & HOSC:** By way of an exception to what is mentioned in a and b above, it is proposed that the Chairs of Audit & Standards Committee and the Health Overview & Scrutiny Committee be Members nominated by the Labour Group. This is in line with convention where the Chairs of those two committees come from the official opposition.

7. PROPOSALS FOR RUNNING THE BUSINESS OF THE COUNCIL TODAY

- 7.1 The business of the Council, as contained in the published agenda for today's meeting, was put together before the developments in the last week regarding changes in the political composition of the Council and the resulting changes in administration. The Council's business is organised on the assumption that the Leader of the Council and Chairs of Committees answer Member and public questions, respond to petitions and deputations. The Officer briefings and draft answers would have been prepared with the outgoing Chairs in mind. Given that the new Leader and Chairs will have been in position only for a few minutes, it would put them in a difficult position. It is therefore proposed to run the Council meeting today with the proposed modifications set out below.
- a. **Report to Council:** An urgency report (this report), prepared by the Chief Executive, is added to the agenda with the agreement of the Mayor. It will be the first substantive business to be done at Council following Mayor's Communications.

- b. **Written questions from Members of the public:** Given that the new Leader and Chairs of Committees will have been in their post for a short time, it would not be practicable to deal with public questions in a meaningful way. The person submitting the question will therefore be given the option of presenting the question at a future special council meeting or receiving a written reply from the new Chair after the meeting.
- c. **Deputation:** For the same reason as per public questions, persons presenting a deputation will have the option of their deputation being heard and referred to the relevant committee without a response or deferred until the next meeting;
- d. **Petitions to be handed in:** the presentation of petitions that are not for debate (just to be handed in) will be dealt with as usual with the petitioners presenting the petition and the Mayor thanking them and the petition being referred to the relevant committee.
- e. **Petitions for debate:** it is proposed that these are deferred to a special council meeting to be arranged as soon as possible. The provisional dates we are looking at are the 6th or 13th August. This will be confirmed as soon as we have had feedback from the different Groups.
- f. **Members' written questions:** Members who submitted a written question will receive a written answer which will have been prepared in advance of the meeting and circulated with the addendum. Written questions and responses are simply noted and not discussed at Council.
- g. **Oral Questions from Members:** given that the new Chairs will have been in position only for a short time, it would not be reasonable to expect them to provide fully considered responses. Members who submitted the questions will therefore be given the option of withdrawing the question or it being added to the business of a special Council meeting to be arranged.
- h. **Reports for approval:** The proposals regarding the Community Infrastructure Levy and the Community Safety Crime Reduction Strategy need to be approved by full Council. It is proposed that they are debated but with speakers limited to 1 from each of the political groups with the Mayor having the discretion to call Independent Members.
- i. **Report for information:** The report regarding the Approach to Ongoing Personal Protective Equipment Expenditure: Update July 2020 has been referred to full Council for information. It is proposed that it should be noted.
- j. **Notices of Motion.** It is proposed that all the notices of motion are deferred to the special meeting of Council, but the movers have the option of withdrawing them.

8. MATTERS TO BE DEALT WITH AT A FUTURE FULL COUNCIL MEETING

- 8.1 Given that there is considerable business already deferred to the next meeting of

full Council before recent developments materialised, and given the additional items for deferral mentioned above, the October meeting of full Council will be either too busy or too late and probably both. It is therefore proposed to call a special meeting of full Council for either the 6th or 13 August.

- 8.2 In addition to the matters referred to above as being deferred, it is proposed that the review of allocation of seats in committees and sub-committees, chairing of Working Groups and appointments to outside bodies are dealt with either at the special meeting or the next ordinary meeting of full Council.

9. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 9.1. The Council has the option of continuing with no changes to the Member leadership arrangements. However, that would not be in line with custom and practice and the expectation that the political leadership reflects the relative size of the different groups unless, of course, 2 or more of the smaller groups form a coalition.
- 9.2. Running the Council business in accordance with the published agenda was considered but, for the reasons set out in the report, it would give rise to practical difficulties. It is therefore proposed to deal with a substantial part of the business at a special meeting to be arranged.

10. COMMUNITY ENGAGEMENT & CONSULTATION

- 10.1. The proposed changes affect the internal processes of the Council. There was, in any event, insufficient time to consult on the changes to political leadership or the order of business, but the individuals who presented questions, deputations and petitions were contacted and given the option of either having their matter considered at the next meeting or, where appropriate, receiving a written response afterwards.

11. CONCLUSION

- 11.1 The proposed way forward is, in the opinion of officers, necessary and proportionate. It provides for an orderly handover of power and ensures that the business of the Council is transacted having regard to the reality in term of the changes to the political composition of the Council and the resulting change in administration.

12.. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 12.1 There are no financial implications arising from the proposals in this report. The scheme for Members' allowances will apply to new members holding positions of special responsibility as it has applied to outgoing ones with no change. There is a small cost (mainly officer time) associated with holding an additional meeting, but that is within the normal budgets for relevant services.

Finance Officer Consulted: Nigel Manvell

Date: 23/07/2020

Legal Implications:

- 12.2 These proposals in the report are consistent with the law and the Council's constitution as discussed in the body of the report.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 23/07/2020

Equalities Implications:

- 12.3 There are no adverse equalities implications arising from the report. The fact that some of the Special Responsibility positions will be filled on a job share basis is a positive development and reflects the recommendations of the report to P&R in December 2019 on Women in Local Government.

Sustainability Implications:

- 12.4 There are no adverse sustainability implication arising from the report.

Brexit Implications:

- 12.5 The report dealing with internal Council processes and managing of the meeting. It does not therefore have any Brexit-related implications.

SUPPORTING DOCUMENTATION

Appendices:

1. List of Appointments

