

Brighton & Hove City Council

Strategy, Finance & City Regeneration Committee

Agenda Item 117

Subject: Proposal for new Governance Arrangements

Date of meeting: 14th March 2024
28th March 2024 (Full Council)

Report of: Executive Director Governance, People & Resources

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 This report sets out a proposal for the Council to formally resolve to change governance arrangements to a leader and cabinet system at annual Council on 16th May 2024. The report describes the key features of the proposed new arrangements, the legislative requirements and the proposed timetable for the change.
- 1.2 The report seeks approval for officers to progress the change of governance arrangements. Approval is also sought to progress consultation proposals in relation to public participation in the Council's decision-making processes. The Council meetings timetable for the Municipal Year 2024/25 is included in the report for approval.

2. Recommendations

That **Strategy, Finance & City Regeneration Committee** recommends that full Council:

- 2.1 Formally resolves to change its governance arrangements by ceasing to operate a committee system and instead operating a leader and cabinet executive system on 16 May 2024, during the annual Council meeting at which it is proposed the new Constitution shall be formally adopted;
- 2.2 Approves the Notice and Summary of Proposals set out in **Appendix 1** and instructs the Executive Director Governance, People & Resources to publish the Notice in accordance with Section 9KC of the Local Government Act 2000;
- 2.3 Notes the planned consultation and engagement as described at paragraphs 3.13-3.17 of the report and **Appendix 3**;

- 2.4 Notes that a new Constitution will be submitted to full Council on 16th May 2024 and, if adopted, will come into force on 16th May 2024.
- 2.5 That **Strategy, Finance & City Regeneration Committee** agrees the meetings timetable for the Municipal Year 2024/25 as set out at **Appendix 2 subject to full Council agreeing to adopt the new Constitution at its annual meeting.**

That **full Council**

- 2.6 Approves the recommendations of the Strategy, Finance & City Regeneration Committee as set out under recommendations 2.1-2.4 above.

3. Context and background information

Introduction

- 3.1 Brighton & Hove City Council currently operates a committee system form of decision making, which has been in place since 2011. This system applies a hierarchical approach to decision making, with full Council as the highest decision making body which delegates powers to committees and officers.
- 3.2 Options for different forms of governance arrangements for councils were introduced by the Local Government Act 2000, as amended by the Localism Act 2011. These are:-
- (i) A committee system
 - (ii) A mayor and cabinet system
 - (iii) A leader and cabinet system.
- 3.3 This report sets out a proposal to change governance arrangements from a committee system to a leader and cabinet system. Under a leader and cabinet system, the Leader appoints up to 9 executive councillors who, together with the Leader, form the Cabinet. The Leader and executive councillors have specified decision making powers vested directly in them, which may be exercised at a Cabinet meeting. The Council retains specific functions in accordance with the law or custom & practice and delegates powers to its Regulatory and Overview & Scrutiny Committees.

Features of a leader and cabinet system & rationale for change

- 3.4 The Council is under a statutory duty to prepare and keep up to date its constitutional arrangements (Section 9P Local Government Act 2000). It is also a requirement of the Council's Constitution that the Constitution is monitored and kept under review.
- 3.5 The Strategy, Finance & City Regeneration Committee has responsibility for reviewing the operation of the Constitution to ensure that its aims and principles are given full effect. This includes requiring the Chief Executive

and the Monitoring Officer to make recommendations for ways the Constitution could be amended in order to better achieve its purpose.

3.6 The objectives of the Council's Constitution are 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 Members 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 supporting the Council to deliver its Corporate Plan 2023-2027.

3.7 Most local authorities in England operate a leader and cabinet system. This system, brought in by the Local Government Act 2000, was designed to strengthen public engagement with local democracy and better support councils to deliver their objectives in a way which is as efficient as possible.

3.8 The key features of a leader and cabinet system include:-

- Full Council appoints the Leader and can remove the Leader by passing a resolution at any time;
- The Leader appoints up to 9 executive councillors and designates their portfolios;
- The Leader and executive councillors together form the Cabinet where 'key decisions' (ie executive decisions which are considered to be significant) are taken;
- All key decisions are required to be published 28 days in advance;
- Overview and scrutiny committees are appointed which meet in public and are designed to hold executive decision makers to account and to undertake in-depth review work;.
- Executive decisions which have been made but not yet implemented may be called-in for review and may be scrutinised by overview and scrutiny committees.

3.9 With the change in Council leadership following the May 2023 local elections, a move to majority control has meant that it is timely to review decision making arrangements against the above objectives to consider the most efficient, effective and streamlined form of governance and the best approach to ensuring transparency and accountability.

3.10 Of the options available (as set out at paragraph 3.2 above), a leader and cabinet system is proposed as a means of achieving:-

- More streamlined and more efficient decision making;
- More accountable decision making;
- A 'One Council' approach;
- More effective public engagement.

3.11 Under a leader and cabinet system, the Cabinet will meet monthly to take key or significant decisions in public. This is more frequent than the current committee cycle and will enable more efficient decision making. It will be clearer to the public where and by whom decisions are taken, because decision making on the most significant decisions will all be taken by the executive at the monthly cabinet meetings. The potential for different committees duplicating work and referring matters between themselves, causing delay, will be removed.

3.12 By bringing all significant decisions together in one place, the Council's ambition to take a 'One Council' approach and to join up services and information systems to make it easier for customers will be delivered.

Consultation and community engagement proposals

3.13 Alongside the adoption of a leader and cabinet system, a new community engagement framework will be launched as described in the Community Engagement report on the agenda for consideration by this Committee. This will provide guidance and tools for officers planning community engagement or consultation. The framework will ensure that council officers approach community engagement consistently and with an appreciation of current good practice.

3.14 Under a leader and cabinet system, the public and elected members will continue to be able to present questions and make representations at council meetings. It is proposed to seek views on the ways the Council can improve public engagement in decision making in addition to existing methods of engagement and to ensure that those form a key part of the new arrangements.

3.15 Before adopting a new system of governance, it is proposed to consult on the ways the arrangements can:-

- Enable more people to get involved with the council decision making process;
- Make council meetings, reporting and decisions more accessible;
- Enable the public to play a bigger part in the work and decision making of the Council;
- Increase the ways in which public engagement can take place to reduce barriers to participation.

3.16 The proposed consultation is set out at **Appendix 3**. The consultation will include suggestions as to new forms of engagement, such as Question Time or 'meet the Cabinet' events, Citizen's Assemblies, Deliberative forums, as

well as other digital and in-person engagement events to help achieve the above objectives.

- 3.17 The findings of the consultation will inform the recommendations that are presented to full Council about changes to the public participation arrangements set out in the Constitution. The feedback will also be used to inform an Equalities Impact Assessment prior to decisions on public participation being made.

Proposed structure for leader and cabinet system

- 3.18 A summary of the proposed arrangements is attached at **Appendix 1**. The summary includes:-

- The proposed policy framework – these are the key plans and strategies that will be approved by full Council;
- A description of the powers that are exercised by full Council, committees and the Executive;
- The proposed arrangements for overview and scrutiny;
- Initial proposals for public engagement;
- The proposed structure and composition of the Council’s regulatory committees, sub committees and other bodies.

- 3.19 It is proposed to establish two standing Overview and Scrutiny Committees, one for People, incorporating Health Overview & Scrutiny, and one for Place. These will be standing committees appointed on a politically proportionate basis. They may also appoint voting and non voting co-optees as required. Arrangements for the oversight of the overview and scrutiny work programme will also be established.

- 3.20 Overview and scrutiny committees are designed to provide a check and balance to executive decision making in a leader and cabinet model of governance. The committees will have power to investigate any matter related to the Council’s functions and to require the Executive to respond.

- 3.21 Overview and scrutiny committees will have the power to consider requests for call-in of executive decisions made but not yet implemented and may refer the decision back to the Executive or full Council if appropriate for reconsideration.

- 3.22 A key purpose of the overview and scrutiny function in a leader and cabinet system is to provide capacity for elected members to undertake in-depth task and finish reviews on an issue where special investigation is required. In such cases, a ‘Task & Finish’ Scrutiny Panel will be appointed by the relevant standing Overview and Scrutiny Committee, with terms of reference for reporting back to the Committee with recommendations, which can be shared with the Executive. Items for investigation can be proposed by any member of the Council. The committees will need to publish an annual work programme to manage the business and programming of resources and it is proposed that there will be no more than one Task and Finish Panel ongoing

in any 6 month period in order to ensure that resources are effectively managed and focused.

Meetings Timetable, Forward Plan and recording Key Decisions

- 3.23 A proposed meetings timetable for a leader and cabinet system for the municipal year 2024/2025 is attached at **Appendix 2** for approval.
- 3.24 Additionally, a Forward Plan of Key Decisions will be published monthly following the adoption of the new arrangements, giving 28 days' notice of key decisions that are proposed to be taken.

Timeline for changes to governance arrangements & legislative requirements

- 3.25 All local authorities are required to prepare and keep up to date a written Constitution, which must include its standing orders (which regulate how it exercises its powers) and its Code of Conduct for Members, as well as any other information it considers appropriate (section 9P of the Local Government Act 2000). Brighton & Hove City Council publishes its Constitution on its website and requires its Monitoring Officer to keep the Constitution under regular review on an ongoing basis to ensure its currency and robustness. It is proposed that the new arrangements will be kept under close review so that all opportunities to enhance effectiveness and efficiency are considered post-implementation.
- 3.26 The legislation which governs changes of governance arrangements by a local authority provides that a change of the type proposed here – to move from a committee system to a leader and cabinet executive system – may not take effect until the first annual meeting after the resolution is made (or such other annual meeting specified in the resolution – Section 9L of the Local Government Act 2000). For this reason, it is proposed that full Council make a resolution on 28th March 2024 to change arrangements. Those changes would not however take effect until annual Council on 16th May 2024, at which time the new Constitution which reflects those arrangements will be adopted. Given the requirement that any changes to governance arrangements come into effect at an annual meeting, no alternative timescales are proposed.
- 3.27 In terms of the potential for further changes after the new arrangements come into effect, once a local authority has passed a resolution to change its governance arrangements then it is prevented from doing so again for the next five years unless a second resolution is approved following a referendum (section 9KC(4), LGA 2000). A referendum can be triggered if at least 5% of local government electors in its area petition the local authority to hold a referendum.
- 3.28 It is a requirement of the legislation that as soon as possible after an authority has resolved to make a change in its governance arrangements, it make available details of the provisions of the new arrangements, and also

publish a notice which states the date on which the change is to have effect and describes the main features of the change. A Notice has been prepared for this purpose and is attached here as Appendix 1.

- 3.29 By law, a council's constitution must contain certain key elements. The detail is set out in the Local Government Act 2000 (Constitutions) (England) Direction 2000 and these requirements will be incorporated into changes proposed to the Council's Constitution, to be considered for approval by full Council at its AGM in May 2024.

Review of Scheme for Members' Allowances

- 3.30 The Council's Members' Allowances Scheme requires review to establish an appropriate Scheme for a leader and cabinet system. Full Council took a decision not to take an inflationary increase to members' allowances in 2022/2023 and 2023/2024 and agreed that a subsequent review would be undertaken. An Independent Remuneration Panel, convened under The Local Authorities (Members' Allowances) (England) Regulations 2003, will meet and make recommendations to full Council in May 2024 as to the responsibilities or duties in respect of which allowances should be available and the amount of those allowances under a leader and cabinet system.

4. Analysis and consideration of alternative options

- 4.1 As set out in this report, Councils have a responsibility to keep their constitutional arrangements under review and a review of the model of governance at Brighton & Hove has not been undertaken since 2011. The Council is not obliged to change its governance arrangements and could choose to maintain a committee system or could seek to implement a mayor and cabinet system.
- 4.2 For the reasons set out in this report, a leader and cabinet system is proposed. Having reviewed decision making arrangements since the new Administration gained a majority of seats on the Council in May 2023, a committee system is not considered to be the most efficient system. A Mayor and cabinet system is an alternative option that works similarly to the leader and cabinet structure, but instead of having a council leader, there is a directly elected mayor. In that model, the mayor is elected by residents of the local authority, as opposed to by other councillors.

5. Community engagement and consultation

- 5.1 An online public consultation is planned in support of these governance changes, seeking views on how best to involve local people in formal council decision-making processes, as well as asking for ideas on more general engagement initiatives, potentially including Citizen Assembly, a refreshed Reimagine Brighton & Hove offering digital and in-person co-production opportunities, meet the Cabinet Question Time sessions etc. The proposed text of the consultation is included as **Appendix 3**.

6. Conclusion

- 6.1 The report recommends adopting a leader and cabinet system in order to increase the efficiency and accountability of decision-making and to ensure that a 'One Council' approach is taken to all decisions that are taken.

7. Financial implications

- 7.1 The proposed move from a Committee system to a Leader and Cabinet system has financial implications across Democratic Services support, Policy, Partnerships & Scrutiny (PPS) support and Members allowances. For Democratic Services and PPS support, the teams will be restructured to support the new arrangements, including overview and scrutiny, and this is expected to be cost neutral on an ongoing basis. However there is a need for additional staffing resources during 2024/25 to facilitate a smooth transition to the new system and this is estimated to cost £0.080m which will be met from holding certain roles vacant within the Governance, People and Resources Directorate and therefore there will be no financial impact overall.
- 7.2 Members allowances will be reviewed by the Independent Remuneration Panel (IRP) and recommendations made to Council for approval. The IRP review for 2024/2025 will be reported in May 2024 following 2 years of freezes. An inflationary uplift overall is included in the 2024/25 budget. Any changes adopted by full Council following the recommendations made by the IRP will be reflected in budget monitoring reports during 2024/25.

Name of finance officer consulted: James Hengeveld Date consulted: 040324

8. Legal implications

- 8.1 Legal implications are contained in the body of the report.

Name of lawyer consulted: Elizabeth Culbert Date consulted 220224

9. Equalities implications

- 9.1 The Council has a public sector equality duty under s149 of the Equality Act 2010. In the exercise of its functions the Council must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act and must advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those that do not.
- 9.2 It is not anticipated that there will be negative impacts to people sharing protected characteristics as a result of the proposals set out in this report. This is because meetings held in public will continue to ensure accessibility arrangements are in place. However, the proposals in this report are at an early stage. The ambition is to increase opportunities for public participation and one area for detailed assessment will be accessibility of information and to meetings for members of the public. Feedback from the proposed

consultation on public participation arrangements will be assessed for equality impacts as part of their development and will be included in the report to full Council in May 2024.

10. Sustainability implications

- 10.1 There are no adverse sustainability implications arising from the proposals. The overall number of committee meetings will be reduced under these proposals, which will impact positively on travel and printing requirements for members, officers and members of the public.

Supporting Documentation

Appendices

1. Statutory Notice and Summary of Proposals
2. Meetings Timetable 2024/2025
3. Consultation Proposal

