

BRIGHTON & HOVE CITY COUNCIL

HOUSING CABINET MEMBER MEETING

4.00pm 26 MAY 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillor Caulfield (Cabinet Member)

Apology: Councillor Simpson (Opposition Spokesperson – Labour)

PART ONE

1. PROCEDURAL BUSINESS

1 (a) Declarations of Interests

1.1 There were none.

1 (b) Exclusion of Press and Public

1.2 In accordance with section 100A of the Local Government Act 1972 (“the Act”), the Cabinet Member 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 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 information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I(1) of the Act).

1.3 **RESOLVED** - That the press and public be not excluded from the meeting.

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the minutes of the Housing Cabinet Member Meeting held on 21 April 2010 be agreed and signed by the Cabinet Member.

3. CABINET MEMBER'S COMMUNICATIONS

Private Rented Sector Letting Agents

3.1 The Cabinet Member referred to the Notice of Motion referred to full Council on 18 March concerning the findings of the national Citizens Advice report “Let Down” on the activities of private rented sector letting agents. It had been agreed at Council that a

cross party working group be set up to look at issues raised and that this group fed back to the Strategic Housing Partnership.

- 3.2 The Head of Housing Strategy and Development was organising dates for the cross party working group and group leaders had been asked to nominate members.

4. ITEMS RESERVED FOR DISCUSSION

- 4.1 **RESOLVED** – All items were reserved for discussion.

5. PETITIONS

- 5.1 There were none.

6. PUBLIC QUESTIONS

- 6.1 The Cabinet Member reported that a public question had been received.

- 6.2 Mary Kirby asked the following question on behalf of Ms Cochrane:

“Given that Parliament Minister for Housing (reference Hansard) commends LEASE Mediation:

Re: matters ADR it states “often develop to the point where recourse is to the law, LVT’s or court a simple resolution is capable much earlier” that is LEASE Mediation. It is: low cost non adversarial aiming to find a mutually satisfactory resolution as long as both leaseholder and local authority are willing. LEASE will advise if the matter is not suitable for its mediation.

- Confidential
- public body funded by government
- highly geared for Local Authority ADR

Will BHCC be promoting and using with equality LEASE Mediation and when?”

- 6.3 The Cabinet Member gave the following response:

“As you are aware, LEASE is the name for the Leasehold Advisory Service. LEASE offers a mediation service, known as the LEASE Mediation Service.

The Council already has a policy of considering alternative dispute resolution, such as mediation, in cases where it has not been possible to resolve a dispute through our three-stage internal dispute procedure. However, the majority of our leaseholder disputes are resolved satisfactorily through the 3-stage internal dispute procedure without the need for recourse to either mediation or the Leasehold Valuation Tribunal (LVT).

In the summer of 2009, Brighton & Hove Council used the LEASE Mediation Service for the first time. This helped to bring a satisfactory resolution to a protracted dispute. This case was the first time that a leaseholder had actively requested mediation.

Our Leaseholder Handbook is aimed at helping council leaseholders understand the rights and responsibilities of both themselves and the council, and provides information on resolving disputes, including the use of mediation. The Leaseholder Handbook clearly states that the council will consider mediation where appropriate.

Our three-stage internal dispute resolution procedure has been praised and recognised as good practice by the Leasehold Valuation Tribunal. The council's policy is to consider mediation in circumstances where resolution to a dispute has not been reached via the internal procedure.

We also actively promote the LEASE mediation service via a link to the Leasehold Advisory Service website from the Council's website. However, in response to recent enquiries about the use of mediation, the housing service has completed a review of the information that is provided to leaseholders mediation. The report was discussed at the committee meeting of the Leaseholders Action Group on 20th April 2010. The group endorsed the recommendations and as a result information about Mediation is now included in all Stage-3 dispute letters to leaseholders and greater promotion of mediation will appear in the new edition of the Council Leaseholders Handbook, on the council website and in a revised version of the leaflet for Leaseholders. There will also be an article about the use of mediation services in disputes in the next edition of the leaseholders newsletter.

It is important to note that Mediation will not always be considered by the Council, or by a leaseholder, as an appropriate way of resolving a dispute. Although mediation can be useful in some cases, some disputes revolve around a question of fact. For example, many disputes relate to whether a service charge is payable or not under the terms of the lease. Questions such as these can sometimes only be determined by a court or a Leasehold Valuation Tribunal. In some cases, the Council may therefore advise the leaseholder that mediation may not be a helpful way of resolving the dispute. Mediation also only works when both parties are willing to participate and explore a solution. The council therefore does not feel that mediation should be adopted by default, but it should be considered and promoted in all cases where the internal dispute process has not found a satisfactory resolution to the dispute.

It is also worth noting that the LEASE Mediation Service is not the only form of alternative dispute resolution available. Whilst the LEASE Mediation Service is a specialist service and appears to offer good value for money, some leaseholders may wish to seek alternative forms of dispute resolution through e.g. a private mediator.

I hope that this helps to clarify the Council's position and has reassured you that we do promote the use of LEASE mediation and have improved the information that we give to Leaseholders to further promote mediation."

6.4 Ms Kirby asked the following supplementary question:

"In relation to ADR, particularly lease mediation, will the council keep statistics and publish/publicise statistics of lease mediations versus LVT or other ADR's if they reach that stage?"

- 6.5 The Assistant Director, Housing Strategy replied to explain that the council had not published this information. However, the council did publish the results of complaints received. The council would be happy to provide details of the numbers of disputes resolved in mediation.
- 6.6 Ms Kirby requested that information should not just be published online and suggested that leaseholder magazines should be used for publishing information. The Cabinet Member concurred and accepted that the internet was not always the preferred method of communication.

7. DEPUTATIONS

- 7.1 There were none.

8. LETTERS FROM COUNCILLORS

- 8.1 There were none.

9. WRITTEN QUESTIONS FROM COUNCILLORS

- 9.1 There were none.

10. NOTICES OF MOTIONS

- 10.1 There were none.

11. MINUTES OF THE HOUSING MANAGEMENT CONSULTATIVE COMMITTEE

- 11.1 The Cabinet Member considered the minutes of the Housing Management Consultative Committee held on the 29 March 2010.
- 11.2 **RESOLVED** – That the minutes be noted.

12. BEVENDEAN COMMUNITY GARDEN PROPOSAL

- 12.1 The Cabinet Member considered a report of the Director of Housing, Culture & Enterprise which set out a proposal to lease land in Bevendean for food growing to the Bevendean Community Garden Project Group. The report outlined feedback on the various consultations that had taken place, along with possible responses to them.
- 12.2 The Head of Customer Access and Business Improvement explained that the council wanted to support community groups to use land for growing food. The land had been identified and there had been a number of consultation meetings and one to one meetings with residents. The result of the consultation had been evenly split. Residents with gardens backing onto the land were unanimously against the proposal. Residents living further away from the land were generally in favour of the proposal. Officers had considered the objections to the use of the land and had tried to draft the heads of terms in a way which would address issues raised during the consultations.

- 12.3 The Cabinet Member explained that she had attended the public meeting and had received correspondence from residents whose gardens backed on to the land. She had visited the residents this week. The Cabinet Member appreciated that officers had done a great deal of work on the proposal and accepted that the community as a whole supported the scheme. However residents close to the proposed site were very opposed to the idea and she would therefore like to defer a decision in order for a meeting to be set up with the Bevendean Community Garden Project Group to investigate alternative sites.
- 12.4 Councillor Smart was in attendance at the meeting and expressed his disappointment that the matter was being deferred. He asked if Bevendean Primary School had been consulted. He was informed that the school had been consulted and that they had replied in support of the proposal.
- 12.5 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet Member made the following decisions:
- (1) That a decision on the proposal to lease land in Bevendean for food growing to the Bevendean Community Garden project Group be deferred for further consideration.
 - (2) That a meeting be set up with the Bevendean Community Garden Project Group to look at alternative sites before a decision is taken at a future Cabinet Member Meeting.

13. TENANT AND LEASEHOLDER INVOLVEMENT SURVEY

- 13.1 The Cabinet Member considered a report of the Director of Housing, Culture & Enterprise which set out the research findings from the Tenant and Leaseholder Involvement Survey carried out in December 2009. It also highlighted some ways in which the surveys would be used.
- 13.2 The Cabinet Member stressed the importance of encouraging as many people as possible to become actively involved in their local tenant and leaseholders association or playing a role in influencing the services they receive. She stressed that online services were not necessarily accessible to all tenants and leaseholders.
- 13.3 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet Member accepted the following recommendations:
- (1) That the findings of the survey be noted.
 - (2) That approval is given to the potential ways in which interested people can become more involved than they are at present.

The meeting concluded at 4.19pm

Signed

Chairman

Dated this

day of