

Subject:	Methodology for 6 Months Review of the Constitution
Date of Meeting:	18 November 2008
Report of:	Director of Strategy & Governance
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Wards Affected:	All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The purpose of this report is to seek the agreement of the Committee to proposed City News article and questionnaires on the Constitution as part of the 6 months review of the constitution.

2. RECOMMENDATIONS:

- 2.1 That Members agree the proposed article and questionnaires set out in appendices 1 to 4 of this report.

3. RELEVANT BACKGROUND INFORMATION:

- 3.1 At its last meeting, the Governance Committee agreed a strategy for seeking the views of the public, the business community, partners, the voluntary sector, Members and Officers as part of the 6 months review of the constitution. The Committee also instructed Officers to report back with draft questionnaires. This report proposes draft questionnaires for Members' approval.
- 3.2 Appendix 1 contains a draft article for City News. Members of the public reading it will be able to comment directly or by using the questionnaires available on the web or in public offices.
- 3.3 Appendix 2 contains a summary explaining the constitution with a questionnaire which will be put in public libraries, the 4 housing area offices, Brighton Town Hall, Hove Town Hall and King's House. A prepaid reply envelope will be provided.
- 3.4 Appendix 3 is in the form of a letter and will be used to seek the views of partners and representatives of the business community as well as the voluntary sector as agreed at the last Governance Committee.
- 3.5 Appendix 4 contains a draft questionnaire to be used with Members and Officers.

3.6 It is intended to send the questionnaires out in early January in accordance with the timetable agreed at the last Governance Committee.

4. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications

4.1 Any expenses associated with the exercise will be met from existing resources.

Finance Officer Consulted: Anne Silley

Date: 03.11.08

Legal Implications

4.2 There are no legal implications arising from this report.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 03.11.08

Equalities Implications

4.3 There are no adverse equalities implications arising from the proposals.

Sustainability Implications

4.4 None.

Crime & Disorder Implications

4.5 None

Risk and Opportunity Management Implications

4.6 None

Corporate / Citywide Implications

4.7 The proposals will contribute to the effective leadership of the city by enabling the views of residents and the business community to be reflected in reviewing the constitutional arrangements.

SUPPORTING DOCUMENTATION

Appendices:

- Appendix 1 Article for City News
- Appendix 2(a) Background document for Questionnaire
- Appendix 2(b) Proposed Questionnaire
- Appendix 3 Letter to Partners and Organisations
- Appendix 4 Draft questionnaire for Members and Officers

Documents in Members' Rooms

None

Background Documents

None

Article for City News and press release.

Council to review constitution

The city council is seeking the views of residents and businesses on the new constitution it adopted earlier this year.

In May, a new system was put in place, whereby most decisions are taken by a Leader and a Cabinet of members appointed by them.

Although the basic structure of the constitution is laid down in statute, the council is able to modify its day to day operation, including member portfolios, times of meetings and procedures.

At the time of the change, councillors committed to reviewing the operation of the constitution six and twelve months after its implementation.

This is an opportunity to check that the implementation has gone smoothly, and to make any minor changes that the operation of the constitution has shown to be desirable.

We would be interested to hear any views people may have on how the new constitution is working, and what impact, positive or negative, it has made on how people and organisations interact with the council.

We would also welcome any suggestions people might have on how the Council's constitution could be improved. There will be a further opportunity to comment in June of next year, during the twelve-month review.

People who would like to comment, are invited to write to Brighton & Hove Legal Services or email [email address] by [closing date]. Alternatively you can complete a questionnaire which is available in libraries, Brighton Town Hall, Hove Town Hall, King's House and area housing offices.

The views of all respondents will be considered by the Governance Committee early in 2009. They will make recommendations to the Cabinet as to how the constitution might be amended.

Ends

BRIGHTON & HOVE'S NEW CONSTITUTION

This document gives a short introduction to the new governance arrangements operating in Brighton & Hove City Council. It is intended as a background document to the accompanying questionnaire.

Introduction

The City Council was required by law (the Local Government and Public Involvement in Health Act 2007) to change its governance arrangements. Many of the decisions that were previously taken by committees are now taken by the Cabinet as a whole or Cabinet Members.

Meetings of the whole council still have a very important role. The whole council sets the budget and the policy framework within which decisions are taken. More powerful overview and scrutiny committees make recommendations about policy, both before and after decisions are taken. Licensing and planning decisions are taken in the same way as they were before.

The Cabinet and the Council

Under the new arrangements, the Council continues to have 54 councillors, elected on the same basis as before. After each election, the Council elects a Leader, and the Leader then appoints up to nine other councillors to serve in his or her Cabinet.

The Leader and Cabinet exercise all the executive functions of the Council - the day-to-day decision making and running of the authority. They have to do so within a budget and policy framework set by the whole council.

Licensing and planning decisions, as well as some other regulatory decisions, are not part of the Cabinet's work. As now, these will be taken by committees of councillors.

The Cabinet

The Cabinet comprises up to ten members (including the Leader) who can take decisions singly or collectively.

The Leader can change the membership of his or her Cabinet at any time. He or she does not have to choose members of his or her own party for Cabinet positions, although it is expected that Cabinets will generally be single-party.

The Cabinet portfolios currently in force are:

1. Adult Social Care and Health
2. Central Services
3. Children and Young People
4. Community Affairs, Inclusion and Internal Relations

5. Culture, Recreation and Tourism
6. Enterprise, Employment and Major Projects
7. Environment
8. Finance
9. Housing

Beyond the decision-making process, the Cabinet members set the strategic direction for the Council on their areas of responsibility, and are the 'public face' of the Council in that area.

How decisions are taken

The whole council sets the budget, and major policy and strategic frameworks, on the recommendation of the Cabinet.

The Leader has the power to take any executive decision, but in practice, decision-making power is exercised in three ways: at a meeting of the full Cabinet (or a committee of the Cabinet), by individual Cabinet members, or by an officer using delegated powers.

Advance notice of decisions

Decisions that significantly affect more than two wards, or involve expenditure of more than £500,000 are called *key decisions*.

The Council publishes a *Forward Plan* on its website, which shows all key decisions planned over the next four months. If issues arise which require a key decision at shorter notice, they are added to the forward plan as soon as possible.

Public access to meetings

Council and Cabinet meetings are held in public, as do all meetings where Cabinet members take decisions. Members of the public are able to ask questions or take delegations to those meetings. Papers for meetings are available five working days in advance of the meeting.

Councillors are also able to present petitions, and ask questions, at any meeting.

Overview and Scrutiny

Those councillors who are not in the Cabinet are able to serve on Overview and Scrutiny Committees, which plays an active part in the formulation of policy and the oversight of the Council's work.

Overview and Scrutiny committees are made up of councillors, in proportion to their representation overall, and can:

- * conduct reviews on an area of the Council's work and make policy proposals

- * scrutinise particular decisions or areas of work and make recommendations on them
- * scrutinise the work of other public-sector agencies in the city

Under the new system, with most decisions taken through the Cabinet, overview and scrutiny committees take on a much greater importance. As well as becoming forums for policy debate in advance of decisions, the committees are able to investigate all areas of work in their remit - including work carried out by other public sector agencies like the National Health Service and the Police.

The overview and scrutiny committees broadly shadow Cabinet portfolios. The current setup includes:

- * Overview and Scrutiny Commission (dealing with central services, finance and cross-cutting issues)
- * Children and Young People
- * Health
- * Adult Social Care and Housing
- * Culture, Tourism and Enterprise
- * Environment

The chairmanships of each committee is decided by the whole council.

How can Members of the Public Influence Decisions?

- The forward plan and the agendas and reports to meetings enable the public to see what decisions are forthcoming. These are available from council offices or on the council website.
- Some of the council meetings (Council, Cabinet, Planning Committee and some Scrutiny Committee meetings) are webcast live and you can watch the archives.
- The Council has a public speaking protocol regarding planning decisions. You need to give advance notice and the total speaking time available for each application is limited.
- Members of the Public can ask questions or present deputations at a meeting of the Full Council, the Cabinet, Council Committees or Cabinet Member meetings.
- Members of the public can present petitions to the Council, the Cabinet, a Committee of the Council or a Cabinet Member through their local ward councillor.
- Many of the decisions taken by the Council (such as planning and licensing) have a statutory consultation procedure which give persons affected the right to make representations supporting or objecting to proposals.
- Local Government electors have the right to vote at local elections every four years.

- **Proposed Questionnaire to the Public
on the Effectiveness of BHCC's New Constitution**

In May 2008 Brighton and Hove City Council adopted a new constitution. This means that the Council now operates under a Leader and Cabinet system. As part of the six month review of this new system, we would like to ask for your feedback. Please complete the questions below and hand over to a reception or post it to Brighton & Hove City Council, Legal Services, King's House, Grand Avenue, Hove, BN3 2LS using the prepaid envelope provided. You can also complete the questionnaire online at.....

A summary of the Constitution is attached for your information.

Next Steps

Your comments, together with those expressed by other interested parties, will be considered by the Council who will decide on any constitutional changes.

We aim to provide feedback in March 2009 to all those who contributed to the review.

1. Are you aware of the new Cabinet system which came into effect at Brighton and Hove City Council in May 2008?

Yes

No

2. Do you feel you are able to influence decisions taken by the City Council under the Leader and Cabinet system?

Yes

No

Don't know

3. Have you heard of the Forward Plan?

Yes

No

3a. If yes, have you looked at the Forward Plan?

Yes

No

3b. If you have looked at the Forward Plan did you use it to:

Find out information about the major decisions likely to be taken by the Cabinet in the following four months?

To plan attendance at council meetings

To get information on agendas and reports?

Other

4. Did you know that some BHCC meetings are being webcast?

Yes

No

4a. If yes

Have you seen any of the BHCC meeting webcasts?

Yes

No

5. Are you likely to watch the BHCC meeting webcasts in the future?

Yes

No

Don't know

6. Are there any changes you would like to see to the Council's Constitution/decision-making process.

7. Do you have any suggestions to improve the public interest and involvement in the decision-making process?

[x]

Dear [x]

The Council's New Constitution : 6 month review

I am writing to seek your views on the new constitution the Council has recently adopted.

On 15 May this year, the City Council moved to a new constitutional system, in which most decisions are taken by a Leader and a Cabinet of members appointed by them. Although the basic structure of the constitution is laid down in statute, the Council has considerable latitude around its day to day operation, including member portfolios, times of meetings, procedures etc.

At the time of the change, we made a commitment to review the operation of the constitution six and twelve months after its implementation. The six-month review is an opportunity to check that the implementation has gone smoothly, and to make any minor changes that the operation of the constitution has shown to be desirable.

I would be interested to hear any views you may have on how the new constitution is working, and what impact, positive or negative, it has made on how your organisation and those it represents interact with the Council. We would also welcome any suggestions you might have on how the Council's constitution could be improved. There will be a further opportunity to comment in June of next year, during the twelve-month review.

If you would like to comment, please respond to this letter or email [email address] by [closing date]

The views of all respondents will be considered by the Governance Committee early in 2009. They will make recommendations to the Cabinet as to how the constitution might be amended.

Six-Month Review of BHCC's New Constitution

Introduction

When the Council adopted a new constitution earlier this year, it resolved to carry out a review, initially after 6 months and in more depth after the first year. As the constitution formally came into effect on 15 May, now is the time for the first of these. It is a "light touch" review and will provide feedback on how well the constitution is performing at this early stage.

Originally the aim was to seek the views of the public and business community but the Governance Committee have agreed to widen the exercise to include members (being at the heart of the decision-making process) and senior officers (with their direct experience and familiarity with the new democratic arrangements). Usefully, this should provide a different perspective from the views of those outside the council.

The questions below are specifically intended for members and officers. We would be grateful if you could complete the questionnaire and return it to Legal Services, King's House.

How your responses will be used

Your replies, together with those from other interested parties, will be considered by the Governance Committee early in 2009 and they will make recommendations to the Cabinet as to how the constitution might be amended.

Either the Cabinet or Full Council will then authorise the changes affecting their areas of responsibility.

We aim to provide feedback in March 2009 to all those who contributed to the review.

Questionnaire

Please use the following questions as a guide. Feel free to add further comments about issues you believe are important.

In relation to the Executive (Leader & Cabinet), Full Council and its committees, and Overview and Scrutiny –

1. What has worked well under the new constitution?
2. What has improved as a result of operating a Leader & Cabinet system?
3. What major changes have you noted and how have these impacted on your work?
4. What has not worked so well?
5. What have been the challenges?

6. What changes do you think should be made to the constitution to improve its operation and to help you do your job more effectively?
7. Are there any aspects of the constitution you need clarified? If so, please give details.
8. Are there any further issues you would like to raise?