

**CONSTITUTION FOR THE OLDER PEOPLE’S COUNCIL**

**Proposed revision**

**INTERPRETATION**

In this constitution, unless the context otherwise demands, the following terms have these meanings:

- | “member” means an elected or co-opted member of the Older People’s Council for Brighton & Hove
- “OPC” means the Older People’s Council for Brighton & Hove
- “legal adviser” means the legal adviser appointed for the time being by Brighton & Hove City Council, or such legal adviser as shall in due course be retained by the OPC, or the representative acting on behalf of her/him.
- “monitoring officer” means the Brighton & Hove City Council’s monitoring officer, who is Head of Law, and responsible for ensuring that the City Council carries out its functions in accordance with the law and any other codes or protocols agreed by the City Council.

**1. NAME**

The name of the Council is the Older People’s Council (OPC) (hereinafter called “the OPC”).

**2. OBJECTS**

The OPC is established to inform the policy and decision making of Brighton & Hove City Council (hereinafter called “the City Council”), including service development, service delivery and resource allocation, with regard to matters that impact on the quality of life, and the opportunities, available for older people living in the Brighton & Hove area.

**3. POWERS**

In furtherance of the said objects, but not otherwise, the OPC may:

- (a) Consult with older people, older people’s organisations, and individuals working with older people.
- (b) Bring together in conference representatives of voluntary organisations, government departments, statutory authorities and individuals;

- (c) Promote and carry out or assist in promoting and carrying out research, surveys and investigations and publish the results thereof;
- (d) Arrange and provide for or join in arranging and providing for the holding of exhibitions, meetings, workshops, lectures, classes, seminars and training courses;
- (e) Collect and disseminate information on all matters affecting the said objects and exchange such information with other bodies having similar objects whether in this country or overseas;
- (f) Cause to be written and printed or otherwise reproduced and circulated material in printed, recorded or digital format such as papers, books, periodicals, pamphlets or other documents, and sound or visual transmissions and recordings, as shall further the said objects;
- (g) Do all such other lawful things as are necessary for the attainment of the said objects.

#### **4. THE OPC**

- (a) Policy and general management of the business of the OPC shall be directed by its elected members.
- (b) The OPC shall meet not less than 9 times a year including the Annual Meeting. Of those 9 meetings, at least 3 will be open Public Meetings. Members of the public with an interest in other meetings may attend at the discretion of the Chair.
- (c) The OPC shall consist of 9 elected members, one for each of the electoral zones within Brighton & Hove as set out in Appendix 1. If during the course of office, an elected member stands down or ceases to be a member; in exceptional circumstances a by-election will not be held, rather, a suitable member may be co-opted onto the OPC.
- (d) The decision to co-opt an individual must be put to the vote requiring acceptance by two thirds of those present and voting.
- (e) Members of the OPC shall act in accordance with its constitution, its code of conduct and with the protocols and the codes of practice that the OPC may from time to time adopt. All the documents referred to in this clause form an integral part of the OPC's constitution.

#### **5. THE OPC'S CODE OF CONDUCT FOR MEMBERS**

- (a) The OPC has adopted a code of conduct governing the conduct expected of the members of the OPC. The code of conduct is attached at Appendix 2.

- (b) Each member of the OPC must sign the written undertaking that s/he will observe the code of conduct for members of the OPC. The written undertaking is attached at Appendix 3.
- (c) An individual who becomes a member of the OPC at any time after the OPC has adopted its code of conduct for members must also provide a written undertaking that s/he will observe the OPC's code of conduct.
- (d) A member may not take part in any OPC meeting or conduct any OPC business whatsoever until s/he has signed an undertaking that in performing her/his duties s/he will observe and comply with the OPC's code of conduct.
- (e) If any member of the OPC fails to sign the written undertaking to observe the OPC's code of contact within 2 months of it being adopted or within 2 months of becoming a new member then that member will automatically cease to be a member of the OPC.

## **6. BREACHES OF THE OPC CODE OF CONDUCT**

In the event of an allegation that there has been a breach of the Code of Conduct by a member or members of the OPC, a Conduct Panel of the OPC will conduct an investigation into that allegation, and will inform the City Council's Legal Adviser of the allegation and of the outcome of the investigation. The Terms of Reference for that Panel are given below.

### **Terms of reference for the Conduct Panel investigating breaches of the Code of Conduct**

- (a) **Purpose**  
The purpose of the Conduct Panel is to investigate alleged breaches of the OPC Code of Conduct.
- (b) **Membership**
  - (i) The Conduct Panel will consist of the principal officers of the OPC: the Chair, the Vice-Chair, the Secretary and the Treasurer, except where one or more of these individuals have a personal and prejudicial interest in the matter by virtue of being the subject of the allegation. Where all 4 of these post holders are conflicted out, for example where all are implicated in the allegation, the Panel should comprise all other 5 members of the OPC. If the allegation is made against the entire membership of the OPC, the matter should be referred to the Legal Adviser.
  - (ii) The quorum for a Conduct Panel will be a minimum of three members.
- (c) **Powers and Procedures**
  - (i) The Conduct Panel will report to the Legal Adviser that a breach has been alleged, including brief details of that allegation, and that it will investigate the allegation.

- (ii) The Conduct Panel will take any action that in their opinion is appropriate in the OPC's interest once they are aware of an alleged breach of the Code of Conduct by a member/members of the OPC.
- (iii) A member who is the subject of an investigation by the Conduct Panel shall cooperate fully with the requirements of the Panel during the investigation.
- (iv) The Conduct Panel will hear the evidence and give full opportunity for both sides to present their case (verbally or in writing) regarding any allegations of a breach of the Code.
- (v) The Conduct Panel will if necessary request the attendance of other OPC members and of non-members with evidence relevant to the allegation.
- (vi) At the conclusion of the investigation, the Conduct Panel will withdraw to consider its decision.
- (vii) The Conduct Panel's decision will be made on the basis of a majority vote, with the Chair having a casting vote in the event of an even vote.
- (viii) When the Conduct Panel has reached its conclusion about the alleged breach, it should propose any sanctions which it decides are necessary. The sanctions open to the Panel shall range from: no action to be taken through to suspension of that member from the OPC and/or any other course of action in between as is appropriate in the circumstances.
- (ix) Before announcing its decision, the Conduct Panel will refer the decision to the Legal Adviser for further comments.
- (x) The person or persons against whom allegations have been made will normally be advised of the Conduct Panel's decision at the conclusion of their deliberations and after that decision has been referred to the Legal Adviser. The Panel's decision will be provided verbally and in writing, and a copy will also be provided for the Legal Adviser.

## **7. ELECTION TO THE COUNCIL**

- (a) Election to the OPC shall be open to individuals of 60 years and over ("older people"), resident in Brighton & Hove who are:

- (i) on the electoral register for Brighton & Hove City;
- (ii) a British, Commonwealth or European Union citizen; and
- (iii) interested in furthering the work of the OPC;

except those individuals who are elected members or officers of the City Council or who hold office as either the Chair, Vice-Chair or Secretary of any political party.

- (b) Political party preference and/or allegiance shall not be a feature of any profile issued by a candidate before any election. No political or other organisation shall become involved in the nomination of a candidate and shall not be involved in the promotion of her/his candidature. If such involvement is proved then the election of the candidate shall be declared null and void.

- (c) The members of the OPC shall be elected within 2 months of the City Council elections by full postal ballot and in consultation with the Electoral Services Officer, in accordance with this clause:
  - (i) Election to the OPC shall be for 4 years.
  - (ii) Members, if re-elected, may stay in office until they stand down or are not further re-elected.
  - (iii) Nominations for individuals to be elected to the OPC must be made by 10 older persons resident in the electoral zone in which the individual proposes to stand for election. Nominations must be made in writing and must be provided to the City Council's Returning Officer in accordance with a time-scale to be determined by the City Council's Returning Officer.
  - (iv) Elections shall be by a method agreed in consultation with the City Council's Returning Officer.
  - (v) If a member in a particular zone is unable to continue serving as a member of the OPC (by virtue of death or long term incapacity) or resigns her/his membership of the OPC or her/his membership is determined for any of the reasons set out in Clause 8 below, there shall then be a by-election to fill the vacancy for that electoral zone.
  - (vi) In exceptional circumstances a by-election will not be held, rather a suitable member co-opted onto the OPC via a two thirds majority vote.
- (d) The proceedings of the OPC shall not be invalidated by any failure to elect or by any defect in the election, appointment, co-option or qualification of any member.
- (e) The OPC may appoint such special or standing committees as may be deemed necessary by the OPC and shall determine their terms of reference, powers, duration and composition. All acts and proceedings of such special or standing committees shall be reported back to the OPC as soon as possible thereafter.

## **8. DETERMINATION OF MEMBERSHIP OF THE COUNCIL**

- (a) A member of the OPC shall cease to hold office if s/he:
  - (i) becomes incapable by reason of mental disorder, illness or injury of managing and administering her or his own affairs; or
  - (ii) resigns her or his office by notice in writing to the legal adviser; or
  - (iii) accepts election to any of the principal offices in any political party, such as Chair, Vice-Chair, Secretary, Treasurer

It is permissible for a member of the OPC to hold an honorary position or be an ordinary member of a management group of a political party provided that the member does not engage in any of the following activities:

- speaks or publishes any written or artistic work with the intention of affecting public support for a political party; or
  - canvasses in the interests of any political party with the exception of delivering party political leaflets and telling at polling stations.
- (iv) is absent from 3 consecutive meetings of the OPC; and
- (b) A member of the OPC shall be suspended from participation in the work of the OPC for a period of up to six months if s/he;
- (i) speaks or publishes any written or artistic work with the intention of affecting public support for a political party; or
  - (ii) canvasses in the interests of any political party with the exception of delivering party political leaflets and telling at polling stations; and
- (c) If during or within one year following a period of suspension for engaging in the activities described in paragraph 8(b) above the member further engages in either of these activities s/he shall automatically cease to be a member of the OPC; or
- (d) If for good and sufficient reason a majority of the other members of the OPC pass a resolution that an OPC member shall cease to hold office that resolution shall prevail provided that an OPC member faced with possible removal from the OPC shall have the right to be heard by the other OPC members before a vote is taken; or
- (e) If an OPC member is in breach of the OPC's code of conduct and the breach is such that the legal adviser recommends to a panel authorised by the OPC to act on its behalf that the member should cease to hold office and the panel supports the legal adviser's recommendation the OPC member shall cease to hold office.

## **9. ORDER OF BUSINESS AT MEETINGS OF THE OPC**

The order of business at meetings of the OPC shall normally be:

- (a) In the absence of the Chair and Vice-Chair, to choose a member present at the meeting to preside at the meeting;
- (b) To receive declarations of interest in matters to be considered at the meeting;
- (c) At the Annual Meeting, or at any other meeting after the office of Chair or Vice-Chair has become vacant, to elect a Chair or Vice-Chair;
- (d) To approve as a correct record the minutes of the last meeting of the OPC, and of any earlier meeting of which the minutes have not already been approved, and for the person presiding to sign them;
- (e) To consider items of business on the agenda for the meeting;

- (f) If the person presiding at the meeting decides that an item of business not included on the agenda for the meeting may be taken for reasons of urgency, such reasons must be specified and noted in the minutes and that item shall be taken at the end of other items of business unless it is decided to consider it earlier on in the agenda.

## **10. MEETINGS OF THE OPC**

- (a) Unless otherwise agreed, an Annual Meeting of the OPC shall normally be held within a month of the election of the OPC and then in the same month annually thereafter.
- (b) At the Annual Meeting the business shall include:
  - (i) the election and appointment of the Chair, Vice-Chair, Secretary and Treasurer;
  - (ii) the appointment of an auditor or auditors or independent examiner or examiners or other appropriate person/s as is required by law as being appropriate to the OPC's finances;
  - (iii) the consideration of an annual report of the work done by or under the auspices of the OPC and of any audited accounts should these be required by law.
- (c) The appointments referred to at clause 10(b)(i) and (ii) above shall hold office until the next Annual Meeting. The Chair, Vice-Chair, Secretary and Treasurer shall be eligible for re-election and the auditors etc can be re-appointed at the next and subsequent Annual Meetings.
- (d) All other meetings of the OPC, apart from the Annual Meeting, shall be known as ordinary meetings.
- (e) The OPC shall appoint an Urgency Panel to exercise its powers. The membership of the Urgency Panel shall consist of the Chair, Vice-Chair, and Secretary who may exercise the powers of the OPC in relation to matters of urgency on which it is necessary to take a decision before the next ordinary meeting of the OPC. Every decision of each Urgency Panel shall be reported for information to the next ordinary meeting of the OPC.

## **11. CO-OPTION**

- (a) The OPC shall have power to co-opt a maximum of two other members.
- (b) The co-option can be for a limited period or for the remainder of the current four-year period for which members of the OPC were elected.

- (c) A proposed co-optee must be proposed and seconded by existing OPC members.
- (d) The decision to co-opt an individual must be put to the vote requiring acceptance by two thirds of those present and voting.
- (e) The co-option shall end at the conclusion of the current four-year period of elected office or earlier if for a limited period.
- (f) The co-optee shall not have voting rights on any decisions of the OPC but may speak in any discussions.
- (g) The co-optee may offer themselves for full adoption by standing in any of the zones in the next postal election.

## **12. RULES OF PROCEDURE AT MEETINGS OF THE OPC**

- (a) **Quorum.** The quorum at meetings of the OPC shall be one half of the total membership of the OPC for the time being. Where the total membership of the OPC consists of an odd number of members (e.g. 7, 9 etc) this odd number will not lend itself to being divided in half. In this event the quorum shall be half of the total membership which is then rounded up to the next whole number of members (e.g 9 members in total membership, divided by half = 4½ members, quorum therefore = 5 members).
- (b) **Absent Chair and Vice-Chair.** Where neither the Chair nor Vice-Chair are able to attend a meeting of the OPC, providing the meeting is quorate, then those members present can elect a Chair for that meeting from amongst their number.
- (c) **Resignation of the Chair or Vice-Chair between Annual Meetings or determination of the membership of either of these members.** If the Chair or Vice-Chair is no longer able or willing to hold office, or if her/his membership is determined, re-election to the vacancy can be held at an ordinary meeting. The period of office of the newly elected Chair or Vice-Chair shall continue until the next Annual Meeting.
- (d) **Voting.** The method of voting at ordinary meetings of the OPC shall be by a show of hands and decisions shall be decided by a simple majority of those members present. No person shall exercise more than one vote, except in the case of an equality of votes when the Chair of the meeting shall have a second or casting vote. For voting on changes to the Constitution, see 15(a).
- (e) **Minutes.** Minutes of every meeting of the OPC shall be submitted to and signed at the following ordinary meeting. The Chair shall put the question that the minutes submitted to the meeting be approved as a correct record. No discussion shall take place upon the minutes, except upon their accuracy. Any question as to accuracy shall be raised and amendments noted. The Chair shall then sign the minutes.



- (f) **Prevention of Disorderly Conduct.** If the Chair presiding at any meeting of the OPC is of the opinion that a member is guilty of misconduct by persistently disregarding the ruling of the Chair or by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the OPC, the Chair may notify the meeting of that opinion and may take any of the following courses, either separately or in sequence:
- (i) direct the member to refrain from speaking during all, or part, of the remainder of the meeting;
  - (ii) direct the member to be withdrawn from all, or part of the remainder of the meeting;
  - (iii) order the member to be removed from the meeting;
  - (iv) adjourn the meeting for 15 minutes or such period as shall expedient to her/him.
  - (v) If there are others present at a meeting of the OPC by invitation and such a person interrupts the proceedings of that meeting by displaying any of the behaviour referred to at 11(f) above, the Chair may take any of the courses of action as set out at 11(f)(i) to (iv) above in respect of others present.

### **13. PAYMENTS**

Payment to members of the OPC may be made of reasonable out-of pocket expenses, subject to the City Council having agreed to meet these payments and to any cash limits that the City Council may set.

### **14. FINANCE**

- (a) The OPC shall:
- (i) keep accounting records for the OPC;
  - (ii) prepare an annual statement of account for the OPC;
  - (iii) audit or arrange for independent examination, or make other appropriate arrangements for the examination of the statements of account of the OPC, as required by law as being appropriate to its financial circumstances;
- (b) An audited, independently examined, or examined statement of the accounts (as appropriate – see 14(a)(iii) (above) for the last financial year shall be submitted by the OPC to its Annual Meeting after which the accounts shall be made available for public inspection.
- (c) All bank accounts shall be opened in the name of the OPC.
- (d) All cheques must be signed by at least two signatories. These signatories shall be nominated at an ordinary meeting of the OPC.

## **15. ALTERATIONS TO THE CONSTITUTION**

- (a) The constitution may be varied, amended or added to by resolution made by a majority of not less than two thirds of the OPC members voting at an ordinary meeting, subject to the advice and approval of the monitoring officer.
- (b) No amendment may be made to clause 1 (the name clause), clause 2 (the objects clause), clause 7 (the election to the OPC clause), clause 16 (the dissolution clause) or this clause without the prior consent in writing of the monitoring officer.
- (c) Once the code of conduct for members of the OPC has been adopted clauses 5 and 6 cannot be suspended although amendments may be made with the agreement of the monitoring officer. Where the OPC proposes changes to the code of conduct, the OPC shall be guided by the advice of the monitoring officer. No amendments which are inconsistent with or against the spirit of the code of conduct shall be permitted.
- (d) The OPC shall promptly send to the monitoring officer a copy of any amendments made under this clause.

## **16. DISSOLUTION**

- (a) If the OPC by a simple majority decide at any time that on the grounds of expense or otherwise it is necessary or advisable to dissolve the OPC, a meeting of all members of the OPC shall be called. Not less than 21 days written notice (stating the terms of the resolution to be proposed) shall be given to members.
- (b) If a decision to dissolve the OPC is approved by a majority of those present and voting at such a meeting the OPC shall be required to produce a report to the City Council explaining the resolution and requesting agreement in writing to the dissolution. The resolution shall take effect upon receipt of written consent from the City Council.

## **17. NOTICES**

A notice may be served on any member either personally or by sending it through the post in a prepaid letter addressed to such member at her/his last known address in Brighton & Hove, and any letter so sent shall be deemed to have been received within ten days of posting.

This Constitution including the Appendices 1 to 3 was adopted on the 27<sup>th</sup> day of February 2002 and is subsequently as amended as of 26<sup>th</sup> June 2003, 19<sup>th</sup> October 2005, and 1<sup>st</sup> October 2010, and 23<sup>rd</sup> February 2011, and 22 May 2012.