

Council

26 March 2015

Agenda Item 80

Brighton & Hove City Council

Subject:	Review of the Council's Constitution 2015		
Date of Meeting:	26 March 2015 19 March 2015 – Policy & Resources Committee		
Report of:	Monitoring Officer		
Contact Officer:	Name:	Abraham Ghebre-Ghiorghis	Tel: 29-1515
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report proposes changes to the Council's Constitution for approval by Policy & Resources and Council. The issues set out in the report have been reviewed by a cross party Constitution Working Group and include proposed changes to overview and scrutiny, establishing an advisory member procurement board, better use of technology for council meetings and modifications to the delegations to officers and committees.

2. RECOMMENDATIONS:

That **Policy and Resources Committee:-**

- 2.1 Recommends to full Council the proposed changes to the Council's constitution as set out in paragraphs 3.4 to 3.6 and Appendix 1 relating to Overview & Scrutiny arrangements and policy panels;
- 2.2 Approves the proposals set out at paragraph 3.7 and Appendix 2 to the report relating to establishing a Member Procurement Advisory Board;
- 2.3 Approves the proposals set out at paragraph 3.8 – 3.9 of the report relating to exploring remote attendance at meetings in specified circumstances;
- 2.4 Approves the proposals set out at paragraph 3.10 of the report relating to the use of electronic agendas;
- 2.5 Approves the proposals set out at paragraph 3.11-3.13 of the report relating to changes to the scheme of delegations to officers and committees.

That **Full Council:-**

- 2.6 Approves and adopts the proposed changes to the Council's constitution recommended in paragraphs 3.4 to 3.6 and Appendix 1 of the report, relating to Overview & Scrutiny Arrangements and policy panels;

- 2.7 Authorises the Chief Executive and Monitoring Officer to take all steps necessary or incidental to the implementation of the changes agreed by the Policy & Resources Committee and Council and that the Monitoring Officer be authorised to amend and re-publish the Council's constitutional documents to incorporate the changes.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 When Brighton & Hove City Council adopted its new constitution in May 2012, it was recognised that the arrangements would need to be kept under review to ensure that they remain relevant, reflect the design principles and that they are kept up-to-date with changes. Since the introduction of the committee system, the Council has taken a number of measures to ensure the arrangements remain effective while, at the same time, ensuring that they are as streamlined as possible and avoid duplication.
- 3.2 In the last couple of years, the Council has introduced the tenant scrutiny panel and revised and enhanced the role of the Health & Wellbeing Board to provide city-wide system leadership on health, social care and wellbeing. We have seen the merger of the Transport and Environment & Sustainability Committees and the merger of the Adult Social Care Committee with Health & Wellbeing. We reviewed and enhanced the role of the Housing Tenant Area Panels and discontinued the Housing Management Sub-committee. All these measures were designed to ensure the system remains as streamlined and efficient as possible, whilst retaining high level of openness and transparency. We still have one of the highest levels of public participation in terms of public questions, deputations and petition.
- 3.3 The Cross-Party Member Working Group on the Constitution, consisting of Councillors Littman, Peltzer Dunn and Morgan meets periodically to review proposals for change. The proposals set out below were discussed at meetings of the Working Group on 12th January and 6th March 2015.

Changes to Overview & Scrutiny

- 3.4 The current constitutional arrangements reflect the design principles agreed when we moved to a committee system. As stated above, the decision-making arrangements were made as open and transparent as possible. Chairs meetings were opened to opposition spokespersons and a number of ad-hoc cross-party briefings took place. This, coupled with the fact that the Council is in no overall control, has ensured a high level of robust cross-party scrutiny and challenge within the policy committees themselves. There is therefore a need to ensure that there is no duplication and that the system remains as streamlined as possible.
- 3.5 There are statutory requirements in relation to health scrutiny and also in relation to flood defence and crime and disorder. Outside of these core areas, the Council has flexibility as to whether or how it operates a scrutiny arrangement. This is because the scrutiny function was designed as a check and balance to the cabinet system, where a small number of councillors, potentially from a single Party, carry all of the executive decision making powers of the Council. In a committee system, political proportionality rules apply and the majority of

councillors are involved directly in decision making. In-depth scrutiny takes place in committees at the point of decision making.

3.6 Taking the above into account, it is proposed to review the current Overview & Scrutiny procedures and to streamline the arrangements in recognition of the fact that robust scrutiny takes place at committee meetings. The current arrangements will cease to exist and be replaced with the following:-

- An Overview & Scrutiny Committee will be retained primarily to meet the statutory requirements of the National Health Service Act 2006 (amended by the Health and Social Care Act 2012) but will also have the power to undertake residual overview and scrutiny work and oversee the co-ordination of the work of the policy panels commissioned by Policy Committees. The powers of the committee will include the ability to scrutinise matters relating to the health of the Council's population and to make reports and recommendations to the NHS, the Council, its committees and other relevant bodies. It will also provide the mechanism through which the Council responds to NHS consultations and any referrals from Healthwatch.
- The Overview & Scrutiny Committee will monitor the implementation of scrutiny recommendations that are outstanding.
- The Council will continue to meet its responsibilities in relation to flood and erosion risk scrutiny under the Localism Act 2011. In practice there have hardly been any issues coming to scrutiny on this matter and it is therefore proposed that this remains within the remit of the Overview & Scrutiny Committee rather than establish a separate committee.
- The ability for councillors to refer crime and disorder matters to a Committee will continue, with the Overview & Scrutiny Committee being the designated Crime & Disorder Committee as required under the Police and Justice Act 2006. The presence of the Community Safety Forum means there is no need to create a dedicated scrutiny committee to deal with this.
- The terms of reference for Policy Committees will be amended to include the ability to commission time limited 'task and finish' style policy panels. The policy panels will enable committees to undertake policy review and development work on matters which fall within their terms of reference. This work will be supported by officers from the relevant Directorate. There will also be some limited capacity retained within the Policy Team to support this work. The Policy Committees will need to ensure that the number of policy panels they appoint do not exceed the member and officer resources available to support their work. The Overview & Scrutiny Committee will oversee the co-ordination of this work and make recommendations to the Policy Committees, in particular where policy panels cut across the remit of more than one committee.
- There will continue to be a facility for call in of decisions and 'Councillor Call for Action'. This will be done via an urgency sub-committee of the Overview & Scrutiny Committee consisting of 3 Members.
- The above arrangements are designed to enable the statutory scrutiny elements to continue within the limits of the available resources and the non-statutory

policy review elements to be delivered within a new framework through the policy committees themselves but with a co-ordination overview through the Overview & Scrutiny Committee.

- The current scrutiny procedures will apply, with modifications as necessary to reflect the above changes.

A copy of the draft amended terms of reference is attached at Appendix One.

Establishing a Member Procurement Advisory Board.

- 3.7 Over the next 3-5 years, the Council will be undertaking a high number of procurement exercises as part of the need to review services and to focus on achieving value for money. It is important that there is a group of Members who are trained in the law, finance and practical procurement issues in this complex area. This will enable procurement matters to receive focused review and ensure that the Council is able to achieve the maximum benefit from procurement opportunities as they arise. The Members would constitute an Advisory Board that advises and reports to the Policy & Resources Committee, or other relevant Committee.

The draft proposed Terms of Reference for the Board are attached at Appendix Two. It is proposed to review the operation of the Advisory Board after a period of 12 months (or earlier if considered appropriate).

Introducing the option of virtual meetings under the Sustainable Communities Act

- 3.8 Currently, local authorities operating an executive system have the option of Executive Councillors being able to make decisions without attending public meetings. The majority of local authorities are run in this way. In a committee system, all Member level decisions have to be taken at a meeting of full council or a committee or a sub-committee meeting in public or with all Members physically present before they are allowed to vote. This is restrictive for Members and limiting in terms of those who are able to participate in decision making.
- 3.9 It is proposed to lobby the government using flexibilities under the Sustainable Communities Act to allow meetings of the Council, in certain defined and exceptional cases, to take place remotely by teleconference or video link. It is proposed that this could be where the Chief Executive and the Mayor were satisfied that there was a need for virtual attendance. This could start on an experimental basis and be adopted more widely if considered a better option. The technological feasibility of the proposal is being evaluated but early indications are that this is not difficult to arrange.

The development of arrangements for the use of electronic agendas

- 3.10 In addition, a further modernisation initiative that will be pursued is the increased use of electronic agendas. It is hoped that this work will lead to all Members and officers having the option of using an electronic agenda, resulting in significant savings.

Changes to the Scheme of Delegations to Officers

- 3.11 The Care Act 2014 consolidates a number of Acts of Parliament relating to adult social care services. It also introduced new requirements. The Health & Wellbeing Board continues to receive reports on these. In the meanwhile, the delegations to the Executive Director of Adult Social Services in the Council's constitution need to be updated to reflect the change in legislation. It is therefore proposed to amend the scheme of delegations as shown in Appendix 3 to this report.

Changes to the Scheme of Delegations to Committees - Corporate Parenting Board

- 3.12 The Corporate Parenting Board is currently an Advisory Board reporting to Policy & Resources Committee. This arrangement was established in 2013 in order to ensure that the Council's duties as Corporate Parent retained a high profile. The role, scope and membership of the Health & Wellbeing Board has now been significantly developed and it is proposed that the Corporate Parenting Board should report to it. This would be consistent with the Children's and Safeguarding functions of the Health & Wellbeing Board and would ensure that our Health Partners are able to be fully engaged in the commitment to improving outcomes for children in care and care leavers.
- 3.13 The role of the Corporate Parenting Board is summarised below.

To ensure that the Council and its partner agencies have a joint commitment to:-

- (a) Achieving improved outcomes for children in care and care leavers;
- (b) Developing and overseeing implementation of the Corporate Parenting Strategy to drive improved outcomes;
- (c) Providing challenge to ensure that the Council's duties.

The Board would report to the Health and Wellbeing Board at least twice annually.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The Council could decide not to implement some or all of the changes set out in the report. Where this has budget implications, funding would need to be identified.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

- 5.1 The Cross Party Constitutional Working Group have been consulted and Leaders group informed of the proposals set out in the report. Where proposals will impact on staff, this will be undertaken in accordance with the Council's Change Management Procedure.

6. CONCLUSION

- 6.1 The proposals reflect an approach to achieve both financial savings and increased efficiency and it is therefore recommended that they are pursued.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The proposed changes to the Overview & Scrutiny Committee will provide a reduced cost as a result of reduced officer support. This saving has been built into the Council's revenue budget requirement for 2015/16. The proposal to introduce virtual meetings will also provide potential savings but will be subject to further work to determine the full effect of the savings.

Finance Officer Consulted: Rob Allen

Date: 19/2/15

Legal Implications:

- 7.2 The proposals in relation to Overview & Scrutiny are consistent with the legal requirements for scrutiny arrangements in a committee system, in particular the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

Where staff are affected by proposals, appropriate consultation arrangements must take place and the proper procedure followed in accordance with the Council's own policies, the ACAS Code of Practice and the law, including the Trade Union and Labour Relations (Consolidation) Act 1992.

Lawyer Consulted: Elizabeth Culbert

Date: 19/2/15

Equalities Implications:

- 7.3 There are no direct equalities implications arising from this report. However, as the options work continues, any arising needs will be identified and met. In particular, modernisation work which involves an increased use of technology will need to include in its development the consideration and mitigation of any equalities impact.

Sustainability Implications:

- 7.4 None identified

Any Other Significant Implications:

- 7.5 None identified

SUPPORTING DOCUMENTATION

Appendices:

1. Proposed Terms of Reference Overview & Scrutiny Committee
2. Proposed Terms of Reference Member Procurement Board
3. Amendments to Scheme of Delegations to Officers