



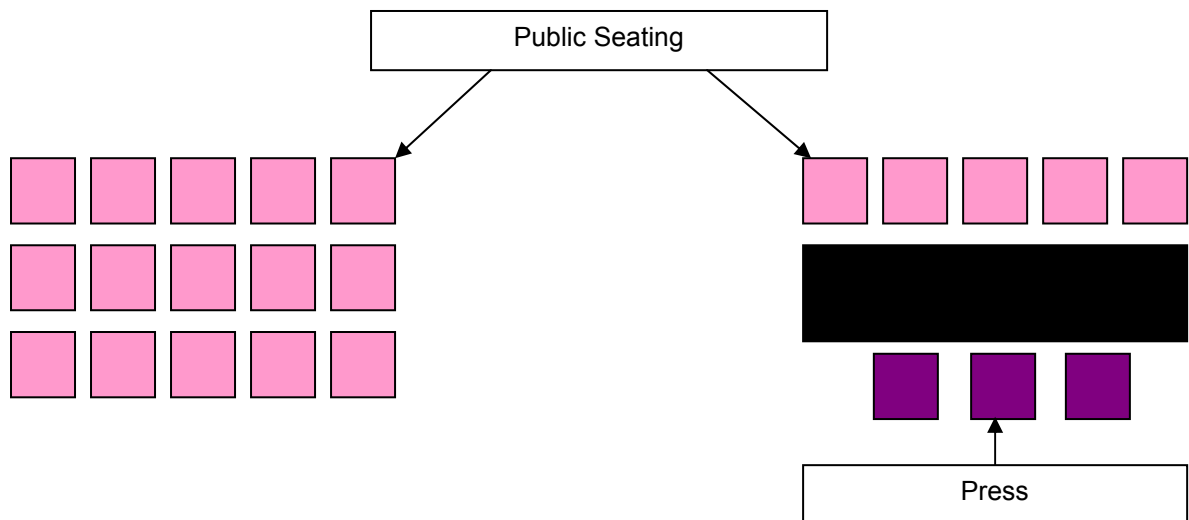
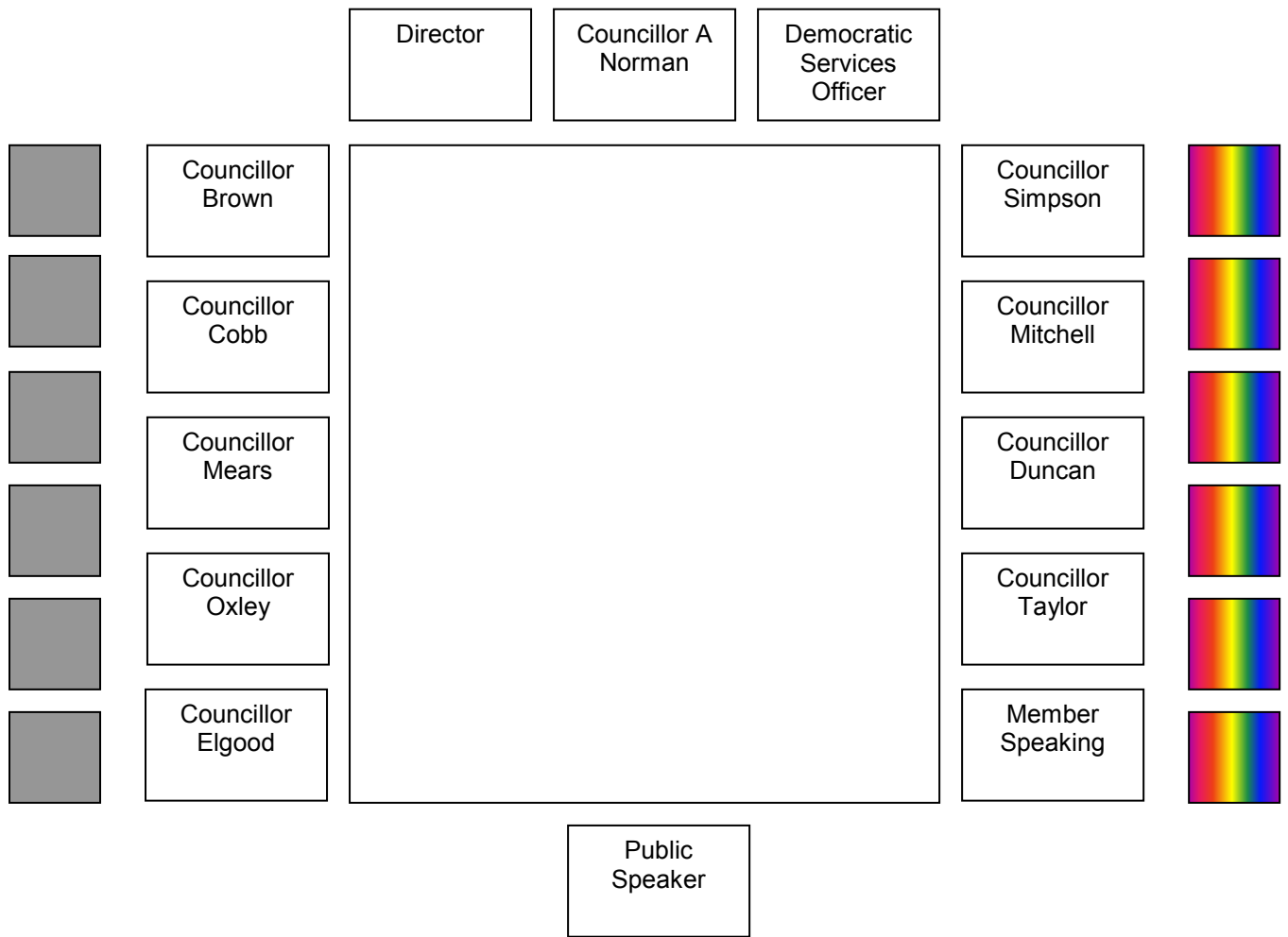
**Brighton & Hove
City Council**

Governance Committee

Title:	Governance Committee
Date:	13 January 2009
Time:	4.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Mrs Norman (Chairman), Simpson, Mrs Brown, Mrs Cobb, Duncan, Elgood, Mears, Mitchell, Oxley and Taylor
Contact:	Mark Wall Head of Democratic Services 01273 291006 mark.wall@brighton-hove.gov.uk

	The Town Hall has facilities for wheelchair users, including lifts and toilets
	An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter and infra red hearing aids are available for use during the meeting. If you require any further information or assistance, please contact the receptionist on arrival.
	<p>FIRE / EMERGENCY EVACUATION PROCEDURE</p> <p>If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions:</p> <ul style="list-style-type: none"> • You should proceed calmly; do not run and do not use the lifts; • Do not stop to collect personal belongings; • Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and • Do not re-enter the building until told that it is safe to do so.

Democratic Services: Meeting Layout



AGENDA

52. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

53. MINUTES OF THE PREVIOUS MEETING

1 - 10

Minutes of the meeting held on 18 November 2008 (copy attached).

54. CHAIRMAN'S COMMUNICATIONS

55. PETITIONS

11 - 12

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Mark Wall
Ward Affected: Stanford

Tel: 01273 291006

56. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 6 January 2009).

No public questions received by date of publication.

GOVERNANCE COMMITTEE

57. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 6 January 2009).

No deputations received by date of publication.

58. WRITTEN QUESTIONS FROM COUNCILLORS

No written questions have been received.

59. LETTERS FROM COUNCILLORS

No letters have been received.

60. NOTICES OF MOTIONS

No Notices of Motion have been received.

61. CALLOVER

(a) Items will be read out at the meeting and Members invited to reserve the items for consideration.

(b) To receive or approve the reports and agree with their recommendations with the exception of those items which have been reserved for discussion.

62. UPDATE ON THE 'COMMUNITIES IN CONTROL' WHITE PAPER 13 - 26

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Emma McDermott *Tel:* 29-3944
Ward Affected: All Wards

63. REVIEW OF CABINET MEMBER FUNCTIONS FOR COMMUNITY SAFETY 27 - 32

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Abraham Ghebre-Ghiorghis *Tel:* 291500
Ward Affected: All Wards

GOVERNANCE COMMITTEE

64. INTRODUCTION OF CRIME & DISORDER COMMITTEES 33 - 36

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Oliver Dixon *Tel:* 29-1512
Ward Affected: All Wards

65. UPDATE ON THE 6-MONTH REVIEW OF THE CONSTITUTION 37 - 40

Report of the Director of Strategy & Governance (copy attached).

Contact Officer: Abraham Ghebre- *Tel:* 291500
Ghiorghis
Ward Affected: All Wards

66. ITEMS TO GO FORWARD TO COUNCIL

To consider whether any items listed on the agenda should be submitted to the 29 January 2009 Council meeting for information.

In accordance with Procedural Rule 24.3a the committee may determine that any item is to be included in its report to council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on Monday 19 January 2009.

Contact Officer: Mark Wall *Tel:* 01273 291006
Ward Affected: All Wards

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Mark Wall, (01273 291006, email mark.wall@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 5 January 2009

GOVERNANCE COMMITTEE

BRIGHTON & HOVE CITY COUNCIL

GOVERNANCE COMMITTEE

4.00pm 18 NOVEMBER 2008

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Mrs Norman (Chairman), Simpson (Deputy Chairman), Mrs Brown, Mrs Cobb, Elgood, Mears, Mitchell, Oxley, Taylor and West

PART ONE

36. PROCEDURAL BUSINESS

(A) Declarations of Substitutes

36.1 Councillor West declared that he was attending the meeting as substitute for Councillor Duncan.

(B) Declarations of Interest

36.2 Councillors Mears and Taylor respectively declared personal but non-prejudicial interests in Item No.44 on the agenda, having family members who were taxi drivers.

(C) Exclusion of Press and Public

36.3 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee 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 nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential or exempt information (as defined in Section 100A(3) of the Act).

36.4 **RESOLVED:** That the public be not excluded from the meeting.

37. MINUTES OF THE PREVIOUS MEETING

37.1 The minutes of the last meeting were agreed as a correct record of the proceedings.

38. CHAIRMAN'S COMMUNICATIONS

- 38.1 The Chairman noted that she had agreed to the acceptance of an urgent item, concerning the procedure for the appointment of assistant directors which would be taken as Item No.51 on the agenda. She stated that because of the likelihood of appointments being made in the near future there was a need to bring the matter before the committee and if approved reported to the Council for final approval.
- 38.2 The Chairman also reminded Members of the Audit Commission's review of 'Good Governance' and the opportunity to complete an on-line survey which would feed into the review process. She asked that Members remind their colleagues of the review and that they encourage them to complete the survey which would end on the 28th November.

39. PETITIONS

- 39.1 There were no petitions presented to the meeting.

40. PUBLIC QUESTIONS

- 40.1 The Chairman noted that no public questions had been submitted for the meeting.

41. DEPUTATIONS

- 41.1 The Chairman noted that there had been no deputations submitted for the meeting.

42. CALLOVER

- 42.1 The Chairman stated that she wished to consider all the items on the agenda and therefore reserved them for discussion.
- 42.2 **RESOLVED** – That item No's. 43 – 50 inclusive, as listed on the agenda together with the urgent item No.51. be reserved for debate and determination.

43. REVIEW OF LEARNING DISABILITY SERVICES GOVERNANCE ARRANGEMENTS

- 43.1 The Committee considered a report of the Director of Adult Social Care & Housing, concerning the arrangements for the future governance of Learning Disability Services (for copy see minute book).
- 43.2 The Director of Adult Social Care & Housing introduced the report and drew the committee's attention to the recommendations which proposed that the responsibility for the Learning Disability Services should remain with the Director for Social Services and the Cabinet Member for Housing. She noted that the review had been undertaken as a result of the decision taken by the Council at its meeting in April, when it had approved

the new constitution and Members had agreed to the 6-month review of the areas of responsibility.

- 43.3 Councillor Taylor stated that he had been unsure as to why the report had been brought forward and suggested that it should have referred to the amendment that had been moved at the council meeting. He had not had the opportunity to discuss the proposals with his Group and suggested that the item should be deferred to the next meeting.
- 43.4 The Chairman stated that the council had agreed to the 6-month review and that the Committee had also agreed to receive a report as part of its work programme which was agreed in July. She did not therefore see the need to defer the matter.
- 43.5 Councillor Taylor noted the comments and stated that in having put the amendment forward to the council, he would have expected to have been consulted on the matter before the report was brought to the Committee. He therefore felt that a deferral would be appropriate.
- 43.6 The Director of Strategy & Governance stated that the council had asked for the review, which had been undertaken and was being reported to Members accordingly. As part of this process Members of the Committee were being asked to consider the matter and give their views before reaching a decision.
- 43.7 Councillor Oxley stated that he did not see the need to defer the matter as the report was before the Committee in accordance with the council's instructions and had recommendations from the professional officers.
- 43.8 **RESOLVED -**
- (1) That the Cabinet be recommended to agree that Learning Disability services remain the responsibility of the Director of Adult Social Care and Housing in order to execute the statutory responsibilities of the DASS.
 - (2) That the Cabinet be recommended to agree that the Executive functions should remain as they are currently set out in the constitution, thus ensuring continuity of leadership and minimising further change for those stakeholders on the Learning Disability Partnership Board.

Note: Councillors Elgood, Taylor and West wished their names recorded as having abstained from voting in respect of resolution (2) above.

44. TAXI TARIFF SETTING UNDER THE NEW CONSTITUTION

- 44.1 The Committee considered a report of the Director of strategy & Governance, concerning the procedure for setting taxi fares to comply with the law, whilst retaining the expertise of the Licensing Committee (for copy see minute book).
- 44.2 The Head of Law introduced the report and explained that the proposals were being forward in order to address an anomaly caused by legislation whereby the approval for setting taxi tariffs has become an Executive function. It is felt that the expertise of the

Licensing Committee in this respect should be retained and therefore it is proposed that it should continue to hear the proposals and representations as an Advisory Committee and to then make recommendations to either the Director, having delegated authority, or the Cabinet for final decision. The Head of Law also reported that the Taxi Forum had been consulted and were supportive of the recommendations.

44.3 Members of the Committee noted the proposals and felt that there was a need to ensure that if the Director was minded to reject the Advisory Committee's recommendations that they would be referred to the Cabinet for consideration. It was therefore agreed that the wording in paragraph 3.6 should be amended accordingly to remove the words 'be expected to' and that recommendation 2.3 be amended to include reference to the revised report.

44.4 The Chairman noted the concern raised by Members of the Committee and put the recommendations as amended to the Committee for approval.

44.5 **RESOLVED -**

- (1) That the Cabinet be recommended to agree that an advisory committee to the executive be established for the purpose of advising on licensing functions that are the responsibility of the Executive, including setting taxi fares;
- (2) That the membership of the advisory committee mirrors the Licensing Committee membership;
- (3) That power be delegated to the Director of Environment to set taxi fares after considering the recommendations of the advisory committee in (1) above in accordance with the report as amended; and
- (4) That the Head of Law be authorised to make the necessary amendments to the Constitution to reflect the above.

45. **REVIEW OF POLLING ARRANGEMENTS**

45.1 The Committee considered a report of the Chief Executive, concerning a review of polling arrangements in the city and proposals to create a new polling district and change boundaries of some existing polling districts (for copy see minute book).

45.2 The Electoral Services Officer introduced the report and stated that the review had been undertaken, in order to seek to ensure the polling arrangements for the city were sufficient and to make improvements for residents. He noted that all Members had been consulted and that further improvements to facilities would be made where possible.

45.3 **RESOLVED -**

- (1) That a new polling district (KS) be created in St. Peter's & North Laine Ward, bounded on the south and east by Cheapside and London Road respectively (as detailed in paragraph 3.4 of the report);

- (2) That St. Bartholomew's CE Primary School be designated as the polling place for the new polling district of KS in St. Peter's & North Laine Ward (as detailed in paragraph 3.4 of the report);
- (3) That the boundary of polling district BX in Woodingdean Ward be extended to include all of the properties numbered 10 to 20 Kevin Gardens (as detailed in paragraph 3.5 of the report);
- (4) That the Old Boat Community Centre off Carden Hill be designated as the new polling place for polling district HX in Patcham Ward, replacing Carden Primary School, Carden Avenue (as detailed in paragraphs 3.6 and 3.7 of the report);
- (5) That the Vallance Community Centre in Sackville Road be designated as the new polling place for polling district NX in Goldsmid Ward, replacing St. Barnabas Church Hall, also in Sackville Road (as detailed in paragraph 3.8 of the report);
- (6) That Mile Oak Community Centre in Chalky Road be designated as the new polling place for polling district QY in North Portslade Ward, replacing the Communal Room in Hazelholt residential home, also in Chalky Road (as detailed in paragraphs 3. 9 and 3.10 of the report);
- (7) That the Registration Officer be authorised to take the measures, required by law, to bring the changes into effect.

46. HOLLINGBURY & STANMER WARD - CHANGE OF NAME

- 46.1 The Committee considered a report of the Chief Executive, concerning the proposed change of name from Hollingbury & Stanmer Ward to Hollingdean & Stanmer Ward (for copy see minute book).
- 46.2 The Electoral Services Officer introduced the report and stated that the proposed change of name had resulted from the consultation exercise for the review of polling arrangements. He noted that since the publication of the report a member of the public had expressed concern over the loss of 'Hollingbury' as an identified polling area and acknowledged that the consultation process had not included tenants and residents associations.
- 46.3 Councillor West welcomed the proposed change of name as it would better reflect the area to be served by the ward. However, he was also concerned about the loss of identification for Hollingbury and therefore wished to propose an additional recommendation to the report. The recommendation to be, "That officers be asked to undertake the necessary consultation and report back to the Committee on the change of name from Patcham Ward to Hollingbury & Patcham Ward."
- 46.4 Councillor Taylor stated that he was happy to second the proposal.
- 46.5 Councillor Mitchell stated that she supported the proposed change of name to Hollingdean & Stanmer and could also understand the concern over the loss of the name of Hollingbury.

- 46.6 The Electoral Services Officer stated that a recent change in legislation provided for the ability to review polling arrangements including the change of ward names outside of any Boundary Review.
- 46.7 Councillor Mears noted the proposal and suggested that it would be more appropriate to consult with the respective Groups on any possible changes to ward names and to then ask officers to undertake the necessary consultation and report back. She stated that she was aware of one other proposed change and whilst it was likely that the majority of wards would be regarded as having an appropriate identity, by first asking each Group it would enable the Groups to take a collective view on any proposed changes.
- 46.8 Members of the Committee noted that the wards had been looked at as part of the recent Boundary Review in 2001 and that changes of ward names had not been forthcoming. It was suggested that the approach put forward to seek the views of the Groups and for the Leaders to be consulted on officers then undertaking a consultation exercise on changes to a small number of wards before reporting back to the Committee was a more cost effective approach.
- 46.9 Councillor Mitchell stated that she did feel the particular matter of changing to Hollingbury & Patcham could be dealt with as had been proposed and any other proposals looked at as outlined.
- 46.10 The Chairman noted the comments and asked the Director of Strategy & Governance to clarify matters before she moved to the vote.
- 46.11 The Director of Strategy & Governance stated that from the debate, he believed there was a consensus in respect of the report's recommendations. There was also consensus on the need to look at the issue raised regarding Patcham and possibly other wards, although there were differences of views as to the scope of such a review and the best way to carry it out. An amendment had been proposed which would result in an additional recommendation requesting officers to consult on and report back on the change of name from Patcham Ward to Hollingbury & Patcham Ward. It had also been suggested that the political groups should consider the question of ward names and identify any proposed changes. The Group Leaders would then be consulted on the proposals and subsequently officers then asked to consult and report back on agreed changes that should be put forward to a future meeting.
- 46.12 The Electoral Services Officer noted that any further changes could not be implemented until the next publication of the electoral register in December 2009.
- 46.13 The Chairman noted that a proposal to add an additional recommendation had been moved and seconded and put the amendment to the vote.
- 46.14 The Chairman noted that the vote had been tied at 5 votes for and 5 votes against and in choosing not to use her second or casting vote the proposal was not carried and therefore fell.

46.15 RESOLVED TO RECOMMEND -

- (1) That the change of electoral area name from 'Hollingbury & Stanmer Ward' to 'Hollingdean & Stanmer Ward' be agreed; and
- (2) That Full Council be recommended to give approval by way of a resolution in accordance with Section 59 of the Local Government and Public Involvement in Health Act 2007.

47. APPOINTMENT OF MEMBERS TO THE HOUSING LOCAL DELIVERY VEHICLE

47.1 The Committee considered a report of the Director of Strategy & Governance, concerning the appointment of Members to the Housing Local Delivery Vehicle (LDV) as members of the company and its management board (for copy see minute book).

47.2 Members of the Committee welcomed the report and hoped that training for Members and tenant representatives would be co-ordinated and start as soon as possible.

47.3 RESOLVED -

- (1) That 4 Members (2 Conservative – Councillors Harmer-Strange and Wells, 1 Labour – Councillor Simpson and 1 Green – Councillor Randall) be appointed to become members of the LDV Company and its Management Board; and
- (2) That the Members be appointed as members of the company and its management board for a term of 3 years, providing that they may be removed or replaced in circumstances set out in paragraphs 3.4 and 3.5 of the report.

48. METHODOLOGY FOR 6 MONTH REVIEW OF THE CONSTITUTION

48.1 The Committee considered a report of the Director of Strategy & Governance, which sought agreement to the proposed City News article and questionnaires on the constitution as part of the 6-month's review of the constitution (for copy see minute book).

48.2 The Head of Law introduced the report and stated that it was intended to issue the questionnaires at the beginning of January and to then report back to the Committee. He noted that Members would be able to respond and identify matters that could be addressed by either the 6-month or 12-month review. He also noted that depending on the changes being proposed, approval would be sought from the Governance Committee, Full Council or the Leader/Cabinet.

48.3 Councillor West referred to the draft article in appendix 1 and suggested that it was too impersonal and should be looked at e.g. change 'people' to 'you'.

48.4 Councillor Oxley referred to appendix 2(b) and suggested that a further question was required either before or after question 2. to cover whether a person had tried to influence the decision-making process.

- 48.5 Councillor Mears asked that any reference to the council should be in full rather than simply using initials and asked who would sign the letter that went the questionnaires.
- 48.6 The Head of Law stated that the letters would be signed by the Monitoring Officer.
- 48.7 Councillor Taylor queried how the review fitted in with the Audit Commission's Good Governance Review and if the Groups had other points to raise not covered by the questionnaire how these would be taken forward.
- 48.8 The Head of Law stated that the Audit Commission was undertaking a wider review for the whole of the council as part of its annual review of good governance, and whilst there was a degree of overlap, the 6-month review of the constitution was a separate matter for the council itself.
- 48.9 The Director of Strategy & Governance stated that he would be willing to attend Group meetings to receive feedback on matters relating to the constitution and points that could be taken into account as part of the 12-month full review.
- 48.10 **RESOLVED** - That the proposed article and questionnaires as set out in appendices 1 to 4 of the report with the amendments suggested be approved.

49. WORKING RELATIONS WITH THE OLDER PEOPLE'S COUNCIL

- 49.1 The Committee considered a report of the Director of Strategy & Governance, concerning the links and working relations between the Council and the Older People's Council (OPC), and how these could be improved by building on existing good practice (for copy see minute book).
- 49.2 The Chairman introduced the report and stated that she hoped the recommendations could be taken forward and that stronger working relations could be developed between the two bodies.
- 49.3 Councillor Mears informed the Committee that as Leader of the Council she had met with the Chair of the OPC to discuss matters and a number of issues that had been raised had been taken on board within the report. She also noted that the Chair was very happy with the report and its recommendations.
- 49.4 Councillor Mitchell stated as the Chairman of the Overview & Scrutiny Commission she welcomed the report and supported the recommendations. She believed it was appropriate to have a co-opted member on the Health Overview & Scrutiny Committee and that other scrutiny committees and ad-hoc panels should take account of the need to involve the designated OPC member for the area in question. She felt that it would be helpful for the Overview & Scrutiny Commission to monitor the situation and would raise it with the Chairmen of the scrutiny committees.
- 49.5 Councillor Taylor referred to the OPC priorities listed in paragraph 3.3.4 and expressed his concern over the contradiction with the promotion of human civil rights, and the fact that a member of the OPC had been told they would have to stand down if they put their name to a political publication.

- 49.6 Councillor Mears stated that the OPC was an independent body and had the authority to determine how it should operate. The council recognised that independence and was seeking to build working relations with the OPC so that both organisations could work together effectively for the benefit of the city.
- 49.7 **RESOLVED -**
- (1) That the information in the report be noted; and
 - (2) That the actions set out in paragraph 3.4.1 of the report be recommended to the Cabinet and the Chairmen of the Overview & Scrutiny Committees.

50. REVIEW OF MEETINGS TIMETABLE FOR 2009/10

- 50.1 The Committee considered a report of the Director of Strategy & Governance, which outlined the proposed schedule of meetings for the 2009/10 municipal year (for copy see minute book).
- 50.2 Members of the Committee welcomed the report and thanked the Head of Democratic Services for his endeavours in delivering the schedule of meetings.
- 50.3 Councillors Elgood and Taylor expressed their concern over the lack of Full Council meetings and suggested that this should be looked at for the 2010/11 timetable. Councillor Taylor also questioned the effectiveness and value of Cabinet Member Meetings and asked if a financial appraisal could be undertaken in respect of the number of meetings that were held.
- 50.4 Councillor Mears stated that she believed the new Leader and Cabinet model was working well and that it was for the opposition groups to make use of the various avenues open to them. She had been determined to ensure that the decision-making system remained open and transparent for Members and members of the public.
- 50.5 Councillor Mitchell queried whether the number of council meetings had prevented the consideration of statutory items by the Full Council.
- 50.6 The Director of Strategy & Governance stated that he was not aware of the council being unable to conduct business in accordance with statutory requirements and suggested that the financial appraisal be looked at as part of the 12-month review.
- 50.7 **RESOLVED -**
- (1) That the changes to the timetable of meetings for 2008/2009 as a result of identifying work programmes and a more effective use of resources for certain meetings, be noted;
 - (2) That the proposed timetable of meetings for 2009/10 be approved; and

- (3) That a proposed timetable for 2010/11 be brought to the committee in March 2009, for consideration.

Note: Councillors Elgood, Taylor and West wished their names recorded as having voted against the above resolutions.

51. PROCEDURE FOR APPOINTMENT OF ASSISTANT DIRECTORS

51.1 By reason of the special circumstances, and in accordance with section 100B(4)(b) of the 1972 Act, the Chairman of the meeting was consulted and was of the opinion that this item should be considered at the meeting as a matter of urgency.

51.2 The Committee noted that the special circumstances for non-compliance with Council Procedure Rule 19, Access to Information Rule 5 and Section 100B, Schedule 12A of the 1972 Local Government Act as amended (items not to be considered unless the agenda is open to inspection at least five days in advance of the meeting) were that a review of the Employment Procedure Rules, (which dealt, amongst other things, with the appointment of Senior Officers), was planned for a review as part of the 6-month review of the Constitution. However, it had become apparent that, given the likelihood of some appointments needing to be made before then, it was necessary for the appointment of Assistant Directors to be considered by the Governance Committee at its meeting on the 18 November before being submitted to Council for approval.

51.3 RESOLVED TO RECOMMEND:

- (1) That the changes to the Officer Employment Procedure Rules set out in paragraphs 3.3 and 3.4 be agreed;
- (2) That the Head of Law be authorised to amend the Constitution to give effect to the changes; and
- (3) That the changes come into force with immediate effect.

The meeting concluded at 5.45pm

Signed

Chair

Dated this

day of

GOVERNANCE COMMITTEE

Agenda Item 55

Brighton & Hove City Council

Subject:	Petitions
Date of Meeting:	13 January 2009
Report of:	Director of Strategy & Governance
Contact Officer: Name:	Mark Wall Tel: 29-1006
	E-mail: mark.wall@brighton-hove.gov.uk
Key Decision:	No
Wards Affected:	Stanford

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To receive the following petition presented at Council on 4 December 2008, and any petitions presented directly to the Governance Committee Meeting.
- 1.2 **55(i)** To receive the following petition presented at Council 4 December by Councillor Bennett and signed by 21 people:

“We would like the name of our ward, Stanford to be changed to Hove Park. The area is already known as Hove Park area by people who live here. As Hove Park is central to the area and known by all it would be more appropriate.”

Subject: Update on the 'Communities in Control' White Paper
Date of Meeting: 13 January 2009
Report of: Director of Strategy and Governance
Contact Officer: Name: Emma McDermott Tel: 29-3944
E-mail: emma.mcdermott@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 On 23 September 2008 the Governance Committee considered a report on the governance implications of the *Communities in Control* White Paper issued by the Department of Communities and Local Government (CLG) in July. The Committee instructed officers to report back at a subsequent meeting with details of CLG's consultations and draft legislation derived from the White Paper.
- 1.2 Accordingly, this report focuses on CLG's consultations and the Council's responses; and on those provisions in the White Paper taken forward in recently announced government bills.

2. RECOMMENDATIONS:

It is recommended that the Committee:

- 2.1 Notes the latest position on CLG's consultations under the White Paper
- 2.2 Notes the governance-related provisions of:
(i) the Local Democracy, Economic Development and Construction Bill, and
(ii) the draft Community Empowerment Bill;
- 2.3 Instructs officers:
- to provide the Committee with a further report in March 2009, setting out more detail and analysis on the bills, and
- to seek the Committee's input in formulating a response to CLG's latest White Paper consultations.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 CLG states that the *Communities in Control: Real People, Real Power* White Paper aims to pass power into the hands of local communities by giving control over local decisions and services to a wider pool of active citizens. In doing so,

CLG believe that communities and individual citizens can take difficult decisions and solve complex problems for themselves.

Provisions are grouped around the seven themes of being active in your community, access to information, having an influence, challenge, redress, standing for office, and ownership and control.

3.2 The White Paper builds on the Local Government and Public Involvement in Health Act 2007 which, among other key provisions, established new rights of involvement for local people and arrangements for local authorities to work with partners on local area agreements, setting out priorities for each area.

3.3 Details of the governance-related provisions in the White Paper were set out in a report taken to the Governance Committee on 23 September 2008. Since then, CLG have issued a number of consultations relevant to the White Paper (see 3.4) and have carried forward provisions requiring legislation into the Local Democracy, Economic Development and Construction Bill, published on 5 December 2008 (see 3.6), and the draft Community Empowerment Bill (see 3.7).

3.4 CLG has issued the following consultations linked to the White Paper:

3.4.1 Improving local accountability

Issued: 7 August 2008; now closed

Proposals: (i) developing and strengthening overview and scrutiny
(ii) increasing the visibility and accountability of local public officers
(iii) facilitating the work of councillors

Response: In view of the time limit set by CLG, officers submitted a response on 30 October 2008 – see Appendix 1

3.4.2 Making and enforcement of byelaws

Issued: 27 August 2008; now closed

Proposals: Councils to have power to make certain byelaws without reference to the Secretary of State, and to impose fixed penalties for certain breaches.

Response: As the proposals do not significantly affect the council's governance arrangements as set out in our constitution, no response was deemed necessary

3.4.3 Standing for office: time-off entitlements

Issued: 25 September 2008; now closed

Proposals: Extending the right to time off (already permitted for councillors) to employees performing other public roles such as members of probation boards or youth offender panels

Response: As the proposals have no direct implications for members, no response was considered necessary

3.4.4 Codes of conduct for local authority members and employees

Issued: 1 October 2008; now closed

Proposals: Revising the model code of conduct for local authority members, principally to clarify its application to members' conduct in their non-official capacity, but also to incorporate a code of conduct for employees into their terms and conditions of employment

Response: The Standards Committee considered this item at their meeting on 11 November 2008 and their views formed the basis of a response made on 23 December 2008 (see Appendix 2)

3.4.5 **Code of recommended practice on local authority publicity**

Issued: 17 December 2008; closes 12 March 2009

Proposals: A review of the Code, 20 years after first published, seeking views on whether it remains the right vehicle for protecting public money while allowing councils to issue effective, non-political, publicity.

Response: Officers will prepare a paper for the 10 March Governance Committee meeting, seeking members' input to the response

3.4.6 **Changing council governance arrangements – mayors and directly elected leaders.**

Issued: 15 December 2008; closes 13 March 2009

Proposals: (i) reducing the petition threshold that would trigger a local governance referendum, which in Brighton & Hove would mean moving from a leader & cabinet executive to a directly elected mayor and cabinet
(ii) permitting on-line petitions
(iii) reducing the moratorium period from 10 to 4 years if the referendum is lost

Response: Officers will prepare a paper for the 10 March Governance Committee meeting, seeking members' input to the response

3.5 What will happen to any response submitted? For each of their consultations, CLG have undertaken to analyse the responses and to produce a summary of them within three months of the close of consultation, to be published on the CLG website www.communities.gov.uk. Further, the Government says it will take account of the responses received before introducing primary or secondary legislation, as appropriate, on the topics in question.

3.6 Local Democracy, Economic Development and Construction Bill

3.6.1 It was announced in the 2008 Queen's Speech that the Local Democracy, Economic Development and Construction Bill will form part of the government's legislative programme for the 2008/09 parliamentary session. The Bill received its First and Second Readings in the Lords in December 2008, and Committee stage is scheduled for 19-28 January 2009.

3.6.2 The Bill takes forward some of the government's commitments from the White Paper, as well as proposals from the Review of Sub-National Economic Development and Regeneration.

3.6.3 The following provisions of the Bill have significant governance implications for the Council

Part 1 – Democracy and Involvement

Chapter 1: **Duty to promote democracy.** This chapter imposes duties on local authorities (LAs) to promote understanding of the opportunities that

exist for members of the public to get involved in and influence the work of LAs *and authorities connected to it* *

In particular, the duty to promote democracy will require the LA to promote understanding of the following among local people:

- (a) the functions of the authority
- (b) the authority's democratic arrangements (i.e. those enabling the public to participate in or influence the making of decisions)
- (c) how members of the public can take part in those arrangements.

In relation solely to an LA, the duty set out in (c) includes a duty on that authority to promote understanding of:

- how to become member of an LA
- what members of the authority do
- what support is available to members

* authorities connected with an LA include the following bodies whose area coincides or falls within the LA area: a parish council, the fire & rescue authority, chief officer of police, strategic health authority, Primary Care Trust, NHS trusts, and the managing or governing body of a local maintained school.

Chapter 2: **Duty to respond to petitions.** Local authorities will be required to make, publicise and comply with a scheme – to be approved at a meeting of the authority – for handling paper and electronic petitions. Authorities will have to respond to petitions which meet certain criteria and make the response to a petition publicly available.

In acknowledging a petition, the authority will have to indicate what it has done or proposes to do in response to the petition

Amongst other matters, the petition scheme must:

- specify the minimum number of signatures required to render the petition valid
- detail the steps the authority may take following receipt of a valid petition, including giving effect to the request in the petition, holding an enquiry, commissioning research, or referring the petition to an overview and scrutiny committee
- if the petitioner so requests, arrange for the adequacy of the steps taken or to be taken by the authority in response to the request to be reviewed by an overview and scrutiny committee of the authority

3.6.3 Officers will track the Bill during its passage through Parliament and will bring a report to the 10 March Governance Committee meeting, with news of significant amendments to the governance provisions, and the expected timescale for later parliamentary stages. Thought needs to be given as to how the Council will discharge its duties under Part 1. To a large extent, this will be influenced by statutory guidance expected from the Secretary of State on each of the chapters mentioned above.

3.7 Draft Community Empowerment Bill

3.7.1 Other governance-related proposals from the White Paper are to feature in a draft Community Empowerment Bill to be brought forward during the 2008-09 session. Although pre-legislative scrutiny will allow for comment and consultation before the substantive bill is announced in the 2009 Queen's Speech, the bill is unlikely to be enacted in the following session due to Parliament being dissolved ahead of the general election.

3.7.2 Few details are available yet, but in general terms the draft bill is planned to:

- amend the rules on politically restricted posts
- enable remote voting for councillors
- introduce voting incentives
- modernise provisions relating to parish councils
- remove barriers to directly electing mayors

3.7.3 Once the draft bill is printed, officers will brief members of the Governance Committee on its key provisions and implications for the Council.

4. **FINANCIAL & OTHER IMPLICATIONS:**

4.1 Financial Implications:

The proposals in the White Paper may have potential impact on staff time in Democratic Services, and may require extra resources to achieve. For context, the 2008/09 budget for this service is £1.786m, of which Members' allowances account for £1.057m, and staffing costs for Democratic Support Staff a further £392k.

Finance Officer Consulted: Peter Francis

Date: 17 December 2008

4.2 Legal Implications:

Legal implications are addressed in the body of the report. Certain provisions in the Local Democracy Bill, such as the duty to respond to petitions, will necessitate amendments to the Council's constitution, which the Committee will be invited to consider in due course.

Lawyer Consulted: Oliver Dixon

Date: 12 December 2008

4.3 Equalities Implications:

Any new activity instigated as a result of the White Paper or the Local Democracy Bill will be equality impact assessed in line with the Council's equalities policy.

4.4 Sustainability Implications:

The development of any new activity is likely to relate to one of the four priorities in the UK's Sustainability Plan: sustainable communities using engagement and partnership to reduce poverty and environmental degradation

4.5 Crime & Disorder Implications:

Any new activity instigated will be planned and delivered to ensure it meets the Council's obligations under section 17 of the Crime and Disorder Act 1998

4.6 Risk and Opportunity Management Implications:

The White Paper presents opportunities to help the Council achieve one of its five corporate priorities: open and effective city leadership. However, there are associated risks in terms of likely resource implications and organisational change.

4.7 Corporate / Citywide Implications:

Implementing proposals under the White Paper and discharging duties under the Local Democracy Bill when enacted will have corporate and citywide implications as they relate to the governance of the Council and how the Council works with its partners to deliver its vision for Brighton & Hove

SUPPORTING DOCUMENTATION

Appendices:

1. Response to the consultation paper 'Improving Local Accountability'
2. Response to the consultation paper 'Code of Conduct for Local Authority Members and Employees'

Links to relevant publications:

1. *Communities in Control: Real People, Real Power* White Paper, CLG, July 2008
<http://www.communities.gov.uk/publications/communities/communitiesincontrol>
2. White Paper consultation papers
<http://www.communities.gov.uk/communities/communityempowerment/communitiesincontrol/consultationpapers/>
3. Local Democracy, Economic Development and Construction Bill
<http://www.publications.parliament.uk/pa/ld200809/ldbills/002/2009002.pdf>
4. Draft Community Empowerment Bill
<http://www.commonleader.gov.uk/output/page2669.asp>

Response to the White Paper consultation on Improving Local Accountability

This is a response from Brighton & Hove City Council to the consultation issued by Communities and Local Government on 'Improving Local Accountability', part of their series of consultation papers on the *Communities in Control* White Paper.

Chapter 2: Developing and strengthening overview and scrutiny

Implementing the Local Government and Public Involvement in Health Act 2007 provisions

Q1. Do you agree with our proposed approach in relation to overview and scrutiny committees requiring information from partner authorities?

Through the Local Strategic Partnership, a considerable amount of cross-working and information sharing already exists between partner authorities in Brighton & Hove. Any statutory requirement on partners to provide information, of the sort envisaged by the consultation document, to overview and scrutiny is broadly consistent with our existing ways of working and unlikely to cause any significant concern to our partners.

The additional information that could be required of partners should assist local authority members in dealing with questions and concerns raised by their constituents relating to city-wide issues that are beyond the specific remit of council functions. In that regard, the proposal is to be welcomed.

Q2. Do you agree with the proposal to apply the provisions in relation to exempt and confidential information without modification to local authority executives?

It seems to us logical to apply the same criteria on the exclusion of confidential or exempt information to local authority executives as currently applies to information provided by the overview and scrutiny committee and the local authority.

That said, our standard approach when preparing any executive response to a scrutiny report or recommendation is to maintain openness wherever possible.

(Questions 3-5 do not apply to Brighton & Hove as we are a unitary authority)

Taking forward the 2008 White Paper commitments

Q6. What issues should be considered as part of any new power to establish area scrutiny committees?

An area scrutiny committee would only be warranted where it is clear that each participating authority has a shared or joint interest in the matter under consideration.

Further, the composition of any area committee would need to be politically proportionate, as is the case with existing scrutiny committees (in accordance with section 21(11)(b) of the Local Government Act 2000)

Q7. How might the requirement for dedicated scrutiny resource be put into practice?

If dedicated resource were applied at officer level to support the scrutiny function, some controls also need to be imposed to ensure that overview and scrutiny operates in the ways outlined in paragraphs 2.1-2.3 of the consultation document, which seems to us to reflect best practice. Without such controls, there is a risk that dedicated scrutiny resource is seen as an opportunity to pursue agendas that do not maximise the effectiveness of local government scrutiny.

Q8. Do you agree that appeals about a local authority's response to a petition should be considered by the overview and scrutiny committee? What practical issues might arise?

If the facility to petition a local authority is given wide publicity, a large number of petitions might be generated. In turn, these may result in a high volume of appeals where petitions are not dealt with to the satisfaction of petitioners. We have concerns over the capacity of overview and scrutiny to hear these appeals. In Brighton & Hove, the appropriate forum to hear an appeal would be the Overview & Scrutiny Commission, but they have existing duties to perform, and we would not want their time monopolised or effectiveness damaged by appeal hearings.

It is not clear from the proposals what criteria an overview and scrutiny committee might apply in evaluating the merits of an appeal. For instance, should more credence be given to those appeals for which the underlying issue has strategic or city-wide importance to the local community?

We assume that an appeal could be made on a number of grounds, based on the way in which an authority has responded to an appeal (e.g. an unreasonable delay) as well as the substance of the authority's response. Clarification or guidance would be welcome on this point.

Lastly, the consultation suggests that a successful appeal might trigger a debate of the full council. It would be helpful to receive further guidance on the range of options open to an overview & scrutiny committee once they had concluded that an appeal was valid.

Chapter 3: Increasing the visibility and accountability of local public officers

Q9. Do you agree with this approach that those responsible for the job descriptions should determine the precise arrangements by which the chair or chief executive will attend regular public meetings?

In principle it makes sense for those responsible for the content of the Chief Executive's job description to determine arrangements for the jobholder to attend regular public meetings. However, there is a risk of being over-prescriptive here. Whilst the job description could prescribe a minimum level of performance in relation to public meetings, the Chief Executive should be trusted as a senior manager to determine the more detailed arrangements.

Q10. Do you agree with the proposals to require the local authority with its strategic partners to agree a local scheme for petitions to hold officers to account? What practical issues might arise?

We have strong reservations about whether it is even appropriate for senior officers to be held publicly accountable in the way suggested in the White Paper, given that the role of council officers is to give effect to the plans, strategies and budgets set by others, in particular by the members.

Holding senior officers to account in a public forum may be appropriate in public bodies where they have direct authority to make decisions, but not where they are operating – as they do in councils – under delegated powers.

Hence any scheme enabling petitions to hold local officers to account must recognise the different governance arrangements that exist across different public bodies.

Q11. Should the government provide some minimum standards for local schemes to hold officers to account? What should they be? Which, if any, local service providers and agencies must, or must not be, in any scheme?

(See response to Q10)

Q12. Do you agree that the scope of the scheme should be agreed locally subject to any statutory minimum standards and whether this would be an effective means of empowering communities?

(See response to Q10)

Chapter 4: Facilitating the work of councillors

Q13. Do you agree with the proposed approach?

For a number of reasons, we do not agree with the proposal to allow remote attendance and voting.

Firstly, we believe it is incumbent on all members to commit to attending council meetings in person, and to make the necessary arrangements to do so. It is important for the local electorate to witness democracy at first hand; this would not be possible if one or members participating in a council meeting were in touch merely by an audio link.

Secondly, the cost of creating and maintaining reliable, secure connections between remote members and the council meeting room would result in additional costs, despite the assertion made in paragraph 4.10 of the consultation. Not all our meeting venues are webcast enabled, nor are members currently equipped with the hardware required to receive and transmit information to and from the meeting location in real time.

Thirdly, any member participating remotely would be unable to sense or engage effectively with the mood or atmosphere of the actual meeting; it is important to be able to do so when a controversial or politically charged issue is being debated. Difficulties would also arise for the remote member in keeping track of the order of speakers, engaging in real time with colleagues from the same political group over a possible negotiating position or over an amendment moved from the floor.

Response to the White Paper consultation on Codes of Conduct for Local Authority Members and Employees

Following its meeting in November when the above consultation paper was considered, I [Liz Woodley] have been instructed by the Council's Standards Committee to forward the following responses to you:-

Question 1: Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?

Yes. Members should inspire trust and confidence in those who elected them. Poor behaviour can adversely affect that trust. It is appropriate that the members' code be extended to apply to members acting in their non-official capacity, as long as the term "non-official" is carefully defined.

Question 2: Do you agree with this definition of "criminal offence" for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details

The proposed definition of criminal offence, "any criminal offence for which the member has been convicted in a criminal court" seems to serve its purpose.

If consideration is to be given to including cautions, the term police caution should be avoided, unless it is proposed to limit it to cautions imposed by the Police. The term police caution is not a term with which the Council is familiar - it recognises simple cautions and conditional cautions, as defined in relevant Home Office Circulars. It should also be noted that other enforcement bodies use cautions. For example, the Council uses them for Housing Benefit offences, which action is compatible with DWP guidance. The imposition of a caution is not a matter of public record. Sanctions against a member for accepting a caution run the risk of making a private matter public.

Members noted that there was no discussion in the paper of whether civil infringements, comparable to a criminal conviction, should be covered by the new code. The making of an Anti-social behaviour order (ASBO) against a member would not be covered, even though the behaviour necessary to justify the making of the ASBO would be likely to bring the member's office or authority into disrepute. For an ASBO to be made, the person concerned must have acted in an anti-social manner, that is to say, in a manner that has caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself (Section 1(1)(a), Crime and Disorder Act 1998). However, Members did appreciate that only behaviour amounting to a criminal offence was covered by the Local Government and Public Involvement in Health Act.

With regard to the proposal to exclude offences capable of attracting fixed penalty notices from the scope of the Code, Members felt that such offences may be relevant when considering a particular member's role. A series of

fixed penalty notices for parking and motoring offences may be of more concern to a Cabinet Member for Environment, as opposed to a Cabinet Member for Adult Social Care & Housing.

Question 3: Do you agree with this definition of “official capacity” for the purpose of the members’ code? If not, what other definition would you support? Please give details

The definition is considered clumsy, although we recognise that a tighter definition would be difficult.

Question 4: Do you agree that the member’s code should apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

It seems right that a conviction abroad should only be considered where the same behaviour would amount to a criminal offence in the UK.

Question 5: Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

It is proposed that investigations into allegations of misconduct should automatically be put on hold where the allegation involves a criminal activity which at the time the allegation is made is being investigated by the police or prosecuted through the courts. This approach is inconsistent with current Standards Board guidance on deferring investigations. That proposes that investigation should normally be deferred where there are other proceedings pending, but where the investigation will not prejudice the police investigation or court case, the investigation can proceed.

Our preference is that the way such investigations should be handled is best decided on a case by case basis.

In cases involving a member’s honesty, integrity or conduct which has a bearing on the discharge of their official duties, a precautionary suspension, akin to that used for employees could be considered.

Question 6: Do you think that the amendments to the members’ code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?

The proposed revisions to the Code are pedantic, but otherwise unobjectionable. Paragraph 12 (2) already applies to Rottingdean Parish Council. While the Code is being reviewed, consideration could be given to revising (upwards) the £25 limit. The current level means that the most of the functions attended by the Mayor have to be registered.

The following clarification could usefully be provided in connection with prejudicial interests: does the interest have to be the member’s interest, or that of a body to which the member belongs?

Question 7: Are their aspects of conduct currently included in the members' code that is not required? If so, please could you specify which aspects and the reasons why you hold this view.

All aspects of conduct currently included in the code are required.

Question 8: Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

No

Question 9: Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to observe the code?

It is proposed that a member would have two months for the adoption of the new code to give an undertaking to abide by it. Two months has proved adequate in the past, and there is no obvious reason why it would not in the future.

Question 10: Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

A duty to uphold the law is not a 'principle', but rather a rule or requirement.

Question 11: Do you agree with this broad definition of "criminal offence" for the purpose of the General Principles Order? Or do you consider that "criminal offence" should be defined differently?

This broad definition is considered appropriate.

Question 12: Do you agree with the definition of "official capacity" for the purpose of the General Principles Order?

Yes.

Question 13: Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment is needed

This is to be welcomed as it establishes a stronger national local government professional identity and gives the public confidence that there is a minimum standard of conduct for local members and public servants.

Question 14: Should we apply the employees' code to fire fighters, teachers, community support officers and solicitors?

Yes, the employees' code should apply to all local public servants regardless of any professional codes that might apply to those groups.

Question 15: Are there categories of employee in respect of whom it is not necessary to apply the code?

Professional codes by their nature are likely to speak to a certain area of conduct. A basic base employee code should apply to all, particularly in regard to honesty, integrity, relationships with politicians and dignity and respect at work. There may also be an advantage in the strengthening of equality and diversity elements of the employees' code as they may not have appropriate emphasis in other professional codes.

Question 16: Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?

In broad terms we consider that the employees' code reflects the appropriate core values. However, there is insufficient emphasis on treating colleagues, customers and members with dignity and respect. Does the code not need to mirror that of members in having a section on conduct when not officially in role?

Question 17: Should the selection of "qualifying employees" be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?

A two-tier, not a delegated, approach should be adopted, and junior officers (and temporary staff) should be afforded a greater degree of privacy than more senior members of staff.

Question 18: Should the code contain a requirement for qualifying employees to publicly register any interests?

We support a requirement for employees to register interests but do not accept that it should be a public register for all employees. Arguably, the latter should apply to senior staff only.

Question 19: Do the criteria of what should be registered contain any categories that should be omitted or omit any categories that should be included?

No.

Question 20: Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code.

Yes.

Question 21: Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

This section of the code is acceptable as drafted.

Question 22: Should the employees' code extend to employees of parish councils?

This would be appropriate, in order to be consistent.

Subject:	Review of Cabinet Member Functions for Community Safety
Date of Meeting:	13 January 2009
Further Meeting:	Cabinet 15 January 2009
Report of:	Director of Strategy & Governance
Contact Officer: Name:	Abraham Ghebre-Ghiorghis Tel: 291500
E-mail:	abraham.ghebre-ghiorghis@brighton-hove.gov.uk
Wards Affected:	All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Community Safety has been an important function of the Council and is likely to increase in importance with new initiatives, such as the creation of a Crime and Disorder Committee and proposals in the Green paper on policing issued by the Home Office in July 2008. This report proposes a realignment of the Cabinet Member responsibilities to reflect this and to achieve greater co-ordination with related functions around equalities, inclusion and community affairs by transferring the Community Safety function from the Cabinet Member for Environment to the Cabinet Member for Community Affairs, Inclusion and Internal Relations.

2. RECOMMENDATIONS:

- 2.1 That the **Governance Committee** considers and comments on the proposals from the Leader as set out in this report regarding the transfer of community safety functions currently delegated to the Cabinet Member for Environment to the Cabinet Member for Community Affairs, Inclusion and Internal Relations.
- 2.2 That the **Cabinet** agrees the proposals and authorises the Head of Law to make the necessary amendments to the Council's constitution.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Under the Council's constitution, Cabinet responsibility for Public Safety, which includes Community Safety and Civil Contingencies, is delegated to the Cabinet Member for Environment. The community safety functions are described in the constitution as including the co-ordination of the Council's functions regarding the police and public safety, making consultative arrangements under the Police Act

1996, drawing up community safety plans and co-ordinating the Council's functions under the Crime and Disorder Act 1998. This will expand to include initiatives relating to the Crime and Disorder Committee when section 19 of the Police and Justice Act 2006 comes into force. A full description of the functions as they appear in the Council's constitution is attached in appendix 1.

- 3.2 Although Community Safety has historically been part of the Environment Committee/ Cabinet Member portfolio, there are emerging issues that make a re-alignment of the functions necessary. They tend to suggest that it would be more appropriate for these functions to be discharged as part of the functions of the Cabinet Member for Community Affairs, Inclusion and Internal Relations (CAIIR). In particular:
- 3.2.1 There is a recognised link between community safety (including the reduction of crime and disorder) and policies on community engagement, equalities and inclusion. These already form part of the Cabinet Member for CAIIR's portfolio.
- 3.2.2 The Environment Cabinet Member portfolio, covering as it does Public Safety, Parks and Open Spaces, Travellers and Gypsies, Highways and Traffic, Parking, Waste, Conservation and Design, Coast Protection, Seafront, Environmental Health, Building Control, Trading Standards, Planning and Licensing, carries an extremely heavy workload. In order to provide Community Safety greater focus at Cabinet level, and given the overlap between community safety and the functions encompassed in the Cabinet member for CAIIR's remit, it would be more effective for these functions to be discharged as part of the same portfolio.
- 3.2.3 Part of the Policing Green Paper, issued by the Home Office in July 2008, is about improving the connection between the public and the police. The Council responded to the Green Paper consultation and has an interest in proposals for directly elected crime and policing representatives, neighbourhood policing and holding the police to account through Councillor Call for Action.

By taking on responsibility for community safety matters, the Cabinet Member for CAIIR would be well placed to assimilate the Green Paper proposals that affect the Council and to give a political lead where required.

- 3.3 Under this proposal, Cabinet level responsibility for Civil Contingencies would remain with the Cabinet Member for Environment.
- 3.4 Under the Local Government Act 2000 the decision about individual portfolios remains with the Leader and with his/her permission, with the Cabinet. When the constitution was adopted, it was agreed that any permanent changes to the scheme of delegations should be considered by the Governance Committee who then makes recommendations to the decision-maker. The Leader is minded to introduce the changes outlined in the report with the decision taken at Cabinet. This report is therefore coming to the Governance Committee for comments/recommendations before going to the Cabinet for a decision.

4. CONSULTATION

- 4.1 The Leader of the Council and the relevant Cabinet members were consulted and they are supportive of the proposals.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications arising from this report

Finance Officer Consulted: Anne Silley

Date: 17.12.08

Legal Implications:

- 5.2 The proposals in this report are in accordance with the Local Government Act 2000 and the Council's constitution

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 17.12.08

Equalities Implications:

- 5.3 The proposals will have positive equalities implications by enabling the discharge of community safety functions alongside equalities, inclusion and community affairs.

Sustainability Implications:

- 5.4 There are no sustainability implications arising from this report

Crime & Disorder Implications:

- 5.5 The proposals will enable issues around crime and disorder to receive a more focussed attention and achieve greater co-ordination between crime and disorder and the wider community engagement agenda.

Risk and Opportunity Management Implications:

- 5.6 The proposals will provide the opportunity for greater co-ordination of related functions.

Corporate / Citywide Implications:

- 5.7 The proposals will assist the Council by providing greater focus and co-ordination at Member level between community safety and the wider community engagement agenda.

6. Evaluation of Alternative Options

- 6.1 The retention of the existing arrangements was considered, but for reasons set out in the report, the proposed changes will enable a more effective discharge of Council functions regarding Community Safety

7. Reasons for Report Recommendations

- 7.1 These are set out in paragraphs 3.2.1-3.2.3 of the report

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1: list of community safety functions currently delegated to Cabinet member for Environment

Background Documents

1. The Council's constitution

Appendix 1

Delegated Functions – Cabinet Member for Environment

1. Public Safety

(a) Community Safety

To co-ordinate the Council's functions regarding the police and public safety and to take such action as is necessary, including:

- (i) making consultative arrangements under the Police Act 1996;
- (ii) drawing up community safety plans;
- (iii) co-ordinating the Council's functions under the Crime and Disorder Act 1998 including the formulation, with other responsible authorities, of strategies for reducing crime and disorder and the making of child curfew schemes providing that this shall not include the adoption of the Crime and Disorder Reduction Strategy.

(b) Civil Contingencies

To exercise the Council's functions in relation to emergency planning and business continuity, including the Council's functions under the Civil Contingencies Act 2004.

Subject: Introduction of Crime and Disorder Committees
Date of Meeting: 13 January 2009
Report of: Director of Strategy and Governance
Contact Officer: Name: Oliver Dixon Tel: 29-1512
E-mail: oliver.dixon@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Home Office is expected to implement legislation requiring local authorities to introduce Crime and Disorder Committees from 1 April 2009. This report builds on the verbal update given to the Governance Committee on 23 September 2008, with more detail on the government's timetable and the governance implications for Brighton & Hove City Council.

2. RECOMMENDATIONS:

That the Governance Committee:

- 2.1 Notes the government's intention to introduce Crime and Disorder Committees from April 2009.
- 2.2 Agrees to consider the local governance implications as part of the Council's six-month review of the constitution, and in light of statutory guidance and regulations expected early in 2009.

3. RELEVANT BACKGROUND INFORMATION / CHRONOLOGY OF KEY EVENTS:

- 3.1 Under the government initiative known as 'Councillor Call for Action' (CCfA), councillors will be able to refer certain matters to the relevant overview and scrutiny committee for consideration. The Local Government and Public Involvement in Health Act 2007 will introduce CCfA powers in respect of local government matters from 1 April 2009¹.
- 3.2 A CCfA power also exists in the Police & Justice Act 2006, enabling councillors to raise crime and disorder issues, particularly those relating to anti-social

¹ Para 4 of the Local Government and Public Involvement in Health Act 2007 (Commencement No. 8) Order 2008 [SI 2008/3110]

behaviour or the misuse of drugs, alcohol and other substances. Once in force, section 19 of the 2006 Act will require the Council:

- (i) to establish a crime and disorder committee (CDC) with power –
 - (a) to review or scrutinise decisions and actions taken by “responsible authorities”² in connection with their crime and disorder functions; and
 - (b) to make reports or recommendations to the Executive with respect to the discharge of those functions;
 - (ii) to make CCfA arrangements which enable any member who is not a member of the CDC to refer any local crime and disorder matter to the committee
- 3.3 When filing a report or recommendation to the Executive, the CDC must provide a copy to the appropriate responsible authorities, who in turn must respond to the CDC with an action plan for addressing the matter, and have regard to the report or recommendations in exercising their functions.
- 3.4 The Home Office consulted over this CCfA power in July 2008 as part of the broader local accountability arrangements for crime and disorder in the Policing Green Paper. Following that consultation, the Home Office announced in November³ their intention to introduce CCfA for crime and disorder matters in April 2009. A commencement order is expected in the New Year.
- 3.5 Both types of CCfA (local government and crime & disorder matters) will be supported by guidance published by the IDeA in partnership with the Centre for Public Scrutiny at the end of January 2009.
- 3.6 The Secretary of State may issue regulations as to the operation of CDCs, covering matters such as co-opting additional members and arrangements for referring a matter to the committee.
- 3.7 The Police & Justice Act⁴ requires the CDC to be an overview and scrutiny committee. However, the Council has discretion over whether to establish the CDC as a stand alone O & S committee or to incorporate its functions within another O & S committee.
- 3.8 The types of issue that may come before the CDC are currently dealt with by the Community Safety Forum (CSF). However, the CSF is not an overview and scrutiny body and cannot, as currently constituted, assume the mantle of CDC with all its attendant powers.

² In this context “responsible authorities” has the meaning given by section 5 of the Crime & Disorder Act 1998, namely the local chief officer of police, police authority, fire and rescue authority, Primary Care Trust, and the Council itself

³ See ‘Summary of Green Paper Consultation Responses and Next Steps’, para 1.11 - <http://police.homeoffice.gov.uk/publications/police-reform/green-paper-responses?view=Binary>

⁴ Section 19(9)(a)

- 3.9 It should be noted that the CSF next meet on 9 March 2009 and it is proposed that officers take a report to that meeting to update the Forum on the government proposals for CDCs, the potential impact on the CSF, and the recommendations made by the Governance Committee.
- 3.10 It is recommended that members wait for the publication of statutory guidance and regulations before considering how the CDC for Brighton & Hove should be accommodated within the Council's overview and scrutiny function. Since those provisions are expected early in 2009, it is further recommended that members consider the issue as part of the six-month review of the constitution, as the results from that exercise are due at broadly the same time.

4. CONSULTATION

- 4.1 Judith Macho, Assistant Director Public Safety, responsible for community safety and the Drug Action Team, has endorsed the report and provided input regarding the CSF.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 As part of the constitution review, a decision will need to be made on whether to introduce a Crime and Disorder Committee from April 2009 as a stand alone overview and scrutiny committee or to incorporate its functions into an existing O & S committee. There is likely to be a higher resource requirement for a stand alone committee, which may result in a small additional budget pressure in 2009/10 – the potential impact has not yet been quantified.

Finance Officer Consulted: Anne Silley

Date: 29 December 2008

Legal Implications:

- 5.2 Once established, the CDC will be subject, in addition to specific requirements under the Police & Justice Act and associated regulations, to those provisions in Part 2 of the Local Government Act 2000 which govern the operation of, and references to, all overview and scrutiny committees.

Lawyer Consulted: Oliver Dixon

Date: 29 December 2008

Equalities Implications:

- 5.3 The CSF comprises a diverse set of community representatives. If the role and composition of the Forum is to change when the CDC is established, the channel by which those representatives can continue to have a voice on community safety matters will need to be considered.

Sustainability Implications:

- 5.4 There are no sustainability implications arising from the report

Crime & Disorder Implications:

- 5.5 The purpose of CDCs is to increase the accountability of those bodies responsible for tackling crime and disorder in the local authority area. The statutory requirement on these bodies to respond to reports and recommendations of the CDC and to have regard to their content in exercising their functions should ensure that their actions are more closely aligned to the crime and disorder issues raised by members on behalf of their constituents.

Risk and Opportunity Management Implications:

- 5.6 There is a risk that community-based representatives of the CSF could feel disenfranchised if the power to hold crime and disorder authorities to account sits primarily with the CDC. This will need to be addressed at the CSF meeting on 9 March 2009 (see paragraph 3.9 above)

Corporate / Citywide Implications:

- 5.7 CDCs will underpin the Council's corporate priority of open and effective city leadership, as a Council committee (the CDC) will have power to hold the "responsible authorities" in Brighton & Hove to account on crime and disorder matters. The fact that any member can refer a crime and disorder matter to the CDC means that all local residents have a route for raising concerns on such matters, if other channels have been exhausted.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents In Members' Rooms

None

Background Documents

None

Subject:	Update on 6 Months Review of the Constitution
Date of Meeting:	13 January 2009
Report of:	Director of Strategy & Governance
Contact Officer: Name:	Abraham Ghebre-Ghiorghis Tel: 29-1500
	E-mail: Abraham.ghebre-ghiorghis@brighton-hove.gov.uk
Wards Affected: All	All

FOR GENERAL RELEASE

1. PURPOSE OF REPORT

- 1.1 To update the Governance Committee on the 6 months review of the Constitution.

2. RECOMMENDATIONS:

- 2.1 That the report be noted.

3. INFORMATION/BACKGROUND

- 3.1 At the last meeting of the Governance Committee, members were informed of the proposed timescales with draft documents. At the time, the intention was for all the documents to be sent out in the new year. However, due to the publication date of City News, which was coming out on 12 December with no January edition, it was decided to bring some of the proposed circulation of documents forward.
- 3.2. The article on the 6 months review of the constitution appeared in City News on 12 December 2008. At the same time:
- The questionnaire with an explanatory background note was put on the Council's website.
 - Copies of the questionnaire and explanatory note with prepaid envelopes were placed in Housing Area Offices, Town Halls and Kings' House.
 - Copies of the same were put in the main libraries.
- 3.3. The public were given until 19 January 2009 to contribute to the feedback by returning the questionnaires by post (with prepaid envelopes) or by e-mail or provide any other comments.
- 3.4. On 5 January, a separate questionnaire will go out to Members and Officers. A letter with accompanying shorter version of questions will go to Members of the LSP and business and voluntary sector representatives as agreed by the Governance Committee.

- 3.5. As part of the process, all the Groups in the Council have been offered the opportunity to have a facilitated session with Officers. The response from Members may be given individually or through groups providing responses are received by 19 January.
- 3.6. The responses received will be collated and a report with proposals submitted to the Governance Committee in March.
- 3.7. At the meeting on 13 January, Members will be given an update on the main issues identified from the responses received by then.

4. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 4.1 None arising from this report.

Finance Officer Consulted: Anne Silley Date: 30/12/08

Legal Implications:

- 4.2 None arising from this report.

Lawyer Consulted: Abraham Ghebre-Ghiorghis Date: 30.12.08

Equalities Implications:

- 4.3 None arising from this report.

Sustainability Implications:

- 4.4 None arising from this report.

Crime & Disorder Implications:

- 4.5 None arising from this report.

Risk and Opportunity Management Implications:

- 4.6 None arising from this report.

Corporate / Citywide Implications:

- 4.7 None arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None

Background Documents

None

