



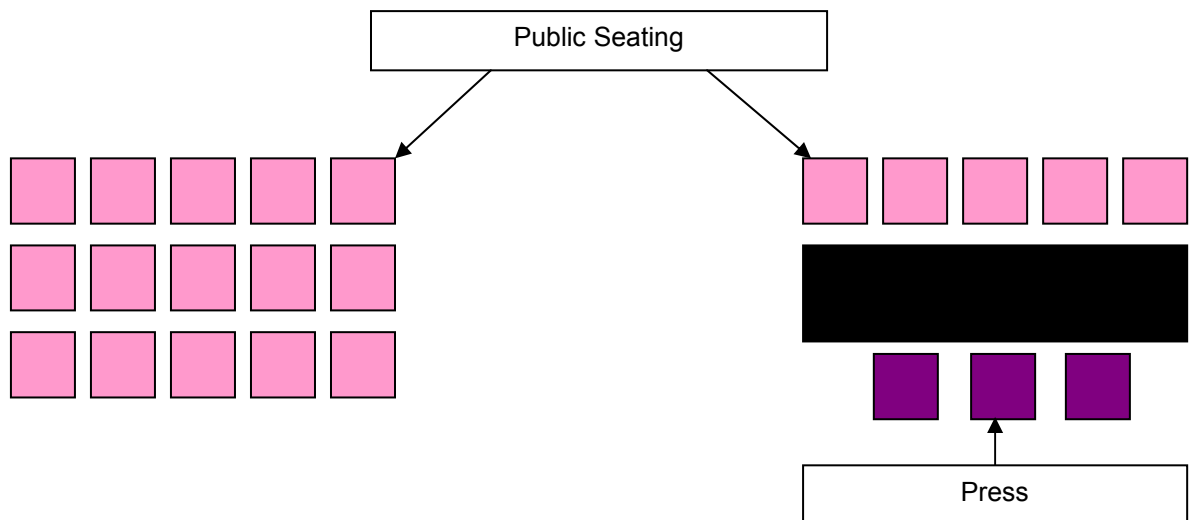
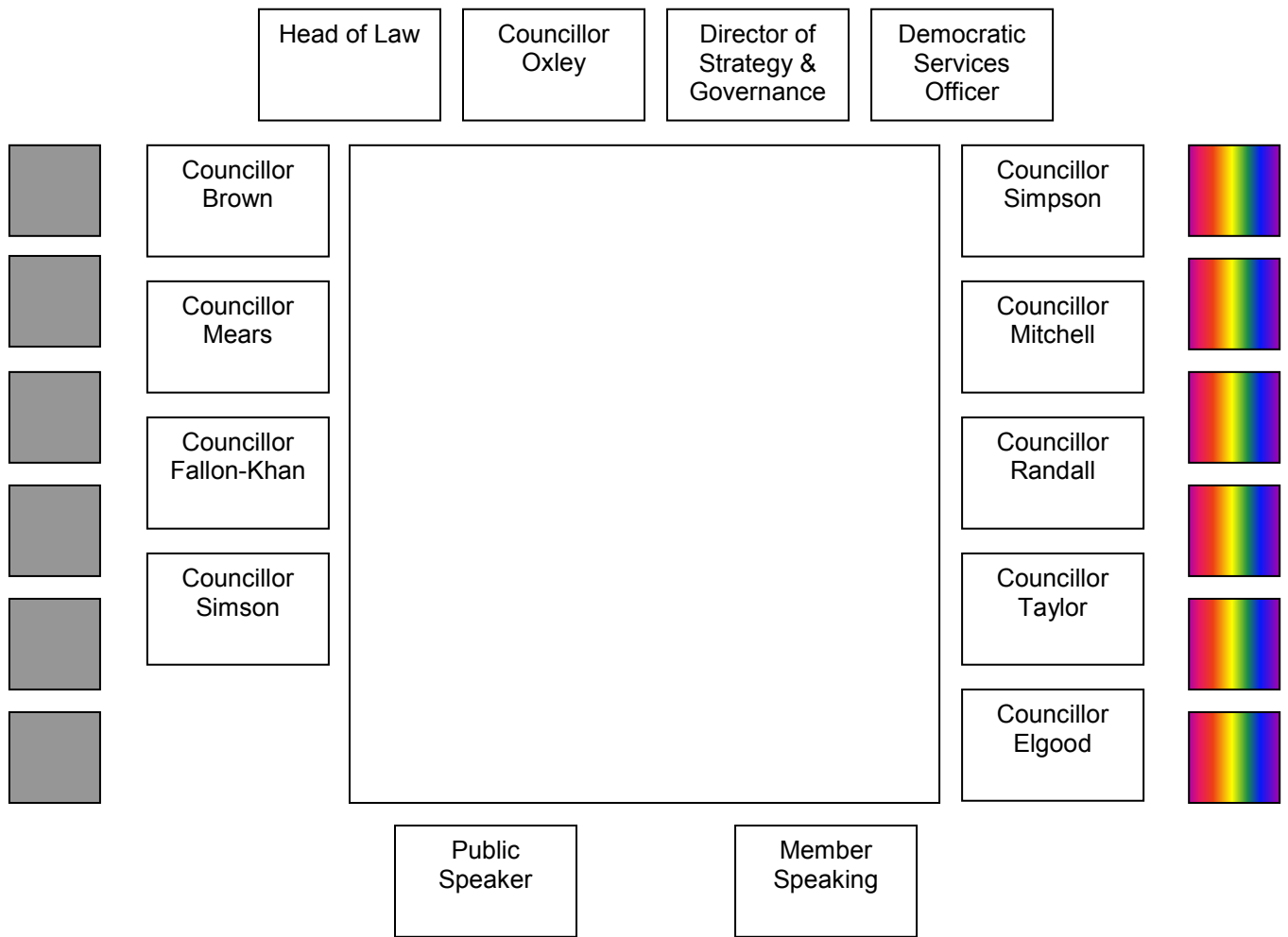
**Brighton & Hove
City Council**

Governance Committee

Title:	Governance Committee
Date:	12 January 2010
Time:	4.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Oxley (Chairman), Simpson, Brown, Elgood, Fallon-Khan, Mears, Mitchell, Randall, Simson and Taylor
Contact:	Tanya Massey Senior Democratic Services Officer 29-1227 tanya.massey@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

55. 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.

56. MINUTES OF THE PREVIOUS MEETING

1 - 10

Minutes of the meeting held on 17 November 2009 (copy attached).

57. CHAIRMAN'S COMMUNICATIONS

58. CALLOVER

NOTE: Public Questions, Written Questions from Councillors, Petitions, Deputations, Letters from Councillors and Notices of Motion will be reserved automatically.

59. PETITIONS

No petitions received by date of publication.

60. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 5 January 2010)

No public questions received by date of publication.

GOVERNANCE COMMITTEE

61. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 5 January 2010)

No deputations received by date of publication.

62. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

No written questions, letters or Notices of Motion were submitted by Councillors for the meeting.

63. COUNCIL BYELAWS

11 - 28

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

Contact Officer: Oliver Dixon Tel: 29-1512

Ward Affected: All Wards

64. GOOD GOVERNANCE REVIEW - REPORT OF THE AUDIT COMMISSION

29 - 68

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

(b) Draft extract from the proceedings of the Audit Committee held on 15 December 2009 (copy attached).

Contact Officer: Abraham Ghebre-Ghiorghis Tel: 291500

Ward Affected: All Wards

65. TWELVE MONTH REVIEW OF THE CONSTITUTION

69 - 154

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

Contact Officer: Elizabeth Culbert Tel: 29-1515

Ward Affected: All Wards

Part Two

Page

66. PART TWO MINUTES OF THE PREVIOUS MEETING

155 - 156

Part Two minutes of the meeting of 17 November 2009 (copy circulated to Members only).

67. EQUAL PAY

[Exempt Category 3]

Verbal update from the Head of Policy.

68. PART TWO ITEMS

To consider whether or not any of the above items and the decisions thereon should remain exempt from disclosure to the press and public.

GOVERNANCE COMMITTEE

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 Tanya Massey, (29-1227, email tanya.massey@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 4 January 2010

GOVERNANCE COMMITTEE

Draft Work Plan for the Governance Committee

	Agenda Item	Lead Officer
	Meeting Tuesday 12 January 2010	
	Chairman's communications	
1	Council Byelaws	Oliver Dixon
2	Good Governance Review – Report of the Audit Commission	Abraham Ghebre-Ghiorghis
3	Twelve Month Review of Council's Constitution	Elizabeth Culbert
4	Equal Pay update (Part Two – verbal)	Anthony Zacharzewski
	Meeting Tuesday 9 March 2010	
	Chairman's communications	
1	Independent Remuneration Panel Report on Members' Allowances	Mark Wall
2	E-Petitions – review of working and update on legislation	Elizabeth Culbert
3	Update on Local Democracy, Economic Development and Construction Act	Oliver Dixon
4	Driving at work	John Custance
5	Dignity and Respect at Work Policy- Progress Update	Charlotte Thomas
6	Whistleblowing (a) Further update and presentation from Public Concern at Work (b) Internal Audit report	Charlotte Thomas
7	Democracy in Action – proposals for changing Full Council procedures	Abraham Ghebre-Ghiorghis
	Meeting Tuesday 27 April 2010	
	Chairman's communications	
1	Counter Fraud Strategy - Update	Ian Withers
2	Code of Corporate Governance - Update	Ian Withers
3	Annual report on urgent decisions exempt from scrutiny	Mark Wall
4	New HR payroll system - update	Mark Green
	Meeting Tuesday 6 July 2010	
	Chairman's communications	
1		
	Meeting Tuesday 21 September 2010	
	Chairman's communications	
1	Administrative Boundary Review – Saltdean	Oliver Dixon

BRIGHTON & HOVE CITY COUNCIL

GOVERNANCE COMMITTEE

4.00PM 17 NOVEMBER 2009

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Oxley (Chairman), Simpson (Deputy Chairman), Elgood, Fallon-Khan, Kemble, Mears, Mitchell, Randall, Simson and Taylor

Also in attendance: Councillor Bennett and Dr M Wilkinson (Chairman of the Standards Committee)

PART ONE

36. PROCEDURAL BUSINESS

36a Declaration of Substitutes

36a.1 Councillor Kemble declared that he was attending the meeting as a substitute for Councillor Brown.

36b Declarations of Interest

36b.1 There were none.

36c Exclusion of Press and Public

36c.1 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 business to be transacted or the nature of the proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential or exempt information (as detailed in Section 100A(3) of the Act).

36c.2 **RESOLVED** – That the press and public be excluded from the meeting during consideration of items 52 onwards.

37. MINUTES OF THE PREVIOUS MEETING

37.1 In response to a query from Councillor Elgood regarding paragraph 31.3 of the minutes, the Head of Law confirmed that a letter requested by Councillor Elgood in relation to non-disclosure of the first draft of the Good Governance Review report had not been

sent out; he gave assurances that this would be done and copies circulated to all members of the Committee.

- 37.2 **RESOLVED** - That the minutes of the meeting held on 22 September 2009 be approved as a correct record.

38. CHAIRMAN'S COMMUNICATIONS

- 38.1 The Chairman reported that the Civic Awareness Commission had met three times and would initially be seeking to raise civic awareness through promoting displays of civic memorabilia, art and documents in the three town halls and King's House; artefacts were expected to be in place by 1 December with a start date of 19 November in Hove to coincide with Older People's Day, which was being held in the building on the same day.

In addition, Councillor Averil Older, a member of the Commission, would be hosting a stall Hove Town Hall on 21 November as part of 'Get Involved Day, to promote civic awareness and would be bringing in her own artefact's and memorabilia.

The Chairman added that the Council would begin publicising the awareness project in general.

- 38.2 The Chairman explained that the Local Democracy, Economic Development and Construction Bill, which, among other things, introduced a duty to promote local democracy, electronic petitions and multi-area agreements, received Royal assent on 12 November; a report on the implications of the Act and any preparations for implementation would come to a future meeting of the Committee.
- 38.3 The Chairman advised that work would shortly begin on ensuring that Cabinet Member Meetings were fully utilised and reached their full potential.
- 38.4 The Chairman reported that a scheduled seminar to assist Members of the Council in using the Constitution's many opportunities to raise issues and questions that are of concern to their Wards and strategic city-wide matters was cancelled as the date proved to be inconvenient for many Members; a new, more suitable, date would be arranged.
- 38.5 The Chairman reminded Members that Get Involved Day would take place on 21 November. He explained that there would be a number of exciting events and encouraged everyone to "get involved".

39. CALLOVER

- 39.1 **RESOLVED** – That all the items be reserved for discussion.

40. PETITIONS

- 40.1 There were none.

41. PUBLIC QUESTIONS

- 41.1 There were none.

42. DEPUTATIONS

42.1 There were none.

43. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

43.1 There were none.

44. ADMINISTRATIVE BOUNDARY REVIEW - SALTDEAN

- 44.1 The Committee considered a report of the Director of Strategy & Governance concerning issues relating to a possible administrative boundary review of the Saltdean area (for copy see minute book).
- 44.2 The Chairman confirmed that recommendation 2.1(a) had been carefully worded to demonstrate the Council's strong support for Saltdean Residents' Association's (SRA) request and the need for it to be expedited; he added that while he understood the SRA's disappointment that the Council would not be conducting a survey, the reasons were detailed in the report and were primarily related to timing and the imminent changes to the Boundary Committee.
- 44.3 The Chairman invited Mr Lawrence O'Connor from the SRA to address the meeting. Mr O'Connor welcomed the Council's support, but was concerned that by not conducting a survey the strength of the support would not be evident to the Boundary Committee; it was also necessary to show the strength of resident support. Mr O'Connor requested that the Council begin looking in to the survey now with a view to conducting it nearer to 2011 and continue discussions with Lewes District Council (LDC) and East Sussex County Council (ESCC) in the hope that all three local authorities can agree on the survey and share the cost.
- 44.4 The Chairman advised that the Council would be prepared to communicate their support to the Boundary Committee in relation to any survey the SRA wished to carry out; if a review was approved, the Boundary Committee would conduct their own survey and the Council had to carefully consider requests that would result in duplication of work because of the cost implications.
- 44.5 Mr O'Connor stated that the cost of another survey had significant resource implications for the SRA and that they would be concerned that it would be ignored in the same way as their previous survey.
- 44.6 The Chairman confirmed that discussions would be ongoing with LDC and ESCC, and the SRA, and that the Council would be prepared to bring a further report back to the Governance Committee to consider the progress.
- 44.7 Councillors Mitchell, Randall and Elgood thanked the SRA for their dedication to resolving the matter and gave their support for further consideration of it by the Governance Committee in the autumn of 2010 following further discussions with LDC and ESCC.

44.8 Councillor Mears commented that timing would be key to maximising the attention this is given by the Boundary Committee and that any survey would need to be conducted at a time that would fit in with the organisational changes to the Boundary Committee.

44.9 In response to a question from Councillor Elgood, the Head of Law confirmed he was not aware of any planned citywide administrative boundary review.

44.10 **RESOLVED –**

(1) That Governance Committee recommends that Cabinet:

(a) Supports Saltdean Residents' Association's request for an administrative boundary review of the Saltdean area, and instructs officers to write to the Boundary Committee for England strongly supporting the request and asking for the review to be expedited; and

(b) Notes Saltdean Residents' Association's request for the council to conduct a local referendum or survey on the matter and, whilst understanding the rationale for the request, not proceed with the proposal for the reasons set out in the report.

(c) Reports its decision on (a) and (b) to Council, for information.

(d) Communicates its decision on (a) and (b) to Lewes District Council and East Sussex County Council, also for information.

(2) That a further report comes back to the Governance Committee in autumn 2010.

45. PLACE SURVEY 2008: FINDINGS AND COMPARATOR RESULTS

45.1 The Committee considered a report of the Director of Strategy & Governance concerning the results of the Brighton and Hove Place Survey (for copy see minute book).

45.2 The Chief Executive advised that the Place Survey was one of the most important pieces of research the Council had access to; it showed how residents really felt about the Council. The results would allow the Council to consider how specific groups felt about services and particular issues in the city, and this would also inform links between the Council and partner organisations. He added that the level of scrutiny given to the results was encouraging and refreshing.

45.3 The Assistant Director for Customer Service gave a presentation on how the Place Survey linked to work on customer insight, and in particular explained the purpose and benefits of the Mosaic Social Profiling Tool (see Appendix 1 to the minutes).

45.4 Councillor Elgood commented that he had been shocked by how few people felt as though they belonged to their immediate neighbourhood; this summed up the results of the Place Survey and set the challenge for the Council.

- 45.5 Councillor Randall advised that it was vital for the Council to meet the basic expectations of residents and that a further challenge was to increase the number of people who felt they could influence decisions in their local area.
- 45.6 Councillor Simpson commented that the outcomes in relation to tourism and transport were encouraging. She hoped the Council would work on tackling anti-social behaviour, which was a recurring issue both in her ward and in the survey results.
- 45.7 The Chief Executive added that the results served to suggest a work programme for the Council.
- 45.8 Councillor Mears advised that the Council would use the Mosaic Social Profiling Tool to ensure best value was achieved in the areas where improvements are made; she added that it was necessary to show that the Council was delivering.
- 45.9 Councillor Fallon-Khan commented that the results would inform how the Council moved forward, but noted that it was important to consider the expectations of respondents when interpreting the results; the Mosaic Social Profiling Tool would allow the Council to concentrate on how services were provided.
- 45.10 The Head of Analysis & Research reminded Members that the Brighton and Hove Local Intelligence Service (BHLIS) was available to them and provided a wide range of national and local statistics and indicators relating to Brighton & Hove at many different geographic levels; it included information from Mosaic and the Place Survey. She advised ward profiles were available as an alternative.

45.11 **RESOLVED –**

- (1) That the extract of the Overview & Scrutiny Commission meeting held on 8 September 2009 be noted.
- (2) That the report be noted.
- (3) That the presentation be noted.

46. INFORMATION UPDATE ON IMPLEMENTATION OF NEW HR AND PAYROLL SYSTEM

- 46.1 The Committee considered a report of the Director of Strategy & Governance updating Members the implementation of the new integrated HR/Payroll system (for copy see minute book).
- 46.2 The Head of HR Operations confirmed that the project was making good progress and was within budget.
- 46.3 Councillor Fallon-Khan advised that the modernisation of the system would provide new efficiencies, deliver savings and simplify processes for HR staff. A further update would be brought to the Committee after the system goes live in April 2010.
- 46.4 In response to questions from Councillor Randall and Councillor Mitchell, the Head of HR Operations made the following comments:

- The new system would provide good data in relation to vacancy management and provided the Council with the ability to decide how to report it.
- No changes would be made to arrangements for staff without bank accounts.
- The separate recruitment module that had been purchased had been tested to ensure it complied with the Council's equalities requirements.

46.5 **RESOLVED** – That the report be noted.

47. WHISTLEBLOWING POLICY AND OPERATION OF THE COUNCIL'S WHISTLEBLOWING FUNCTION

47.1 The Committee considered a report of the Director of Strategy & Governance concerning the operation of the Whistleblowing function within the council (for copy see minute book).

47.2 The Chairman explained that following a meeting with the District Auditor about what they could investigate, additional information had been circulated regarding the whistleblowing charity Public Concern at Work, which could provide independent advice to employees, as he considered that this would be more relevant to Members' concerns (see Appendix 2 to the minutes).

47.3 In response to concerns raised by Councillor Elgood the Director of Strategy & Governance and Head of Law made the following comments:

- There was a publicity campaign when the whistleblowing policy was launched, but it would be helpful to inform new staff and remind longer serving staff of the policy and the options available to them, including Public Concern at Work; staff were able to access the charity and this was written into the policy, however, it was important to note that the charity was advisory and could not receive or investigate complaints.
- Statistics had been compared with other local authorities and the Council's level of whistleblowing was comparable.
- When making a complaint the primary expectation was that staff consult first with their line manager, however, the policy listed a number of people and staff could approach any of them in the first instance.

47.4 Councillor Elgood called for the whistleblowing policy to be reviewed, including consideration by Overview & Scrutiny; he added that he would support a process where all complaints were referred directly to an independent arbitrator.

47.5 The Chairman offered to circulate the whistleblowing policy to members of the Committee. He agreed to bring a further report back to at a later date and ask Public Concern at Work to make a presentation to the Committee as requested by Councillor Elgood.

47.6 **RESOLVED** –

- (1) That the contents of the report and the operation of the Whistleblowing Policy be noted.
- (2) That a further report comes to a future meeting of the Committee.

48. PATCHAM WARD AND STANFORD WARD - CHANGE OF NAME CONSULTATION

- 48.1 The Committee considered a report of the Chief Executive concerning proposals to change the names of Patcham Ward to Patcham and Hollingbury Ward, and Stanford Ward to Hove Park Ward (for copy see minute book).
- 48.2 The Chairman reported that, subject to the decision of the Committee, the report would go forward to Full Council on 28 January 2010. He explained that following on from the three recent consultations on ward name changes consideration would be given to how best to manage such requests in the future, including how a consultation would be triggered.
- 48.3 Councillor Kemble spoke on behalf of Councillor Brown, ward councillor for Stanford Ward, who was unable to attend the meeting. He commented that the consultation in relation to Stanford Ward was triggered by a petition signed by 21 people and that a relatively small majority of those who responded were in favour of the change; however, this represented only 7.2% of the total population of the ward. He put forward Councillor Brown's concern that a significant historical reference would be lost if the name change were to be agreed.
- 48.4 Councillor Fallon-Khan highlighted the potential cost implications of further ward name changes triggered in similar circumstances.
- 48.5 Councillors Randall and Elgood agreed that although the process was easily triggered, until it was reviewed, it was appropriate to follow the existing process utilised by residents and let the Full Council decide.
- 48.6 **RESOLVED –**
- (1) That the results of the consultation be noted.
 - (2) That the Governance Committee recommends Council to give approval for the name of Stanford Ward to be changed to Hove Park Ward.
 - (3) That the Governance Committee recommends Council to agree that Patcham Ward retains its current name.

49. SCRUTINY GOOD PRACTICE

- 49.1 The Committee considered a report of the Director of Strategy & Governance concerning the findings of a good practice review of scrutiny in other local authorities (for copy see minute book).
- 49.2 Councillor Mitchell, Chairman of the Overview & Scrutiny Commission (OSC) reported that much progress had been made since the introduction of the new constitution and much had been learnt from looking at other local authorities. The move towards annual work plans for scrutiny panels would not preclude the individual committees from considering their own priorities. She added that it was important to work closely with partner organisations to avoid duplication of work.

- 49.3 Councillor Elgood, a member of the OSC, agreed that scrutiny was working well, but added that although the committees were cross-party, the new tripartite meetings did not include members from other groups.
- 49.4 The Head of Law explained the tripartite were not intended to be party-based meetings; they were between the relevant Director, Cabinet Member, and scrutiny committee Chairman irrespective of what party they were from. He suggested that it could be addressed by discussing scrutiny issues at the Leaders' Group meetings or by including a Liberal Democrat Member at high level discussions with the Leader of the Council and the Chairman of OSC, rather than at each tripartite meeting.
- 49.5 Councillor Randall echoed Councillor Elgood's request for all groups to be involved in the tripartite meetings.
- 49.6 Councillor Mears stated that the new constitution had brought dramatic changes to how the Council worked and that roles were now clearly defined and the scrutiny process was moving forward.
- 49.7 The members of the Committee wished to record their thanks to the Overview & Scrutiny Team for their support.

49.8 **RESOLVED –**

- (1) That the scrutiny good practice review be noted.
- (2) That the moves towards annual work plans for scrutiny panels be endorsed.
- (3) That the regular tripartite meetings be endorsed.

50. GUIDANCE TO MEMBERS ON CONFIDENTIAL INFORMATION

- 50.1 The Committee considered a report of the Director of Strategy & Governance concerning updates to the guidance on confidential information issued to Members and Officers (for copy see minute book).
- 50.2 Councillor Taylor stated that he agreed such guidance was necessary, but was unable to support the inclusion of the emerging principle detailed in paragraph 3.3 (1) of the report concerning repetition of leaked confidential information; in reality it often took a breach of confidentiality for important information to be brought into the public arena.
- 50.3 The Head of Law explained that the wording came directly from judgement of the Adjudication Panel and did not preclude Members from arguing that disclosure of confidential information was in the public interest; however, where confidential information was leaked, the fact that it had been leaked did not in itself automatically give Members the right to subsequently disclose it. He added that the policy was intended as guidance only and that judgements from case law were not binding.
- 50.4 Councillor Taylor commented that it was necessary to consider carefully the reasons for making information exempt from disclosure, particularly where there would be public interest in the information.

- 50.5 The Chairman reminded Members that they could seek advice on disclosure of information from officers should they require it.
- 50.6 In response to questions from Councillor Mitchell, the Head of Law explained that other organisations, such as the Police, would operate similar policies. He also confirmed that paragraph 5.1(4) of the policy came directly from the Code of Conduct and the Council had no discretion to depart from it.
- 50.7 Councillor Randall commented that the issue was whether once confidential information had been leaked in the media, it could be repeated by other media bodies. He added that once information had been disclosed it was difficult to prevent it being repeated.
- 50.8 Councillor Randall moved an amendment requesting that paragraph 3.3(1) of the report be excluded from inclusion in the revised guidance.
- 50.9 Councillor Taylor formally seconded the amendment.
- 50.10 Dr Wilkinson, Chairman of the Standards Committee, addressed the Committee and explained that the nature of the person to whom the information was disclosed would be relevant. He added that confidential information was not usually disclosed to the media in the first instance. For example, confidential information may be 'leaked' at a meeting to other Members and that should not then result in anyone present having the right to disclose it to third parties.
- 50.11 The Chairman put the Green amendment to the vote, which was lost.
- 50.12 **RESOLVED –**
- (1) That the principles summarised in paragraph 3.3 of the report be noted and their inclusion in the revised guidance be supported.
 - (2) That a revised guidance incorporating those points be submitted to the Standards Committee for approval.
 - (3) That a copy of the revised guidance be circulated to all Members following approval by the Standards Committee.

Note: Councillor Taylor wished his name recorded as having voted against the recommendations.

51. MEMBERS' WEB PAGES GUIDANCE - REVIEW OF GUIDANCE

- 51.1 The Committee considered a report of the Director of Strategy & Governance concerning the revised draft Members' Web Page Policy (for copy see minute book).
- 51.2 Further to representations made to the Head of Law by Councillor Kitcat outside of the meeting, the Head of Law proposed a further amendment to the revised guidance in relation to the monitoring of external links on Members' web pages; councillors would remain responsible for the content of external links, but only to the extent to which they

know or would reasonably be expected to know whether content failed to comply with the restrictions detailed in the revised policy.

51.3 Members of the Committee agreed that this would reduce the burden on councillors while preserving the responsibility.

51.4 **RESOLVED –**

- (1) That Members approve the revised Members Web Policy, including one further amendment as described by the Head of Law.
- (2) That the Committee requires all Members who have pages published on the Members' web pages to sign the revised Web Page Policy as a condition of continuing to use the web page facility and that Members wishing to join the site in the future be granted access to it on condition that they first sign a copy of the revised Members' Web Page Policy.
- (3) That the operation of the policy be monitored and a report comes back to the Committee in six month time.

PART TWO SUMMARY

52. PART TWO MINUTES OF THE PREVIOUS MEETING

52.1 **RESOLVED** - That the Part Two minutes of the meeting held on 22 September 2009 be approved as a correct record.

53. EQUAL PAY

53.1 The Committee considered a verbal update from the Head of Policy updating them on the latest position with regard to equal pay negotiations.

53.2 **RESOLVED** – That the update be noted.

54. PART TWO ITEMS

54.1 The Committee considered whether or not any of the above items should remain exempt from disclosure to the press and public.

54.2 **RESOLVED** – That items 52 onwards, contained in Part Two of the agenda, remain exempt from disclosure to the press and public.

The meeting concluded at 6.25pm

Signed

Chairman

Dated this

day of

Subject: Council Byelaws
Date of Meeting: 12 January 2010
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 This report summarises the scope of the council's byelaws and the extent to which they are enforced.
- 1.2 The report also explains in brief the changes to byelaw making procedures and enforcement methods to be introduced later in 2010.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the report, including the list of current byelaws at Appendix 1; and the list of byelaws which it is proposed should no longer require confirmation by the Secretary of State, at Appendix 2.
- 2.2 That officers provide the Committee with further details about the new byelaw making procedures and enforcement regime, once the relevant regulations and guidance are in force.

3. RELEVANT BACKGROUND INFORMATION / CHRONOLOGY OF KEY EVENTS:

- 3.1 A byelaw is a law which is made by a body, such as a local authority, under an enabling power established by an Act of Parliament, and which has been confirmed by the Secretary of State. Byelaws generally require something to be done or not to be done in a particular location and are accompanied by some sanction or penalty for their non-observance. If validly made, byelaws have the force of law within the areas to which they apply.
- 3.2 Byelaws are not normally considered to be a suitable regulatory mechanism in cases where there are express powers in primary legislation for dealing with an issue. Where there are no such powers, byelaws should be considered only when all other avenues, such as voluntary schemes, have been exhausted.
- 3.3 As a general principle, it is for a local authority to decide the necessary and appropriate byelaws for its area. However, local authorities are expected to consult any interested parties and consider their views before making and advertising byelaws.

3.4 Under the present procedure, no local authority may bring a new byelaw into force until it has been confirmed by the relevant Secretary of State. Before doing so, he/she needs to be satisfied that:

- the proposed byelaw may lawfully be made under an Act of Parliament
- the required consultation and publicity has been undertaken;
- it does not duplicate or conflict with general law, existing byelaws or a relevant local Act;
- it addresses a genuine and specific local problem and does not attempt to deal with national issues;
- it does not conflict with Government policy.

3.5 As regards our own area, byelaws created prior to 1997 applied either to Brighton or to Hove, being part of separate local authorities, and a number of the council's byelaws in existence today are still applicable to one or the other, but not both. This has created a degree of inconsistency in the application of byelaws across the city and, in consequence, practical difficulties with enforcement.

All byelaws created after Brighton and Hove were unified under one authority in 1997 have equal application across both areas.

3.6 In broad terms, our byelaws relate to:

- Parks and open spaces
- Seafront
- Royal Pavilion, museums and libraries
- Hackney carriages
- Acupuncture and tattooing
- Touting and noise in the streets

Authority for making these byelaws stems either from very specific powers (e.g. the Local Government (Miscellaneous Provisions) Act 1982 with respect to acupuncture) or the much broader power to legislate for the good rule and government of the area, and to prevent and suppress local nuisances. The latter power (made under section 235 of the Local Government Act 1972) enabled the council to make the byelaw relating to touting and noise in the streets

A full list of the council's existing byelaws and enforcement activity is set out in Appendix 1.

3.7 Since April 2006, any Dog Control Orders made under the Clean Neighbourhoods and Environment Act 2005 have replaced byelaws relating to dogs. Our own set of Dog Control Orders came into force in January 2009, requiring dog owners:

- to keep their dog on a lead
- to clean up after their dog
- to exclude their dog from certain areas and at certain times of the year

Certain other byelaws have, similarly, been superseded by subsequent legislation. For example the 1966 byelaw making it an offence to deposit mud or clay on the road in Hove has been replaced by provisions under the Highways Act 1980

Enforcement

Enforcement of byelaws

- 3.8 Byelaws can be enforced by authorised local authority officers, police community support officers (PCSO), as well as police officers. First stage enforcement usually involves one of these officers requesting the offender to desist from carrying out the proscribed activity. If this or stronger warnings and exhortations prove unsuccessful, the council may bring a prosecution through the magistrates' court. Here, an offender found guilty may be liable to a fine of between £200 and £2500, depending on the byelaw contravened.
- 3.9 In practice very few, if any, of the council's byelaws are enforced through the magistrates' court. The reasons for this are that:
- (i) the council does not have the resources to monitor byelaw compliance in every location and at all times of the day and night
 - (ii) when an officer does witness someone breaking a byelaw, it is usually better, in the interests of maintaining good relations, to point out they are committing an offence, to ask them to stop, and to give any other appropriate advice. This is usually sufficient to bring about the desired outcome
 - (iii) a prosecution cannot proceed without knowing the defendant's name and address. If the alleged offender fails to provide these details to a council officer, no further action can be taken without a police officer present at the scene
 - (iv) where the council is able to enlist the help of a police officer or PCSO with enforcement, these officers may use their own powers under different legislation to deal with the behaviour
 - (v) bringing a prosecution through the courts is time consuming and imposes a significant administrative burden on the council

Enforcement of Dog Control Orders

- 3.10 Under the Clean Neighbourhoods and Environment Act, an authorised council officer may issue a fixed penalty notice to any person whom he believes is committing an offence under a dog control order. In Brighton & Hove, the current penalty is £80. If the alleged offender refuses to pay this within the prescribed period, he can be prosecuted and, on conviction, liable to pay a fine of up to £1000.

Future changes to byelaw making procedures and enforcement

- 3.11 Regulations expected in spring 2010 will specify the byelaws for which the Secretary of State's confirmation will no longer be required and will set out the new procedures for making byelaws at a local level. They will also set out the stages of consultation which should be undertaken at local and other levels during the preparation of byelaws.
- 3.12 Further regulations will prescribe the classes of byelaw which may be enforced by fixed penalty notice. The option of enforcement through the magistrates' court for persistent or high level offenders will continue to exist. Note, however, that enforcement through the proposed new fixed penalty notice regime will not be

available for any byelaw already made under the existing system (i.e. where the Secretary of State's confirmation is required).

- 3.13 If the council wished to issue a fixed penalty notice in connection with a byelaw created under the present regime, it would first need to revoke the byelaw, and then create a new one when the new statutory arrangements are in force.
- 3.14 Following a consultation exercise in 2008, the Government intends that guidance issued with the regulations should specify in more detail who will be able to issue fixed penalty notices, and advise on the type and extent of training that authorities may wish to provide before officers are authorised to issue fixed penalty notices. The Government proposes to enable authorities to set the level of fixed penalty notices at between £50 and £80.

4. CONSULTATION

- 4.1 Those officers responsible for the enforcement of the council's main byelaws and dog control orders were consulted in the making of this report; so too was the council's prosecution lawyer, regarding the practicalities of instigating and running criminal proceedings for byelaw and dog control order offences.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are very limited financial implications in this report. The costs of enforcement would have to be met within existing resources

Finance Officer Consulted: Peter Francis

Date: 14/12/09

Legal Implications:

- 5.2 The changes referred to in paragraph 3.11 are provided for under Part 6 of the Local Government and Public Involvement in Health Act 2007. Regulations specifying which byelaws will be subject to the new procedures, and which may be enforced by fixed penalty notice, are expected to be laid before Parliament in late 2009 / early 2010, with guidance to follow. Implementation can be expected later in 2010 – exact date to be announced.

Lawyer Consulted: Oliver Dixon

Date: 08/12/09

Equalities Implications:

- 5.3 None arising directly from this report

Sustainability Implications:

- 5.4 None arising directly from this report

Crime & Disorder Implications:

- 5.5 The council's byelaws are aimed at tackling low level criminal activity which cannot adequately be addressed via national legislation. In the majority of cases,

our byelaws are enforced by means of warnings, information and advice. Rarely is it necessary or worthwhile to initiate legal proceedings.

Risk and Opportunity Management Implications:

- 5.6 The advent of new, more streamlined, byelaw making procedures may increase the demand for new byelaws, especially if the new regime is publicised. However, there are resource implications both in the making of byelaws and enforcement, which will need careful consideration before agreeing to requests.

Corporate / Citywide Implications:

- 5.7 The council priority most closely linked to this report is fair enforcement of the law.

SUPPORTING DOCUMENTATION

Appendices:

1. List of existing byelaws for Brighton; Hove; and Brighton & Hove; and associated enforcement activity
2. List of byelaws which it is proposed should no longer require confirmation by the Secretary of State

Documents In Members' Rooms

None

Background Documents:

1. Local Authority Byelaws in England: A Discussion Paper (Office of Deputy Prime Minister, 2006)
2. Government Response to the Making and Enforcement of Byelaws (CLG, October 2009)

Summary of current byelaws and associated enforcement activity

Subject	Date introduced	Area covered	Content summary	Max penalty	Lead dept
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Parks and Open Spaces

Pleasure grounds Open spaces Disused burial grounds	1954	Brighton	Prohibitions and restrictions relating to, for example, climbing walls, bringing animals or vehicles, driving, parking, display of adverts, walking on grass, dogs, playing of games, trade stalls, bathing, public meetings	£200	City Parks
Public walks and pleasure grounds	1990	Hove	Prohibition against certain conduct and activities (e.g. playing of games or music, erection of stalls, booths etc) in specified recreation grounds, parks and gardens	£500	City Parks

Enforcement can be problematic due to:

- (a) the lack of consistency between the Brighton byelaw (1959) and Hove byelaw (1990).
- (b) certain types of anti-social behaviour commonly found in parks and open spaces (e.g. barbecues and riding of mini mopeds) not provided for in the Brighton byelaw, as the legislation is some 50 years old

Anyone found camping contrary to these byelaws is issued with a notice, requesting them to remove the tent, but also offering advice if the reason for camping is homelessness.

Where a particular form of anti-social behaviour is not covered by our byelaws, our park rangers can call on PCSOs or police officers to exercise their powers of confiscation, where necessary.

In many cases, rangers adopt a joint approach to enforcement, for example engaging the rough sleepers team where campers are homeless, or the anti-social behaviour team in the case of graffiti.

Main contact: Frances Chambers, Ranger Manager

Seafront

Vehicles on Undercliff Walk	1969	Brighton	No vehicle drawn by an animal or riding of pedal cycles permitted on the Undercliff Walk, except where the cycle is used for getting the rider to or from work located on or adjacent to the Undercliff Walk.	£200	Seafront (Sport & Leisure)
Seashore	1983	Brighton	Prohibition against holding shows, exhibitions, musical performances, touting, begging, playing football, bonfires, barbecues, to the annoyance or obstruction of any person using the seashore	£200	Seafront (Sport & Leisure)
Seafront lawns and esplanades	1992	Hove	Prohibition against certain conduct and activities (e.g. cycling, playing of games, lighting of fires) in specified areas	£500	Seafront (Sport & Leisure)
Beach	1987	Hove	On the specified areas of beach in Hove, a prohibition against erecting stands or stalls, driving/riding certain vehicles, playing recorded music, bringing dogs, playing games, except as permitted at certain times of the year and without annoying or obstructing others.	£500	Seafront (Sport & Leisure)
Fires on the beach	1996	Hove	No fires or fireworks permitted on the specified stretch of beach at Hove	£500	Seafront (Sport & Leisure)

Seaside boats and pleasure boats	2005	Brighton & Hove	Prohibition against the use of inboard and outboard motorboats at set times of the year and in specified areas of the sea off Brighton & Hove.	£1000	Seafront (Sport & Leisure)
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Main period of enforcement is May to September, when seafront is busiest. Core team of 8 officers are stretched, though, with 13 km of seafront to patrol and 8 million visitors in the locality over the period.

The byelaws most commonly breached relate to cycling on the esplanade and lighting of barbecues. An educative and informative, rather than punitive, approach is taken to enforcement.

Having only limited resources to patrol the area means seafront officers prioritising their work. In peak periods, responding to incidents requiring rescues or first aid, and dealing with lost children always come first.

Enforcement activity is concentrated on 'Seafront local action days' held once a month from May to September, where seafront and animal welfare officers join with local police in enforcing byelaws, particularly those relating to cycling and dogs (fouling and failure to keep on a lead). Police have power to issue on the spot fines to cyclists under road traffic laws.

Main contact: Viki Miller, Seafront Manager

Royal Pavilion, Museums and Libraries

Museums	1978	Brighton	Prohibitions regarding the conduct of visitors to museums in Brighton maintained by the council	£200	Royal Pavilion & Museums
Museum Gardens	1996	Hove	Prohibition against certain conduct and activities (relating, for example, to fires, metal detectors, model aircraft) at the Museum Gardens, New Church Road, Hove.	£500	Royal Pavilion & Museums
Libraries	1997	Brighton & Hove	Prohibition against specified conduct and activities in any fixed or mobile library provided by the council (e.g. no audible conversation, no unsupervised child, no staying behind after closing time).	£500	Royal Pavilion & Museums
Royal Pavilion Estate	1997	Brighton	Prohibition against certain conduct and activities (e.g. no touching of exhibits, chewing of gum, riding of certain vehicles, photography) in any area forming part of the Pavilion Estate	£500	Royal Pavilion & Museums

Low level enforcement by Royal Pavilion security staff to stop ball games in the Pavilion grounds. Conduct in libraries also enforced by gentle persuasion and polite requests (e.g. to ensure under eights are accompanied by an adult, and that everyone leaves at closing time).

Byelaw relating to museums in Brighton not actively used in recent years.

Main contact: Jan Cadge (for museums) and Sue Ingram (for libraries)

Hackney Carriages

Hackney carriage stands	1979	Hove	Provides for the location of hackney carriage stands in Hove, and their capacity	£200	Licensing
Hackney carriages	1999	Brighton & Hove	Provisions regulating – (i) display of licence numbers (ii) interior fittings and specification (iii) conduct of proprietors and drivers (iv) the fixing of rates or fares (v) property left in hackney carriages	£500	Licensing

The provisions relating to driver conduct are enforced, although not necessarily by invoking the byelaw itself. Other legislation and policies can be used to better effect. Depending on the seriousness of the offence, sanctions can range from a warning kept on file to a driver's hackney carriage licence being suspended or even revoked.

The byelaw relating to hackney carriage stands in Hove (1979) has effectively been superseded by traffic regulation orders and policies on sustainable transport.

Main contact: Tim Nichols, Head of Environmental Health & Licensing

Environmental Health

Hairdressers and barbers	1962	Hove	Duties re cleanliness of premises, utensils and staff	£200	Environmental Health
	1978	Brighton		£200	
Swimming baths	1981	Brighton	Prohibitions regarding the use of public swimming baths in Brighton	£200	Sport & Leisure
Touting and noise in streets	1998	Brighton & Hove	Prohibition against touting, shouting, singing, playing an instrument or recorded music in the street or other public place so as to cause annoyance or obstruction.	£500	Environmental Health
Acupuncture, tattooing etc	2005	Brighton & Hove	Regulations providing for the cleanliness of premises, fittings, instruments, materials, equipment and operators relating to the provision of acupuncture, electrolysis, tattooing, cosmetic piercing and semi-permanent skin colouring	£1000	Environmental Health

Environmental Health team visit premises before they open for the purposes of acupuncture tattooing or body piercing, and once those premises become established, to check for compliance with the relevant byelaw. Special events, such as the tattoo convention held every year at Brighton Racecourse, also visited to check for compliance.

For low level offences, enforcement consists of advice, the objective being to bring about an improvement in standards. If advice not heeded and/or offending behaviour continues, action is taken in accordance with the council's Licensing Enforcement Policy.

Others

Markets	1966	Brighton	Duties relating to use of market halls and market places, e.g. hours of trading, traffic obstructions, cleansing, noise	£200	Environmental Health
Boxing and wrestling entertainments	1979	Brighton	Provisions regulating the opening hours of premises offering boxing and wrestling entertainment; safe and secure access; prevention of nuisances; preservation of sanitary conditions and law and order	£200	Environmental Health
Funfairs	1993	Brighton	Regulation of opening hours; fire prevention, safe access, cleanliness, public safety	£1000	Environmental Health

Brighton & Hove Dog Control Orders (formerly byelaws relating to dogs)

1. Dogs on Leads Order 2009 – dogs must be kept on a lead on roads and seafront promenades in Brighton & Hove
2. Dogs on Leads by Direction Order 2009 – dog owners must comply with a direction given to them by an authorised officer to put and keep a dog on a lead in any public area of Brighton & Hove
3. Dogs Exclusion Order 2009 – no dogs permitted in specified public areas of Brighton & Hove (named children’s play areas, cemeteries, gardens and parks, beaches at given times of the year)
4. Fouling of land by Dogs Order 2009 – dog owners must clear up their dog’s faeces in all public areas of Brighton & Hove

Maximum penalty for failing to comply with any of the above Orders: £1000

With only 4 animal welfare officers available to cover the council’s 200 open spaces as well as its streets and beaches, further assistance was needed to enforce the dog control orders that came into force in January 2009.

Park rangers and seafront officers have been trained on the new orders and the issuing of fixed penalty notices, so that we now have 24 officers authorised and capable of carrying out enforcement.

Following their commencement, control orders were widely publicised, with the aim of making them self-enforcing wherever possible. Special attention was given to signage on the seafront to reinforce the ban on dogs from certain beaches from May to September. Also, small plastic warning signs have been stuck to lampposts in small areas following complaints about dog fouling or failure to keep dogs on a lead.

Practical difficulties with enforcement include:

- actually witnessing a person failing to clean up after their dog
- a suspected offender refusing to provide their name and address when requested by a council officer.

Because of difficulties such as these, only 3 fixed penalty notices have been issued under the dog control order regime (at the time of writing – early December 2009).

Main contact: Roy Pickard, Environmental Health Manager

List of byelaws which it is proposed should no longer require confirmation by the Secretary of State.		
Confirming Department	Enabling Power	Subject Matter
Communities and Local Government	Section 235 of the Local Government Act 1972	Good rule and government and the prevention of nuisances, including climbing on bridges, skateboarding and riding on verges.
	Section 164 of the Public Health Act 1875	Public walks and pleasure grounds.
	Sections 12 and 15 of the Open Spaces Act 1906	Open spaces; burial grounds.
	Sections 82 and 83 of the Public Health Acts Amendment Act 1907	Use of the seashore and promenades including: bait digging, fishing, horse-riding and interference with life-saving equipment.
	Section 231 of the Public Health Act 1936	Public bathing.
	Section 60 of the Food Act 1984	Markets, including opening hours, maintaining cleanliness, preventing obstruction, use of water taps and prevention of fires.
	Section 75 and 77 of the Public Health Act 1961, as amended by Section 22 of the Local Government (Miscellaneous Provisions) Act 1976	Amusement premises, pleasure fairs, hairdressers and barbers.
Department for Transport	Section 35 of the Highways Act 1980	Walkways – conduct of public, closing times, placement of structures.
	Section 68 of the Town Police Clauses Act	Hackney carriages, including conduct of their

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	1847, as incorporated with the Public Health Act 1875	drivers and proprietors.
	Section 6 of the Town Police Clauses Act 1889, as incorporated with the Public Health Act 1875	Horse drawn omnibuses.
List of byelaws which it is proposed should no longer require confirmation by the Secretary of State. (continued)		
Confirming Department	Enabling Power	Subject Matter
Department for Culture, Media and Sport	Public Libraries and Museums Act 1964	Defining acceptable behaviour inside libraries and museums/
Department of Health	Part VIII of the Local Government (Miscellaneous Provisions) Act 1982	Hygiene and cleanliness of acupuncture services and businesses providing tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.
Department for the Environment, Food and Rural Affairs	Sections 20, 21(4) and 106 of the National Parks and Access to the Countryside Act 1949	Local nature reserves.

GOVERNANCE COMMITTEE

Agenda Item 64(a)

Brighton & Hove City Council

Subject:	Good Governance Review – Report of the Audit Commission	
Date of Meeting:	15 December 2009	Audit Committee
	12 January 2010	Governance Committee
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	

FOR GENERAL RELEASE

1. PURPOSE AND POLICY CONTEXT:

- 1.1 The purpose of this report is to present the findings of the Audit Commission's review of Good Governance in Brighton & Hove and proposed actions in response to the recommendations.

2. RECOMMENDATIONS:

- 2.1 That Members note the report of the Audit Commission (Appendix 1 to this report).
- 2.2 That the proposed action in response to the recommendations of the Commission as set out in the action plan listed as Appendix 1 to the Commission's report be noted.

3. BACKGROUND INFORMATION:

- 3.1 The Audit Commission undertook a review of governance in Brighton & Hove in between October 2008 and March 2009. The review was based on the Good Governance Standards for Public Services developed by the Independent Commission on Good Governance in Public Service. The findings of the review together with the action points are attached in appendices 1 and 2 respectively.
- 3.2 The overall conclusion of the report is positive. In particular, it states that:
- Governance arrangements in Brighton & Hove are generally sound and there is good formal governance arrangement in place. The constitutional arrangements adopted by the Council are sound.
 - Community leadership and focus is strong. Partnership working is strong and the Council is effective at engaging its stakeholders.

- The Council contributes to the improvement of its area and quality of life for residents and visitors as a result of the effectiveness of its service and strategic arrangements in meeting clearly defined priorities.
- Partnership working is strong and the Council is effective at consulting and engaging with its stakeholders. The council has strong and effective relationships with partners.
- The approach to Member Development is effective and the conduct of elected councillors is good. There is a good training programme for Councillors and an excellent induction programme for new Councillors is in place.
- There is clear expectation among Councillors of all parties that they conduct themselves in an appropriate manner.
- The role of Executive Councillors are becoming clear and more confident about their new roles.
- The Council has a clear focus on meeting the needs and improving services for its diverse communities.
- The Council's approach to community consultation is good, with the Council having a good track record of involving the community in local policy formulation and programming and has developed effective networking to consult and involve the people they serve.

3.3 The findings of the report confirm that, judged against the criteria in the Good Governance Standards for Public Services, the Council is, overall, performing well. However, the report also identifies areas for improvement and, as part of this, makes references to some "perceptions" about the Member-Officer working relations and the respective roles and responsibilities of Members and Officers. It is important to see these apparent perceptions in their proper context.

3.4 The survey and much of the evidence was gathered within 5 months of the new constitution coming into being. In practice, due to the summer recess, by the time the review was conducted, we would only have had at most 3-4 months experience of the new constitution. It was therefore not surprising that there was a degree of unfamiliarity with how the different decision-making structures operate in practice. Cabinet Members are expected to operate differently from the Chairs of Committees whose main statutory role was to settle the agenda and Chair the Committee meeting with no decision-making powers. Some of the Cabinet Members were also new to local government, let alone executive roles. The combination of these factors, including the fact that the administration was still relatively new, meant that both Members and Officers had to go through an adjustment phase before they settle on ways of working they feel comfortable with. Not surprisingly, as has happened with all Local Authorities that moved to an executive system, there were bound to be uncertainties on how the respective roles and responsibilities of Members and Officers should be exercised during the early stages of implementing the new system. With the passage of time

Cabinet Members have become clearer and more confident about their roles and both Members and Officers have, by now, adjusted and realigned their respective roles and ways of working to reflect the new arrangements. Much of the picture presented in the report is therefore more representative of the historical position than the current state of affairs.

3.5 The review looked at governance under 6 headings:

- Community Focus
- Operating effectively in a clearly defined role
- Promoting and demonstrating values of good governance through behaviour.
- Taking proper decisions and managing risks
- Developing capacity and capability of Councillors
- Partnership working and engagement with stakeholders

3.6 **Community Focus**

3.6.1 The report is complimentary about the Council's city-leadership role, the work with partners, improving the quality of life of residents and services for diverse communities. It however identifies the need for better communication of the Council's long term vision and strategic direction to our partners.

3.6.2 As the report points out in paragraph 49, partnership working is strong and the Council is effective in engaging its stakeholders (which includes partners). The report also states: "there is wide representation from partner organisations [in the LSP]... and a strong collective ownership of the vision and priorities for the City, which are clearly reflected in the targets set out in the new LAA." It is therefore not clear to what extent the lack of understanding of the Council's long term vision is shared by its partners.

3.6.3 Since the review took place, the Council has worked closely with its partners in the city and they jointly developed the Sustainable Community Strategy, through the Local Strategic Partnership. The Sustainable Community Strategy sets out the vision for the City as well as the priorities for years to come. The partners have agreed a priority to make the City 'a place where communities are strong, inclusive and have opportunities to influence decision making. A place where individuals are able to take advantage of opportunities to improve their quality of life.' The area assessment being undertaken is expected to confirm that there is a shared vision and strong working relationships with our partners. The Council will continue to work closely with its partners and ensure that its vision and long term direction continues to be communicated effectively.

3.6.4 Rather than limiting the communication of the Council's vision and priorities to its "partners" the Council is aiming to go beyond that and is working on developing a new communication strategy so that the whole community is clear about the Council's strategy as well as the services it provides.

3.7 Operating effectively in a clearly defined role

- 3.7.1 The report acknowledges that the constitutional arrangements, formal processes and delegation schemes are all sound. It however suggests that there is room for improving the understanding of Members and Officers about their respective roles.
- 3.7.2 The scheme of delegations to Cabinet Members and Officers is not designed to be mutually exclusive. As with all properly drafted schemes of delegation, there is a degree of overlap. This gives Members and Officers flexibility and allows certain issues to be dealt with by either depending on the context and the public interest in the issue. In any event, the Local Government Act 2000 provides that the body that granted the delegated power to Officers (i.e. Cabinet or Cabinet Member) can exercise the delegated power at any time notwithstanding delegations and irrespective of what the Constitution says. There is therefore no need to change the scheme of delegation itself.
- 3.7.3 Since the fieldwork that resulted in the report was done, there is greater understanding of the different roles and Cabinet Members have regular meetings with relevant Directors to plan business and agree responses to issues arising. It is therefore unclear to what extent, if any, this is still an issue. However, the new Chief Executive, as part of his leadership role, will keep the working arrangements under review and take appropriate steps.
- 3.7.3.a The Code of Conduct for Member/Officer Relations is based on a standard format used by most local authorities and was customised to take account of local circumstances. Although it is not thought (including by the Audit Commission) that there is any problem with the Code itself, the Standards Committee will review the Code and how it works in practice as part of its normal business.

3.8 Promoting and demonstrating values of good governance through behaviour

- 3.8.1 The report finds that Councillors generally adhere to the Council's Code of Conduct and the majority of Members and Officers felt that the values the Council expects them to follow are clearly set out. It however points out that relationships between political groups are limited and that there is room for improvement in respecting professional judgement and roles and responsibilities of Councillors and Officers. The report recommends strengthening and raising the profile of the Standards Committee.
- 3.8.2 Since the field work was done, the Standards Committee has dealt with a number of complaints against Members and, as part of their role, Standards Panels have made suggestions for improvement which were communicated to relevant individuals. The Chairman of the Standards Committee and the two other Independent Members of the Committee have also had meetings with each of the Group Leaders as well as each political group in the Council to discuss issues of common concern. The Chairman of Standards Committee also presents standards reports at full Council. The profile of the Committee is

therefore improving, but efforts will be made to continue to raise the profile of the Committee and ethical standards generally through a mixture of training, attendance at meetings, reviewing guidance and dealing with complaints as they arise.

3.9 Taking proper decisions and managing risks

- 3.9.1 The report finds that the Council's decision-making powers are properly constituted and backed by clear protocols. It however recommends improvements in the scrutiny arrangements and suggests that we look at authorities recognised as models of best practice.
- 3.9.2 The scrutiny function is still developing but a number of significant improvements have been made during 2009 mostly after the review was undertaken. A scrutiny good practice comparison has been completed following concerns raised as part of the six month review of the constitution; this has highlighted some additional areas for improvement that can build upon work already undertaken. A team of 6 FTE staff provide support to all scrutiny committees and panels, additionally each directorate has appointed a link officer to provide liaison with the scrutiny team.
- 3.9.3 Quarterly 'tripartite' meetings have been established between scrutiny chairs, cabinet members, Directors and the Head of Scrutiny to help ensure scrutiny is undertaking an appropriate mix of policy development, holding the executive to account and pre-decision scrutiny. All Chairs pre-meetings have become cross-party, allowing for additional refinement of work-plans to be undertaken during these discussions. This has also helped scrutiny depoliticise with no 'closed doors'.
- 3.9.4 Member training has progressed with support from the Centre for Public Scrutiny. The CfPS has run a bespoke session within the Council for scrutiny chairs and a number of members have benefited from courses highlighting good scrutiny practice nationally and within parliament. Individual support is offered to members as and when it is needed. Understanding of the role of scrutiny has improved amongst council officers as training has been provided through DMTs, especially on supporting scrutiny's policy development role.
- 3.9.5 The Overview and Scrutiny Commission is undertaking more of a coordinating role in prioritising the work of scrutiny review panels and associated resources. Updates at OSC from the Chairs of all scrutiny committees and reporting of their work-plans is also ensuring a more consistent approach across all Committees. A number of refinements to the ways of working across scrutiny have been developed to improve performance:
- A protocol has been agreed with the LSP setting out what is expected following the LGPIHA 2007, relationships are being developed with all themed partnerships within the LSP
 - Performance monitoring is undertaken by all committees based on LAA and other performance regimes. There is evidence of committees using this data

to direct work programmes and targeting in-depth reviews e.g. Alcohol related hospital admissions

- Increased coordination of in-depth scrutiny reviews through an annual workplan, rather than each committee establishing reviews independently

3.9.6 The number of agenda items per committee meeting has been identified as an issue and members have agreed to more focused agendas, with an acceptance that agendas of around 3 items allow for greater discussion of issues. The number of reports to note has been reduced with an acceptance from Members that there needs to be a rationale for adding a topic to the agenda. Workplan monitoring includes what action has occurred as a result of the report. Committee work programmes are owned by the committee as a whole and developed through discussion at meetings, at chairs pre-meets in discussion with senior officers from directorates and are also thoroughly discussed at tripartite meetings.

3.9.7 Committees are undertaking more policy development work. Scrutiny policy development workshops have been run on the London Road Supplementary Planning Document, Cultural Strategy and Sustainable Communities Strategy amongst others. There is considerable evidence that scrutiny is influencing policy development across the city through its in depth reviews, those completed to date include:

- Dual Diagnosis of mental health and substance misuse
- Students in the Community
- Environmental Technologies
- GP-led health centre
- Children and alcohol related harm
- Older People and Community Safety

Reviews currently being undertaken:

- School Exclusions
- Climate Change Adaptation
- Dementia Strategy for the City
- Speed Limits
- Support services for rape victims
- Disability issues raised during peer review
- Street Access Issues
- Dignity at Work

3.9.8 Most of the proposals in the report have therefore either been implemented or are included in the plans for scrutiny.

3.10 **Developing the capacity and capability of Councillors**

3.10.1 The report is complimentary of the Member Development framework in the Council. It recognises that there is a good training programme overseen by the Member Development Working-Group. The programme and processes are based on a well established national development framework. The report

comments on the absence of job descriptions or performance management framework for members, including portfolio holders and the non-attendance by some Members of some core training events.

3.10.2 The cross-party Member Development Working-Group has, over the years, touched on some of the issues raised in the report. It however has always preferred to adopt a consensual approach that relies on Members' willing cooperation and participation rather than anything that may be perceived as an imposition. The question of performance management was discussed with Members and Group Leaders. In general, there were reservations about the introduction of job descriptions and performance management. However, the group is proposing to work towards the Member Development Charter Plus (the next stage after the Member Development Charter) which incorporates performance management for Councillors and consideration of Councillors development needs beyond their roles as Councillors. As part of this, the Working Group will be asked to consider the development and use of person specification for councillors and for specific roles held by Members such as Cabinet Members, Chairmen of Committees etc and in seeking to prepare for the Member Charter Plus award, consideration will be given to establishing a performance management framework that will focus on enabling councillors to improve, prepare for succession either in terms of roles as councillors or outside of the council and to have a more effective impact for the benefit of the people of Brighton and Hove.

3.10.3 The Working Group has recognised the need for certain 'core' elements of training to be offered to all Members and for them to be encouraged to attend these events. The timing of the events has been set to offer maximum take-up and alternative sessions at different times are either offered or arranged on request or on-line learning is made available. However, unless these elements are made compulsory (which is not the preference of the Member Development Group or Members generally) it is not possible to ensure all Members attend the core elements of the training package.

3.11 Partnership working and engaging with stakeholders

3.11.1 The report states that partnership working is strong and the overall approach to community consultation is good. It however recommends that the Council ensures that the community is better informed about the Council's priorities and performance.

3.11.2 As discussed under the heading "Community focus" above, the Council has agreed a set of priorities with its partners and the emerging Sustainable Communities Strategy reflects this. However, we will continue to ensure that the community is better informed about the Council's priorities and performance by incorporating these into our Communications Strategy.

4. CONSULTATION:

- 4.1 The findings in the report are based on consultation with Members, Officers and key partners. Relevant Officers were consulted in the preparation of the report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no financial implications arising from this report, the proposals within the action plan can be achieved within existing resources.

Finance Officer Consulted: Anne Silley Date: 02/12/09

Legal Implications:

- 5.2 The Audit Commission report confirms that the formal constitution arrangements are sound and has not identified any issues of concern on the legality of any of the arrangements in place.

Lawyer Consulted: Abraham Ghebre-Ghiorghis Date: 01/12/09

Equalities Implications:

- 5.3 There are no equalities implications arising from this report.

Sustainability Implications:

- 5.4 There are no sustainability implications arising from this report.

Crime & Disorder Implications:

- 5.5 The governance arrangements (including the anti fraud strategy) are robust enough to avoid and deal with any incidents of fraud, corruption or breaches of the law.

Risk and Opportunity Management Implications:

- 5.6 There are no significant risks identified in the report.

Corporate / Citywide Implications:

- 5.7 The Audit Commission report confirms that the Council has strong partnership arrangements and effective consultation processes with the public.

SUPPORTING DOCUMENTATION

Appendices:

1. Audit Commission Good Governance Report

Documents In Members' Rooms

None

Background Documents

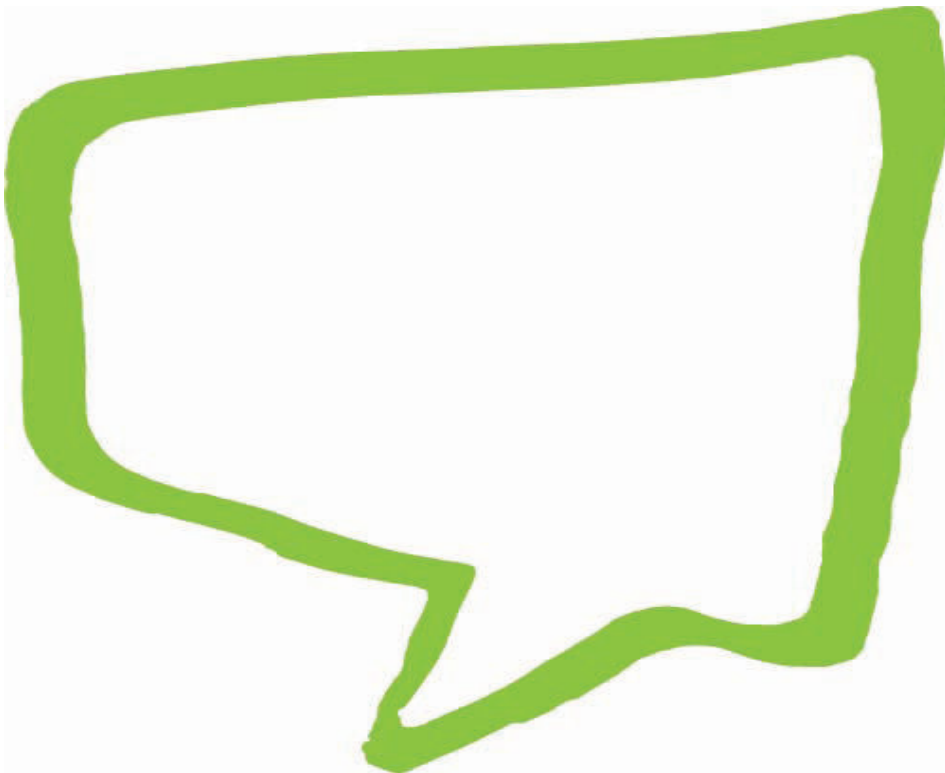
None

Good Governance

Brighton and Hove City Council

Audit 2008/09

December 2009



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Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
 - any third party.
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Introduction and background

- 1 Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, and culture and values, by which local government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities.
- 2 Governance arrangements in the public services are closely scrutinised and sometimes criticised. Significant governance failings attract immense attention and one significant failing can taint a whole sector. Local authorities are big business employing over 2 million people and accounting for 25 per cent of public spending. They are vitally important to all tax payers and citizens. Local authorities have a key role in leading their communities as well as ensuring the delivery of high quality services to them. Good governance structures enable an authority to pursue its vision effectively.
- 3 Good governance leads to good management, good performance, good stewardship of public money, good public engagement and ultimately, good outcomes for citizens and service users. Good governance enables an authority to pursue its vision effectively as well as underpinning that vision with mechanisms for control and management of risk. All authorities should aim to meet the standards of the best and be able to demonstrate that sound governance arrangements are in place.
- 4 This review was included in the 2007/08 audit plan because there was evidence that some of the Council's governance arrangements were not as consistently effective as they could be, The Council's Corporate Assessment in 2006 also noted that there were instances of bullying and harassment of staff from within the Council which can impact on the effectiveness of the control environment.
- 5 The Council introduced a new constitution and cabinet structure in April 2008 which has had an obvious impact on the current governance arrangements. The Council has recently completed its six monthly review of the constitution and will be using this as an opportunity to strengthen specific areas of governance such as the scrutiny function. This report contributes to this review.

Audit approach

- 6 To complete the performance review we undertook:
 - a document review;
 - interviews and focus groups involving key Councillors, officers and partners; and
 - an electronic survey of Councillors and senior officers to establish their views on the effectiveness of the Council's governance arrangements.
- 7 The survey was sent out to 145 individuals in October 2008 with a reminder sent out in November 2008. We received 75 responses which represents a 51 per cent response rate, which is a good rate of return. Of the requests to 54 Councillors, 21 replied (response rate of 39 per cent) and of the 91 officers surveyed, 54 replied (response rate of 60 per cent)
- 8 The field work was carried out between November 2008 and March 2009.

Executive summary

- 9** Governance arrangements within Brighton and Hove City Council are generally sound. There is good formal governance arrangements in place but frameworks and protocols are not always fully understood or consistently applied. The Council has clearly defined roles and responsibilities and decision-making structures but in practice, roles and decision-making powers are not always clear and coherent to all Councillors and officers. Governance arrangements have only been in place since April 2008 and therefore arrangements are not yet fully embedded.
- 10** Community leadership and focus is strong. The Local Strategic Partnership - 2020 Community Partnership (LSP) has developed a shared ambition, with a supporting vision which addresses the key issues facing the city and provides a clear focus for it. However, some key partners and stakeholders stated that they were not clear about the Council's own vision for the city and its role in working with the LSP to deliver the LSP's vision. The Council therefore needs to ensure that it clearly articulates its own long-term vision to all of its partners.
- 11** The Council contributes to the improvement of its area and quality of life for residents and visitors. This is largely as a result of the effectiveness of its service and strategic arrangements in meeting clearly defined priorities. The Council was rated by the Audit Commission as an 'excellent' authority in 2007/08 and is improving well.
- 12** The formal Constitutional framework and arrangements adopted by the Council are sound. The Council has clear formal processes for decision-making outlined in its constitution. Executive Councillor's responsibilities and delegation arrangements for decision making are clearly set out and supported by well-defined roles and responsibilities. However, the responses to our survey indicate there is lack of understanding by some Councillors about the Council's decision making and delegation processes. The Council expects this to improve as Councillors and officers get more experience of working under the new cabinet arrangements.
- 13** The Council constitution was constructed to allow some flexibility in terms of officer and councillor responsibilities. Their respective powers are therefore not mutually exclusive and there is a degree of overlap. However, this overlap can sometimes give rise to the perception that some Councillors are getting too involved in day to day operations or officers are making decisions that should have been taken at the Councillor level. During the fieldwork, some portfolio holders stated that Councillors were interested in operational matters because they wanted to have a good and full understanding of their portfolios. Councillors and officers acknowledge that they would welcome greater clarification of the roles and responsibilities set out in the constitution and related protocols.

- 14** Our work found that some Councillors felt disengaged from the Council's decision-making processes, Overview and scrutiny has been in place since April 2008 and, at the time of the review, was still developing and there are inconsistencies in approach between the six scrutiny committees. Scrutiny currently lacks rigour and is not yet sufficiently robust or challenging of the Executive. Insufficient work has been carried out in preparing Councillors and officers to implement effective scrutiny. Councillors stated that the Cabinet meetings did not enable effective challenge and debate. As a result many Councillors regard full Council as the only real forum where they can challenge policy, debate political issues and have a real impact. The Council however stated that 'some of the perceived problems were inherent in an executive system where most decision-making is reserved for executive members'. The Council is taking steps to implement a number of improvements following their six month review of the constitution.
- 15** The protocols for dealing with issues of ethical standards, conduct and declarations of interest are in place and are generally effective. There is a well-established standards committee. The number of complaints upheld against Councillors is low. The monitoring officer and his team carry out their roles proactively and there is a good working relationship between the standards committee and the Council's legal team.
- 16** The approach to Councillors' development is effective. Portfolio holders have annual reviews. There is a good training programme for Councillors and an excellent induction programme for new Councillors. The Council's democratic services' provides a good service. Councillors feel well supported by their training and better equipped to undertake their role, although some Councillors do not see learning as a priority and have not engaged in the training opportunities offered. Officer support for the cross-party Councillors' development working group has enabled the Council to gain the South East Employers' charter for Councillors' development in September 2008.
- 17** Partnership working is strong and the Council is effective at consulting and engaging with its stakeholders. The Council has developed strong and effective relationships with its partners and there is wide representation from partner organisations on key forums such as the Local Strategic Partnership (LSP) and Public Services Board (PSB). The PSB is well attended and underpinned by partnerships that are responsible for the delivery of the new LAA priorities. However, delivery planning processes, effective data sharing and performance management arrangements are work in progress and are not yet fully embedded.

Main findings

Community Focus

- 18** Community leadership from the city partnership is strong and the Council plays a lead role in this. The Council with its partners has developed a shared ambition for the city, articulated in the sustainable Community Strategy, which is informed by a range of consultation processes. Their vision for the city is underpinned by a clear statement which recognises key issues. The LSP has a clear understanding of the issues it faces which is reflected in the LSP's vision. This vision is supported by priorities and targets which are being used to inform a revised sustainable community strategy. These priorities have already been translated into the Council's corporate plan and will be reflected in new and refreshed service plans with targets. Some partners and stakeholders have however stated that they were unclear about the Council's long term vision, it's long term strategic direction and what role the Council will play in delivering the LSP's city-wide vision and ambitions. The Council should therefore consider improving the way it communicates its own long term vision to all partners and stakeholders.
- 19** The Council leadership sets priorities having regard to statutory requirements and national guidance and the needs of the community. The Council with its partners has undertaken a good analysis of the needs of the city. Through its Reducing Inequalities Review the Council has completed a thorough analysis of need and this has been used to set the revised Local Area Agreement (LAA) priorities and to inform the Council's Corporate Plan 2008-2011. Stakeholders and community groups are satisfied that the Council knows and understands the city, has analysed needs and listened to the views of residents. One good example is the use of the City Views survey which is used to obtain the views of residents and acts as an effective barometer of the community.
- 20** The Council contributes effectively to the improvement of its area and quality of life for residents and visitors. The Council has been rated by the Audit Commission as an 'excellent' authority in 2008/09 and is improving well. This is largely as a result of the effectiveness of service and strategic arrangements in meeting its priorities. The Council has been successful in engaging and influencing community and partnership views to develop a collective partnership approach.
- 21** The Council is further developing performance management arrangements and planning frameworks to ensure there is a robust planning framework across the Council to consistently translate priorities into action. The Council has been successful in developing collective ownership of priorities by its directors and senior managers, following a period where there had been a directorate or less corporate approach taken on some issues. A consistent planning and performance management framework will provide greater rigour to ensure that the Council's efforts are efficient and economic, complementary and coherent.

- 22** The Council has a clear focus on meeting the needs and improving services for its diverse communities. The Council has adopted an equalities and inclusion policy that emphasises its resolve to serve its diverse communities without discrimination. There are some good examples of the Council with partners reshaping services to meet community needs. Examples include the adaptation of 20 bus stops for the visually impaired, the training of volunteer travel buddies to help people with learning disabilities travel by bus and an induction programme for new taxi drivers on access and equal opportunities as part of their licensing process. Local communities and groups, including voluntary and community organisations generally feel listened to but there is scope for better regular engagement of some hard to reach groups over broad Council priorities and service design (for example, some of the faith groups and recent migrants).

Recommendation

- R1** Improve communication of the long term vision of the Council to partners, stakeholders and the community, in order to increase their understanding of and commitment to the Council's agenda for the city and to improve their understanding of how the Council operates.

Operating effectively in a clearly defined role

- 23** The constitutional arrangements adopted by the Council are sound. The Council has formal processes for decision-making and Councillors' responsibilities and delegation arrangements are set out in the constitution. However, some roles and responsibilities are less clearly understood in practice which can affect the effectiveness of the Council's decision making.
- 24** The Council sets out the roles and responsibilities of officers and Councillors in the constitution and there is appropriate training for Councillors that explains the scrutiny and cabinet functions. The respective powers of officers and members are not mutually exclusive and there is therefore a degree of overlap, which could cause confusion. Some officers and Councillors interviewed stated that there were differences in some Councillors understanding of officers' roles and responsibilities. There is therefore a potential risk that some Councillors could become too involved in the day to day running of operations. During the fieldwork, some portfolio holders stated that Councillors were interested in operational matters because they wanted to have a good and full understanding of their portfolios. Councillors and officers acknowledge that they would welcome greater clarification of the roles and responsibilities set out in the constitution and related protocols.

Main findings

- 25** There is a lack of clarity about delegation powers to support decision-making by officers. There are formal delegation arrangements which are clearly defined for officers and 76 per cent of officers surveyed regarded these delegation levels as appropriate. Seventy-six per cent of Councillors and 81 per cent of officers surveyed agreed that there was a formal agreement on the relative delegation levels for officers and Councillors. However, the level of delegation to officers, although considered appropriate, is sometimes not fully understood by Councillors. Only 46 per cent of officers surveyed felt that Councillors understood the delegation arrangements. In addition, the use of delegated powers by Cabinet portfolio holders varies significantly and is dependent on the confidence, knowledge and experience of the portfolio holder. In some portfolio areas, there are a higher number of service specific decisions that continue to be referred to Cabinet. There is therefore a difference in the way some portfolio holders are utilising decision making powers and arrangements.
- 26** The Cabinet structure did not support efficient and effective decision making. At the time of the fieldwork in December to February 2009, there were nine portfolios some of which cover a small area of the Council's business. This meant that some individual cabinet member meetings were cancelled due to lack of business, were sometimes short with limited decisions being made or were purely an information sharing rather than a decision-making forum. The Council however has recognised this and, following its six month review of the constitution in March 2009, has adjusted the delegated powers for the cabinet members for Central Services, Equalities, Inclusion and Community Affairs and Environment. This will enable more efficient and effective decision-making. In addition, the challenging and complex political environment means that decisions about critical future developments are sometimes delayed.
- 27** The roles of statutory and strategic partners are clear and the Council works well with partners. The involvement and contribution of voluntary and community sector partners is good and they have an effective voice in the local strategic partnership.

Recommendation

- R2** Review the framework for member and officer relations and the related arrangements to ensure that they are understood and followed in practice. This needs to include:
- joint sessions for senior officers and Councillors to improve their understanding of each others roles and responsibilities and to help develop improved ways of working with each other;
 - a assessment of how well members and officers are adhering to the guidance and protocols relating to officer/Councillors roles and responsibilities and behaviours; and
 - the development of a good practice checklist for Councillors and senior managers that clearly defines what is and is not acceptable behaviour and monitor compliance.
- This will enable the Council to develop a clear understanding of the roles and delegated responsibilities of Councillors and officers.

Promoting and demonstrating values of good governance through behaviour

- 28** Councillors generally adhere to the Council's code of conduct. There is a clear expectation amongst Councillors of all parties that they conduct themselves in an appropriate manner in accordance with the code. The majority of Councillors and officers surveyed felt that the values the Council expects them to follow are clearly set out. There is a code of conduct for Councillor/officer relations and standards and behaviours for officers are set out in the leader and manager standards. However, only 40 per cent of officers surveyed felt that Councillors demonstrated commitment to the Council's organisational values in the way they conducted themselves. Councillors consider that the leadership usually acts quickly on the occasions when Councillors' behaviour is inappropriate. However, there is a risk that behavioural issues, if not dealt with effectively, could adversely affect working relationships between Councillors and officers.
- 29** There are positive working relationships between most Councillors and officers. The change of political administration in May 2007 was difficult but most have now got used to the new arrangements that included the Cabinet system of governance. For example, clear roles and responsibilities have been established in children's services with regular budget and performance reviews. However, both Councillors and officers acknowledged that mutual respect for the professional judgement and roles and responsibilities of Councillors and officers needs to continue to improve.
- 30** Working relationships between individual officers and Councillors are improving but are not consistently effective across the Council. Some officers continue to hold the view that some Councillors' actions impact on the timely delivery of the Council's business. For example, there are instances where information has been provided to the press inappropriately. This poor behaviour could result in the Council being less open and limiting its sharing of information.
- 31** The quality of public meetings and effectiveness of full Council, cabinet meetings, committees and panels is mixed. Both officers and Councillors expressed some concern about the effectiveness of meetings. There is an excessive use of questions and motions at full Council, because the opposition regard this as the only real forum, where they can have an impact. The Council meeting in January 2009 had 18 Councillors' questions and 10 notices of motion. The full Council meeting is therefore long and is not an effective show case for the public. Councillors recognise that many of the motions will not all be debated or are inappropriate but are then used in promotional political material. This means meetings are not meaningful to many Councillors and to the public and could discourage engagement in the democratic process.

Main findings

- 32** Relationships between political groups are limited and there continues to be some suspicions by opposition members about the effect of the new Cabinet system on the transparency of local government. This has placed a significant responsibility on the Council to address these concerns and ensure that matters of governance and conduct are effective and are given greater exposure. Council officers have developed a strategy for addressing these concerns and have taken appropriate steps. For example, protocols are in place to allow officer briefings for the opposition groups on an ad hoc basis and the Council has recently reinstated the monthly meeting of the leader and the political opposition leaders after an 18 month absence. There are formal and robust mechanisms in place to review and manage the conduct of Council business and the Council regularly reviews its constitution to ensure it is fit for purpose. However, despite these actions some Councillors of the opposition parties continue to feel uninformed and disengaged with the current political arrangements.
- 33** The protocols for dealing with issues of standards, conduct and interest are in place and are generally effective. The Monitoring Officer and his team carry out their roles proactively and there is a good working relationship between the standards committee and the Council's legal team. Eighty-five per cent of Councillors and 67 per cent of officers who responded to our survey consider that there are formal and effective arrangements in the Council to ensure and promote good ethical governance. There is a training programme for Councillors, including a specific module on ethics and probity issues. The number of complaints upheld against Councillors is low. In 2007/08, there was one complaint about Councillors' misconduct to the Standards Board and four complaints to the Council under the new devolved procedures. All were rejected and no breach of the Code was found.
- 34** There is a well-established Standards Committee that includes three independent members from different professional backgrounds, one of whom is the chair and is highly experienced, well regarded and respected. Where there is a risk that a Councillor could breach the code of conduct, the Council uses informal processes initially to try to manage the issue. For example, the Chair of the Committee together with the Monitoring Officer takes an active approach to ensure that issues do not escalate and require formal intervention. The Committee's profile however could be raised, such as by actively promoting an understanding of the benefits of the ethical agenda inside the Council. This will help the Council to further improve the way inappropriate behaviour is dealt with. There is a clear understanding about the arrangements for the declaration of Councillors interests and the register of interests is readily available to the public.
- 35** The Council's whistle blowing policy is not well publicised and more work is needed to strengthen arrangements for reporting (in confidence) incidents of inappropriate behaviour. The Council has a policy in place but 56 per cent of officers and 45 per cent of Councillors surveyed did not believe that the Council has an effective whistle blowing policy. In addition, there was a very high percentage of 'don't know' responses to the survey by senior officers and Councillors for this area. This means that the policy has not been effectively communicated to Councillors and officers.

- 36** The Council is providing greater clarity about the core values and behaviours that it wants staff to adhere to in the workplace. It was however difficult to establish whether the Council's expectations are being adhered to and consistently applied by all staff and their managers. The Council is in the process of producing a dignity at work framework that sets out its key values and behaviours. This framework has been developed in response to the issues raised about staff well-being in the 2006 Comprehensive Performance Assessment (CPA) report and the 2007 staff survey. However, the majority of officers and Councillors interviewed were unclear when the framework will be completed or what improvements have been made, since the staff survey. In undertaking our work we did not gain access to front line staff, so it has not been possible to fully establish how well the Council has responded to the issues raised by the CPA report and the 2007 staff survey. Evidence from the survey of officers and Councillors however indicated that 80 per cent thought that bullying by staff is not tolerated within the Council.

Recommendation

- R3** Strengthen and raise the profile of the standards committee in promoting good ethical behaviour and standards across the Council.

Taking proper decisions and managing risk

- 37** The Council's decision-making powers are properly constituted and backed by clear protocols, but there is not always a clear understanding of what is required. Officers are generally clear about who can take decisions and generally officers with delegated authority do take decisions, when it is appropriate. Statutory partners and most senior staff report that most key decisions have been made quickly, for example, the Falmer Academy Private Finance Initiative (PFI). There are, however examples where decisions are being delayed despite funding being in place. Executive Councillors report that there is clarity about which decisions can be taken and by whom. However, the use of decision-making powers by portfolio holders remains variable. Some are taking the appropriate level of decision for their role, while others continue to refer most of their decisions to Cabinet.
- 38** Recent changes relating to the removal of some decision making from officers has been interpreted by some officers as a lack of trust in their abilities and integrity, notably the re-introduction of Councillor's selection panels for the appointment of Assistant Directors. However, the changes reflect standard practice in most local authorities where Directors and Assistant Directors are appointed by senior Councillors.

Main findings

- 39** The communication of decisions taken by the Council is considered to be effective by officers and stakeholders, but not by Councillors. Officers interviewed stated that team briefings are working well in the directorates. Forthcoming decisions are included in the Cabinet's Forward Plan and formal decisions at Cabinet are quickly put on the Council's website. There are live webcasts of Council, Cabinet, Planning and Scrutiny meetings and all cabinet member meetings are open to members of the public. Recordings of the webcasts can also be viewed from the website archives. Some Councillors however do not regard the Cabinet's Forward Plan as a useful or accurate document. In addition, there remains a perception by opposition Councillors that too much business is undertaken confidentially and too many decisions appear to have been made before they are debated openly. Whilst it is recognised that the Council's practices and arrangements are in line with most other councils, the Council needs to look at ways of addressing these current perceptions. In addition, not all Councillors receive regular updates about key changes to Council personnel or service delivery. Statutory partners and voluntary partners consider that the Council is good at consulting with them before decisions are taken and is good at keeping them informed about key changes.
- 40** The Council's risk management of its own operations is good although risk management arrangements involving partners are recognised by the Council as an area for improvement. The Council acknowledges that more assurance reporting and standardisation and sharing of risk registers needs to take place. The Council has made some improvements such as aligning risk matrices between the health partners, the Council and the Civil Contingencies Act partners.
- 41** Scrutiny under the cabinet arrangements is still developing. Scrutiny lacks rigour and insufficient investment had been given over the last few years to prepare Councillors and officers to ensure that the scrutiny role was fit for purpose. Training has not developed the skills needed to support effective scrutiny. A new structure has been in place since April 2008, but this is not yet functioning effectively and there are inconsistencies in practice between the six scrutiny committees. The understanding of the role and function of scrutiny is not yet fully embedded although Councillors are beginning to understand roles and responsibilities.
- 42** The Council has recently begun building capacity to support effective scrutiny and there is a strong commitment to strengthen scrutiny. The Council has now appointed a permanent head of scrutiny and six full time scrutiny support officers to address the current weaknesses. During 2007 the Council established an audit committee to advise the Council on all matters related to corporate governance. Officers and Councillors are determined to introduce more effective challenge and scrutiny of the Executive to ensure that all political parties are involved in informing policy development. These developments are however very much work in progress and further work is needed to strengthen the current arrangements. The scrutiny work programme is not well established and does not effectively enable cross party Councillors to be engaged in policy development work or for potential calls on officers time to be planned in advance. Councillors have not yet considered the balance on their agendas of officer initiated items and Councillors commissioned items. Agendas are large and focus on information sharing, rather than scrutiny.

Recommendations

- R4** Develop confidence in the transparency of the new political processes by improving scrutiny arrangements. The Council should:
- use the co-ordinating scrutiny committee to produce guidance for officers on the formulation of agendas, work programmes, prioritisation of business and resource implications of its work;
 - develop the skills needed for effective scrutiny; and
 - ensure that the scrutiny role focuses more on proactive review/challenging of decisions, rather than info-sharing.
- R5** Embed the new political arrangements and learn from best practice by working with similar councils who have been recognised as having effective decision-making and democratic processes.

Developing the capacity and capability of the Councillors

- 43** The capacity of elected Councillors is good and it continues to develop amongst Councillors who were new to the Council in May 2007. The intake improved the balance in the age mix and gender of Councillors, although Black and Minority Ethnic (BME) representation is low. The Council does not have a clear strategy for engaging with prospective Councillors and developing existing Councillors' potential. There is therefore scope for improving the level of BME representation and strengthening succession planning for Councillors. The Council needs to re-launch the Councillors' buddy system to develop those Councillors that have been identified as having leadership potential.
- 44** Executive Councillors are becoming clearer about their new roles following the change of administration in 2007 and are becoming more confident in their roles. In 2007, the skills levels of those elected as Councillors varied considerably, but an induction programme and continuous skills development programme for Councillors is in place. Most Councillors have responded well to the move to a Cabinet structure and the Cabinet usually operates at a strategic level. Councillors have worked hard at understanding their specific portfolios and in some areas such as children's services they have developed a strong and effective working relationship with officers.
- 45** There are no job descriptions/person specifications or agreed specific and measurable performance criteria for formally performance managing Councillors including Executive Councillors. Performance of Executive Councillors is monitored informally by the Leader of the Council but this is ad-hoc. None of the political parties have a process for evaluating the effectiveness of individual Councillors. This means the Council cannot be certain that Councillors are effective and that those Councillors who represent the Council on external bodies are the most appropriate to do so.

Main findings

- 46** There is a good training programme for Councillors and an excellent induction programme for new Councillors is in place. New Councillors praised the induction programme used following the May 2007 election and the formal training for Councillors of statutory committees, such as planning. Other support to Councillors includes corporate briefings to update Councillors on changes to law, policy or services as well as Councillor-specific skills workshops such as chairing meetings. Democratic services provide a good support service for Councillors and officer support for the cross-party Councillors Development Working Group enabled the Council to gain the South East Employers' Charter for Councillors Development in September 2008. Councillors feel well supported by their training and better equipped to carry out their role.
- 47** The approach to Councillor development is effective although the take up of training opportunities by Councillors is inconsistent and a number of Councillors do not see learning as a priority. Councillors' development processes and programmes have been designed based on well-established national development frameworks. The Council uses generic competencies for the different roles Councillors undertake and uses these to assess Councillors training needs. Councillors are required to complete an annual self-assessment against these competencies to determine their training needs. This is used to shape Councillors development events. These events are evaluated and Councillors are sent additional follow up reviews to identify the difference learning has made to their knowledge or skills. However, there are a number of reasons for some Councillors not undertaking training. For example, long serving Councillors feel there is no need for them to have training whereas others work full time and found it difficult to find the time to take up training. The lack of attendance by some Councillors means that core training modules such as scrutiny, equalities and diversity, and the code of conduct have been missed by some Councillors. This is a significant omission for the Council.
- 48** Partners report that Councillors' conduct on the various forums and boards is appropriate and professional. There is no formal process to ensure the Council is properly represented by Councillors with appropriate skills although generally the profile of the allocated Councillors matches the needs of the partnership.

Recommendation

- R6** Develop a process to review specific Councillor roles and to ensure the effectiveness of individual Councillors across all the political groups by providing the necessary development and support, where gaps are identified. The focus should be on improving Councillors impact for the benefit of the people of Brighton and Hove.

Partnership working and engaging with stakeholders

- 49** Partnership working is strong and the Council is effective at engaging its stakeholders. The Council has strong and effective relationships with partners both through the LSP and the Public Services Board (PSB). There is wide representation from partner organisations on these forums and a strong collective ownership of the vision and priorities for the city, which are clearly reflected in the targets set for the new LAA. The PSB is well attended and underpinned by thematic working groups that are responsible for the delivery the LAA priorities.
- 50** The Leader of the Council is establishing herself with strategic partners and partners reported that they valued the work done by the recently retired Chief Executive in prioritising and driving the development of an effective city-wide partnership. Most Councillors feel involved and have an identified community role. Seventy-six per cent of Councillors and 83 per cent of officers surveyed were clear about the partners with which the Council is working to improve outcomes for users. Seventy-one per cent of Councillors and 74 per cent of officers consider that the Council works effectively with partners. Effective community leadership is helping the Council to work in partnership to support delivery of the citywide vision.
- 51** Partnership working is also developing well at an operational level. The Children's Trust has fostered a strong culture of multi-disciplinary team-working and through strong partnership and inter-agency working has contributed effectively to the delivery of projects, such as the Falmer Academy PFI Project. Within adult social care, good use is being made of joint commissioning and partnership working to improve the economy, efficiency and effectiveness of local services, particularly to increase the levels of independent living. In addition, the strong community safety partnership has achieved 'beacon status' for its work on the night time economy. This has led to improved feeling of safety and reduced crime.
- 52** Robust delivery planning, data sharing and performance management arrangements are not yet fully embedded. Delivery plans have been formulated and agreed by partners for each LAA priority and the emphasis has been placed on the partners to deliver improvement. The partnership acknowledged that there was scope to improve data sharing between partners, for example, the sharing of data between the hospitals and the Crime and Disorder Reduction Partnership (CDRP) on alcohol related injury. The partnership is taking appropriate action to ensure that data sharing is improved by developing the new Brighton and Hove Local Information System (BHLIS), which is a web-accessible system and is fed with data from all partners. Performance management arrangements require further enhancement to meet the challenging LAA agenda to ensure that there is a robust joint partnership approach to performance management. Partners stated that there was insufficient challenge to under-performance, particularly in the themed partnerships. For example the significant increase in the number of teenage pregnancies.

Main findings

- 53** Overall the Council's approach to community consultation is good. The Council has a good track record of involving the community in local policy formation and programmes and has developed effective networks to consult and involve the people they serve, for example neighbourhood renewal schemes. The Council is a proactive partner that is willing to engage in local issues and Councillors of all parties are actively engaged, both formally and informally, with their communities. There are good examples of the Council harnessing support from some Councillors of the community, for example the business community in relation to the Brighton Conference Centre development and it is taking steps to make more effective use of the large pool of expertise, knowledge and enthusiasm that exists within the community. The Council with its partners is also further strengthening engagement with the community with the introduction of a new outline framework for consultation within the city - the community engagement framework. The framework sets out the strategic vision and guiding principles for community engagement and priority actions to improve engagement.
- 54** The Council has a good system for consulting with the partners and the community about the needs of the community and the priorities for the city. The Council uses its citizen's' panel, Xchange, for consultation and customer feedback. The panel is effectively managed and is used as the main vehicle for seeking the views of city residents about their satisfaction with specific services or issues. This shows, with some exceptions, broad satisfaction with many areas of the Council's work. Officers try to ensure that people with disabilities and those from minority communities are included in the panel. As the panel is drawn from those on the electoral roll, young people under the age of 17 and those not registered are excluded from the process and as a result the views of youth are insufficiently taken into account. However, the children's trust ensures that children and young people are consulted about policy developments. For example, the consultation of children and young people about the children and young people's plan and the referendum on schools admissions policy.
- 55** The Council uses the information from Xchange and 'City View' to effectively inform strategy and policy development. The annual 'City View' survey of 10 per cent of the city's population is run in partnership with the Council's health and police and community safety partners. It aims to build up a clear picture of who lives in the city, why they like living there, what they think about Council services, their health, the city generally and their local neighbourhood. The information from the two surveys has been used in developing strategies to tackle crime and disorder, initiatives for young and old people, maintaining a visible police presence on foot for Friday and Saturday nights, replacement and upgrading of bus shelters and improved signage, Brighton and Hove's Transport Plan and the Council's Waste Strategy. A report on the previous survey, together with an update on any action taken, is sent via a newsletter. The Council makes appropriate use of its website to seek comments on draft policies and plans and to invite general feedback on its activities.

- 56** There are strong consultation frameworks for partners, stakeholders and staff in place, but the process for providing feedback on the outcomes from consultation is unclear. Fifty-seven per cent of Councillors and 62 per cent of officers surveyed believed that there were effective systems to listen to suggestions from external stakeholders, but over 58 per cent of Councillors and 56 per cent of officers thought that the Council did not take action in response to the suggestions made. In addition, 48 per cent of officers felt that the systems for responding to staff views were ineffective. The Council is strengthening the process to ensure feedback on the outcomes from any public and stakeholder consultation is provided to ensure that the community is fully informed of any changes made as result of their consultation.
- 57** The quality of reporting on Council performance to the public is mixed. The Council has been slow in developing user friendly performance reporting information for the public and service users. There is insufficient information on how the Council has performed against its corporate priorities. The Council currently produces an annual performance plan and an associated summary that sets out key inspection ratings and limited commentary on performance. The overall performance plan includes performance indicators, but this plan does not relate the performance indicators to the Council's priorities. It is therefore difficult to determine how well the Council has delivered its key priorities. The performance plan is set out in tabular format but there is limited commentary highlighting achievements against priorities and areas for improvement. The links between the indicator results and the Council's statements of its achievements and future plans are not clear. Elsewhere, access to other information on performance is not easily available, for example information on meeting customer service standards and dealing with complaints. Pages on individual directorates and services consisted mainly of descriptions of the range of provision available.
- 58** External communication is developing. The Council has appointed a Communications Manager and is in the process of modernising its external communication functions including the production of a new communications strategy. This is work in progress and it is therefore too early make judgements on how effective the new arrangements are.

Recommendation

- R7** Ensure the community is better informed about the Council's priorities and performance, in particular identify with greater clarity key service and corporate performance targets as a basis for communication with, and reaction from, the whole of the local community.

Appendix 1 – Action Plan

Pg no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
Good Governance Review						
8	R1 Improve the communication of the long term vision of the Council to partners, stakeholders and the community, in order to increase their understanding of and commitment to the Council's agenda for the city and to improve their understanding of how the Council operates.	3	Director of Strategy and Governance Head of Communications	Yes	As outlined in the report, there is a shared vision and agreed priorities with our partners as reflected in the emerging Sustainable Communities Strategy and our LAA. However, the Council will continue to ensure that the Council's vision and priorities are understood through working with the LSP, PSB and through our Communication Strategy generally.	March 2010

Pg no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
9	<p>R2 Review the framework for member and officer relations and the related arrangements to ensure that they are understood and followed in practice.</p> <p>This needs to include:</p> <ul style="list-style-type: none"> joint sessions for senior officers and Councillors to improve their understanding of each others roles and responsibilities and to help develop improved ways of working with each other; a assessment of how well members and officers are adhering to the guidance and protocols relating to Officer/Councillors roles and responsibilities and behaviours; and the development of a good practice checklist for Councillors and senior managers that clearly defines what is and is not acceptable behaviour and monitor compliance. 	3	<p>Chief Executive</p> <p>Director of Strategy and Governance. Monitoring Officer</p>	Yes	<p>Much of the comment in the report reflects the position as it was at the time of the fieldwork. The situation is much improved with Members and Officers more aware of their respective roles under the executive system. However, it is proposed:</p> <ul style="list-style-type: none"> that the Standards Committee reviews the Member/Officer code and any associated issues as part of its ethical governance role; that the Chief Executive takes forward any issues about ways of working as part of his role as Head of Paid Service; and that the Monitoring Officer considers any good practice checklist provided by the Audit Commission. 	September 2010

Appendix 1 – Action Plan

Pg no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
12	<p>This will enable the Council to develop a clear understanding of the roles and delegated responsibilities of Councillors and officers.</p> <p>R3 Strengthen and raise the profile of the standards committee in promoting good ethical behaviour and standards across the Council.</p>	2	Monitoring Officer	Yes	<p>Since the review was undertaken, the Standards Committee has been active and some of the steps taken include meetings with group leaders and political groups, meetings with senior officers and hearing of complaints against Members. In addition:</p> <ul style="list-style-type: none"> there will be an annual report of the Standards Committee going to full Council where general issues of standards are highlighted; the Committee will review relevant protocols as part of its work programme and issue guidance; and further training and/or meetings with Members will be organised as and when needed. 	June 2010

Pg no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
14	<p>R4 Develop confidence in the transparency of the new political processes by improving scrutiny arrangements. The Council should:</p> <ul style="list-style-type: none"> ● use the co-ordinating scrutiny committee to produce guidance for officers on the formulation of agendas, work programmes, prioritisation of business and resource implications of its work; ● develop the skills needed for effective scrutiny; and ● ensure that the scrutiny role focuses more on proactive review/challenging of decisions, rather than info-sharing. 	3	Head of Scrutiny	Yes	<p>The council has made substantial improvements since the AC review was completed in March 2009. The council has appointed a Head of Scrutiny and 6 Scrutiny Officers. There have been a number of scrutiny reviews, which are starting to deliver real improvements to service delivery.</p> <p>The recent review of Scrutiny good practice has highlighted some action points including a more systematic approach to organising the work of scrutiny and continuing the 'tripartite' meetings.</p> <p>Member training on scrutiny has progressed with support from the centre for public scrutiny.</p> <p>Since the review, scrutiny has been undertaking more policy development and constructive critical challenge and less information only items.</p> <p>The recommendations are therefore already reflected in current practices, but we will keep it under review.</p>	March 2010 and continuing

Appendix 1 – Action Plan

Pg no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
14	R5 Embed the new political arrangements and learn from best practice by working with similar councils who have been recognised as having effective decision-making and democratic processes.	2	Director of Strategy and Governance	Yes	There is a periodic review of the Constitution, on average every six months. The opportunity will be taken to identify good practices from elsewhere and incorporate them where necessary. We will work with the Audit Commission to identify authorities or Teams recognised as models of good practice.	December 2010
15	R6 Develop a process to review specific Councillor roles and to ensure the effectiveness of individual Councillors across all the political groups by providing the necessary development and support, where gaps are identified. The focus should be on improving Councillors impact for the benefit of the people of Brighton and Hove.	3	Director of Strategy and Governance Head of Law Head of Democratic Services	Yes	This will be referred to the Member Development Working Group to be progressed as part of the Member Development Charter Plus initiative.	December 2010

Pg no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
18	R7 Ensure the community is better informed about the Council's priorities and performance, in particular identify with greater clarity key service and corporate performance targets as a basis for communication with and reaction from the whole of the local community.	3	Head of Policy Head of Communications	Yes	<p>This will be progressed as part of the emerging Corporate Communications Strategy and through work via the LSP and the Community Engagement Framework.</p> <p>Corporate Communications will build on its 2009/10 strategy to close the gap between satisfaction with services and overall satisfaction with the council. The strategy continues to focus on the external reputation of the council; a strong and consistent dialogue with residents and stakeholders; supporting our internal people agenda and the development of modern public service communications function dealing with the media and marketing (including social marketing).</p>	

Pg no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
					<p>The Corporate Communications Strategy is informed by research into city profiles and citizens' service needs. The strategy also has focuses on 'building from within' to ensure staff are informed of council policies and are committed to the ambitions of the authority.</p> <p>The strategy will be measured through robust performance indicators around internal and external reputational drivers, including external assessment through Local Area Agreement (LAA) and Comprehensive Area Assessment (CAA) performance reports</p>	

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BRIGHTON & HOVE CITY COUNCIL**AUDIT COMMITTEE****4.00PM 15 DECEMBER 2009****COMMITTEE ROOM 3, HOVE TOWN HALL****DRAFT MINUTES**

Present: Councillors Hamilton (Chairman), Watkins (Deputy Chairman), Kitcat, Oxley, Phillips, Simpson, Smith and C Theobald

PART ONE**47. AUDIT COMMISSION: GOOD GOVERNANCE REPORT**

- 47.1 The Committee considered a report from the Director of Strategy & Governance regarding the Good Governance Review and report from the Audit Commission (for a copy see minute book).
- 47.2 Ms Thompson briefly introduced the Audit Commission's report on Good Governance and noted that the fieldwork for evidence for this report had been conducted at the end of 2008 and beginning of 2009. The draft report had been produced early in 2009, but for various reasons had taken time to finalise. She added however that there were very few differences between the draft report and the final report.

The main findings of the report were that the Constitutional and governance arrangements at Brighton & Hove City Council were robust and strong. There was recognition that there had been a major change in the way the Council conducted its governance arrangements resulting from the introduction of the new constitution and that this had a noticeable effect on the culture and operation of the authority. The District Auditor, Ms Thompson, believed the report reflected this inevitable settling in period, but highlighted that the organisation could not be complacent with regard to its own arrangements and suggested areas where improvements might be made in the form of an action plan (appended to the Audit Commission's report). She added that the Audit Commission was not criticising the Council, but felt that it was important to regularly review and monitor arrangements to ensure they were strong and transparent.

- 47.3 The Head of Law introduced the officer's review of the Good Governance report and felt that the work of the Audit Commission was useful and overall complimentary of the Council's arrangements. A number of strengths in the Council's current arrangements were identified in the report including the constitutional arrangements, partnership working, community engagement, Member development and Member conduct. The report identifies areas for improvement, but the Head of Law reiterated that these have to be seen in the proper context. The fieldwork had been conducted between October

2008 and March 2009 shortly after a new Constitution had been introduced with a relatively new administration. This was therefore a period of adjustment and it is not surprising that Members and Officers felt unsure about aspects of the new arrangements. The action plan records improvements that have already taken place and others to be implemented in the coming months. The Head of Law thanked the Audit Commission for the work they had done in identifying these areas.

- 47.4 The Chairman asked if there were any questions and Councillor Kitcat asked whether the Council had contracted this report from the Audit Commission or whether it was part of the regular programme of work the Audit Commission performed.

Ms Thompson replied that examination of governance arrangements was part of the Code of Practice for authorities, but it was also something the Audit Commission had identified as necessary for Brighton & Hove City Council as a result of issues that had emerged from the 2007 Comprehensive Performance Assessment, which had highlighted governance as an area that needed reviewing. This work was delayed until the new arrangements were introduced, and could act as a compliment to the work of the Council on the six month review of the new Constitution.

- 47.5 Councillor Kitcat was concerned there had been significant changes between the draft report and the final report and asked who had been responsible for negotiating these changes with the Audit Commission. Ms Thompson stated that the draft report had been written in the Audit Commission's "house style", which formulated a judgement, gave reasons for the judgement and assessed why this judgement was important. She recognised that this could often come across as austere and direct. There was a need to factor in the special circumstances of the Council at the time the evidence was gathered, and to make the report more encompassing of the situation the authority faced than was expressed in the original. This process had taken some time to achieve, but Ms Thompson recognised that the length of time between the draft report and the final report was unacceptable and assured Councillors that this would not happen in the future.
- 47.6 The Head of Law stated that the essence of the final report was the same as the original draft and the recommendations from the Commission were essentially the same. There had been no Member involvement in between the draft and final stage, and the first Members to see the report had been the Chairman and Deputy Chairman of Audit Committee. He added that all of the changes made to the report had either been factual or contextual and were necessary for a complete report.
- 47.7 Councillor Kitcat believed that the way in which the Council ran Cabinet Member Meetings was unusual when compared with other Councils and asked why this was not referred to in the report.

The Head of Law stated that this area of work was identified in the report, as originally there had been the perception that many of the reports going to Cabinet Member Meetings were simply for 'noting' and this was not an efficient use of time for the authority. However, following the six month review of the Constitution, the reporting processes and delegations had changed to reflect a more streamlined approach. This is also an area that has been considered as part of the 12 month Constitution review of the constitution and there will be proposals to change some of the CMMs.

The Head of Law understood that most other authorities did not hold Cabinet Member Meetings in public and decisions in these authorities were taken in private. However, when the new system had originally been designed at Brighton & Hove City Council, there was a commitment by members and officers to ensure the new system was as transparent and open as possible. He added that officers remained up-to-date with what other authorities were doing in this area, but he believed Brighton & Hove had formulated the most open and inclusive system as possible.

- 47.8 The Chairman agreed that Brighton & Hove City Council had worked very hard to achieve the best system possible and thanked Councillor Oxley, who had led on the project, for his commitment to developing such a transparent system. Councillor Watkins agreed with this statement.
- 47.9 Councillor Oxley felt that the current situation in Brighton & Hove was quite different from when the fieldwork was undertaken for the report, and this was not reflected in the final version. He stated that the 12 month Constitution review would be much more in-depth and contain many more suggestions that further developed the recommendations in the Good Governance report. The Overview & Scrutiny function had been looked at, and further work would be undertaken on Cabinet Member Meetings, although when the system had originally been introduced, there was concern across the Council that it would be a very closed system, and a conscious effort was made to give open access to both Council Members and members of the public and press. He felt the report was valuable and important, but it was important to recognise how far the Council had developed from the point when the evidence base had been gathered.
- 47.10 Councillor Mrs Theobald asked about the recommendations regarding raising the profile of the Standards Committee and the Head of Law stated that the Independent Chairman had already visited with Group Leaders and Groups, there was ongoing discussion and consultation around standards issues at the Council, and the Annual Report of the Standards Committee would be coming to Full Council in the new year, and would reflect the work that had been done, and was being done, to develop standards further. Councillor Oxley added that the Chairman of Standards Committee had been invited to the Governance Committee to discuss the recommendations from this report.
- 47.11 Councillor Mrs Theobald expressed concern that the report stated that the Cabinet structure did not support efficient and effective decision making, but Councillor Oxley felt this was no longer a concern as effective measures had been put in place after the six month Constitution review to help streamline the Cabinet portfolios and make meetings more effective. Ms Thompson added that at the time of assessment between December 2008 and February 2009 the Cabinet structure had not been working effectively. The Commission had not conducted follow-up work to assess the current situation however, but felt this could be assessed as part of the Commission's Use of Resources work for 2009/10.
- 47.12 Councillor Mrs Theobald expressed concern that the report highlighted problems with the Council developing a more user-friendly approach to performance reporting information and Councillor Oxley stated that this had been recognised and work was in progress in this area. Ms Thompson added that she had met with the current Chief Executive and this was a clear area he was focussing on for improvement. The

Assistant Director, Improvement & Organisational Development agreed that this was an area under review and was aware there was a high density of information produced by the authority that was complex for both members and members of the public.

47.13 RESOLVED –

1. That the report of the Audit Commission is noted; and
2. That the proposed action in response to the recommendations of the Commission as set out in the action plan, listed at appendix 1 to the Commission’s report, is noted.

The meeting concluded at 6.30pm

Signed

Chair

Dated this

day of

Subject: **Twelve Month Review of the Constitution**

Date of Meeting: **12 January 2010** **Governance Committee**
14 January 2010 Cabinet
28 January 2010 Council

Report of: **Director of Strategy and Governance**

Contact Officer: **Name:** **Elizabeth Culbert** **Tel:** **29-1515**
E-mail: **elizabeth.culbert@brighton-hove.gov.uk**

Wards Affected: **All**

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 On 7 July 2009 Governance Committee approved the methodology for a twelve month review of the Council's Constitution. This report presents the outcome of the consultation and makes proposals for amendments to the Constitution in response.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes recommendations 4, 6 and 12 in the report and agrees recommendations 3, 7 and 11;
- 2.2 That the Committee agrees to recommend to Cabinet the proposals set out at recommendations 1, 2,5, 9, 10 and 14 of the report;
- 2.3 That the Committee agrees to recommend to Full Council the proposals for amendments to the Constitution set out at recommendations 8 and 13 of the report.
- 2.4 That the Committee authorises the Head of Law to make the necessary amendments to the Constitution to reflect the above proposals once approved by the relevant body.

3. RELEVANT BACKGROUND INFORMATION / CHRONOLOGY OF KEY EVENTS:

- 3.1 When the Council's new Constitution was approved by Full Council in May 2008 it was agreed to review how the arrangements were working, initially after six months and in more depth after the first year. The opportunity to examine the arrangements was considered important by Members in order to enable changes to be made, taking the experience of working under the new arrangements into account.
- 3.2 At the six month review stage a number of changes were approved, including:

- The extension of speaking rights and a seat at the table at Cabinet and Cabinet Member meetings to the Leader/Convenor of all opposition parties;
 - Clarifying the procedure for special meetings;
 - Adding Community Affairs and Inclusion as an item on the Cabinet agenda at least every 6 months;
 - Improvements and guidance regarding Notices of Motion, Member and public questions at Council meetings;
 - Changes to delegations and other technical amendments.
- 3.3 At the six month review stage Members also identified two in depth pieces of work which it was agreed should be taken forward as part of the twelve month review. These were a review of Overview and Scrutiny arrangements and a cross party working group to look at Member involvement in equalities issues. These have been progressed and are reported below.
- 3.4 The Governance Committee agreed the methodology for the twelve month review on 7 July 2009. The following steps have been taken to encourage the public, Members and officers to provide comments on the working of the Constitution at this 12 month stage and to provide suggestions as to how it could be improved:
- Two City News articles appeared in the July and September 2009 editions of the paper informing the public of the review and encouraging them to complete an online questionnaire;
 - The Citizens Panel were sent a hard copy of the questionnaire in September 2009;
 - All Members were sent an invitation to feed in their comments In September 2009. This was repeated in October 2009;
 - Questionnaires were also sent to officers (all first, second and third tier managers);
 - Partner organisations received a personal letter explaining that the review was taking place and seeking their views.

Summary of Responses and Recommendations

Public Responses

- 3.5 There were 815 responses from members of the public who completed the Citizens Panel and online questionnaires. An analysis of the public responses is attached at Appendix 1, including the full text of the responses to open questions. Whilst a range of views were expressed it is possible to draw out the main themes:
- **Listening, consulting and responding to the public** – there were a number of comments that the Council does not listen to public views or involve the public adequately in decision making.
 - **Communication and publicity** – many of those who responded wished to see increased publicity about how to get involved in Council decision making, including more publicity about what is being discussed at Council meetings and how to influence decisions.

- **The Leader and Cabinet system** – the public responses included comments that the current system is undemocratic and less representative than the old system. There were a number of comments that the Cabinet should not be single party. There were also a small number who suggested an Elected Mayor model would be preferable.
- **Accessing information** - a further theme that emerged was that it was felt that information should be made available to the public in a variety of ways rather than relying on people being able to access information online.
- **More local referenda** – there were a number of comments that more local referenda should be held on issues.
- **Improve efficiency** - respondents commented that decision making should be speeded up and bureaucracy reduced.
- **More public attendance at meetings** - public responses included comments that there should be greater public involvement in meetings and a wider cross section of the community should be involved

Recommendations in relation to public responses

- 3.6 The public responses which stated that public opinion is not heard or responded to, and that it is difficult to find out what is going on, reflect similar concerns that emerged through The Place survey. The Council has prioritised action to address these issues, including the steps set out below.
- 3.7 On 21 November the Council launched the “Get Involved” campaign. The campaign seeks to address directly the problems of members of the public not feeling connected to the Council by hosting a series of events and awareness raising campaigns to highlight the opportunities to “have your say” and how to access decision making.
- 3.8 An e-petitions facility was also launched on 21 November and has already attracted petitions from the public. The facility is a further step the Council is taking to increase direct access for the public to decision makers in the Council.
- 3.9 In relation to the ability of the public to engage with the Council at meetings, the proposals in relation to Full Council meetings at paragraph 3.27 below are intended to enable more people to attend Full Council meetings and to make them a focus for people to come, or watch, to understand the business of the Council.
- 3.10 **Recommendation 1. It is recommended that City News should include a clear explanation in the section on forthcoming meetings that states where the Forward Plan and meetings agendas can be obtained. A hard copy of the Forward Plan should be made available in the libraries and public offices. The Forward Plan is published monthly but updated more frequently so it should be made clear on the hard copy where the most up to date version can be found.**

- 3.11 **Recommendation 2. To make the Forward Plan itself a more helpful tool to understanding the business of the Council, there needs to be a stronger 12 month projection of decisions (as opposed to focusing on the next 2-3 months). It is recommended that the Cabinet Support Team proactively produce a 12 month programme of key decisions for inclusion in the Forward Plan.**
- 3.12 **Recommendation 3. It is recommended that Governance Committee should keep the above initiatives under review and instructs officers to report back to Committee on progress within six months of this report.**

Responses from Partners and other Organisations

- 3.13 The list of Partners contacted is set out in full at Appendix Two, together with the text of the consultation letter. The issues raised and recommendations are set out below:

Older Peoples' Council

- 3.14 The Older People's Council (OPC) stated that it valued the opportunities it has been given to represent the views of older people, in particular through:

- Regular meetings with the Council Leader;
- Formal representation on a range of Committees and forums;
- Invitations to contribute to strategies, scrutiny panels, the Care
- Quality Commissioning Review of Adult Social Care and the Stakeholder Panel assessing candidates for an Adult Social Care post.

- 3.15 The OPC identified that the high level of activity means that it is struggling be involved as effectively as it would like with the current resources and requested a dialogue with the Council to consider an increase in financial and administrative support.

- 3.16 **Recommendation 4. That the Committee notes that the Director of Adult Social Care and Housing will meet with the Chair of the OPC to discuss support arrangements.**

Hollingbury Community Groups

- 3.17 Hollingbury Community Groups responded to the consultation and explained that they feel that they have benefitted a great deal from the Cabinet arrangements, and that they feel that the processes have worked extremely well to deal positively with the many issues to arise in Hollingbury. They also commented that every area across the City would benefit from Community Development and that the Local Action Team in particular has benefitted the area. They urge the Council to make more use of Local Action Teams across the City to raise local participation, consultation and local involvement.

- 3.18 The issue of LATS was raised in a notice of motion at council on 30 April and subsequently considered by the Cabinet. The Cabinet member for Community Affairs, Inclusion and Internal Relations referred to the information pack for LATs on how to engage with the wider structures which was being developed in addition to a guidance documents acknowledging and defining the role of LATs.

A second event bringing together the chairs of all LATs to ensure their engagement and involvement was held since. Given the steps that have already been taken and recognising the main role of LATS, it is recommended as follows;

- 3.19 **Recommendation 5. That the Committee agrees that the Research and Consultation Team should include Local Action Teams, where appropriate, in all consultations relating to community safety/crime and disorder that affect a community for which a Local Action Team is in place.**

Eco-logically

- 3.20 Eco-logically environmental consultants also responded to the consultation. They expressed disappointment that there has been no improvement in their ability to interact and have a dialogue with the Council and in particular raised concerns about difficulties they had experienced in obtaining copies of consultation documents.
- 3.21 **Recommendation 6. That the Governance Committee notes that the Chair of Governance Committee has set up a meeting with Eco-logically to go through with them their concerns in person.**

Summary of responses from Officers

- 3.22 Feedback from Officers has been collated from returned questionnaires and other comments received since the six month review.
- 3.23 The key issues that have been raised are:
- Overview and Scrutiny is improving and grasping real issues
 - The Audit Committee is starting to show its value
 - The uncertainty that no overall control brings is reduced
 - Monthly Cabinet meetings produce helpful cycles
 - There is not enough business on some Cabinet Member Meetings
 - There are too many Cabinet Member Meetings
 - There is a need to review Full Council working to make it more focused and relevant
 - Extend delegations for Cabinet Member for Central Services to include Customer Services to tie in with other Central Services delegations.

- 3.24 In addition officers have raised a number of technical amendments which are included as recommendations at the conclusion of this report.

Summary of responses from Members

- 3.25 Individual Member responses raised the following issues:
- There are too many meetings – although some are shorter they are more frequent and can overlap or it is simply not possible to attend them due to the volume;
 - A request for more clarity about the procedure and scope for Notices of Motions;
 - The role of Political Assistant is not clear;

- Measures should be taken to ensure that scrutiny is non-political and the role of Head of Scrutiny should be on a higher grade and carry more weight than at present;
- Scrutiny does not provide an equal balance to the Executive and needs to be improved;
- There should be separate Scrutiny Committees for Community Safety & Culture, Enterprise & Tourism and Adult Social Care & Housing;
- There should be separate Scrutiny Committees for Environment and Community Safety;
- There should be more neighbourhood working/neighbourhood-based decision –making and Participatory Budgeting;
- The Forward Plan remains inaccessible and hard to follow;
- Questions at Council should be written and receive a written answer and not a verbal answer;
- Scrutiny Chairs and deputies should be proportional to proportion of political parties on the council;
- There should be odd numbers on scrutiny committees;
- There should be a specific responsibility for Cabinet to accept or dismiss scrutiny recommendations and explain their reason for doing so;
- There should be structures to ensure that Notices of Motion are followed through and not overturned or ignored at the relevant subsequent Cabinet or Scrutiny Committees;
- Members should be allowed to sign petitions ;
- Urgent decisions should not be exempt from call-in;
- The Council’s AGM should be held separately to the annual Mayor-making;
- There is no easy access to a forum for members of the public to raise equality issues. A CMM should be held for Community Affairs and Internal Relations or another structure established. Members have no information of what activities are taking place in this area;
- The issue of the party or parties of Official Opposition needs to be clarified so that, in the case of more than one party sharing the equal highest number of elected councillors, then the Leader/Convenor of each party will become the Joint Leaders of the Official Opposition;
- Pleased that all Members now have speaking rights;
- Scrutiny ad-hoc panels doing some very good work;
- Decisions can get made more quickly;
- There is greater inclusion of the community.

3.26 In addition to individual Member questionnaires, officers received some collective proposals from Groups which are summarised below:

- There should be a limit of 2 Notices of Motion per Group;
- The limit on the length of time the mover of the Notice of Motion or presenter of a report has to speak should be reduced from 10 minutes to 5 minutes and those speaking in support or otherwise should be limited to 3 minutes;
- Members’ questions should be directed to the right decision making forum and should be referred to CMM or Cabinet where the issue falls squarely within the decision making remit of one of those meetings;
- Members questions should be limited to 2 questions per Member per meeting;

- There should be a requirement that the executive response should be prepared and a decision made by Cabinet as to whether to accept the recommendations or not within 4 weeks of receiving the scrutiny report;
- Strategic and significant matters should be taken to CMMs. The CM for Community Affairs, Inclusion and Internal Relations should hold CMM's;
- Cabinet members should not be members of the Audit Committee;
- Pre-meets should not be held before Planning Committee;
- Given the growing workload of the scrutiny team, the number of the people in the team should be reviewed.

Recommendations in relation to responses from Members and Officers

3.27 Full Council

Recommendation 7. The Committee requests a paper be brought to its meeting on 9th March 2010, specifically addressing proposals in relation to Full Council meetings.

- 3.28 In relation to the proposal for a mechanism to ensure that Notices of Motions agreed at Council are acted on, this would not be possible to take forward as the Functions and Responsibilities Regulations 2000 create a split between executive and council functions. Where a Notice of Motion taken at Council relates to executive functions, Full Council has power only to recommend action to Cabinet or CMMs – the Council recommendation cannot bind the Executive.
- 3.29 In response to the proposal that the Council's AGM should be held separately to the annual Mayor making, the debate takes places at the time the Mayor Elect is decided which is in December and is already separate from the Council's AGM.
- 3.30 In respect of the role of Official Opposition, it is not proposed that the current arrangements are changed as it is appropriate to continue with the incumbent Official Opposition where there is a change mid year and review this annually at the Council's AGM.

Overview and Scrutiny

- 3.31 At the six month review of the Constitution, it was agreed that there should be a more in-depth review of Overview and Scrutiny arrangements. This has been done and was reported to Governance on 17 November 2009. The recommendations in that report included proposals to embed the quarterly tripartite meetings between the Chair of the Commission/Committee, the Cabinet Member and the relevant Director and for the Commission to produce a medium and long term work programme for the panels and select committees.
- 3.32 The Head of Overview and Scrutiny has also recently put in place new arrangements for working with officers in relation to scrutiny recommendations and these will be monitored to ensure that the required timetables are met.
- 3.33 A further mechanism to ensure timely responses to scrutiny reports has been agreed with the executive and is set out at recommendation 8 below. This complies with the most recent legislative requirements in relation to Overview and Scrutiny arrangements.

- 3.34 **Recommendation 8. It is recommended that the Overview and Scrutiny and Cabinet Procedure Rules be amended to require an executive response to scrutiny reports to be published by the executive within 2 months of receiving the scrutiny report.**
- 3.35 It is not recommended at this stage to review the staffing arrangements for scrutiny in view of the new ways of working reported to the 17th November Governance Committee and the proposals above which will need time to bed in. The current arrangements in relation to the number of panels were agreed following consultation at the six month review stage and it is not proposed to separate further their remits.
- 3.36 In relation to the issue of chairing and numbers on Scrutiny Committees it is not proposed to change the arrangements. The Committees are intended to work collaboratively and on a non-political basis. All Chairs pre-meets have now become cross-party to reflect this aim. If the proportionality rules were to be applied to the Chairing of the Overview and Scrutiny Committees this would not result in a change to the political representation of the Chairs that would increase the number of opposition chairs in any event. The result would be the opposite.
- 3.37 In response to the request that urgent decisions should not be exempt from call-in, it is not proposed that the current arrangements should change as this provides an important mechanism to enable the Council to take decisions in cases of real urgency. There are safeguards in place to ensure that the mechanism is operated responsibly – reasons are required to be given in the report itself and an annual report to Full Council is required setting out the occasions when this power has been used. From the records it is clear that there is no evidence that this system is being abused.

Cabinet Member Meetings

- 3.38 In relation to Cabinet Member Meetings, in recognition of the concerns raised by both officers and Members on this issue, it is recommended that Cabinet Members Meetings are streamlined. The business coming through the Central Services and Finance CMMs is low because many of the decisions that fall within these areas are taken at Cabinet. The Finance CMM itself does not have a decision making remit. Looking at this against the resource implications of running the meetings, it is recommended that these two CMMs no longer meet and that the matters that would have been taken to those meetings are taken to Cabinet.
- 3.39 **Recommendation 9. That Finance and Central Services matters that would have been taken to CMM are taken at Cabinet in place of separate CMMs for those areas.**
- 3.40 **Recommendation 10. That Cabinet will encourage ongoing CMMS to ensure that they make full use of the meeting by taking discussion papers and updates as well as decision making reports and will review the position in six months.**

Neighbourhood working

- 3.41 **Recommendation 11. That the Committee notes the comments regarding neighbourhood working and requests that this issue be picked up at Governance Committee within the report on the Local Democracy, Economic Development and Construction Act 2009 at its March meeting.**

Cross party working group on equalities issues

- 3.42 At the six month review stage Members agreed to set up a cross party working group to look at Members' involvement in equalities issues and for the outcome of that review to feed in to the 12 month review.

- 3.43 The cross party working group met on two occasions. A note setting out the issues and recommendations agreed by the group are attached in full at Appendix 3.

- 3.44 **Recommendation 12. That the Committee notes that an informal equalities group will be set up and Chaired by the Cabinet Member for Community Affairs, Inclusion and Internal Relations with equal representation from all parties and which will meet on a six weekly basis. The group will not be a decision making body but an informal meeting for Members with the aim of improving communication and engagement with elected members on equalities issues.**

Technical amendments

- 3.45 Officers have provided feedback on a number of technical issues and proposals to amend and clarify aspects of the Constitution where, for example, legislation has changed and delegations need to be updated. These issues are set out below.

- 3.46 **Recommendation 13. That the Committee recommends to Full Council the following amendments:**

- **Amend Overview and Scrutiny provisions to comply with the requirements of the Local Government Public Involvement in Health Act 200 as set out at Appendix Four;**

Most of the amendments reflect existing scrutiny practices but are not specifically mentioned in our procedures. The main changes are: duty to give written reasons when a request for scrutiny is not agreed, a 2 month deadline for responses (28 days in the case of crime and disorder) and limitation on the co-option of non-Councillors to the Crime & Disorder Overview & Scrutiny Committee. Appendix 4A summarises the relevant legislative provisions and Appendices 4B and 4C set out the full procedures as amended.

- **Amend Licensing Committee referred functions to reflect the role of the executive in formulating the authority's statement of licensing policy under the Gambling Act 2005;**

- **Amend Contract Standing Orders to clarify procedures in accordance with the draft amended CSO's attached at Appendix 5;**
An explanatory note is attached as appendix 5A.
- **Designate the holder of the post of Head of Overview and Scrutiny as 'Scrutiny Officer' for purposes of compliance with the Local Democracy and Public Involvement in Health Act. It is now a statutory requirement to have this role formally designated. The legislation requires that it should not be the Chief Executive, Monitoring Officer or s151 Officer and needs to be a person with day to day responsibility for the scrutiny service.**
- **Incorporate a sub-committee to Standards Committee to consider applications for dispensation.**

3.47 **Recommendation 14. That the Committee recommends to Cabinet the following amendments:**

- **Amend delegations for Director of Finance and Resources to include the power to determine applications for assistance under the Council's general indemnity (this was approved by Policy & Resources in 2005 but the delegations were not updated);**
- **Incorporate into the Constitution the current arrangements for appointing a substitute for CMMs. This will reflect the current arrangements whereby the Leader appoints a substitute and will not be a change in practice.**
- **Include Customer Services in the delegations for Central Services to tie in with the other Corporate functions already delegated to that portfolio.**

Other Constitutional issues for information

3.48 **Leadership and Civics' office**

The Council has been approached by the Lord Lieutenant to manage his office (which up until now has been run by East Sussex Council, with a financial contribution from ourselves and that Authority). The intention would be to create a "Leadership and Civics" office that would provide the executive support to the Chief Executive, the Leader and Deputy Leaders as current, but would also take on the new responsibilities for the Lord Lieutenancy.

3.49 **Leaders Group**

Established at the time of the first no overall control council, the Leaders Group has now run for many years as a forum for considering cross-council (and thus cross-party) issues predominately on matters relating to the constitution, civic life, elections, democracy, etc. It has also been, reasonably successfully, used on significant corporate issues (such as equal pay) to keep group leaders apprised of long term or complex matters. It is proposed that this approach should be retained but with care being taken of the role of the Governance Committee on the former and Member briefings, Overview & Scrutiny and formal Cabinet/Cabinet Member meetings on the latter.

4. CONSULTATION

- 4.1 As set out in the body of the report, there has been wide consultation with the public, partner organisations, Members and officers in relation to this review of the Constitution. The recommendations of the report have also been the subject of consultation with the Leaders Group.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

There are no direct financial implications arising from the proposed amendments to the constitution outlined in the report.

Finance Officer Consulted: Anne Silley

Date: 03/12/09

Legal Implications:

- 5.2 Under the Local Authorities (Functions and Responsibilities) England Regulations 2000 (as amended), certain functions are reserved to Full Council for decision and others are reserved to the executive. For this reason, those recommendations in the report that require changes to the Constitution and relate to Council functions must be approved by Full Council and those that relate to Cabinet functions are required to be approved by Cabinet.

Lawyer Consulted:

Elizabeth Culbert

Date: 16/01/09

Equalities Implications:

- 5.3 Recommendation 12 in the report aims to ensure an increased focus and opportunity for Members to be engaged in equalities issues.

Sustainability Implications:

- 5.4 None.

Crime & Disorder Implications:

- 5.5 There are no Crime and Disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 None.

Corporate / Citywide Implications:

- 5.7 The amendments to the Constitution are designed to ensure the continuous improvement of the Council's Governance arrangements.

SUPPORTING DOCUMENTATION

Appendices:

1. Public Consultation responses
2. List of Partners and copy letter
3. Note from Cross Party Equalities Group
4. Changes required to Overview and Scrutiny to comply with Local Government and Public Involvement in Health Act 2007
5. CSO changes (tracked)

Documents In Members' Rooms



None

Background Documents:




1. Local Authority Byelaws in England: A Discussion Paper (Office of Deputy Prime Minister, 2006)
2. Government Response to the Making and Enforcement of Byelaws (CLG, October 2009)

**How Effective Do You Think Brighton and Hove City Council's New Constitution Is? 12 MONTH REVIEW OF THE CONSTITUTION
Results from Citizens' Panel and on-line questionnaire**



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

Answer Options	Response %	
Yes	43%	
No	57%	
<i>Number of people who answered question:</i>		815



Do you feel you are able to have an input into decisions taken by the Council under the Leader and Cabinet system?

Answer Options	Response %	
Yes	20%	
No	39%	
Don't know	42%	
<i>Number of people who answered question:</i>		814



Have you tried to have an input into decisions taken by the Council under the Leader and Cabinet system?

Answer Options	Response %	
Yes	6%	
No	94%	
<i>Number of people who answered question:</i>		811

If yes, were you satisfied that your input was listened to and considered?

Answer Options	Response %	
Yes	26%	
No	74%	
<i>Number of people who answered question:</i>		42

Do you know how to find out where to take any issues related to the council and its business?

Answer Options	Response %	
Yes	47%	
No	53%	
<i>Number of people who answered question:</i>		798

Have you heard of the Forward Plan?		
Answer Options	Response %	
Yes	18%	
No	82%	
<i>Number of people who answered question:</i>		812

If yes, have you looked at the Forward Plan?		
Answer Options	Response %	
Yes	18%	
No	82%	
<i>Number of people who answered question:</i>		147

If you have looked at the Forward Plan did you use it to:		
Answer Options	Response %	
Find out information about the major decisions likely to	74%	
To plan attendance at Council meetings	4%	
To get information on agendas and reports	35%	
Other	13%	
<i>Number of people who answered question:</i>		23

Did you know that some Council meetings are being webcast?		
Answer Options	Response %	
Yes	23%	
No	77%	
<i>Number of people who answered question:</i>		813

If yes, have you seen any of the Council meeting webcasts?		
Answer Options	Response %	
Yes	8%	
No	92%	
<i>Number of people who answered question:</i>		189

Are you likely to watch the Council meeting webcasts in the future?		
Answer Options	Response %	
Yes	23%	
No	43%	
Don't know	34%	
<i>Number of people who answered question:</i>		807

Are there any changes you would like to see to the council's constitution / decision-making process?

Wider Consultation Before Decisions Made / Transparency of Decisions (14% of comments made for this question)

From what I hear, and what I feel, people feel that whatever they do or say, they will not be heard, that in the long run, it will make no difference to decisions made in the council. Successive goals are so remote and so detached, and won't listen to the people - and this country is in a very sorry state. And this tarred brush extends, in people minds, down into local councils, so that it seems pointless to attempt to try and make changes. If I had said to you that putting trees in pots on Western Road was a waste and would only become giant waste bins? Would you have listened? Use whatever processes you like - the result will be the same.

Greater transparency - too many large numbers and not enough detail. The communal bins show us decision making is not transparent. Ad hoc changes have occurred without consultation. Example movement of bin from Victoria Place to Montpellier Street without any consultation?

Greater transparency and neighbourhood consultation

I feel when there are important decisions to be made ie the selling of council owned land to the National Trust and Stanmer Park House to a private owner, all consultation should be made to the people of Brighton and Hove. You don't sell off the family silver without full consultation with the family.

I visit the library every week, I teach in a local authority school, I travel by public transport and yet I have little or no knowledge of how the council operates. It doesn't feel as if the council and I ever cross paths.

I would approve that any change that gave improved voice to those Brighton residents who can meet the legal criteria to qualify them as a permanent resident. I very strongly disapproved and still strongly disapprove the union of Brighton with Hove.

I would like them to ask the residents of Brighton and Hove when it comes to spending money on the continuous road works! The money spent on that could surely be cut and be spent on the NHS and making more beds available.

I would like to feel councillors listen. I am very concerned at some of the recent planning decisions. I feel they need to take more notice of the business community and their own planners.

I would like to see an independent body eg. Council tax payers, checking some of the crack-pot ideas such as stupid cycle lanes in The Drive and stopping them before the money is wasted.

I, like many, am under the impression in general that on many occasions where the council has announced a period of consultation - for example on intended implementation of a CPZ in a particular area - it is paying lip service, whether intentionally or otherwise, to the public, where the decision or outcome is already pre-determined. A current example is that of the London Road area.

I'd like much more wide ranging local consultation taking place in neighbourhoods. I'd like the cabinet system to be abolished and replaced with a parliament-style open, and public, debating forum. I think all councillors should vote on all issues.

If possible to be more aware of the unity of the silent majority and to be less swayed by politically correct action. ie. Bicycle lanes on the Drive / Grand Avenue Hove.

Let the public have more of a say, and to take note and act on their behalf, instead of just doing what the council wants to do.

Listen to the electorate

Listening to residents and their opinions would be a start

Maybe more input from ordinary householders in the area. When a decision is being made information of where and when so possibly local people can voice their opinion.

My own experience is that the decisions taken cannot be altered even if they are admitted to be flawed. Despite an elaborate system, the council seem unwilling to listen to the public's views.

Public opinion

There is no commitment stated in the Constitution to take any heed of views or concerns stated by the public. As it stands, in this respect the Constitution describes a mere consultation process. A statement should be included to commit the Council to giving electors' opinions, views and expertise a tangible influence on decisions.

There is something inherently wrong with Brighton and Hove council, it works in isolation from the public and has cost this city jobs and prosperity because of bad decision making

There seems to be a distinct lack of involvement with the older people cohort. Surely such a large element of the population should have representation in cabinet.

To be more inclusive of those who are ready to work and are outspoken. Right now, everything appears to be too one-sided and as it were, hidden under a cloak.

Transparency on future strategic framework that relate to key performance indicators. Details of council members and other industrial relations/business interests.

Truth would be useful, not political correctness.

When there is poor questionaire/public response to a decision meeting, the council should repeat questionair/public response.

Widen the constitution to involve more people outside who deserve the right to voice their opinions.

Yes listen to the people

Yes, stop making knee-jerk decisions

Yes. Listening more to the wishes of the electorate.

Yes.....Less about Money and more about the people of Brighton and Hove.

Communication & Publicity (14% of comments made for this question)

Better advertised in simple language.

Better publicity.

Comments say there is no wide publications of the council constitution

Communications between the public and council officers regarding policy and problems should be officially logged and put on the record and used in the decision making process.

Communicate, communicate, communicate

Could the agenda of future meetings be advertised in the Argus (in a readable fashion) so if something that affects you is about to be discussed and decided individuals can get involved. We usually find out when the decision has already been made

Details of council meetings to be advised in local freebie paper The Leader.

Everyone has not got the means to contact websites, why can't things be published in your newsletter. They are not very accessible either.

I would like to know about it in the first place

Inform all residents through the Argus and e-methods (online)

Inform members of the public more regularly of what issues are being discussed which may affect residents and how they can play a role in them.

Information about how to access these processes/constitution

It would be good if circulars were sent from the council notifying us of meetings and ways to get involved.

More awareness

More information in local papers. eg The Argus, Leader and Kemptown Rag.

More openness

more PR so people understand how to get involved. A leaflet with examples of how to get involved and make changes in your community would go down well.

More publicity and encouragement for the public to participate. When I did raise an issue with my local councillor (about school catchment areas) she was supportive and cabinet committee listened/ but I had no idea what it would be like.

More publicity given so people know what they can do - easier for people to have input.

More publicity so it is easier to track what is going on and when.

More publicity to the recent changes may make people realise that they can be heard.

More simple format and widely publicised about how local people can get involved or influence decisions

More transparency.

Push it in the council newsletter

Rather than rely on the web site, an explanatory leaflet should be sent out to all households

Some idea of the subject under discussion. How votes were cast for and against.

The decision-making process should be more widely known to the general public.

Yes - to publicise the willingness to involve the community as much as possible

Yes, sending out e-mails to interested members of the public (who may have registered on the Council's website) about issues on the forward plan, would help inform the public - thus enabling them to be part of the debate.

Too Much Power In Too Few Hands / Undemocratic (10% of comments made for this question)

A democratic process introduced. At present, final decision making is held in the hands of too few individuals. The Leader of the Council holds too much power.

Because most councillors are removed from day to day decision making, the new constitution is a step back from local democracy for most residents. In an authority where no party has a majority, decision making is unreasonably party political.

Council's decision making process seems to be affected by your name ie. Tesco

Decisions should always be made collectively, never singly.

Given the emphasis is supposed to be on local democracy, I have felt for too long now that in reality it is getting less and less inclusive of residents and more that we are being dictated to by fewer and fewer decision makers.

Hold Q&A sessions =deputations etc= at separate times from decision making meetings. Do not let the planning committee make planning policy (SPF etc) as it will later have to implement them. This undermines the idea that it is a quasi judicial committee.

I am concerned that many of the decisions seem to be taken by or driven by officers. eg the continuous extension of the parking scheme towards the suburbs (Compton Road, Reigate Road), which now seems to be little more than a money raising exercise. Committees and committee chairs need to be seen to be exercising democratic control over officers. This seems to be particularly important when there is a 'hung' council. The council's newsletter could easily contain more information about how, and who by, contentious issues are raised and dealt with.

I am concerned that the cabinet system favours one group of councillors (ie one political party) and gives them an undemocratically justifiable influence on council activity.

I am unhappy with the centralisation of power under the new arrangements. Over the past 30 years, local government has progressively had more and more legal responsibilities and so many fewer powers such that local democracy has been extensively eroded. The centralisation of power under the 'constitution' - why glorify these new rules - is likely to be particularly pernicious from next year, when an already heavily weighted Tory administration will be returned in greater numbers and will then be under the influence of a central government dedicated to cutting and privatising local services. Look out for your jobs and pensions!!!!

I do not approve of the leader and cabinet method of governance as I think it is undemocratic.

I do not think that a minority should hold all the decision making power - the voting balance of the local population is not being taken into consideration in major decisions.

I don't think that there was anything fundamentally wrong with the committee system in place when the unitary authority was created. It encouraged councillors to be active and informed, and gave a range of opportunities for public input and scrutiny. I would like to see more decisions referred down to local community forums.

If the cabinet is chosen by the council leader and therefore will 'generally be single party', will decision making take into consideration as many varied views as having a whole and council voting? In other words will cabinet decision making become a bit 'closed shop'?

In what way is an unelected leader selecting unelected cabinet members democratic?

It seems that decisions are made quango style - I know for a fact that most policies are decided well before meeting stage, and transparency is not a key issue

New system seems to allow smaller number of people to take decisions or even just one person.

That councillors will listen to objections. Letters currently remain unanswered, not even the courtesy of an acknowledgement! This needs urgent attention. How does one object to the planned position of the i360 ferris wheel?

It would be helpful if the council representative making decision or meeting the public, ie. ratepayers, was a local person, someone who understands the feelings of a resident born and bred.

That there is one representative from another party on any committee.

The most important thing to me seems to be how the leader of the council is chosen. If you or someone from your party becomes the leader then that party seems to have almost all the power. This seems a bit unfair and unrepresentative to me. I would like to know more about the vote for a leader.

There is too much emphasis on politics, at the expense of both governance and enabling councillors of ability to be involved. It is a poor system for local government, bearing in mind the very limited number of councillors from whom cabinet can be resourced. Many of those in the present cabinet appear to lack requisite skills and experience.

To learn what Financial/Oblique interests and benefits are truly being used to influence various planning. eg. cycle paths.

Too much power resides in too few hands. Councillors period of office should be 2 years (maximum). There should be an external audit every year, to be carried out as a snap audit. Department budgets should be reviewed and approved by residents/council tax payers. Much more transparency required and well publicised.

Introduce Committee System (6% of comments made for this question)

A return to committee system

As I voted against this system in favour of a committee system, as did the city overall, it's reinstatement would be one thing.

Committee system - yes. Had a range of people to talk to at the various committees and it was much easier to hold the councillors to account for decisions. Cabinet system - 1 councillor is in charge and the scrutiny process is not sufficiently robust in how it polices councillors decisions.

I preferred the Committee system

In my Luddite view the old committee system was preferable and would like to see a reversion to that system.

It is anti-democratic to impose the leader/cabinet model - go back to the previous model.

On the whole I would prefer a system of full council committees. It seems to me it would result in more balanced policy decisions, reflecting more exactly the proportion of political parties and individuals (independents) on council.

Return to committee structure.

Return to committee system. We voted some years ago against an 'elected' mayor and leader as this is just another form. Too much power for one person in my view.

Return to committee system and time democracy with decisions made by more than the executive (cabinet)

Return to full committee style council

The previous committee system was more accountable, but was signed to be disproportionate given the modest sense of most council decisions. There is a tension between accountability and effectiveness. The old system was more effective at promoting debate and accountability..

Yes, despite government instructions councils should revert back to the old Democratic system. The new "imposed" cabinet system removes all opportunities of democratic debate and voting. It also allows the Cabinet to rule on whether the public is allowed to speak at meetings. I have had personal experience of this, which allows the ruling party to railroad their decisions through.

Not Single Party Cabinet (6% of comments made for this question)

A cross party selection of members of the cabinet

Ensure all party involvement in cabinet and engage them

Having read the new constitution outline attached, it does seem far less democratic: it shouldn't be possible for one party to make decisions in Cabinet without the other parties being represented or even informed.

I am not aware, what I want.

I would favour the composition of the cabinet to be proportionate to the party political composition of elected councillors. The present systems seem to me to give too much power to the leader who could appoint a cabinet quite unrepresentative of the political views of its electorate. You could say that I am in favour of proportional representation at local level and I do not think this is necessarily incompatible with our system in general elections.

I would like the cabinet to represent reflected votes (i.e. not constituted by one party only)

I would like to see proportional representation on members of the cabinet.

Is the cabinet system reflected of local political support? It is expected that cabinets will generally be single party.

It seems wrong that the Cabinet is expected as only containing the majority party.

Make the representation fairer across the Board at Cabinet level.

The Cabinet should be cross-party.

The Cabinet should be multi-party by default, preferably proportional.

The cabinet should not be a single party.

Accessing Information (5% of comments made for this question)

Are copies of meetings and decision making available to public via library?

Being non-computer literate makes it rather difficult to follow council meetings.

I am most concerned that the public are being expected to look at the council website for information, most people are much too busy to spend time checking the council website just in case there is anything that they might need to know. Such information should be easily open to the public. Local newspapers and radio are the most obvious method, but surprise surprise, they are all losing their voices because certain sections of the community assume everyone is tied to their computer, night and day.

I do not know enough about it to be able to comment properly. I am not computer literate enough to look at "webcasts". I do not know what these are. I have no speakers on my computer so if sound is involved, I cannot access it.

If no information is generated either by e-mail or newspapers then how are the public going to find info ??

More detailed information

Not everyone can afford the internet at home so are unable to watch meetings.

Not everyone has computers, so what do they do?

That residents are informed well in advance

To realise that not all of us have access to the internet, also some older and disabled people may not be able to visit council offices to view proposals.

Local Referenda (3% of comments made for this question)

1. More use of referenda. 2. Opening up of meetings to public input. 3. Recording of individual councillor votes

All meetings should be public unless to protect an individual elected to the council. All scrutiny committees should be chaired by the opposition parties. Key decisions should be reduced to £250,000 to preclude piecemeal cuts.

Consider using local referenda

More referenda - as in Switzerland where democracy is local and ongoing - not just election at intervals of several years.

Referendums

The introduction of referenda a major issue; eg. enforcement of traffic regulations.

Less bureaucracy / Improve Efficiency (3% of comments made for this question)

Less bureaucracy

Less paperwork. Less time-wasting. Greater consideration given to public opinion.

Less redtape, more awareness of the law!

Make it less bureaucratic

Speed things up. Everything is taking too long.

Speed up planning decision process especially concerning large projects. Falmer - i360 - Agonising over West Pier is ridiculous

Weakness in existing constitution arrangements creates slow decision-making. Improve efficient decision-making.

Involve Young People!

Open Meetings To Public (2% of comments made for this question)

More access to the public

More meetings should admit members of the public and questions or views of interested parties should be sought before any decision is made. Too many councillors do not reside in the built up areas, consequently they are not aware of the problems many of us encounter with regard to council services.

More members of the public invited to these meetings and able to have an opportunity to have a discussion if they feel they have something relevant to add.

More public involvement

Transparent accountability. Letting the public speak at meetings.

Involve People External To Council (2% of comments made for this question)

A wider mix of views to represent the political make up of the council. Too many decisions made by one political party is not democratic and does not represent the whole of the electorate

Do they actively involve young people in decision making about provision of services? As the mother of an older and younger teenage daughters I am conscious of meeting facilities between the ages of 14-18 are limited to drinking in parks and fields or very religious youth clubs.

Ensure a cross section of people and commission providers are present during the decision making process.

More local authority to community groups.

Generally Positive (2% of comments made for this question)

Having just read the information with the questionnaire I think the copnstitution seems reasonable. I didn't fully understand one point; the enhanced role of the Scrutiny committee. The new committee's chair is decided by a full council decision which will probably reflect the winning parties decision who would also dominate the cabinet. ie There isn't a strong role for the opposition once the budget has been set (if you follow the logic of the information)

I find the new Cabinet System far more efficient then the endless Committees and Sub-Committees because decissions were transferred from Committee to Committee and subsequently lost in the system.

It sounds more accessible than I realised, so not really.

No, I think there is now a very practical and logical approach to decision making.

The outline given is most interesting and appears to be quite democratic

Elected Mayor (1% of comments made for this question)

An elected and political mayor, e.g. New York style

I think I had more chance to influence decisions under the old committee system. The elected major system might give more drive to the cities development

I voted against cabinet responsibility/ decision making for several reasons. It strengthens party politics at local level, when we should have individual, ward, representation. It dilutes individual responsibility and accountability, allowing people to hide behind collectivism. I'd rather have a mayor who takes personal responsibility for creating a dynamic town

Other (14% of comments made for this question)

Abandon 'the whip'!

Appears to be set out in law and we must give the arrangements time to bed in and hopefully show all its advantages! Will be interesting to see if the leader appoints any non party for their expertise!

Do we need 54 councillors?

Elections every two years.

Fewer Councillors (around 30). Elected using a P.R. system.

I would like to see tenant participation just that not with so much influence over cabinet members - It appears that they have an overly-large say in policies throughout the city.

I would like to see the leader elected by the electorate, or at least as in Westminster the parties to declare who will be leader if they have a majority in Council elections.

I would like you to learn from experience in Canada when the PM had to challenge his cabinet to deliver savings in order to bring the country's finances into a better shape. The constitution is very admirable but high level and so I want to know you are going to be much more challenging to all areas to ensure we are getting value

In my experience, members of the public know more than Councillors. I was appalled at their ignorance of Planning and Building Regulations. All councillors should be required to have such expertise if they are on Planning committees etc..

It is a bit worrying that individual members of the Cabinet can make decisions without immediate consultation with other Cabinet Members. There needs to be more publicity about which councillor (or post) is responsible for which area so members of the public can address their concerns accordingly.

It's not the constitution or process, it's an attitude - if the response to the public was yes, or how can I help, or that an individual will take responsibility, there'd be an instant change.

Less control by government. More decision locally.

Make use of the councils staff and local knowledge instead of using experts at great cost and getting ideas which are not practical.

Many fewer councillors. Fewer necessary decisions. All to be taken by vote by whole council

More money put into SEN provision and inclusion.

My main 'issue' living where I do, is street smoking and noise related nuisance. In my opinion this is anti-social behaviour. The Police say it's no longer their remit and the Council do very little. This is a city wide problem and think a change of policy, ie: allow a smoking room/bar in some pubs. This really effects the quality of city centre life.

Only if they involved something directly in my area.. Or if they involved an issue that reallt concerned me.

Only those changes are vital to the efficient functioning of the council. Give the new system time to prove its value and to identify serious faults.

Probably quicker time frames, but no concrete examples to give at present.

Reduce the number of councillors to eight to twelve, but then expect those councillors to work full-time serving the council and its residents.

Sorry, after 10 years in this country (NHS) I lost all my trust in honesty and integrity of administration in the UK.

Stop the conference coming to Brighton so the small shops like mine lose money. I lose about £3000 for every time they come here and I still pay my rates. why? The only people who make money are the police and big hotels and the pubs. And no-one comes to Brighton.. Well, not a lot.

There is clearly no concept at the council that local people cannot afford the exorbitant council tax rates. I do not believe that we are being given value for money, I believe there is a huge amount of waste and I do not see why local people should be contributing to pension pots when they can't afford their own. We need far more transparency and a better breakdown in how our money is spent. I am also not convinced that the i360 was supported by regency ward members whose quality of life will be affected.

This question should be put to the council members themselves.

Try to enforce more discipline with problems kids on housing estates

We have enough councillors drawing a wage now. I would like to see a reduction in this number.

Website petitions

Yes - remove the Councillors who have now little influence and give us one per ward so we can see clearly what it is they do. [Name Removed] Ward have three who are not even civil enough most of the time to reply to emails. They cost us more than the a much needed policeman or the railing in of the end of the Park to reduce the issues with children at night.

Yes I expect to be listened to without prejudice. I do not expect to be ignored. I expected [name removed] to do his job, his failure contributed to [name removed] death. WHAT is he paid for? Fobbing us off???

Yes, get rid of the caravans on Lewes Road.

Unable to comment / Don't Know (16% of comments made for this question)

As this survey is the first I've heard of it, at this point in time I don't have any information on which to respond to this question.

Can't comment.

Difficult to comment as Local Government in the UK remains one of lifes' great puzzles!

Don't know enough about it.

Don't know enough.

Don't know.

Don't know. This seems a bit complicated.

Don't understand it

Have not read the Constitution yet.

Haven't had time to study enough enclosed with this form but will take more notice in the future.

I am not aware of the process to comment on changes

I am not informed enough

I am not sure why the change to Leader & Cabinet was needed and how it benefitted the general electorate

I do not know enough about our local council to comment.

I don't know

I don't know anything about it

I don't know enough about it to comment.

I don't know enough about these services.

I found the constitution notes a bit vague. For example, can the whole council reject the councils' recommendations? Can the Scrutiny committees insist on changes? What happens to their suggestions?

I would first like to know why the old sytem was changed for the current system of a leader and cabinet, What are the advantages of this system over the old system?

No not at present I haven't had any direct experience of it in action

Not if you're making the right decisions

Not on my present limited interest. After February 2010 I should be through with more than one day surgery treatments and able to read more.

Not really interested

Not really very interested in council activities.

Not sure

Not sure as I would need more information to understand better.

Not sure yet

Not that know of at present

Not with my present experience.

Too numerous to mention!

Unable to comment as I have no info about it and know nothing about it.

What is constitution? Who is in it? Although I always vote in elections for the choice of councillors I realise the main concern is to get the best but does this effect the constitution?

Yes, but it wouldn't be worth listing as they won't change!!

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

Suggestions on Media To Use and Where (30% of comments made for this question)

A little leaflet about it saying what kind of things one could have an influence on...how to find out... how to go about what kinds of decisions the council is taking?

1) Get CityNews delivered in parts of city centre & elsewhere that don't receive it. 1b) make sure it is in libraries etc more consistently 2) Better publicity for consultations like the local planning framework / site briefs. 3) Sort out the refuse collections (hard for public to make representations)

A letter/email delivered to households.

A regular report/update in local newspaper. Same page, same day - perhaps in Saturday magazine. Decisions on next agenda etc..

Advertise the process in City News (instead of blowing your own trumpet). Make the input process clearly laid out.

Advertisement in the press or website where public are able to attend (this may already happen!)

Advertising what is going on through city news etc

Open access and notice in the Argus 1/52 before giving agenda and results of last weeks meeting.

Link should be put in accessible places like cafes where popular streets are where the majority of people gather. Also supermarkets.

As the council newspaper is not available to those of us living in the middle of the city, neither is the free Brighton Gazette delivered to addresses South of Western Road, perhaps a regular feature of council business and meetings could be published in the Argus.

Better promotion of the council webcasts.

Better use could be made of email, public notice boards and local papers

Broadcast issues more widely. It would, personally, be useful if I could be emailed about certain upcoming events (e.g. planning) and then respond with my comments electronically. It would be even better if I could manage my 'areas of interest' so I would only be emailed relevant material.

Church halls, GP Sugeries, Evening Argus, Leader, Post offices used to have notice boards.

Circulation of decision-making by letter (postal).

Clear notices rather than fast reports of past events in the monthly council newsletter would help. Lists of topics to be discussed, the agenda for meetings, if made public in advance for people who are attracted to the good newsletter but who do not necessarily go looking for info on the website, might bring more involvement. They would identify with issues affecting their own area or workplace and get in touch.

Community notice boards

Could something be published in a paper eg. the argus, I think that the majority of pensioners have no computer or computer knowledge.

Could you put some more information into City News, and Homing In. Maybe the Argus could include details. Send a grown up version of the playbus to parks with a range of council employees to introduce issues and developments. I live on a Council Estate and know that people need a lot of encouragement and bravery and belief in order to get involved.

Difficult because the people in charge of public information are all sold on the notion that everyone spends their time online or on blog sites, and the local press is closing down everywhere. Attractive free council newspapers might help (the present ones are not impressive and don't deal with issues in depth). Simple information in the press, radio and tv with details of the website so that people can get more information if they want to, might work. I think it is failing public duty to keep the population informed and to limit information to the website alone. The web site should be the second point of reference not the first. The public cannot be expected to act on proposed changes that they don't know might happen (and the council should not leaves themselves opento the accusation that they are to deliberately under disseminating information)

E-mail interested parties when web debates are due and more info regarding this agenda

Forward notice of key issues placed in The Argus

Forward plans, agendas and reports need to be more accessible to the general public, perhaps at Libraries or a newsletter similar to that the Police send out and City News.

How about a large tv screen in the main entrance of the town hall which constantly shows Council meetings? It may engage peoples interest and remind them that they can attend.

How about updates in free local papers e.g. the Leader or in the City News publications.

I found the old City magazine extremely helpful in knowing what issues were current and what plans were being formulated. Since it ceased publication there has been no alternative that I can find.

I get most information from City News. I think this is a great way to communicate with people. I also read the Argus but this is not a free service. I'm not a great user of the internet so I don't know what is available on here. For me personally, simple and informative ways, for example the City News, are great as they reach people on all levels.

I was not aware that the public could watch meetings on web cast and be involved - probably not everyone is aware - could some sort of letter be put in with everyone's council tax bills as to this, then everyone would be informed and have a choice to be involved or not. To be involved you need the necessary information.

Important announcements should be published and displayed in public places such as supermarkets, cinemas, etc Include such details prominently in the monthly City News, with details of how to get involved.

Keeping the public informed of the progress of any decision or project embarked on through the council website/newsletter

Local newsletters. Regional issues. General awareness of local matters. Most people are unaware of things until it meets issues in the press. ie. The Argus, which can be biased.

Mailshots.

Main decisions to be posted on all council notice boards, together with a statement of full council minutes.

Make it more public knowledge that people can be involved and how - local media, maildrops etc. Advertise the Forward Plan somewhere other than the internet etc.

Maybe allow people to sign up for topics of interest (online) and then email/text them when these are coming up for discussion - for viewers via webcast or in person.

Maybe drop leaflets through doors to make people aware that there is such a thing. I didn't know that there was such a thing as the Forward Plan and I'm sure that many others do not know either.

Maybe more info in local newspapers with enclosed info sheets? Local TV and Radio attend meetings live?

Minutes of meetings on the web site.

More articles in the Evening Argus to publish the Council events.

More info sent with the bills.

More information in the councils newspaper perhaps?

More information regarding future decision making meetings - maybe a calendar of events in Hove Factually or the Leader

More local press for those of us that don't have computers.

More publicity and continual publicity about what the public can do and how it can get involved through City Newsletter, the press and council web page

More specific reporting in The Argus

More use of new technology as opposed to newsletters that don't get read. Also a need to publicise such technology - i.e. webcasts! Could there be a forum where residents could post comments and questions?

Perhaps greater attention to such issues could be given in City News. I don't think there's been much coverage of the new Constitution and its significance to residents.

Possibly info in the free newspapers. Info leaflets on the buses, schools asked to send home leaflets to parents.

Posters in civic buildings.

Posters in shops, libraries, doctors surgeries and buses. Make titles of meetings and agendas understandable and less dry. Get people who have had an experience to feature/promote experiences in eg. local paper. More visibility of meetings/less formality.

Proactively send a summary of the forward plan to city households - people won't ask for it at the council if they don't know it exists.

Provide forums on the radio for question time sessions. Awareness of online consultations/surveys that can be accessed by the public. Articles in local press on decisions, impacts, results. Posters in key media locations announcing major topics and informing people how they can get involved. An integrated media and communication campaign using new media, rural marketing and above/below the line.

Publicise how people can get involved better. Redesign council website for clarity, and add forums.

Publicise meetings in advance via local media (inc Argus) outlining what, when meeting will take place, how public can provide input.

Publicise the existence of the Forward Plan, Use website/discussion forums/social networking tools to encourage participation. Make members use same tools so electorate can easily access them.

Putting the council magazine in more areas e.g. where Friday ad's are put - so that more people are aware of what is going on, what is planning to be done, and what has been done in the name of the people of Brighton and Hove. At the moment there is little awareness of what goes on in the council by the general public.

Raise the profile by ensuring that (on a regular basis) local newspapers, and especially local radio stations and television, publicise what is going on and how one can be involved.

Reports in the Leader or City News

Send out proposals to people - don't just expect people to browse your website speculatively

Simple online polls allowing those who pay community charge to vote and make comments

Take groups of school children into the meetings. Small introduction to process by a member of the council. Someone who can deliver a passionate plea for democracy in action.

The City News can include what is under discussion in the coming months with input welcome. Then detail of what was decided and why in next issue.

The decisions being planned should be published by the local press and Key Decisions should be publicised widely, perhaps by mailshot or local poster campaign.

The workings of the council are a mystery to me, and I had no idea of the change of governance to leader and cabinet system. I wonder whether there could be more publicity in the local papers, particularly the 'free' papers which come through the door. I will endeavour to look at the council website more regularly

To make people aware just like when people apply for planning/building rights. The council could have a list online - in local papers - posting letting people know - so that if they wanted, they could get involved.

Updates and news reviews in Argus, Leader and City News.

Use webcasting/cable channel for local council/committee meeting broadcasts. - let the greater public see their elected reps in action. Examine the council and its fibre network in Valenciennes, France for an account of local accountability.

Vastly more publicity! I'm a reasonably well-informed member of the community, but it hasn't truly occurred to me before that I have any real means of involvement in the decision-making process, so I haven't bothered. It's just been off my radar, and if that's how I am I'm sure that this must apply to many others. Lots more publicity needed - on websites, in City News, on posters at stations etc.

Webcasts sound good - more like this. Plus advertisements on billboards etc sharing how people can get involved.

Yes. Email me at the beginning of the week saying "This week, your Council will be deciding...[insert list]... Do you have any points to contribute to the discussion by email?"

City News could be used to a better advantage. Instead of all the self-complementary articles it could request council proceedings.

More Inclusive / Consultation / Listen (21% of comments made for this question)

Local referenda allowing the public to make the decision on a range of subjects

To be more inclusive. If you have any role for me to serve, I am always ready.

Ask the voters for their ideas on local issues. eg. do they want bicycle lanes outside their houses. This is done well with reference to parking restriction zones.

At the moment all the powerful lobby groups - business, gay rights, minority causes - mobilise their voice very well, and appropriately, economically weak groups are ignored. How is that going to change in mainstream politics ?

Demonstrate in practical terms that the man or woman in the street will make a difference. Make it all so much easier to access and understand, we are not all lucky to have had fantastic upbringing and good education/s.

I don't know how it would be done, but there should definitely be more public consultation over issues at a very local level, such as changes to traffic flows and planning.

I think the public should have to be involved in all decision making. For example, live jury service. One or two members of the public should be randomly picked to attend all meetings.

I would guess public interest is strongest around the issues which have a higher profile - e.g: Planning, Waste Management, Health, Transport. I don't believe the Council want more involvement from the public. I think they want to take their own decisions and 'tick the box' re: public involvement. The council forgets that their full time jobs are wrapped up in the decisions they make and the issues they deal with...for us (members of the public) we have busy lives and it's only when we realise things will impact on us in a major way that we are galvanised into taking action. If the council really want more involvement on big issues/decisions they should a) PROACTIVELY publicise future plans, etc (rather than put small adverts in the free press or put things up on their website and assume people will be looting at the site every day/week. b) Listen to the public views rather than cynically manipulate decision making processes (e.g. with the Hollingbury waste transfer site) to get the result they wanted in the first place. Are the council listening to the public on the London Road redevelopment? At the moment reports suggest NOT. The best way to get more future public involvement is to demonstrate to us that when we do get involved, our involvement is listened to. Basically it's about honesty.

Improvement to the consultation process to ensure genuine consultation and that the public are fully informed of significant decisions . A multi party review of this process.

In my experience public involvement is invited only selectively; E.g. asking local traders for input regarding trader parking prior to policy being implemented.

Listen to the public

Listen to the public

Listen to the public when we complain about something - like binvelopes - the stupidest rat infesting litter inducing invention ever - not to mention in a conservation area it makes the area look like a landfill site - plus children and old people have trouble walking down the streets when they were outside the house - It was such an unbelievably stupid plan and invention!

Listen to the rate-payers demands instead of making politically correct decisions that we do not want or need.

Listen to us! Nobody bothers to have involvement as we all know how wasted it will be.

Local tax payers (residents) to be given a referendum on any project that increases the density of population under the council jurisdiction. Further, all capital projects and decisions to be put before the residential community (ie rate payer) for their formal approval.

Maintain Xchange questionnaire and invite more residents to participate.

Many, or most, Councillors do not have any real expertise or experience in their respective fields of responsibilities. Without a sincere commitment to taking heed of the public, poor decisions will continue to be made (e.g. communal rubbish bins that cannot be opened using a foot bar, so now many people cannot operate some of them). The Council do not operate an effective Unwanted Events (UWE) check on the decision making process, which would help prevent execution of decisions that ultimately lead to unwanted outcomes. Without this type of process, the public will continue to view Councillors as incompetent for the most part. The UWE approach is used in industry quite effectively, but it is trained out to staff and used in the normal course of the decision making process. There is no reason a similar approach cannot be used by the Council.

More listening to peoples views

My feeling is (and I think it is widely shared) that consultation is a paper exercise only and that public involvement has no effect on decisions. That perception needs to change if public interest is to improve.

Only asking the opinion of the general public by a yearly questionnaire. Although it is good to have access to everything online not everyone has a computer! - especially not the elderly.

Opportunity for greater (and effective) input into decisions that affect local people. Recent meetings to 'consult' on parking in my area have seen either no BHCC representatives present, or attendance by those who are apparently unable either to answer questions or to report back to committee.

People that I speak to feel that they will not be listened to. Can the council have information days, not specific to sections of the community eg. older people, disabilities and bme? Use customer service weeks to actually go out and ask or ask people if council can contact them for news by phone. Stop/Limit how many groups individuals can be on - too few people have too much say and this can be intimidating for others to join in.

Proactive engagement of interested groups re differing elements of work/business - evidence and views to inform overall decision making process.

Public consultation. Telling people what is happening. Making senior council officers available and accountable. Please don't just provide a webcast: that is totally and woefully inadequate and inappropriate. Ultimately it is our council but now it is run like a private corporation. Not good.

Public interest would be improved if their views are actually listened to and taken into account. I feel my views would be ignored if they did not fit in with the Local Councils political views

Really listen to worries, take on board the upsets, do not favour any particular group of people.

Referendums

Reflect the balance of votes better in decision making.

Resident involvement in Planning and Implementation

Return to the local forums, piloted

Sadly, much of my extensive experience in public involvement has shown that most of it pays only lip-service to people real needs and preferences. Current through the CEF, LINK and the PCT and Scrutiny Panels have yet to demonstrate their outcomes; and though it seems likely these structures will produce better dissemination of information (which is important), it is already clear that many decision-making processes will remain out of bounds to the people with the most interest in them, let alone subject to influence.

Consultation on parking seems to ensure agreement from those who do not express as opinion and is effectively introduced by default but as an officer led activity (as I do not live in the area to which parking control are being extended). Until some notice is taken of the public situations, then cynicism about decision making will remain. I don't have particular issues with the new constitution but will the decision making process actually change to provide amore democratic process?

Take heed of the needs of the majority not just pressure groups and minorities. Every person is equal and should be treated so.

The front line will often know best if they are informed as to what has to happen. So if you say that we must achieve for example £10m savings the front line needs detailed consultation as to how that should be achieved. The fact of the saving should not be debated at that level but all stake holders need information about the realities and stark choices so we do not put off change or pick easy targets

The public should be assured that their input will be taken in to account. This is not the case at present. The complaints procedure should be open, results published and available on request/website. The continued cover-up is not acceptable. Why ask whether we want street bins when you have no intention of taking any notice of our negative response..

To actually consider public interest

To actually take the public views into account instead of just pretending to.

To have free phone numbers. Then all the public can take part. Not just a few with the internet. This would be fair to all.

Try listening to your rate payers.

Try to involve young people more widely - have a big conference for Young People who then discuss all issues that are in the councils plan. eg. 16-18yrs, 18-25yrs. Don't just look for reps, as many people as possible need to be engaged and not alienated.

We could go to public place eg library or town hall to vote for decisions online.

Yes ask local people to make decisions, not councillors who have no idea about living in that exact area.

Yes ask us. This Survey is a good media.

Yes involve the public much more .

Yes No Maybe boxes won't give you answers. It's all too black and white. The format looks ok, but you are not listening! The public will only become interested if they can see their needs and desires met. I refer to Q7. I shall attempt to look at one of your meeting webcasts.

Not announce major decisions in the summer when people are away. Make it easier for people to make comments. I have tried and it is hard to find things out.

I do not feel that my views are taken into consideration. I email the council about issues but have not yet had one response in three years. Change that and it would be a start.

Interact with residents on exactly what is going on. The Starbucks CAFE on St. James Street fiasco and delay in & lack of decision-making makes the council look like a fat lazy pig that makes money for doing nothing but delay to keep their jobs. Makes me sick to see the mess of planning permission on local retailers in relation to big high street names being given approval more. Shame on the council!

Local community fora/parliaments would give people an opportunity to engage with local matters and develop their own expertise and skills. In my view ordinary ward councillors have been deskilled by changes in local government and are no longer a channel for scrutiny and influence.

Better Information / More Publicity - GENERAL (19% of comments made for this question)

1. Council website to be clearer. 2. Council new-sheet to be published regularly, with clarity of decisions about to be made.

A chance to gain more information and content about decisions in an accessible way - articles/web/leaflets etc.

A summary of elements in the Forward Plan - to be published in print in advance of discussion and decision.

Better publicity would help.

Being as I didn't even know who is on the council or that you could see or visit some council meetings, they need to do more informing the people of Brighton & Hove

Better advertising of this new constitution. I knew that meetings were being webcast when I read the leaflet that came with this questionnaire. This was also the first time I was aware of this constitution and the role it takes in making decisions that involve the sending of the budget.

Better info on when meetings are being held and agendas

Better information to the public re issues being discussed and how to get involved.

Better publicity

By using other media outlets.

Clear communications about what goes on in council

Comunication

Greater publicity of forthcoming decisions to be made. Using a mixture of media.

I remember being informed of a council meeting by Unison once and attended. I use the library and notice display there sometimes. I don't have regular access to the internet but do look at the council website when I'm in the library sometimes. I have met councillors through the Trustee Board at my work and at community meetings sometimes.

I think that informing the general public of the Brighton and Hove new governance system would be a good idea. I do not recall receiving any literature informing me of the changes in decision making bodies within the council; To my mind, before the general public can have opportunities to be involved in the decision making process of the council understanding the new council governance structure is an essential prerequisite. The new governance structure seems overly complicated to me and having read the accompanying literature it is not clear how important decisions are made within the council - which body is ultimately responsible?

I would like to be informed as to how to get involved

If possible, find another way of bringing agendas and forward plans to public notice. I doubt that many people will make the regular visits to council offices to obtain this information. For those that use the internet, perhaps set up an email link to individuals who want to receive this information regularly. Where will paper information be available? Which office?

Improve awareness to general public of webcasts and committee/cabinet decisions - more use of media, radio/TV/press locally

Increased awareness of the process and topics/issues being discussed and decided upon

Invitations to selected random groups of residents to attend a particular committee meeting.

Invite any interested members of the public to either come to meetings, or be given an agenda of the meeting and add their written/email comments.

It is difficult to get the interest of the general public unless they have a specific issue. Make the most of occasions when people do get in touch with comments, complaints etc. Keep using a wide range of media - web, local papers etc.

Make all information more easily available and in jargon free language. Don't rely so heavily on websites to say you have consulted. Most people don't know what consultations are available and many people do not see the web as a tool for gathering local information. Reach out to communities instead. Community development workers and voluntary sector forums can tell you how.

Make more widely known the public access to meetings/committees, how to access a webcast, too.

Make sure that information is displayed clearly and people are given clear instructions how to get involved

Make the public more aware that they can have their say by making announcements in local press and media in general.

More information distributed.

More information on how to be involved.

More information! Didn't know about any of this.

More public awareness needed regarding this. I had no idea about it until I read the enclosed info.

More publicity

More publicity about the agendas being discussed with real time and dates being provided so that public can opt in to watch/attend discussions, and have more of an understanding of the issues across the city.

More publicity needed about how to get involved

More publicity to council meeting and their agenda and decisions

More publicity to upcoming meetings on key local issues

More visibility to the public, better marketing strategy, keeping contemporary in branding.

Publicise meetings more, especially if any issues that are relevant to a particular area are about to be discussed. Inform people how to contribute and make sure local councillors can act as advocates or spokespeople for the public incase someone is unable to, or unwilling to attend a meeting.

Publish more

Publish precis in the Leader

Publish some actions/'core' examples illustrating how and what public involvement made a difference to an issue.

Tell people about webcasts

Tell the public how to find out what is going on!

"www" is not accessible to all, and is not familiar to many. The volume of information available can be overwhelming.

Is there a means of communicating simply to the majority on significant issues?

Yes more information needed to individual households.

You really do need to tell the residents of Brighton & Hove of these changes. I'm sure you have tried, but I don't personally feel you have succeeded.

Pro-actively informing the public using e-mail etc, would improve public involvement as we will be made aware of the issues coming up, when the debate will be and how we can get involved. We can then choose whether we want to take part in the decision making process.

More Face-to-Face (7% of comments made for this question)

Bigger open meetings on a regular basis (perhaps one or two issues at a time) so that people get the chance to have their say in public and get to hear opposing views. Getting people to discuss issues openly could actually find a compromise and bring some issues down to a more manageable level.

A face to talk to.

Better connection between Councillors and public, ie some effort put into canvassing local opinion.

Canvassing at local shops maybe, or door to door, B+H, by email and local community groups.

Chance to get to know/meet council members

Councillors need to be more proactive in meeting their constituents, soliciting views of their electorate rather than taking the party line

Councillors to be available to discuss residents' concerns on a daily basis with the support of staff.

Get the council as a whole on a given evening at the town hall and get them to answer questions,suggestions etc, for a timed meeting

Holding public Q&A Sessions

I think that councillor visits to schools to explain may be a way to reach families. Perhaps there could be school visits to the council members too!

Lead Councillors on particular issues to hold some sort of consultation/promotion to the Public. This could be done by having an Open Afternoon where ideas/plans are put forward and members of the public would have a chance to question councillors directly.

Local councillors should drop door-to-door contact information, and get a higher profile in the different areas of their ward.

More public meetings. Better publicity for councillor surgeries. Better info about council, we don't get a newsletter.

Stop changing ward boundaries - destroys continuity.

More publicity about projected changes to Brighton and Hove. The possibility to meet councillors for a meeting to discuss plans and changes that affect you or you lifestyle. That comments or objections are listened to sympathetically (not defensively or dismissively). Committee members should remember the rate payer cover their generous salaries.

More workshops with the public

Neighbourhood/area meetings jointly held with Police etc.

Greater council visibility in public spaces.

More Transparency (3% of comments made for this question)

Communications between the public and council officers regarding policy and problems should be officially logged and put on the record and used in the decision making process.

I would like to see a review of the process whereby surveys such as the composition of parking permits are carried through on a majority vote regardless of how few people take part. The creeping privatisation of parking across the town being done without sound and accurate consultation.

Introduce a system to prove that ideas or schemes are worthwhile and not just a gimmick to please a vocal minority. ie. prove you are spending our money wisely.

Often it seems that decisions are made following very complicated and untransparent consultations. To be informed about consultation is a fulltime job. Often in my experience, it is often felt that decisions had been made via handshake, and influence from the public was ignored.

Yes a statement as to what member proposes what policy and how they vote

1. Far more transparency and a much more detailed breakdown in how our money is being spent including pensions and consultancy. 2. Detailed note about decisions affecting a local community including meetings between developers and council staff, 3. The new constitution is entirely undemocratic - I could not believe what I was reading. This should be scrapped and a representative decision making process reinstated. Truly disgraceful.

Decision Making Process (3% of comments made for this question)

A door-to-door information and consultation process. More transparency at Cabinet level. More all party involvement in key decisions.

Broader cross-party involvement in the cabinet.

Discussions are already made by Cabinet and Politicians own interests. So called consultations for example with staff, are just lip service and have no influence on the decision. Proper consultation would have to take place well before cabinet decisions not afterwards

Ensure that members of all parties participate directly in the decision making process, rather than in this detached manner. Scrutiny is totally ineffectual in terms of holding cabinet member to account for their decisions. Many councillor appears out of their depth in planning etc. and the executive is too powerful. Publicise ways that organisations ignored by councillors can obtain answers/address on behalf of their constituents. Encouraging people of ability across party boundaries to be involved strengthens democratic involvement in the process.

I think all councillors should be allowed an equal share in the decision making process and decisions taken out of the hands of a tiny group (the leader and cabinet)

More input into final decisions from all other parties.

I believe that too many decisions are being made by council officials and not our elected councilors. This is most obvious in the way planning issues are dealt with and more importantly the speed in which travellers are moved on.

Reduce involvement and increase accountability of special interest groups - who usually manipulate the system to gain advantage. eg. The King Alfred Planning Issue

Give more feedback / Keep Informed (3% of comments made for this question)

Rarely got any feedback about what decision was made. There should be improved information around major projects that flagship the city. What on earth is happening with 2 Preston Barracks: Still no homes/jobs or use after years. Information please.

By demonstrating the public's input into decision making, I think it would encourage more people to engage. For example - I know that the council distributed forms for the citizens of Brighton to complete about the changes in the drinking allowed on the beach (years ago - please excuse old example!) but despite my completion, at length, I had no response/mechanism of even knowing if my opinion had been noted. Other than the passing of the bill to which I had so vehemently opposed.

Ensure that the public are made aware of any decisions Cabinet members make. Document only really talks about meetings and does not reflect other decision making rates.

Full reports on the council websites of council meetings. Use minutes available early of full council meetings and cabinet meetings.

Higher quality reporting in council circulars more detailed writing. Make clearer any evidence that public opinion has been taken into consideration with decision making process

Hold open days (unless already happening). Emphasise/demonstrate how public involvement has affected decision making: case studies. n.b. Asking respondents to read the Constitution before answering completely changes/skews answers. Useful if you are testing its communication, but not if you want a true picture of awareness levels.

Simpler Language / Less Bureaucracy (2% of comments made for this question)

First, to try and inform the public that they can have involvement. Try to cut through the inevitable 'meeting speak'.

Easier language/less jargon/ Although the public can theoretically get involved with an overview and scrutiny committee, the language and sheer amount of paperwork are a massive disincentive

Less dull and bureaucratic! Good meetings arrangement - less waffling and political one-upmanship would promote public interest

Tell us in simple terms how things work and how we can get involved, have a voice, influence things - better communication and publicity about what is going on

Other - Political (3% of comments made for this question)

Devolve more powers from Westminster, particularly on planning issue. Local income tax.

Give Guy Fawkes a second chance? The general public have largely been demoralised by a succession of unaccountable and treasonous national governments whose only real agenda is to look after the interests of corporations and their shareholders at the expense of all else. With the implementation of The Lisbon Treaty, we have lost our sovereignty and are now a satellite state of a Totalitarian run European Union. As a consequence, our local councils are on a similar footing as were those of French towns under occupation in the early 1940's. Fascism is still depicted by the media in mid 20th century terms, when in truth it is much more sophisticated today, wearing a suit and tie (or even an open necked hemp shirt) instead of jackboots. Governance offering an illusion of 'choice' while implementing increasing amounts of regulation and control over peoples lives is not acceptable and urgently needs to be addressed. In this current state of affairs the question of "involvement in the decision making process" is academic, don't you think!? No, in short I have no suggestions other than to "be real", wake up to what's going on and give consideration to the bigger picture; what can be done at a local level to reinstate some semblance of true Democracy at national level, without which local democracy (which this survey suggests exists) is nothing more than a sham. Remember, remember the 5th November.

Give us one councillor per ward who then gets a clear overview of what is happening and we do not get the inane politicking this ward has had with three different political groups represented. Nothing seems to get done in this situation unless you bypass them and go to the officers.

Since reading how our current Labour councillors wandered borders and hijacked the democratic process associated with the introduction of the lottery system for school place allocations, I have lost both confidence and interest in the whole process.

The public will continue to show little interest or be involved in the decision making process whilst the party political system operates, change to independent councillors who can be judged by their performance and be voted out if they fail to come up to expectations.

A separate department, appointed by opposition, to monitor cabinet committee adherence to democratic principles which should come from a written code of proactive inclusion measures. The council should increase representation by adding proportional representation to the first past the post system still hanging on. This would have no statutory basis but around moral foundation.

Other - Miscellaneous (8% of comments made for this question)

Costs and incomes should be published

Don't call your documents things like 'Forward Plan'. It's a 'Plan'. How many plans are 'Backward Plans'?

Don't try too hard.

For my money I do believe the general public interest will always be low. It is only when the extra ordinary come along interest is aroused, like for instance, 15% increase in Council Tax.

I think we should be able to slice and dice expenditure to see where our money is being spent. An online web application of download to Excel would be even cheaper. More progressive councils would I believe offer an application, but I can appreciate there would be a cost.

I think when I have contacted my MP on issues that I feel are important, for example the rise in Newsagents getting liquor licenses in Kemp Town. I was disappointed that I didn't get anything other than a list of By-Laws sent to me explaining the licencing process. What I wanted was the human element, their opinion, what my MP was going to do about my worries and how this would be communicated back to the council.

I'm not a Politician and not arrogant enough to make suggestions to long serving Councillors how to do their jobs. Less technology.

Modernise. Stop living with the status quo, and accept change is necessary to bring this city into the 21st Century. Participative budgetting.

The decision to allow virtually 24 hour drinking in the town centre was a very serious mistake. Because the Saturday night policing draws officers away from the suburbs there is virtually open license for burglars at the weekends, just when our drug-users are seeking funds for their habits. The central pubs and clubs are too concentrated and attract dangerously large groups of hooligans.

To take into consideration that many people work and are very busy and it would help to make public involvement simpler and easier - I remember receiving a document regarding bus consultation on airport expansion and the questions were so detailed and convoluted it would take hours to fill out properly. Most public enquiries on planning decisions (ie the royal alex) are held during the week day - people who work cannot usually access these.

True clarity in planning process and the various direct or indirect influences, influencing or indeed controlling the whole procedure.

When you receive complaints do something about them - your council staff are so off-putting and resistant when suggestions about change are made, why should anyone imagine you are capable of responding? The council is slow, self congratulatory, in denial and offers any number of excuses before taking action.

When decisions are made, the council should be 100% correct in what they are saying i.e. the banning of dog walkers in School Playing Fields which I, as a dog owner, totally agree. There should be total public involvement over the problem of cyclists who think they can ride on footpaths, pavements and verges and not adhering to the laws of the land regarding cyclists. There should be a dedicated line for people to report incidents caused by cyclists. It is a useless exercise reporting to police.

When is the Mickey Mouse Council going to do things long term, ie 24/7. Bikes on pavements and down on seafront. Hostel in Regency Square, close it down. Why should our rates money pay for it, it costs £300 a week for one room. It's not fair. It's money could go to people who need it not them. I know its a hard thing to say, but you don't live around here and you could have them come and live near you? I don't think so.

Why can't the Police and Environment Department actively work together to resolve some of these issues. It's a total 'Cop out' in my opinion and a major contributor to stress in modern living in this country.

Yes you are perceived to be arrogant and not caring about the needs of the local community, especially when it comes to parking schemes and traffic management.

Yes. Change the staff at the Social Services to people who listen, are not ignorant about the care of the elderly, and are family orientated, compassionate people, and are able to report accurately what is said to them, and who have decent moral standards - especially regarding truth, justice and humanity.

Unable to comment / Don't Know (2% of comments made for this question)

Would help if I could have answered Yes to at least some of the questions

I am not sure, as don't know much about how the cabinet-system works.

Know nothing about it

Not sure what aspect you are talking about.



Strategy & Governance
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Dear Partner

The Council's New Constitution: 12 month review

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

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

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

- The extension of speaking rights and a seat at the table at Cabinet and Cabinet Member meetings to the Leader/Convenor of all opposition parties
- Clarifying the procedure for special meetings
- Adding Community Affairs and Inclusion as an item on the Cabinet agenda at least every 6 months
- Improvements and guidance regarding Notices of Motion, Member and public questions at Council meetings

Thank you, if you contributed to the six-month review.

We are now at the twelve-month review stage, and I would be interested to hear any views you may have on how the new constitution is working and the changes that have been made as a result of the six-month review; and what impact, positive or negative, they have made on how your organisation and those it represents interact with the Council. We would also welcome any suggestions you might have on how the Council's constitution could be improved.



Director of Strategy & Governance: Alex Bailey
Web: www.brighton-hove.gov.uk
Telephone: (01273) 291295
Printed on recycled, chlorine-free paper

If you would like to comment, please respond to this letter, or email consultation@brighton-hove.gov.uk by 30 September 2009.

The views of all respondents will be considered by the Governance Committee on 17th November 2009. They will make recommendations to the Cabinet and Council as to how the constitution might be amended.

Yours faithfully



Anthony Zacharzewski
Acting Director of Strategy & Governance

List of Partners contacted

Members of the Local Strategic Partnership
Brighton & Hove Chamber of Commerce
Brighton & Hove Federation of Disabled People
Black Minority Ethnic and Community Partnership
Spectrum
Interfaith Contact Group
Brighton & Hove City PCT
Brighton & Hove Arts Commission
The Older People's Council
The Youth Council
Rottingdean Parish Council
The Community Inclusion partnership
The Community and Voluntary Sector Forum
Age Concern
The Women's Centre
Eco-Logically
All neighbourhood forums via their community development worker

Recommendations from the Cross Party Equalities Working Group

At Council on 30th April 2009 amendments to the new constitution were approved, following a six month review. As part of the discussion it was agreed that *“an all party working group be set up to examine how a better focus can be given to the involvement of community groups and their representatives within the council's service delivery and to allow for issues relating to this to be easily raised and addressed, and for the recommendations from this group to be fed directly into the consultation on the 12 month review.”*

In accordance with the above, a Cross Party Equalities Group was established and met on two occasions to consider the Council's focus on equalities issues and to make recommendations for Governance Committee to consider as part of the 12 month review of the Constitution. The working group considered as part of its discussions written material produced by the Equalities and Inclusion Team and oral presentations.

The key issues raised by members on the Cross Party Working group were:-

1. There may be excellent equalities work being undertaken but members had no way of judging this as they received little information.
2. There was a view expressed that there was not adequate focus on equalities issues from the Council's perspective and that members did not have sufficient opportunities to input into the equalities work that was being undertaken;
3. The lack of a formal structure within which elected members could consider and challenge equalities progress was raised and the view was expressed that a Cabinet Member Meeting for Equalities and Inclusion would assist with this;
4. An alternative considered was an “Equalities Commission” – also to address the perceived lack of a forum where elected members could bring equalities issues;
5. It was recognised that the City Inclusion Partnership (CIP) met quarterly and included representatives from statutory partners and the community and voluntary sector. It was felt that this was a valuable forum and that some of the practice shared by partners within that group was excellent. However, members felt that CIP did not replace the need for a clearer route for all

members of the Council to raise equalities issues and learn about and challenge the Council's activity in this area. It was noted that there are 4 elected members represented on CIP and the view was expressed that this forum alone was not adequate to connect with all 54 members of the Council.

6. It was also recognised that, following the six month review of the Council's Constitution, an agreement was reached whereby at least twice per year an equalities report would be taken to Cabinet with details of performance and developments. Whilst it was acknowledged that Cabinet was technically the right place for such a discussion due to the coverage of all services, some members of the cross party working group felt that the reality of a heavy agenda and some really difficult issues to address meant that a genuine and in depth debate on equalities would not take place.
7. By way of example of the problems that members perceived with communication around equalities issues, members of the working group cited that they were not aware of the work going on around the "Get Involved" project nor of the work undertaken on Equality Impact Assessments.
8. The role of Overview and Scrutiny was discussed by the working group and the specific report of the August 2009 Older People and Community Safety Overview and Scrutiny Panel was considered. The Cabinet Member for Equalities and Inclusion felt that this was an excellent example of the kind of in depth focus that Overview and Scrutiny could bring to important equalities issues and that this detailed look at issue specific matters complemented the performance and development focus that Cabinet would have at its (at least) twice yearly reviews.
9. Again there was concern raised by some members of the working group that the size of agenda for Overview and Scrutiny meant that their capacity to take a regular look at equalities issues was limited.
10. In recognition of the amount of existing work on equalities that is being undertaken by the Council and that much of this is at an early stage and of the concerns raised that there is not good enough communication about this or enough opportunity to engage with it, the working group unanimously made the following recommendations:-
 - An informal equalities working group with equal representation from all parties and Chaired by the Cabinet

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Leaders Group Report 071209

Member for Community Affairs, Inclusion and Internal Relations, should meet on a 6 weekly basis;

- At the working group, an overview of the equalities work that is ongoing should be brought and discussed. Ideas around improved communication for elected members would be specifically addressed. For example, the group would assist to plan an open meeting for members on Equality Impact Assessments and would input into what issues should be addressed in the reports on equalities that go to Cabinet. The meeting will also be an opportunity for the Cabinet Member for Equalities and Inclusion to communicate new initiatives or developments and to hear feedback from members on behalf of their groups on equalities issues;
- The group would not be a decision making body but an informal meeting with the aim of improving communication and engagement with elected members on equalities issues.

**Proposed changes to constitution to comply with
Part 5, chapter 2 of LGPIH Act 2007 – Overview & Scrutiny Committees**

Sections 119-124 the LGPIH Act 2007 came into force on 1 April 2009,
resulting in amendments to part 2 of the Local Government Act 2000

Section 126 of the LGPIH Act came into force on 30 April 2009, resulting in
amendments to section 19 of the Police & Justice Act 2006

Amendments to Local Govt Act 2000 and Police & Justice Act 2006	Constitutional amendment required
Section 21A(1) LGA 2000 Section 19(3)(b) PJA 2006	Amend part 6.1, para 13.2 of Scrutiny Procedure Rules (SPR), so that any Member may refer any local government or crime and disorder matter to the relevant O & S Committee (Councillor “Call for Action”) – this makes it explicit that a Member does not have to be Member of an Overview and Scrutiny Committee to raise an issue for scrutiny.
Section 21A(6)(b) Section 19(6)(b)	Insert new clause to part 6.1, para 15 SPR, giving the relevant O & S Committee power to have regard to member representations as to why it should exercise its powers to make a report or recommendation
Section 21A(7)-(8) Section 19(7)	Insert new clause at part 6.1, para 13 SPR, requiring the relevant O&S Committee to notify the Member with reasons if the Committee does not exercise its powers in relation to the matter raised by the Member.
Section 22A and Regulation 10 of The Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2009 <i>NB: regulations in force 12.8.09</i>	Insert new provision after Part 6.2, para 3 SPR, confirming O & S Committees may require certain LAA related information from partners organisations.
Section 21B Regulation 15 of The Local Authorities (Overview and	Amend part 6.1, paras 15.1-15.3 SPR, to set out a deadline for a response by the Executive to a Scrutiny report. Also at paras 15.1-15.3 SPR to make provision to enable the exemption of

Scrutiny Committees) (England) Regulations 2009	confidential or relevant exempt information from documents published by the executive comprising their response to a scrutiny report or recommendation
Section 19(2)and (8)	Add new clauses to part 6.1, para 15 SPR, as regards the Crime and Disorder Committee making its reports or recommendations available to specified persons
Section 21C	Add new clauses to part 6.1, para 15 SPR, giving any O & S committee power, where the committee has made a report or recommendation under s21B relating to a local improvement target for which a partner authority is responsible, to require that partner to have regard to the report or recommendation
Section 19(8B)	Add new clause to Part 6.1, para 15, as regards the notice to be given by the Crime and Disorder Committee to the authority, person or body to whom it provides a report or recommendation
Section 21D	Add new clauses to part 6.1, para 15 SPR, setting out the prohibition and restrictions on the publication of O & S reports or recommendations (and in providing copies to a member of the local authority or a relevant partner authority) containing confidential or exempt information

**Proposed changes to the constitution resulting from
The Crime and Disorder (Overview & Scrutiny) Regulations 2009 – SI
2009/942**

These regulations came into force on 30 April 2009

Regulation No.	Constitutional amendment required
3 – co-opting of additional members	Add new clause to part 6.1, para 7, enabling co optees on the Crime and Disorder Committee
4 – frequency of meetings	Add new clause to part 6.1, para 9, requiring the Crime and Disorder Committee to meet at least once per year
6 – attendance at committee meetings	Add new clause to part 6.2, para 4, enabling the CDC to require attendance at a meeting of the CDC by officers or employees of a responsible authorities and partners
7 – responses to CDC reports	To be received by the CDC within 28 days or as soon as reasonably possible thereafter

PART 6.1 OVERVIEW AND SCRUTINY TERMS OF REFERENCE AND PROCEDURE RULES

1. The number and arrangements for Overview and Scrutiny Committees

- 1.1 The Council will appoint the Overview and Scrutiny Commission and five further Overview and Scrutiny Committees as set out in Article 6. The Overview and Scrutiny Commission will co-ordinate the Overview and Scrutiny function and work programme. The Commission will approve the appointment of Sub-Committees to carry out in depth reviews (Select Committees). Short, sharply focussed scrutiny reviews (Ad Hoc Panels) may be carried out by each Committee at its own instigation.

2. Terms of Reference of Committees

2.1 Overview and Scrutiny Commission – Resources and Corporate Performance

- 2.1.1 To co-ordinate the work of the Overview and Scrutiny Committees as set out under “Functions” below.

- 2.1.2 To review and scrutinise all matters, Executive decisions and service provision relating to the specific functions of Leader of the Council as set out under Part 4.2 of the constitution.

- 2.1.3 To review and scrutinise all matters, Executive decisions and service provision relating to the Finance function, including

- Council’s annual budget; and
- the Council’s performance in relation to overall budgetary management.

- 2.1.4 To review and scrutinise all matters, Executive decisions and service provision relating to Central Services, in particular;-

- to review and scrutinise the delivery and performance of the Council’s support services including:

- Finance
- Property
- ICT
- Customer Services
- Corporate Procurement
- Legal Services
- Democratic Services
- Policy

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- Communications
 - Human Resources
 - Improvement & Organisational Development
- to review and scrutinise the establishment of joint working with other authorities, including the effectiveness of any shared services arrangements
 - Overview and Scrutiny of council wide performance monitoring, relationships with Auditors and Regulators, Comprehensive Performance Assessment, Local Area Agreement etc.
- 2.1.5 To review and scrutinise all matters, Executive decisions and service provision relating to Community Affairs, Equalities and Inclusion and sustainability.
- 2.1.6 To review and scrutinise any other Council function not otherwise addressed by any other Overview and Scrutiny Committee.
- 2.1.7 To scrutinise the effectiveness of the arrangements for partnership working including the local strategic partnership and the Local Public Service Boards and the Council's contribution to them and specifically in relation to the Local Area Agreement.
- 2.1.8 To scrutinise the effectiveness of the Council's representation in regional/sub regional and national forums.
- 2.1.9 To review and scrutinise all matters relating to corporate policy and methodology for public consultation and involvement undertaken by the Council.
- 2.1.10 To review and scrutinise the Council's corporate communications strategy.
- 2.2 Culture, Tourism and Enterprise Overview and Scrutiny Committee**
- 2.2.1 To perform the Overview and Scrutiny function in relation to all matters, Executive decisions and service provision connecting to Enterprise and Employment and in particular:-
- Major Projects
 - Economic Regeneration
 - Culture, Arts and Heritage
 - Tourism & Marketing
 - Libraries and Museums
 - Events
 - Leisure, Sports and Recreation

2.3 Environment and Community Safety Overview and Scrutiny Committee

2.3.1 To perform the Overview and Scrutiny function in relation to all matters, Executive decisions and service provision connecting to the Environment function and in particular:-

- Community Safety (including discharging the functions and responsibilities of the statutory Crime and Disorder Committee to the extent required to comply with section 19 of the Police and Justice Act 2006 and regulations made under section 20; and to do so with regard to any protocol agreed by Full Council as to the working arrangements between the Community Safety Forum and the Crime and Disorder Committee)
- Parks and Green Spaces
- Travellers and Gypsies
- Highways Management
- Traffic Management and Transport
- Parking
- Waste
- Conservation & Design
- Coast Protection
- Seafront
- Environmental Health
- Building Control
- Trading Standards
- Planning and Licensing

2.4 Adult Social Care and Housing Overview and Scrutiny Committee

2.4.1 To perform the Overview and Scrutiny function in relation to all matters, Executive decisions and service provision connecting to the Adult Social Care elements of the Adult Social Care and Health function and in particular:-

- Adult Social Services

2.4.2 To perform the Overview and Scrutiny function in relation to all matters, Executive decisions and service provision connecting to the Housing function and in particular:-

- The Council's housing strategy
- Homelessness and the allocation of housing
- Private sector housing, including taking action to remedy overcrowding, disrepair, unfitness and statutory nuisances; to promote fire safety in private sector housing and the Council's functions in relation to houses in multiple occupation Tenancy relations and the provision of housing advice

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- Housing loans and grants
- Housing Landlord Functions
- Supporting People

2.5 Children and Young People Scrutiny Committee

2.5.1 To perform the Overview and Scrutiny function in relation to all matters, Executive decisions and service provision connecting to the Children and Young People Cabinet function and in particular:-

- the provision, planning and management of children's social services in Brighton & Hove
- the provision, planning and management of education in Brighton & Hove
- the health of the authority's children and young people, including contribution to the development of policy and service to improve health and reduce health inequalities, all in accordance with the principles of section 7 of the Health & Social Care Act 2001, but provided that matters relating to general health strategies and services not specifically for children and young people shall be the function of the Council's Health Overview & Scrutiny Committee
- the development of integrated children's services under the Children and Young People's Trust
- all of the functions of the Council as an education authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time
- the development of the Council's Children and Young People's Plan

2.6 Health Overview and Scrutiny Committee

2.6.1 To perform the Overview and Scrutiny function in relation to all matters, Executive decisions and service provision connecting to the Health elements of the Adult Social Care and Health function and in particular:-

- To scrutinise matters relating to the health of the Authority's population and contribute to the development of policy and service to improve health and reduce health inequalities
- To undertake all the statutory functions of the scrutiny committee in accordance with Section 7 and Regulations under that section, of the Health and Social Care Act 2001, relating to reviewing and scrutinising health service matters
- To review and scrutinise the impact of the Authority's own services and of

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key partnerships on the health of its population

- To encourage the Council as a whole and its executive committees and sub-committees and through the Overview and Scrutiny Organisation Committee to take into account the implications of their policies and activities on health and health inequalities
- To make reports and recommendations to the National Health Service, the Council, the executive committees and sub-committees and the Overview and Scrutiny Organisation Committee, and to other relevant bodies and individuals
- To monitor and review the outcomes of its recommendations
- In all of the above, to liaise with other bodies that represent patients' views in order to seek and take account of the views of the local populations

[Note:- As mentioned under the Terms of Reference above, the Children and Young People's Overview & Scrutiny Committee discharges on behalf of the Council the Overview and Scrutiny functions in relation to the health of the authority's children and young people, but matters relating to general health strategies and services not specifically for children and young people are the function of the Health Overview & Scrutiny Committee.]

3. Functions of Committees

3.1 The Overview and Scrutiny Commission will:-

- a) Approve an annual overview and scrutiny work programme, to ensure that there is efficient use of the Committees' time and that the potential for duplication of effort is minimised;
- b) Where matters fall within the remit of more than one Overview and Scrutiny Committee, determine arrangements for dealing with a particular issue;
- c) Have the power (as do all other Overview and Scrutiny Committees) to call-in and review Executive decisions, or key decisions made by an officer with delegated authority from the Executive, as set out in the procedures in these Rules, particularly on issues that fall between the responsibilities of the separate panels;
- d) Receive requests from Councillors and suggestions from officers of the council and co-optees for particular topics to be scrutinised and determine the appropriate action;
- e) Undertake initial explorations on requests/proposals for Select Committee reviews and recommend appropriate action;

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- f) Receive proposals for the appointment of task-orientated, time limited Overview and Scrutiny Select Committees to review in-depth, investigate and report on a particular topic;
- g) Co-ordinate training and development arrangements for Overview and Scrutiny Committee members and co-optees;
- h) Identify good practice in relation to the overview and scrutiny role and develop common practices for all Committees that reflect good practice;
- i) Co-ordinate the production of an annual report to Council on the activity of the Overview and Scrutiny function;
- j) Have responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies;
- k) Establish and maintain constructive working relationships with the Executive whilst being mindful of the respective wishes of each;
- l) Help ensure positive working relationships with partnerships and external bodies;
- m) Monitor and review the outcomes of its recommendations.

3.2 Overview and Scrutiny Committees (and the Commission in respect of its specific work area) will;-

- (i) Be aware of the 'forward plan', the forward work programme and other anticipated decisions of the Cabinet/Cabinet Committees and council services;
- (ii) Develop focused programmes of work and identify the most appropriate means of progressing such work;
- (iii) Scrutinise and make recommendations to the Cabinet/Cabinet Committees/Cabinet Member decisions and any relevant Council Committees in relation to issues arising from its work programme;
- (iv) Monitor the decisions taken by or on behalf of the Cabinet and the activities of service areas;
- (v) Receive requests from Councillors and suggestions from officers of the council and co-optees for particular topics to be scrutinised;
- (vi) Propose to the Overview and Scrutiny Commission Select Committee reviews, Terms of Reference and Membership with a proposed scrutiny

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brief and resource requirement (see Select Committee Reviews at 4 below);

- (vii) Establish Ad Hoc review Panels reviews (see Ad Hoc Panels at 5 below);
- (vii) Exercise the right to “call-in” and review decisions taken by or on behalf of the Executive as set out in the procedures in the Overview & Scrutiny Rules;
- (v) Have an overview of the practice and policy of the relevant service areas;
- (vi) Identify areas of service practice and implementation or of policy that cause concern to members of the public and councillors and identify what action should be taken;
- (vii) Receive internal and external inspection reports on the services and challenge the action plans drawn up in response to problems that have been identified; monitor progress in implementing the action plans;
- (viii) Ensure that the communities of Brighton & Hove and specific users of services are able to be involved in and inform the work of the Committees;
- (ix) Promote the work of the Committees, including through the local media;
- (x) Monitor and review the outcomes of its recommendations.

3.3 Member representations

In considering whether or not to review or scrutinise decisions or actions, or to make reports or recommendations, an overview and scrutiny committees may have regard to any representations made by a Member who has referred a particular matter to it as to why it would be appropriate for the committee to take any such measures in relation to that matter

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4. Select Committee reviews

4.1 The Overview and Scrutiny Commission will consider and where it considers appropriate approve the appointment of task-orientated, time-limited scrutiny Sub-Committees (Select Committees) to review in depth, investigate and report on particular topics related to the functions of the Council or issues of public concern, with such membership, terms of reference and duration as it considers appropriate having regard to the recommendations of the initiating Committee.

4.2 In considering whether or not any matter should be agreed for a Select Committee Review, the Commission will have regard to:

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- The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the implementation of its policies or other key issues affecting the well being of the City or its communities;
 - Whether there is evidence that the decision-making rules in Article 13 of the constitution have been breached; that the agreed consultation processes have not been followed; or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council;
 - The potential benefits of a review especially in terms of possible improvements to future procedures and/or the quality of Council services;
 - What other avenues may be available to deal with the issue and the extent to which the Councillor or body submitting the request has already tried to resolve the issue through these channels (e.g. a letter to the relevant Executive Member, the complaints procedure, enquiry to the Chief Executive or Chief Officer, Council question etc.);
 - The proposed scrutiny approach (a brief synopsis) and resources required, resources available and the need to ensure that the Overview and Scrutiny process as a whole is not overloaded by requests.
- 4.3 Select Committees will have Sub-Committee status and the political balance rules in section 15 of the Local Government and Housing Act 1989 will apply.
- 4.4 Membership of the Select Committees will be nominated by the Overview and Scrutiny Committee proposing the in-depth review, taking into account the expertise and experience of available Members, and that no Member may be involved in scrutinising a decision in which he/she has been involved.
- 4.5 When a Member requests for a matter to be scrutinised, that Member should not normally be appointed as a Member of the Select Committee scrutinising the issue. This would not preclude the Member from giving evidence as a lay or an expert witness.
- 4.6 There shall be no provision for substitute Members to attend meetings of Select Committee reviews.
- 4.7 The Overview and Scrutiny Commission shall ensure that the number of Select Committee reviews which are in existence at any one time does not exceed the capacity of the Member and officer resources available to support their work.
- 5. Ad Hoc Overview and Scrutiny Panels**
- 5.1 Each Overview and Scrutiny Committee may appoint Ad Hoc Panels to carry out short, sharply focused pieces of scrutiny work. These may be on issues specific to the Committee but not large enough to warrant a full blown Select Committee approach. As a guide, the work of these Panels should be capable of

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being conducted within 3 meetings or less.

- 5.2 Ad hoc Overview and Scrutiny Panels will not have Sub-Committee status and the political balance rules in section 15 of the Local Government and Housing Act 1989 will not apply, but they will normally be established on a cross-party basis.
- 5.3 Membership of the Ad Hoc Panels will be agreed by the Overview and Scrutiny Committee appointing it, taking into account the expertise and experience of available Members, and that no Member may be involved in scrutinising a decision in which he/she has been involved.
- 5.4 When a Member requests for a matter to be scrutinised, that Member should not normally be appointed as a Member of the ad hoc panel scrutinising the issue. This would not preclude the Member from giving evidence as a lay or an expert witness.
- 5.5 There shall be no provision for substitute Members to attend meetings of Ad Hoc Panels.
- 5.6 Each Overview and Scrutiny Committee shall ensure that the number of Ad Hoc Panels which it appoints does not exceed the capacity of the Member and Officer resources available to support their work.

6. Membership of Overview and Scrutiny

- 6.1 Any Councillor, except a member of the Cabinet, may be a member of the Overview and Scrutiny Commission, Committees, Select Committees or Ad Hoc Panels.
- 6.2 No Member, however, may be involved in scrutinising a decision in which he/she has been directly involved.
- 6.3 The membership of the Overview and Scrutiny Committees will reflect the political composition of the Council.

7. Co-optees

- 7.1 The Overview and Scrutiny Committees may agree the appointment of non voting co-optees for each Select Committee review or Ad Hoc Panel.

7A Co-opting of additional members to Crime and Disorder Committee

- 7A.1 This paragraph applies to the Environment and Community Safety Overview and Scrutiny Committee when discharging the functions of the Crime and Disorder Committee

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- 7A.2 The Crime and Disorder Committee may co-opt additional members to serve on the committee subject to paragraphs 7A.3 to 7A.6.
- 7A.3 A person co-opted to serve on the Crime and Disorder Committee shall not be entitled to vote on any particular matter, unless the Committee so determines.
- 7A.4 A co-opted person's membership may be limited to the exercise of the Committee's powers in relation to a particular matter or type of matter.
- 7A.5 The Crime and Disorder Committee shall only co-opt a person to serve on the Committee who—
(a) is an employee, officer or member of a responsible authority or of a co-operating person or body (as defined in section 5 of the Crime and Disorder Act 1998); and
(b) is not a member of the executive of the committee's local authority (or authorities).
- 7A.6 The membership of a person co-opted to serve on the Crime and Disorder Committee may be withdrawn at any time by the Committee.

8. Education representatives

- 8.1 The Children and Young People's Overview and Scrutiny Committee and any Select Committee relating to education matters shall include in its membership the following voting representatives in accordance with the provisions of the Local Government Act 2000:

- (a) 1 Church of England diocese representative;
(b) 1 Roman Catholic diocese representative; and
© 2 parent governor representatives.

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- 8.2 The above-mentioned representatives shall have voting rights only in connection with matters relating to education functions and if the Committee or Panel deals with other matters, those representatives shall not vote on those other matters, though they may stay in the meeting and speak.

9. Meetings of the Overview and Scrutiny Committees

- 9.1 Regular meetings of the Commission and Overview and Scrutiny Committees will be programmed throughout the year. In addition, an extraordinary meeting may be called by the Chair or the Chief Executive at any time if they consider it necessary or desirable.

- 9.2 For the purpose of discharging its functions as Crime and Disorder Committee, the Environment and Community Safety Overview and Scrutiny Committee shall meet to review or scrutinise decisions made, or other action taken, in

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connection with the discharge by the responsible authorities of their crime and disorder functions as the Committee considers appropriate, but no less than once in every twelve month period.

- 9.3 The Select Committees and Ad Hoc Panels will be time limited and will meet as required to fulfil the task allocated to them.

10. Quorum

The quorum for overview and scrutiny meetings shall be as set out for committees and sub-committees in the Council Procedure Rules in Part 3 of this Constitution.

11. Chairmen of Overview and Scrutiny Committees/Panels

- 11.1 The Council will appoint the Chairmen of Overview and Scrutiny Committees.
- 11.2 The Overview and Scrutiny Commission will appoint the Chairmen of Select Committees, having regard to the recommendations of the initiating Committee. These Chairmen may be from the membership of the Overview and Scrutiny Committees or other Members of the Council with the necessary expertise.
- 11.3 Each Overview and Scrutiny Committee will appoint the Chairmen of Ad Hoc Panels that it sets up.
- 11.4 If the Council or relevant Scrutiny Committee fail to appoint a Chairman, the Committee, Select Committee or Ad Hoc Panel will make the appointment at its first meeting.

12. Work programme

- 12.1 The Overview and Scrutiny Commission will be responsible for setting its own objectives and work programme
- 12.2 The Overview and Scrutiny Committees (subject to the co-ordination and monitoring of the Overview and Scrutiny Commission) shall be responsible for setting their own work programme to overview and scrutinise the work of the Executive, relevant Council Committees and services and the effectiveness of relevant partnerships or other bodies.

13. Agenda items

- 13.1 Agenda items shall be set by the Committee identifying issues which they wish to consider, for example through reviewing the Executive's forward work programme of items for consideration or through their overview of service

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issues and performance, or through calling in particular Executive decisions.

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- 13.2 Any Member may notify the Head of Scrutiny that s/he wishes an item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request the Head of Scrutiny will ensure that it is included on the next available agenda of the relevant Committee. The Committee shall then determine whether it wishes to pursue the item suggested by the Member and in what manner. If appropriate, they will consider whether it should be referred to the Overview & Scrutiny Commission with a proposal for a Select Committee Review.

Deleted: of the Overview and Scrutiny Committees (including the statutory education representatives)

13.3 If an overview and scrutiny committee decides not to pursue an item suggested by a Member, it must notify the Member of its decision and the reasons for it.

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- 13.4 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate, the Cabinet/Cabinet Committees, to review particular areas of Council activity.

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14. Policy review and development

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- 14.1 The Overview and Scrutiny Committees have a function to scrutinise policy outcomes and advise on policy development within their remit. They are key mechanisms for enabling Councillors to represent the views of their constituents and other organisations to the Executive and Council and hence to ensure that these views are taken into account in policy development.
- 14.2 The Executive is responsible for the development and implementation of policy. The Executive will seek the assistance of Overview and Scrutiny, as appropriate, in the development of policy, especially in relation to the budget and policy framework. The minimum role of Overview and Scrutiny in relation to the development of the Council's budget and policy framework is set out in Rules 2 (b) and 7 of the Budget and Policy Framework Procedure Rules and in Rule 14.1 above.
- 14.3 In relation to the development of the Council's approach to other matters not forming part of its Policy and Budget Framework, Overview and Scrutiny may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- 14.4 If there are concerns about the implementation or subsequent outcomes of an agreed policy the Overview and Scrutiny Committees may appoint Ad Hoc Panels or propose Select Committees to hold enquiries and investigate the available options to recommend changes/improvements to the policy to make it more effective.

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- 15. Publication and submission of reports from Overview and Scrutiny** Deleted: S
- 15.1 Once it has formed recommendations on any matter, an overview and scrutiny committee will prepare a formal report, which it may publish. Deleted: O
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- 15.2 Where the committee decides to publish its report, paragraph 15A applies
- 15.3 The overview and scrutiny committee shall submit the report to the Chief Executive for consideration by the relevant Cabinet Member or Cabinet meeting, or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed budget and policy framework). Formatted: Default, No bullets or numbering
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- 15.4 The report will include a statement of the corporate, financial and legal implications of any recommendations. If an overview and scrutiny committee cannot agree on one single final report then up to one minority report may be prepared and submitted for consideration by the Executive Member or Cabinet meeting with the majority report. Deleted: 2
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- 15.5 Where the report relates to an item referred to an overview and scrutiny committee by a Member, as provided for under paragraph 13.2, the committee must provide the Member with a copy of the report and any recommendations.
- 15.6 The Executive Member or Cabinet, or Council if appropriate, shall – Deleted: 3
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Deleted: consider the report within six weeks of it being submitted to the Chief Executive or at its next scheduled meeting, whichever is the later, and shall prepare a response to the findings including any action proposed.
- (a) consider the report or recommendations
(b) respond to the overview and scrutiny committee indicating what (if any) action it proposes to take
(c) if the overview and scrutiny committee has published the report or recommendations, publish the response, but subject to paragraph 15A
(d) if the overview and scrutiny committee provided a copy of the report or recommendations to a Member under 15.5, provide the Member with a copy of the response
within two months beginning with the date on which the Executive or council received the report or recommendations
- 15.7 Where an overview and scrutiny report has been considered by the Executive, the report, together with the Executive response, shall be reported to full Council for information. Formatted: Indent: Left: 0 cm, Hanging: 1.27 cm
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- 15A Publication of reports, recommendations and responses: confidential and exempt information**
- 15A.1 This paragraph applies to –
(a) the publication of any document comprising

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- (i) the publication of any report or recommendations of an overview and scrutiny committee; or
 - (ii) the response of the Executive or Full Council to any such report or recommendation; and
- (b) the provision of such a document to –
 - (i) a Member or
 - (ii) a relevant partner authority (as defined in section 104 of the Local Government and Public Involvement in Health Act 2007)

15A.2 The overview and scrutiny committee, Executive or Full Council, in publishing the document or providing a copy to a relevant partner authority, must exclude any confidential information and may exclude any relevant exempt information (as defined in section 21D of the Local Government Act 2000)

15A.3 In providing a copy of the report to a Member, the committee, Executive or Full Council may exclude any confidential information or relevant exempt information.

15A.4 Where information is excluded under 15A.2 or 15A.3, the committee, Full Council or Executive, in publishing or providing a copy of the report –

- (a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and
- (b) must do so if, in consequence of excluding the information, the report published or copy provided would be misleading or not reasonably comprehensible.

15B Distribution of reports by the Environment & Community Safety Overview and Scrutiny Committee when exercising the functions of the Crime and Disorder Committee

15B.1 Where the Crime and Disorder Committee makes a report or recommendations to the council with respect to the discharge by the responsible authorities* of their crime and disorder functions, it shall provide a copy to –

- (a) each of the responsible authorities, and
- (b) each of the persons with whom, and bodies with which, the responsible authorities have a duty to co-operate under section 5(2) of the Crime and Disorder Act 1998

* [‘Responsible authorities’ are defined under section 5 of the Crime and Disorder Act 1998]

15B.2 Where the Crime and Disorder Committee makes a report or recommendation to the council with respect to any local crime and disorder matter referred to it by a Member, it must –

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- (a) provide a copy of the report or recommendations to that Member, and
- (b) provide a copy of the report or recommendations to such of –
 - (i) the responsible authorities, and
 - (ii) the co-operating persons and bodiesas it thinks appropriate

16. Call-in

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- 16.1 Call-in is a process by which Overview and Scrutiny Committees can recommend that a decision made (in connection with executive functions) but not yet implemented be reconsidered by the body which made the decision, or recommend that the full Council consider whether that body should reconsider the decision. Call-in does not provide for the Overview and Scrutiny Committee or the full Council to substitute its own decision, but merely to refer the matter back to the decision-maker. A decision maker can only be asked to reconsider any particular decision once.
- 16.2 Call-in should only be used in exceptional circumstances – for example where Members have evidence that a decision was not taken in accordance with Article 13 of the constitution ('Decision making'). Day to day management and operational decisions taken by officers may not be called-in.
- 16.3 Any decision made by the Cabinet, a Cabinet Member, or a key decision made by an officer under delegated powers from the Executive shall be published by means of a notice at the main offices of the Council and where possible by electronic means, normally within 2 working days of being made. All Members of Overview and Scrutiny will be sent, if possible by electronic means, copies of all such decision notices at the time of publication.
- 16.4 Any decision made by the Cabinet, a Cabinet Member, or a key decision made by an officer under delegated powers from the Executive may be called in up to five working days from the date of the meeting at which the decision was taken.
- 16.5 During this period, any Member of Overview and Scrutiny or any 6 Members of the Council may request that a decision be called-in for Scrutiny by the relevant Overview and Scrutiny Committee. Such a request shall be made in writing to the Chief Executive and shall include the reason(s) for the request and any alternative decision proposed. The Chief Executive may refuse to accept a request which in his/her opinion is frivolous, vexatious or defamatory, or where no reason is given.
- 16.6 If the Chief Executive accepts the request he/she shall call-in the decision. This shall have the effect of suspending the decision coming in force and the Chief Executive shall inform the decision maker e.g. Cabinet, Executive Member, Executive Committee or officer and the relevant Chief Officer(s) of the call-in. The Chief Executive shall then call a meeting of the relevant Overview and

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Scrutiny Committee as appropriate to scrutinise the decision, where possible after consultation with the relevant Chairman, and in any case within 7 working days of accepting the call-in request, unless a meeting of the appropriate Committee is already scheduled to take place within this period.

- 16.7 In deciding whether or not to refer a decision back, the relevant Overview and Scrutiny Committee shall have regard to the criteria for Scrutiny reviews set out at paragraph 4.2 of these rules. In addition it may take into account:
- any further information which may have become available since the decision was made
 - the implications of any delay; and
 - whether reconsideration is likely to result in a different decision.
- 16.8 If, having scrutinised the decision, the relevant Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns. If it considers the decision is contrary to the policy framework or budget agreed by the Council, the matter may be referred to the full Council to determine whether or not it should be referred back to the decision making body in accordance with the Budget and Policy Framework Procedure Rules at Part 4 of this constitution.
- 16.9 If the relevant Overview and Scrutiny Committee does not meet within 7 working days of the Chief Executive accepting a call-in request, or does meet but does not refer the matter back to the decision making body or to the Council, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of the period of 7 working days from the call-in request being accepted, whichever is the earlier.
- 16.10 If the decision is referred back to the decision making body, that body shall then reconsider, either at its next programmed meeting or at a special meeting called for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.
- 16.11 If the relevant Overview and Scrutiny Committee refers the matter to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making body, together with the Council's views on the decision. In this case the decision making body shall consider, either at its next programmed meeting or at a special meeting convened for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.
- 16.12 If the Council does not meet within two weeks of the matter being referred to

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it, or if it does meet but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of that two week period, whichever is the earlier.

- 16.13 If a key decision is to be taken by an officer under the scheme of delegation, all Members and Overview and Scrutiny Committees will have the same rights to information and to use the procedures set out above for the call-in of those decisions.

17. Call-in and urgency

- 17.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet, a Cabinet Member, or a key decision made by an officer under delegated powers from the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state if in the opinion of the decision making body the decision is an urgent one and subject to the agreement of the Chief Executive, or in his/her absence the officer acting for him, such a decision shall not be subject to call-in. The Chief Executive or the Officer acting on his/her behalf shall consult the leaders of the Political Groups before agreeing to the exemption. Any decision to which the call-in process does not apply for reasons of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- 17.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted (via the Governance Committee) to Council with proposals for review if necessary.

18. Call In and Joint Committees

- 18.1 The principle of call in applies to decisions made by Joint Committees on which the Council is represented. The detailed arrangements relating to call in of Joint Committee decisions shall be agreed between the constituent authorities and included in the Constitution of the Joint Committee.

19. Matters excluded from Scrutiny

- 19.1 Overview and Scrutiny Committees should not normally scrutinise individual decisions made in respect of development control, licensing, registration, consents and other permissions. In particular they are not an alternative to normal appeals procedures. However, they may make reports and recommendations on such functions as part of wider Scrutiny reviews.

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- 19.2 The Scrutiny process is not appropriate for issues involving individual complaints or cases, or for which a separate process already exists e.g. personnel/disciplinary matters, ethical matters or allegations of fraud.

PART 6.2 OVERVIEW & SCRUTINY WAYS OF WORKING

1. Introduction

- 1.1 It is expected that Overview and Scrutiny Committees will determine ways to operate that best suit their agendas whilst being consistent with the overall overview and scrutiny approaches. To this end they will wish to review the paperwork, style, venues and other practical arrangements for their meetings. In some cases it will be appropriate to adopt a more informal approach than for Executive decisions.

2. Code of Practice for Scrutiny Reviews

- 2.1 Overview and Scrutiny Committees will adopt a cross-party approach and attempt to reach a consensus where possible on their findings.
- 2.2 Where an Overview and Scrutiny Committee conducts an investigation or review, it may ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
- (a) the investigation should be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (b) as far as possible the process should be a positive experience for all concerned. Questioning should not be adversarial and those assisting the Committee by giving evidence should be treated with respect and courtesy;
 - (c) witnesses may be provided with a briefing note on the format and conduct of the meeting;
 - (d) the investigation should be conducted so as to maximise the efficiency of the investigation or analysis. This may include providing outline questions and details of any documents required to witnesses in advance.
 - (e) notwithstanding the provisions of the Access to Information Rules, witnesses may if they wish give their evidence privately or in writing.
 - (f) at the end of questioning witnesses should be invited to revisit any points raised or make any general comments. They should also be provided with a copy of any report to which their evidence has contributed.

3. Members and officers giving account

- 3.1 An Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member and/or any senior officer to attend before it to explain in relation to matters within their remit:

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- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy; and/or
- (c) their performance;

and it is the duty of those persons to attend if so required.

- 3.2 The provision at 3.1 above shall apply only to a Member or to a senior officer to whom powers are specifically delegated in the Council's Scheme of Delegation to Officers at part 7 of this constitution.
- 3.3 Any Member or officer who is required to attend before an Overview and Scrutiny Committee shall be given reasonable notice of the date of their attendance. Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall after consultation with the Member or officer arrange an alternative date for attendance.
- 3.4 Where an officer appears before an Overview and Scrutiny Committee to answer questions, their evidence should as far as possible be confined to questions of fact and explanation relating to policies and decisions. Officers may explain what the policies are, the justification and objectives of those policies as the decision makers see them, the extent to which those objectives may have been met, and how administrative factors may have affected both the choice of policy measures and the manner of their implementation. Officers may be asked to explain and justify advice they have given to Members prior to decisions being taken.
- 3.5 As far as possible officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Council's policies and decision makers' actions should always be consistent with the requirement for officers to be politically impartial.

3A Provision of information by partner authorities

3A.1 An overview and scrutiny committee may make a written request to a relevant partner authority (as defined in section 104 of the Local Government and Public Involvement in Health Act 2007) for such information as that committee may reasonably require in order to discharge its functions, being information which relates to a local improvement target relevant to that partner and which is specified in a local area agreement of the council.

3B Duties of certain partner authorities

3B.1 Where an overview and scrutiny committee (other than the Crime and

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- Disorder Committee – as to which, see 3B.2) makes a report or recommendations to the Executive or Full Council with respect to a local improvement target which relates to a relevant partner authority, and is specified in the council’s local area agreement, the committee may by notice in writing to the relevant partner authority require them to have regard to the report or recommendation in exercising their functions
- 3B.2 Where, under Part 6.1, paragraphs 15 or 15B, the Crime and Disorder Committee makes a report or recommendation, or provides a copy of it, it must notify the authority, body or person to whom the report or recommendation is made, or to whom the copy is provided, that the authority, body or person must
- =
- (i) consider the report or recommendations;
 - (ii) respond to the committee indicating what (if any) action it proposes to take;
 - and
 - (iii) have regard to the report or recommendation in exercising its functions

4. Attendance by others

- 4.1 An Overview and Scrutiny Committee may invite people other than Members or officers of the Authority to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other parts of the public sector. Attendance by such persons is optional.

- 4.2 In discharging its functions as Crime and Disorder Committee, the Environment and Community Safety Overview and Scrutiny Committee may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person or body* in order to answer questions, on condition that reasonable notice of the intended date of attendance is given to that person.

* Such authority, person or body as defined in section 5 of the Crime and Disorder Act 1998

5. Public involvement/transparency of the process

- 5.1 Overview and Scrutiny Committees meet in public in accordance with the Access to Information Rules in Part 8 of this constitution. They will seek to foster consultation and involvement by local communities and where appropriate will consider when beginning a review how best the public and stakeholders can be invited to contribute - for example as service users, witnesses, expert advisers, local community representatives or co-opted members.

6. Liaison with Executive Members

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- 6.1 The Overview and Scrutiny function is able to work independently of the Executive. However, this does not mean that the relationship should be adversarial. Rather Overview and Scrutiny should act as a ‘critical friend’ and work with the Cabinet Members in pursuit of the Council’s aims and to ensure the effective operation and planning of its business.

7. Declaration of interests

- 7.1 Although not making decisions about services, members of Overview and Scrutiny Committees must ensure that declarations are made to avoid any inference being drawn of potential conflicts of interest or lack of propriety in the Scrutiny process. They must be seen to be approaching Scrutiny with an open mind. A Councillor should not take part in Scrutiny of a decision where they have led or taken a prominent role in a campaign or pressure group in relation to that decision.

8. The party whip

- 8.1 When considering any matter in the following categories:

- (a) any matter referred to the Overview and Scrutiny Committee;
- (b) the review of any decision; or
- (c) the performance of any Executive Committee

in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip, the Member must declare the existence of the whip, and the nature of it, before the commencement of the Committee’s deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes.

[Note: In the above provision the phrase ‘a party whip’ means any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee or Cabinet meeting, or the application of or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner.]

9. Rights of Overview and Scrutiny Committee Members to documents

- 9.1 In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 8 of this Constitution.

Item 65 Appendix 4C

- 9.2 Nothing in this section prevents more detailed liaison between the Executive and the Overview and Scrutiny Committees. Indeed this liaison is encouraged to enable members of Scrutiny Committees to develop an effective overview of services, developments, and issues for consideration.
- 9.3 Overview and Scrutiny Members will also be informed of key decisions made by Officers under delegated authority from the Executive.

10. Matters within the remit of more than one Overview and Scrutiny Committee

- 10.1 Where a matter for consideration by Overview and Scrutiny falls within the remit of one or more Overview and Scrutiny Committee, the decision as to the best approach to take will be resolved by the Overview and Scrutiny Commission.
- 10.2 Once decided, it may be appropriate to draw on the knowledge and expertise of all Committees affected by the issue and to report the outcomes to all such Committees.

PART 8.3 CONTRACT STANDING ORDERS

General

Contract Standing Order I: Interpretation

1.1 In these Contract Standing Orders, the following terms have the following meanings:

“Approved List” a list drawn up for corporate use under CSO 6

“Budget Holder” a Council Employee who is accountable for a defined budget, and is responsible for committing expenditure against that budget in accordance with the Council’s Financial Standing Orders and Regulations.

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“Chief Officer” a chief officer as defined in Article 10 of the Council's Constitution including any officer who is a member of the Council's Management Team.

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“Contract Consultant” any person not being an employee of the Council who is acting for the Council in relation to a Contract or proposed Contract

“Contract” any agreement for (i) the supply of goods, services, or the execution of works to or for the Council including the use of consultants (ii) but excluding the use of external solicitors and Counsel instructed by the Head of Law (The sale of land is specifically excluded from this definition of "Contract")

"Contract Officer" a Council Employee nominated to deal with Contracts in accordance with CSO 3.1

“Contractor” the party or potential party to a Contract

"Council" Brighton & Hove City Council

“Council Employee” any person employed on a permanent, temporary or agency arrangement by the Council

“CSO”/ "CSOs" Contract Standing Order/ Contract Standing Orders

"EU" European Union

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<p>“EU Public Procurement Directives”</p>	<p>EU Directive 2004/18/EC This directive consolidates all previous directives relating to public works, supplies (goods) and service contracts and any Directives and Regulations by which it is applied, extended, amended, consolidated or replaced and any re-enactment thereof</p>	<p>Formatted: English (U.K.) Deleted: [Deleted:]</p>
<p>“EU thresholds”</p>	<p>EC and Government Procurement Agreement thresholds for advertisement of goods, works and services contracts as advised by the Government (as of 1 January 2010 at £156,442 for goods and services contracts and £3,927,260 for works contracts)</p>	<p>Deleted: currently, January 2008, Deleted: 139,893 Formatted: Font: Bold Deleted: Formatted: Font: Gill Sans, 12 pt Deleted: 3,497.313</p>
<p>"Framework Arrangements"</p>	<p>Zero value contracts for goods, services or works under which terms, conditions, quality standards and prices are agreed in accordance with EU Public Procurement Directives</p>	<p>Deleted: . Single Contract Lists,</p>
<p>“Lists”</p>	<p>Framework Arrangements and Approved Lists</p>	<p>Deleted: . Single Contract Lists,</p>
<p>“Most Economically Advantageous Tender”</p>	<p>A process of determining the best bid using weighted criteria. See CSO 13</p>	
<p>"OJEU"</p>	<p>Official Journal of the European Union</p>	
<p>“Procurement Guidance”</p>	<p>Corporate Procurement’s Codes of Practice (including the Procurement Toolkit), model contracts and other guidance which supplements these CSOs</p>	<p>Deleted: .</p>
<p>“UK Regulations”</p>	<p>Public Contracts Regulations 2006 (SI 5/2006) as amended</p>	<p>Deleted: ¶</p>
<p>“works” “supplies” & “services”</p>	<p>as defined in the EU Public Procurement Directives (“supplies” are also referred to as “goods” in these CSOs)</p>	<p>Deleted: Single Contract List . a list drawn up for the use of a Council department under CSO 7¶</p>
<p>1.2</p>	<p>The Chief Executive, after consultation with the Monitoring Officer and the Chief Finance Officer may change the thresholds in Contract Standing Orders annually (or as appropriate) to take account of changes in the retail price index and other factors so that the effectiveness and impact of the thresholds is maintained.</p>	<p>Deleted: .</p> <p>Deleted: ¶ “goods” “supplies” as defined in the EU Public Procurement Directives.</p> <p>Deleted: ¶ <#>The price element of any evaluation will consider 'lowest price' in the case of contracts where the Council pays the Contractor and 'highest price' in the case of Contracts where the Contractor pays the Council.¶ ¶</p> <p>Formatted: Bullets and Numbering</p>

Contract Standing Order 2: Compliance with Contract Standing Orders and Legislation

2.1 The Head of Law in consultation with the Procurement Strategy Manager shall compile and maintain CSOs and advise on their implementation and interpretation.

2.2 Every Contract made by the Council or on its behalf shall comply with the EC Treaty, the EU Public Directives and all relevant EU and domestic legislation, CSOs, and the Council's Financial Regulations. EU and UK legislation will always override the provisions of these CSOs.

2.3 Contractors, Contractor's employees, subcontractors and agents utilised by the Council shall **be required to**, at all times, comply with the requirements of the Health & Safety at Work Act 1974, all secondary legislation made under that Act and all other Acts, Regulations, Orders or Rules relating to Health & Safety. **All contracts shall reflect these requirements and reference** to the Council's Health & Safety Code of Practice should be made in this regard.

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2.4 The Corporate Procurement Strategy and Procurement Guidance, held and disseminated by the Procurement Strategy Manager, shall supplement these CSOs, but these CSOs will always take precedence over the provisions of such Procurement Guidance.

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2.5 It shall be a condition of any Contract between the Council and anyone who is not a Council Employee, but who is authorised to carry out any of the Council's **contracts functions**, that they comply with CSOs, and the Financial Regulations of the Council as if they were Council Employees.

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Contract Standing Order 3: Scheme of Delegation/Authorisation

3.1 Each Chief Officer has unrestricted delegated power to agree to the Council entering into Contracts up to the sum of £500,000. Above this sum and before inviting expressions of interest from potential bidders Council Employee must seek approval from the relevant **Cabinet Member**, committee or **other** executive decision-making body. All Budget Holders (in relation to expenditure within their allocated budgets) as well as Assistant Directors and Contract Officers authorised by the Chief Officer may agree to the Council entering into Contracts up to £250,000. Each Chief Officer shall draw up and maintain a scheme of authorisation for use within his/her department, which shall include one or more named Assistant Director, Budget Holder and Contract Officer and shall be copied to the Head of Law and the Procurement Strategy Manager.

Contract Standing Order 4: Declarations of Interests

- 4.1 At the beginning of any Contract process the following persons shall declare any interest, as defined in the Code of Conduct for Employees set out in the Council's Constitution, which may affect the Contract process: -
- (a) all Council Employees
 - (b) Contractors
 - (c) Contract Consultants
 - (d) any other person involved in the contract process
- 4.2 Chief Officers shall ensure that all Council Employees within the categories set out in CSO 4.1 and all Contract Consultants and Contractors appointed by them make written declarations of interest on their appointment and as required on any change in circumstances. Interests of Council Employees will be reviewed annually, either at the end or beginning of the financial year. The Chief Officer shall either certify interests as acceptable or take any necessary action in respect of potential conflicts of interest. Council Employees who declare a conflict of interest will take no part in the relevant contracting process.
- 4.3 Chief Officers shall keep completed Council Employee declarations on the register of staff declarations indicating the names and grades of those declaring an interest and the nature of their interest.
- 4.4 Chief Officers shall keep completed Contract Consultants' and Contractors' declarations of interest and relevant Council Employees' declarations affecting the Contract on the contract file.
- 4.5 If a Council Employee within the categories set out in CSO 4.1 knows that a Contract in which he/she has a pecuniary interest is before the Council, and is not the subject of an existing declaration, he/she must immediately give written notice of his/her interest to the relevant Chief Officer and take no part in the contract process.

Contract Standing Order 5: Public Notices

- 5.1 Where, by virtue of these CSOs or by some other authority, public notices or advertisements are required they shall be placed in at least one relevant local publication and on the Council website ten days or more before expressions of interest are required by the Council. Where the estimated total value of the Contract exceeds £100,000, the notice or advertisement shall be placed in at least one newspaper or journal circulating among such persons or bodies who undertake such Contracts. The requirement to give notice in a local newspaper may be dispensed with if the relevant Chief Officer certifies that there are insufficient Contractors in the locality.
- 5.2 All Contracts whose value exceeds the relevant threshold of the EU Public Procurement Directives shall also be advertised in OJEU.

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Approved Lists, Framework Arrangements and Single Contract Lists

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Contract Standing Order 6: Approved Lists

6.1 The Assistant Director, Property and Design may compile and maintain Approved Lists of Contractors for works and works related service Contracts (construction related Contracts), each of which is below the relevant EU threshold. The Procurement Strategy Manager may compile Approved Lists for Contractors for the supply of goods and other services as appropriate.

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6.2 Approved Lists:

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(a) shall be established by advertised competition (subject to CSO 6.3) and where possible formalised by Framework Agreements;

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(b) shall contain the names and addresses of all Contractors who meet the Approved List criteria.

(c) shall indicate the nature and value of Contracts for which the Contractors listed may be used. The value may not exceed the relevant EU threshold.

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(d) where maintained internally by the council shall be reviewed in full at least every three years in addition to a review of the use of external providers of such lists.

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6.3 ConstructionLine and standing lists of providers maintained by other public sector bodies compiled following responses to a public advertisement shall be deemed to be Approved Lists for the purpose of these CSOs.

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6.4 In addition Chief Officers with the assistance of the Procurement Strategy Manager may set up Framework Arrangements in line with EU Public Procurement Directives with one or more suppliers of particular types of goods or services.

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6.5 The criteria for admission to and suspension and exclusion from internally maintained Approved Lists shall be specified in writing by: -

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- (a) the Procurement Strategy Manager, for goods and services
- (b) the Assistant Director, Property and Design for works and works related services

6.6 Any Contractor may, by giving written notice to the Council withdraw from any Approved List.

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6.7 Where there is no Approved List or Framework Arrangement, Chief Officers shall use an approved tender procedure in accordance with Procurement Guidance.

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Preliminary

Contract Standing Order 7

No longer used.

Contract Standing Order 8: Contract Value and Aggregation

- 8.1 Council Employees shall estimate and record the total value of a proposed Contract net of VAT.
- 8.2 Contracts must not be artificially separated so as to circumvent the application of any CSO or of the EU Public Procurement Directives or UK Regulations.
- 8.3 The total value of Contracts for works, services or supply of goods are estimated to be the same as the total consideration to be payable over the term of the Contract by the Council to the Contractor. Where the Contract period is indefinite or uncertain then the estimated total value is calculated by assuming a four-year term.

Requirement to Obtain Tenders

Contract Standing Order 9: Tendering Procedures

- 9.1 Where procurement of goods, services or works is required and the estimated total value of the Contract is in excess of the relevant EU threshold, EU public procurement procedures will be followed as set out in the UK Regulations and these shall prevail over tendering procedures set out in these CSOs. For most goods, services and works Contracts the restricted, open, or competitive dialogue procedure will be used. For Private Finance Initiative, Public Private Partnership and similar procurement arrangements introduced by the Government, where the total Contract value is in excess of the relevant EU threshold, the restricted or competitive dialogue procedure will be used.
- 9.2 The Council may procure goods, services or works to any value in collaboration with other local authorities or other public or voluntary sector bodies. Where the Council is the lead buyer within the consortium of the goods, works or services contracted for, these CSOs shall apply. Where the Council is not the lead buyer, procurement procedures shall follow the spirit of these CSOs, be in accordance with EU Public Procurement Directives and UK Regulations, and approved by the relevant Chief Officer on the advice of either the Procurement Strategy Manager or the Assistant Director, Property and Design.

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Contract Standing Order 7:
Single Contract List ¶
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 7.1 A single Contract List should normally be based upon responses to public or website advertisement, except where the cost of such advertisement is not cost effective with regard to the total value of the Contract.¶
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 7.2 Criteria for the inclusion of a Contractor on a Single Contract List shall be drawn up in advance of any public advertisement, and suitability of Contractors for inclusion on that Single Contract List shall be decided in accordance with those criteria. ¶
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 7.3 Unlike Approved Lists and Framework Arrangements a Single Contract List may only be used once.¶
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Contract Standing Order 10: Contracts Not Exceeding £25,000

- 10.1 Where the appropriate Chief Officer estimates the total Contract value for goods, services or works is unlikely to exceed £25,000 (in the case of Consultants is unlikely to exceed £10,000) and there are suitable Framework Arrangements available, those Framework Arrangements shall be used. Where no Framework Arrangements are available competitive quotations in writing on the basis of Most Economically Advantageous Tender should be sought, or a commercial negotiation with one preferred Contractor may take place. In the latter case the Chief Officer shall certify that Procurement Guidance has been followed and that the Council shall receive value for money.
- 10.2 Contracts with an estimated total value not exceeding £25,000 shall be evidenced in writing in simple cases by the receipt of written quotations from Contractors or by sending orders to Contractors under Framework Arrangements. In the case of consultants (whatever the value) and in all other cases formal written Contracts shall be completed.
- 10.3 Although the tendering procedures for Contracts not exceeding a total value of £25,000 are less formal than for Contracts of greater amounts, Chief Officers should at all times bear in mind the need to seek value for money and be able to demonstrate that they have obtained it.

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Contract Standing Order 11: Contracts Exceeding £25,000 and Not Exceeding £75,000

- 11.1 Where the appropriate Chief Officer estimates the total Contract value is likely to be greater than £25,000 (in the case of Consultants greater than £10,000) and not exceeding £75,000 and one or other of the Lists is available then at least four competitive tenders in writing shall be sought from Contractors on the relevant List.
- 11.2 In the absence of Lists being available an approved tender procedure shall be used in accordance with Procurement Guidance.
- 11.3 In either case, if less than four suitably qualified tenders are available, the Contract Officer must consult with the Procurement Strategy Manager.
- 11.4 Where criteria additional to price are to be used in evaluation, these must be set out in the invitation to tender. At least two bona fide tenders must be received and the Most Economically Advantageous Tender accepted.
- 11.5 If only one compliant tender is received, the Contract Officer must consult with the Procurement Strategy Manager and provide evidence to show that the Council can obtain value for money.
- 11.6 Contracts with an estimated total value greater than £25,000 and not exceeding £75,000 shall be evidenced in writing in simple cases by the receipt of a written quotation and the delivery of an official order form, in the case of

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consultants and in all other cases by the completion of a formal written Contract.

Contract Standing Order 12: Contracts Exceeding £75,000

12.1 Where the appropriate Chief Officer estimates that the total value of a Contract is likely to exceed £75,000 and one or other of the Lists is available, then at least five tenders will be sought from Contractors on the relevant List.

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12.2 In the absence of Lists being available an approved tender procedure shall be used in accordance with Procurement Guidance and, where applicable, in accordance with the EU Public Procurement Directives and UK Regulations and at least five tenders must be sought.

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12.3 If less than five suitably qualified tenders are available, the Contract Officer must consult with the Procurement Strategy Manager.

12.4 Where criteria additional to price are to be used in evaluation, these must be set out in the invitation to tender.

12.5 At least two compliant tenders must be received and the Most Economically Advantageous Tender must be accepted. Notwithstanding CSO 12.7, if only one compliant tender is received, the Contract Officer must consult with the Procurement Strategy Manager and provide evidence to show that the Council can obtain value for money.

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12.6 In the case of Contracts with an estimated total value over £75,000 the Contract shall be in a form approved by the Head of Law and shall be given under the Common Seal of the Council.

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12.7 Where the estimated total value of the Contract is such that the Council is required by law to comply with the EU Public Procurement Directives the requirements thereof shall be complied with and the tender procedures set out in these CSOs shall be deemed to be satisfied by such compliance.

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12.8 Decisions relating to the Contract process for Contracts exceeding the thresholds for the EU Public Procurement Directives shall be made by Chief Officers in consultation with either:

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(a) the Procurement Strategy Manager, for goods and services Contracts; or

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(b) the Assistant Director, Property and Design for works Contracts.

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12.9 Social care Contracts must be procured in accordance with the EU Public Procurement Directives and UK Regulations, but are otherwise exempt from CSOs 10-12 save for the requirement to demonstrate obtaining value for money.

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Tendering Process

Contract Standing Order 13: Delivery Opening and Evaluation of Tenders

- 13.1 All tenders for any Contract estimated to be under a total of £75,000 in value shall be returned to the Chief Officer inviting the tender (or his/her nominee), or as otherwise indicated in CSOs, in envelopes which shall bear no mark to identify the sender. The Chief Officer shall be responsible for ensuring that a record of all such tenders received is kept.
- 13.2 For Contracts with an estimated total value exceeding £75,000 all tenders shall be returned as appropriate to the Assistant Director, Property and Design or the Procurement Strategy Manager in envelopes, which shall bear no mark to identify the sender and shall be opened by him/her at the same time in the presence of a Council Employee designated by the relevant Chief Officer. The Assistant Director, Property and Design and the Procurement Strategy Manager shall each maintain a record of all such tenders received by him/her.
- 13.3 All tenders shall be opened at the same time, as soon as is reasonably practicable after the closing date, normally on the closing date. On receipt, all tender envelopes shall be endorsed with the time and date of receipt and kept secure until the time specified for tender opening. Any tender received after the specified time shall not be considered for evaluation and shall be returned promptly to the tenderer. A late tender may be opened to ascertain the name of the tenderer but no details of the tender shall be disclosed.
- 13.4 Evaluation criteria and weightings for each criterion for both the pre-qualification and the invitation to tender stages shall be determined in advance and included in the invitation to tender. Price shall always be included as a criterion, but will be used as the sole criterion only where the Chief Officer or the Council Employee preparing the Contract for him/her considers this to be appropriate. Determination of criteria at all stages should be undertaken in accordance with Procurement Guidance.

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Deleted: Without prejudice to the range of criteria, which may be adopted, other criteria would normally cover aspects such as quality, technical ability, or the qualifications and experience of personnel/consultants. (see CSO 17.2 relating to award).

Contract Standing Order 14: Contracts Registers

14. An electronic register of all renewable Contracts above a total value of £25,000 (and all contracts over £75,000) in value, shall be kept centrally and maintained by each Contract Officer using the Intranet or similar. Such register shall specify for each Contract the Contract number, the name of the Contractor, a summary of the works to be executed or the goods and services supplied and the Contract duration and value or estimated value. The register shall be open for inspection by any Member of the Council.

Contract Standing Order 15: Prevention of Corruption

- 15.1 A Council Employee must not invite or accept any gift or reward in respect of the award or performance of any Contract. It will be for the Council Employee to prove that anything received was not received corruptly. High standards of conduct are obligatory and corrupt behaviour will lead to dismissal.
- 15.2 The contract process shall ensure that the Council will operate strict separation of duties by ensuring that two authorised Council Employees are involved in the ordering, receiving and payment process. Except for low value orders with a value below £250, there must be a separation of duties between the person authorising an order and the person checking a written invoice or requisitioning the goods or services.
- 15.3 The following clause, or an equivalent clause in standard forms of contract or other wording as approved by the Head of Law, must be put in every written Council Contract:

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“The Council may terminate this Contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:

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- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done); or
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972; or
- (c) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council Members or Employees.

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Any clause limiting the Contractor’s liability shall not apply to this clause.”

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Operation of Contract

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Contract Standing Order 16: Contract Variation

- 16.1 Funding must be identified before any variation is approved in accordance with the Council’s Financial Regulations. See Financial Regulation D.2.2.17.
- 16.2 Prior approval must be obtained from the appropriate Chief Officer after consultation with the relevant Cabinet Member, if the proposed variation would together with all other variations to the Contract:
 - (a) extend the Contract value or period by 50% or more; *and / or*,
 - (b) mean the works, services or goods to be added to or deleted from the Contract are substantially different in scope.

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16.3 Extensions to Contracts ~~exceeding the relevant EU Threshold~~ shall not be permitted unless indicated in the original OJEU notice. ~~For Contracts below the relevant EU Threshold at original award, extensions to such Contracts shall not be permitted if the revised value then exceeds the relevant EU Threshold.~~

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Contract Standing Order 17: Contract Award

17.1 No Contract may be awarded unless the expenditure involved has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf, of the Council. The Chief Officer shall ensure that evidence of authority to spend, and the budget code to be used, is recorded on the Contract file.

17.2 Each Contract shall be awarded in accordance with evaluation criteria that have been adopted for the Contract. (See CSO 13.4 relating to evaluation.)

Contract Standing Order 18: Waivers of Contract Standing Orders

18.1 Special procedural exemptions or waivers may from time to time be given by the Cabinet to particular classes of Contracts in line with the Council's procurement strategy, as specified in Cabinet reports.

18.2 Subject to CSO 18.6, in relation to Contracts estimated to not exceed a total value of £75,000, a Chief Officer may waive the requirements of any CSO, as long as

- (a) the Procurement Strategy Manager is notified as soon as possible.
- (b) the Chief Officer certifies in writing to the Procurement Strategy Manager the CSO being waived and the reasons for doing so.

18.3 Subject to CSO 18.6, in relation to Contracts estimated to exceed a total value of £75,000, a Chief Officer may, after consultation with the relevant Cabinet Member and the Procurement Strategy Manager, waive the requirements of CSOs as long as:

- (a) the waiver report (the Report) is compiled after consulting with the Procurement Strategy Manager;
- (b) the Report is issued setting out the CSO being waived and the reasons for the waiver;
- (c) the Report includes legal and financial comments and highlights, as necessary, any future commitment (whether of a financial character or not) which the Contract may entail; and

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- (d) the Report justifies the method of Contractor selection so that value for money and compliance with EU and domestic law can be demonstrated.

18.4 If an emergency has been declared under the Council's emergency planning or business continuity procedures and it is not possible or practicable for a Council Employee who would normally exercise the powers of waiver under CSO 18.2 and CSO 18.3 to do so, the powers may be exercised by (i) the Council Employee who is designated to be in charge, under those procedures or (ii) any Council Employee appointed by him / her to act on his / her behalf. Further, if it is not possible or practicable for that Council Employee, before exercising the powers under CSO 18.3, to consult the relevant Cabinet Member or the Procurement Strategy Manager or to issue the necessary Report, the Council Employee may exercise the powers without doing so but shall take such steps as appear appropriate at the time to keep the relevant Executive Member and the Procurement Strategy Manager informed and shall issue the Report as soon as is reasonably practicable.

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18.5 A report for information giving a digest of all waivers under CSO 18.2, 18.3 and 18.4 shall be made by the Procurement Strategy Manager covering the previous financial year annually to Cabinet.

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18.6 For the avoidance of doubt, no waivers may be made so as to alter the full application of CSO 4 (Declarations of Interest), CSO 14 (Contract Registers), CSO 15 (prevention of corruption) CSO 16.3 (Contract Variation), CSO 17 (Contracts Awards), CSO 19 (Risk Management), or to CSO 20 (Negotiation standards) or if such waiver would result in a breach of EU or domestic law.

18.7 A register of all waivers will be maintained by Property and Design and kept available for inspection by the public with reasonable notice during working hours.

Contract Standing Order 19: Risk Management

- 19.1 A database of procurement clauses that minimise unnecessary Contract risk shall be kept and maintained by the Procurement Strategy Manager.
- 19.2 Contracts with a total value exceeding the thresholds for the EU Public Procurement Directives shall not be let without reference to this database.

Contract Standing Order 20: Negotiation

20.1 Procurement of goods, services and works shall normally be through the competitive tendering process set out in these CSOs. Under these CSOs negotiation with one Contractor is normally only permissible for very low value Contracts as set out in CSO 10 or when using the EU Competitive Dialogue Procedure under CSO 9. Where negotiation is undertaken this shall be conducted having regard to the Negotiation Code of Practice.

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Explanation of proposed amendments to CSOs

Definitions:

EC – This definition has been removed as the reference to EU in the context of procurement is sufficient.

EU Thresholds – These have recently been increased and are effective as of 1 January 2010. They are relevant as above those thresholds, contracts become subject to the EU Procurement Directive and UK Public Contracts Regulations 2006 (as amended) which contain strict rules regarding how contracts should be tendered.

Procurement Guidance – This definition has been extended to incorporate the more recent addition to Corporate Procurement's guidance documentation, the Procurement Toolkit.

Single Contract Lists - This definition has been removed from definitions (and CSO 7 removed completely) as it was our view that the process and definition of single contract lists described a standard procurement process, so did not need its own definition and section.

CSO 2.3 – The amendment to this clause confirms that the obligation for health and safety should be extended to include our contractors.

CSO 3.1 – The amendment to this clause reflects the change to a Cabinet system of governance.

CSO 6.2 & 6.3 - ConstructionLine is a public private partnership between the Department of Business Innovation & Skills (formerly BERR) and Capita Business Services established 11 years ago. As a national online database, it is the UK's largest register for pre-qualified contractors and consultants. Its aim is to improve efficiencies for buyers and suppliers in the construction industry, specifically by reducing the duplication of work and administration relating to the process of pre-qualifying suppliers for construction contracts. Over 8,000 buyers from 1,900 organisations throughout the UK already use the database to source pre-qualified suppliers in the construction sector. They range from public sector bodies such as the NHS, local authorities, police and universities, to private sector businesses such as major contractors, small construction firms and consultants. The OGC Common Minimum Standards and the Local Government Task Force also recommend using ConstructionLine as part of the pre-qualification and tendering process.

ConstructionLine will replace our existing approved lists meaning that we no longer need to continually check each contractor's compliance with our minimum standards – i.e. health and safety compliance (assessed through the CHAS scheme), financial turnover (to assess the value of work we can safely procure from each company), references (to assess the continuing quality of work) and insurance compliance. ConstructionLine continuously monitor these criteria and carry out an annual assessment. In addition

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ConstructionLine carry out credit checks on each company providing an early warning of financial problems plus membership of other accreditation schemes such as SafeGas (formerly CORGI) and NICEIC, etc.

The list is open to any contractor or consultant (an annual fee is payable based on the size of the company) subject to them fulfilling the minimum criteria which are similar and compatible with our current standards – H&S, financial checks and references.

ConstructionLine will be used by Property & Design to source pre-qualified contractors for traditionally tendered works across the council up to the OJEU thresholds in much the same way as presently in accordance with CSOs. The value of work procured in this way has diminished over recent years with the introduction of framework and partnership working and this has reduced the cost-effectiveness of our current in-house lists which are difficult to maintain comprising over 500 companies (and growing) for a decreasing amount of work being procured.

We will initially set up our own suppliers list within the full database based on our existing lists. This will be open to any company wishing to work with the council who will be invited to apply direct to ConstructionLine.

Our aim is to support local contractors and consultants wherever we can for all works and particularly for works under £75,000 where we will produce tender lists comprising suppliers with a local postcode – either BN or the surrounding adjoining postcodes of PO, TN and RH. This will cover the majority of projects as approximately 70% of projects procured through our approved lists in the last 12 months were for works of less than £75,000. For projects in excess of this or where insufficient suppliers are available the full database will be used however, as local companies already represent around 50% of our approved lists, local suppliers will not be disadvantaged by this. ConstructionLine will also allow us to source pre-qualified specialist companies where we don't currently have a list. The ConstructionLine database will generate a random list of companies who meet the criteria we enter (i.e. location of work, type of work, value of work, specific needs, no. of companies required for our CSOs, etc..) which will form the tender list for each project.

Local contractors should benefit from the council using ConstructionLine as once they are registered on it, they could be selected for work by other customers of ConstructionLine (primarily the public sector) so should see a benefit from not having to continually apply for similar work.

The operation of the revised procedures will be monitored and any modifications necessary to protect local businesses implemented subject to compliance with the law and achievement of value for money.

CSO 7 – As stated above, this CSO has been removed as it described a standard procurement process which is covered by other CSOs.

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CSO 9.1 – The amendment to this clause clarifies that where an EU public procurement process has been followed, that process takes precedence over the internal rules set out in the CSOs.

CSO 11 & 12 - Currently, under CSOs, if a compliant tender procedure is followed which results in either less than four / five companies being invited to tender, and / or only one compliant tender being received, a waiver of these CSOs would have to be sought. It is our view that waivers of CSOs should only be used where the rules cannot be complied with for some other reason, not where the market fails to respond to a proper process.

However, the occasions on which limited numbers are invited to tender, or return a tender, should be properly checked as there remains a risk to the council obtaining value for money if there is no effective competition. Therefore, the changes to the clauses 11.2, 11.3, 12.2 and 12.5 reflect the need to consult with the Corporate Procurement, rather than seek a waiver, in order to ensure that in these cases the procedure requires an element of safeguarding prior to contract award.

CSO 12.9 - This clause may be subject to change once clarification on the current ASC guidance is obtained.

CSO 13.4 – The previous drafting of this clause could have led to confusion over the two stages of a 'standard' procurement process: selection and evaluation. At each stage, there are defined criteria which should be used. The amendments to this clause were made in an effort to clarify this point, and to avoid confusion over the stages.

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