





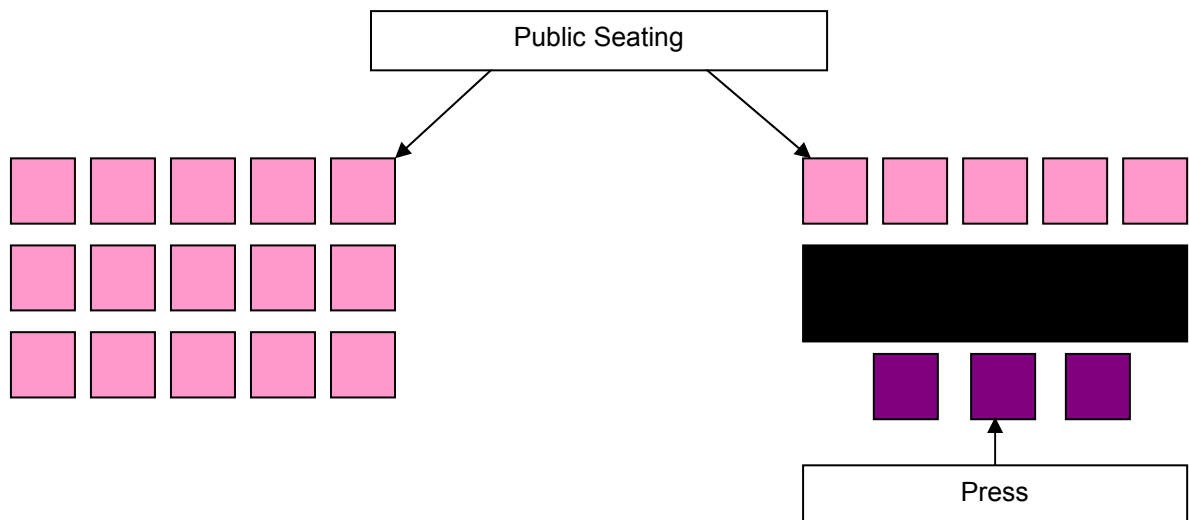
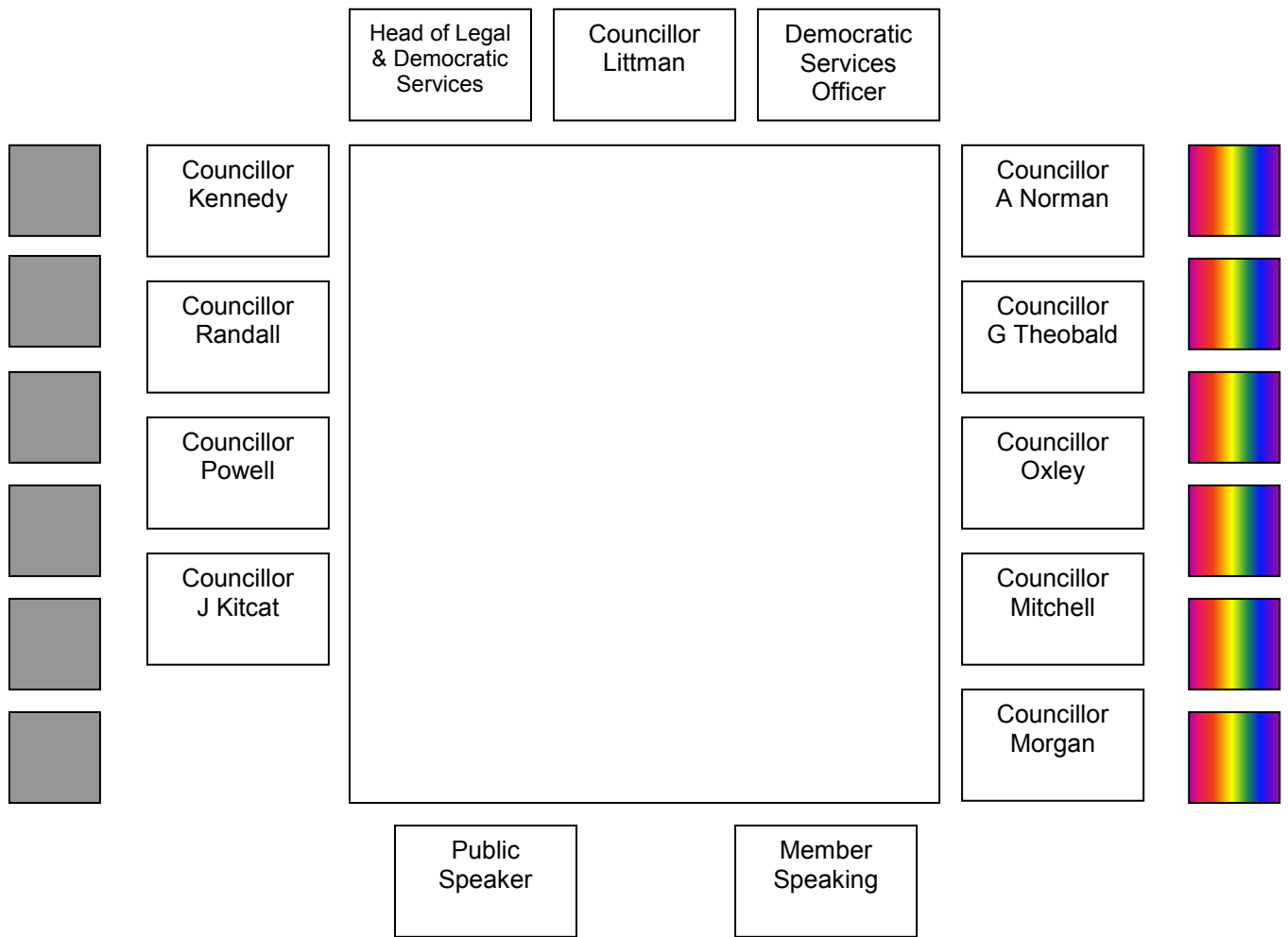
Brighton & Hove  
City Council

# Governance Committee

|          |   |
|----------|---|
| Title:   | <b>Governance Committee</b>   |
| Date:    | <b>26 July 2011</b>   |
| Time:    | <b>5.00pm</b>   |
| Venue    | <b>Council Chamber, Hove Town Hall</b>  |
| Members: | <b>Councillors:</b><br>Littman (Chair), A Norman (Deputy Chair),<br>Kennedy, J Kitcat, Morgan, Oxley, Powell,<br>Mitchell, Randall and G Theobald |
| Contact: | <b>Tanya Davies</b><br>Acting Democratic Services Manager<br>29-1227<br>tanya.davies@brighton-hove.gov.uk   |

|   |  |
|---|--|
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# Democratic Services: Meeting Layout



AGENDA

**1. 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.*

**2. MINUTES OF THE PREVIOUS MEETING**

**1 - 12**

Minutes of the meeting held on 1 February 2011 (copy attached).

**3. APPOINTMENT OF URGENCY SUB-COMMITTEE**

**4. CHAIR'S COMMUNICATIONS**

**5. CALLOVER**

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

**6. PETITIONS**

No petitions have been received.

**7. PUBLIC QUESTIONS**

(The closing date for receipt of public questions is 12 noon on 19 July 2011)

No public questions received as of 29 June 2011.

## GOVERNANCE COMMITTEE

### 8. DEPUTATIONS

(The closing date for receipt of deputations is 12 noon on 19 July 2011)

No deputations received as of 29 June 2011.

### 9. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

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

### 10. LOCAL GOVERNMENT BOUNDARY REVIEW AT SALTDEAN 13 - 16

Report of the Strategic Director, Resources (copy attached).

*Contact Officer: Oliver Dixon Tel: 29-1512*  
*Valerie Pearce Tel: 291850*  
*Ward Affected: Rottingdean Coastal*

### 11. LOCALISM BILL - UPDATE 17 - 46

Report of the Strategic Director, Resources (copy attached).

*Contact Officer: Elizabeth Culbert Tel: 29-1515*  
*Ward Affected: All Wards*

### 12. REVIEW OF PETITIONS SCHEME 47 - 64

Report of the Strategic Director, Resources (copy attached).

*Contact Officer: Elizabeth Culbert Tel: 29-1515*  
*Ward Affected: All Wards*

### 13. WEBCASTING PROTOCOL 65 - 78

(a) Draft extract of the proceedings of the Standards Committee meeting held on 21 June 2011 (copy attached).

(b) Report of the Monitoring Officer (copy attached).

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

### 14. CABINET PORTFOLIOS AND WAYS OF WORKING 79 - 112

(c) Extract of the proceedings of the Cabinet meeting held on 9 June 2011 (copy attached).

(d) Report of the Strategic Director, Resources (copy attached).

*Contact Officer: Abraham Ghebre-Ghiorghis Tel: 29-1500*  
*Ward Affected: All Wards*

**15. PART TWO MINUTES OF THE PREVIOUS MEETING**

**113 - 114**

Part Two minutes of the meeting held on 1 February 2011 (copy circulated to Members only).

**16. 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.

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](http://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 Davies, (29-1227, email [tanya.davies@brighton-hove.gov.uk](mailto:tanya.davies@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Monday, 18 July 2011

# GOVERNANCE COMMITTEE

## Draft Governance Committee Work Plan – 2010-11

|   | <b>Agenda Item</b>   | <b>Lead Officer</b>      |
|---|--|--------------------------|
|   | <b>Meeting 20 September 2011</b>   |                          |
|   | Chair's communications   |                          |
| 1 | Webcasting Contract  | Mark Wall / Paul Colbran |
| 2 | Members Allowances Review – Report of the Independent Remuneration Panel | Mark Wall/Angela Woodall |
| 3 | Police & Crime Commissioner Elections                                    | Claire Wardle            |
| 4 | Review of specific Polling Stations                                      | Claire Wardle            |
|   | <b>Meeting 15 November 2011</b>  |                          |
|   | Chair's communications   |                          |
| 1 |  |                          |
|   | <b>Future reports – dates to be decided</b>                              |                          |
| 1 | Byelaws – detailed report following publication of regulations           | Oliver Dixon             |
| 2 | Whistleblowing – progress update   |                          |
| 3 | Attendance Management Procedure – update (Autumn/Winter 2011)            | Charlotte Thomas         |
| 4 | Future of Overview & Scrutiny  | Tom Hook                 |
| 5 | Appointment of the Independent Remuneration Panel                        | Mark Wall                |

## GOVERNANCE COMMITTEE

### Review of Constitution Indicative Work Plan for the Governance Committee\*

|   |  |  |
|---|--|--|
|   |  |  |
|   | <b>Meeting 20 September 2011</b>   |  |
|   |  |  |
| 1 | Summary (Part 1) and Articles (Part2)  |  |
| 2 | Council Functions, Council Procedure Rules and Local Choice Functions (Part 3) |  |
|   | <b>Meeting 15 November 2011</b>  |  |
|   |  |  |
| 1 | Cabinet (Part 4)   |  |
| 2 | Committees and sub Committees (Part 5)   |  |
|   | <b>Meeting 10<sup>th</sup> January 2012</b>                                    |  |
|   |  |  |
| 1 | Overview and Scrutiny (Part 6)   |  |
| 2 | Scheme of Delegation to Officers (Part 7)                                      |  |
|   |  |  |
|   | <b>Meeting 20<sup>th</sup> March 2012</b>                                      |  |
|   |  |  |
| 1 | Procedure Rules (Part 8)   |  |
|   |  |  |
|   | <b>Meeting May 2012</b>  |  |
|   |  |  |
| 1 | Codes and Protocols (Part 9)   |  |

\* The order may change to reflect priorities.





**BRIGHTON & HOVE CITY COUNCIL**

**GOVERNANCE COMMITTEE**

**4.00PM 1 FEBRUARY 2011**

**COMMITTEE ROOM 3, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Oxley (Chairman), Brown, Davey, Elgood, Fallon-Khan, Kitcat, Mears, Mitchell, Morgan and Simson

**PART ONE**

**50. PROCEDURAL BUSINESS**

**50a Declaration of Substitutes**

50a.1 Councillor Morgan declared that he was present as a substitute for Councillor Simpson.

50a.1 Councillor Davey declared that he was present as a substitute for Councillor Randall.

**50b Declarations of Interest**

50b.1 All Members of the Committee declared a personal, but non-prejudicial, interest in Item 58, a report of the Independent Remuneration Panel concerning the Review of Members' Allowances, because they were all in receipt of allowances.

**50c Exclusion of Press and Public**

50c.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).

50c.2 **RESOLVED** – That the press and public be excluded from the meeting during consideration of items 66 onwards.

**51. MINUTES OF THE PREVIOUS MEETING**

51.1 **RESOLVED** - That the minutes of the meeting held on 4 November 2010 be approved as a correct record.

**52. CHAIRMAN'S COMMUNICATIONS**

52.1 There were none.

**53. CALLOVER**

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

**54. PETITIONS**

54.1 There were none.

**55. PUBLIC QUESTIONS**

55.1 There were none.

**56. DEPUTATIONS**

56.1 There were none.

**57. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS**

57.1 A letter had been received from Councillor Kitcat concerning the protocol and arrangements associated with the council's webcasting systems, including the potential for using the Open Government Licence. Councillor Kitcat stated that he felt that the current protocol was excessively restrictive, particularly in relation to the sharing of webcasts by Members on external media, and that a review of the protocol and contractual arrangements was required to address the problems.

57.2 The Chairman noted that the protocol was amended by the Committee in July 2009 to clarify the arrangements for using webcast images on forums such as You Tube and Facebook and that it was the original protocol that was considered by the First Tier Tribunal, not the amended one. He made the following comments:

- In relation to the original webcasting protocol, the Tribunal had relied on the fact that there were no express restrictions relating to reproducing or capturing information. The amended protocol dealt with the issue and made it clear that it was possible to post material onto external media, having received prior written approval.
- The First Tier Tribunal recognised in its decision that "there is the potential for misuse of such digitally stored information". Thus the amended protocol was intended to facilitate Members to capture and/or reproduce this data safely and appropriately.
- The issue of the Open Government Licence was being considered council wide, but before committing to it the council would work with our partners across the city to agree the most appropriate licence position.
- Under the contract with the webcast supplier Public-I, the intellectual property rights in the content of the webcasts were assigned to the Council under clause 9.1 of the contract, which meant that Public-i could not fetter the Council's use of the webcast material.

The Chairman advised that the council's contract with Public-i was due to expire in March 2011. The contractual arrangements were currently under review and a report would be brought to the next Governance Committee meeting in March covering both the protocol and the contractual arrangements.

57.3 **RESOLVED** – That the letter be noted.

## 58. REVIEW OF MEMBERS' ALLOWANCES

58.1 The Committee considered a report of the Independent Remuneration Panel (IRP) concerning the Members' Allowance Scheme for 2011/12.

58.2 Councillor Kitcat praised the IRP for the extensive work that went into the previous review and expressed disappointment that the Council had not agreed that report in October 2010. He moved an amendment requesting that the Committee adopt the IRP's previous report for the 2011/12 municipal year, resulting in a budget saving of 18,000.

58.3 Councillor Davey formally seconded the amendment.

58.4 The Chairman thanked the IRP for their work on the review and invited Simon Keane, Chairman of the IRP to introduce the report.

58.5 Mr Keane explained that the panel had produced a shorter report than usual given that the last report had been considered only three months prior. The report noted and acknowledged the concerns raised by Members in relation to the previous report; the panel had concluded that a holding report was appropriate at the current time and that a more detailed review would take place later in the year. The panel always welcomed comments from Members and had addressed concerns in relation to the childcare allowance in the report.

58.6 Councillor Mitchell praised the work of the IRP and stated that Members had adequate opportunity to make representations to the panel. She thanked the panel for reflecting her comments within the report. She stated that the report identified a saving of £18,080 and queried the basis for the additional £18,000 saving identified in the Green Group amendment.

58.7 Councillor Morgan commented that proposals to review the Overview & Scrutiny arrangements would have a significant impact on the Members' Allowances scheme and that it was appropriate to maintain the existing scheme until such changes were implemented.

58.8 Councillor Mears thanked the IRP for acknowledging Members' concerns and producing a balanced report that took account of the range of proposals that could affect the council in coming months. She added that the panel's previous report had been debated fully at Full Council and that the decision made there should be noted.

58.9 Councillor Elgood commented that the Members' Allowances should be a matter for the new Council following the local elections in May and that it was necessary to be mindful of the impact of a return to the committee system. He added that he could not make a

decision on the Green Group amendment without a copy of the IRP's previous report, which was not part of the agenda.

58.10 Councillor Kitcat advised that the £18,000 saving identified within the amendment had been costed by finance officers and was in addition to the savings identified in the report before the Committee. He stated that the IRP's previous report had disagreed with Members' comments about Special Responsibility Allowances (SRAs) and that changes that may be implemented in the future should not prevent the review of allowances now.

58.11 The Chairman advised that significant changes were not a long way off; work was already underway in relation to a revised Overview & Scrutiny structure and, although the current draft of the Localism Bill indicated that the council could not move to a committee system before 2015, there was still time for changes to be made. He stated that the IRP's previous report had not been agreed by the Council because a consensus could not be reached and added that an increase to the basic allowance would have been implemented if the report had been agreed, instead of maintaining it at the existing level.

58.12 Councillor Mears added that the report before the committee did include some changes and also stated that other comments would be considered when a more detailed review took place.

58.13 The Chairman put the Green amendment to the vote, which was lost.

58.14 In putting the recommendations within the report to the vote, the Chairman stated that an amendment to both recommendations was required in order to ensure that the report was referred to the Full Council for the final decision to be made.

58.15 **RESOLVED –**

(1) **That the Governance Committee recommends to Full Council** that, in view of the current economic climate, the current Members' Allowances Scheme be retained and adopted for the 2011/12 municipal year, with effect from the 20 May 2011.

(2) **That the Governance Committee recommends to Full Council** That the Panel's report be noted and a subsequent report be brought before this committee and Full Council later in 2011/12 when the outcome of the Localism Bill is known and further review has been undertaken.

## **59. POLLING DISTRICT AND POLLING PLACE REVIEW**

59.1 The Committee considered a report of the Strategic Director, Resources concerning the statutory review of polling districts and polling places provided for elections within the city.

59.2 The Head of City Services advised that the report gave details of the statutory review of polling stations and explained that, in addition, the council continuously reviewed polling stations and considered ways of improving access. Extensive consultation had taken place between 25 March and 31 December 2010 and the review had been completed

ahead of schedule. The changes identified in the report would be implemented from 1 March 2011, in time for the local elections in May.

- 59.3 Councillor Mears thanked the Electoral Services Team for their work on the review.
- 59.4 Councillor Morgan commented that it now appeared unlikely that the Boundary Committee would periodically review ward boundaries.
- 59.5 Councillor Elgood thanked the Electoral Services Team for their ongoing commitment to reviewing polling stations in light of access issues.
- 59.6 In response to a question from Councillor Elgood regarding the Disability Discrimination Act, the Electoral Services Manager reported that a number of polling stations were yet to be visited to determine whether ramps could safely be fitted; where this was not possible, alternative ways of voting would be identified. In response to a further question regarding the polling station at St Patrick's Church and the merging of two polling districts, the Electoral Services Manager agreed to provide Councillor Elgood with a written response.
- 59.7 In response to a question from Councillor Davey regarding the polling stations at Downs Infant School, the Electoral Services Manager confirmed that, for the local elections, two separate polling stations would continue to be housed in the same building.
- 59.8 Following a question from the Chairman, the Electoral Services Manager confirmed that ward councillors had been notified of any proposed changes within their ward.
- 59.9 **RESOLVED** - That the Governance Committee approves:
- (i) That the proposals for polling districts and places be as outlined in Appendix 1 to this report and any further suggested amendments that may be proposed. In particular that:
    - (a) the polling station for CV, Moulsecoomb & Bevendean Ward, be changed from Bevendean Primary School to the Church Hall, Norwich Drive.
    - (b) that Hertford Infant School be retained as the polling station for GZ, Hollingdean & Stanmer Ward, in the absence of any support for changing this polling station.
    - (c) that the polling arrangements within Patcham Ward remain unchanged, following a wider consultation.
    - (d) that the temporary building (portacabin) be retained as the polling station for JW, Preston Park Ward, in the absence of any support for changing this polling station.
    - (e) that the Friends Centre, Brighton Junction, Stroudley Road, be designated as the polling station for KS, St Peter's & North Laine Ward, as an alternative to St Bartholomew's CE Primary School.

- (f) that the Aldrington Recreation Ground Pavilion, Wish Road, be retained as the polling station for SX, Wish Ward, in the absence of alternatives.
- (ii) That the Electoral Services Manager, on behalf of the Returning Officer and Electoral Registration Officer, be authorised to take the measures, as required by law, to bring the changes into effect.
- (iii) That in the event that any recommendations cannot be implemented in time for the City Council elections on 5 May 2011, any outstanding issues be resolved by the publication of the electoral register on 1 December 2011.
- (iv) That the Committee delegates to the Returning Officer (the Chief Executive), following consultation with the Group Leaders and respective ward councillors, the designation of alternative polling places in the event of any polling place not being available at any particular election.

## **60. INDIVIDUAL ELECTORAL REGISTRATION**

- 60.1 The Committee considered a report of the Strategic Director, Resources concerning Government proposals for the introduction of Individual Electoral Registration (IER).
- 60.2 The Head of City Services explained that IER was part of a wider package of electoral reform proposed by the Government and further reports would be brought to the Committee when more information was made available.
- 60.3 The Electoral Services Manager confirmed that secondary legislation was not expected before mid-2011.
- 60.4 Councillor Mitchell stated that, while she recognised the need for a secure process, she was concerned at the speed at which the proposals were being progressed and that consideration needed to be given to the impact on certain groups who may not find out about the changes or want to provide the required information.
- 60.5 In response to a question from Councillor Mitchell, the Electoral Services Manager explained that those already on the electoral register would be invited to supply the required personal identifiers and would be given one year's grace if their identity could not be verified following the 2015 elections.
- 60.6 Councillor Mitchell added that her main concern was for new electors for whom no details were held.
- 60.7 In response to questions from Councillor Kitcat, the Electoral Services Manager reported that 10 local authorities had been chosen by the Cabinet Office to pilot IER and that the pilots would provide more information on the potential effect of data sharing on the level of registration.
- 60.8 The Head of City Services advised that the £104 million identified by the Government to implement IER nationwide was likely to be allocated by formula. She acknowledged that it would become more difficult to get and keep people on the electoral register and that

expertise would be shared across the City Services delivery unit in order to proactively consider new ways of working.

- 60.9 Councillor Mears welcomed the report and the need for a more secure system of electoral registration.
- 60.10 In response to a comment from the Chairman about raising awareness of IER amongst communities, Councillor Simson existing links would be built upon to ensure that the message was communicated clearly.
- 60.11 Councillor Morgan stated that he was disappointed that the proposals did not include a requirement to vote. He raised concerns about the effect of proposed changes to Parliamentary Boundaries, which would depend on levels of registration; he hoped that any changes to the city's three constituencies would be would not result in areas being from the city as a whole. He added that if the city was required to take in areas currently outside its boundaries, the council would have little time to verify the new electors during a very busy period.
- 60.12 **RESOLVED** - That the Committee notes the government's intentions and the implications of the introduction of IER.

## 61. LOCALISM BILL

- 61.1 The Committee considered a report of the Strategic Director, Resources detailing the key provisions of the Localism Bill, which deals with Government proposals in relation to local authority governance arrangements, community empowerment, planning and housing.
- 61.2 The Chairman noted that officers from Housing and Planning departments were present to answer questions and that a briefing note for communities on the neighbourhood planning proposals had been circulated (see Appendix 1).
- 61.3 The Acting Assistant Head of Law explained that, although the current draft of the Bill indicated that the council may not be able to move to a committee system until 2015, there remained the option of putting forward alternative governance arrangements. The second reading of the Bill took place on 17 January and the public committee debate stage was now underway and due to finish on 10 March; the report stage would follow and Royal Assent was expected in November 2011.
- 61.4 Councillor Mitchell stated that the Bill contained a mixture of proposals, including some good opportunities for communities, but noted that it would be essential that all sections of the community were empowered to use new mechanisms. She requested that seminars be organised for Members as the Bill progressed.
- 61.5 Councillor Morgan raised concerns about the abolition of the existing Standards Framework, including the independent process for holding Members' to account, and queried how the council would do this in the future.
- 61.6 Councillor Simson advised that Members must play a role in providing clear information to prevent any misunderstanding of the Bill within communities. She added that the

council would do all it could to empower people across the city and target hard to reach communities.

- 61.7 Councillor Elgood welcomed the Bill, which he felt offered wide-ranging opportunities to give more power to local people, particularly in relation to neighbourhood planning. He highlighted the proposals in relation to assets of community value and the opportunities it presented to reclaim building, such as the Old Market, for community use.
- 61.8 Councillor Kitcat suggested that a road map for the future of the Standards regime would be useful to Members and noted that the council would need to be proactive in preventing conflict amongst community groups.
- 61.9 Councillor Mears welcomed the wide-ranging nature of the Bill and agreed that an independent process for holding Members to account was required. She advised that she intended to write to the city's three MPs about the provisions in the Bill in relation to the possibility of returning to a committee system.
- 61.10 The Acting Assistant Head of Law confirmed that no dates had been set for the publication of secondary legislation and that discussions in Parliament had noted the grey areas identified by Members. In relation to the Standards regime, the duty to uphold and promote a high standard of conduct would remain, making it necessary for the council to use some sort of framework.
- 61.11 The Head of Legal & Democratic Services reported that the Standards Committee was shadowing the Bill as it progressed and may establish a working group. The intention was for a framework and report to be presented to the Governance Committee before seeking final approval from the Full Council.
- 61.12 In response to questions from Councillor Fallon-Khan and Davey, the Head of Planning Strategy explained that the Community Infrastructure Levy (CIL) was designed to compliment existing Section 106 arrangements by recognising the need for ongoing development of infrastructure. Local authorities would have the option to impose a CIL and funds could be passed on to neighbourhoods if appropriate. The CIL could also contribute to development citywide.
- He also explained that Neighbourhood Development Plans (NDP) must comply with the Local Development Plan and would therefore be able to promote more, but not less development. He agreed to provide a written response to the Committee detailing the relationship between a NDP and a Neighbourhood Development Order (NDO).
- 61.13 In response to a question from Councillor Mitchell in relation to accountability, the Acting Assistant Head of Law advised that final accountability for the operation of new mechanisms was likely to be determined provision by provision; in the case of assets of community value, local authorities would be required to consider and approve a business case before an asset is transferred to a community group.
- 61.14 **RESOLVED** - That Committee notes the key provisions of the Localism Bill and requests further reports as the Bill progresses, including proposals for implementation in Brighton & Hove.



**62. FUTURE OF OVERVIEW & SCRUTINY**

- 62.1 The Committee considered a report of the Strategic Director, Resources concerning proposals for the future of the council's Overview & Scrutiny function.
- 62.2 The Head of Overview & Scrutiny explained that the changes proposed were driven by the increased importance of partnership working and shared services, and the introduction of intelligent commissioning. There was a need to engage more consistently with partner organisations and to alter the structure of Overview & Scrutiny (O&S) committees to fit with the council's new internal structure. Two options were detailed in the report: (1) a reduced number of committees, or (2) one O&S commission with ad-hoc panels established for specific purposes. There was opportunity for flexibility under both options and the number of meetings would reduce overall. Informal discussions with partners had already begun and the report had been agreed by the Overview & Scrutiny Commission.
- 62.3 Councillor Mitchell advised that proposals were still being worked on and that the final arrangements would take account of forthcoming legislative changes.
- 62.4 Councillor Kitcat stated that he would prefer the retention of some standing committees because it could be difficult to sit on an ad-hoc panel with no prior knowledge of the subject. The Committees gave Members the opportunity to develop valuable knowledge and expertise before engaging in a review.
- 62.5 In response to a query from Councillor Simson regarding the role of the Community Safety Forum (CSF), the Head of O&S advised that the Environment & Community Safety Overview & Scrutiny Committee (ECSOSC) exercised the statutory function in relation to community safety. There was a dialogue between the ECSOSC and the CSF, and the proposals would not directly affect the role played by the CSF. He also confirmed that the statutory requirement to retain a Health Overview & Scrutiny Committee also remained.
- 62.6 Councillor Morgan noted the potential for conflicts of interest in relation to future commissioning opportunities if partner organisations become involved in the O&S process.
- 62.7 **RESOLVED** - That the Committee agrees in principle the direction of travel as set out in the report and instructs officers to further develop proposals for a partnership based, commissioning friendly scrutiny function.

**63. CIVIC AWARENESS COMMISSION: UPDATE**

- 63.1 The Committee considered a report of the Strategic Director, Resources updating Members on the work of the Civic Awareness Commission in accordance with its agreed terms of reference.
- 63.2 The Chairman reported that the Commission's work was currently focussed on a number of upcoming anniversaries and celebrations taking place in the city. He confirmed that the Commission, chaired by Adam Trimmingham, had working group status and that all political groups were represented.

63.3 Councillor Mears stated that the Commission was the appropriate body to assist in promoting the celebrations given its cross-party nature.

63.4 **RESOLVED** - That the Committee notes the report.

#### **64. REVIEW OF MEETINGS TIMETABLE**

64.1 The Committee considered a report of the Strategic Director, Resources concerning the proposed timetable of meetings for 2011/12.

64.2 Councillor Kitcat highlighted the issue of clashes with meetings of the Police and Fire Authorities.

64.3 Councillor Simson also noted that there were a small number of clashes, which made it difficult for councillors and members of the public. She also reported that the number of personnel appeals had increased during the previous year.

64.4 In response to the comments from Members, the Head of Democratic Services advised that, where possible, licensing panels would hear two applications in one sitting, but that statutory timescales meant that this was not always possible. The timetable had been sent to the Police and Fire Authorities, but they had chosen to set their meeting dates at times which clashed with council meetings.

64.5 The Head of Legal & Democratic Services explained that the Fire Authority also included Members from across the local authorities in East Sussex and that it would be difficult for them to identify times that were convenient to all Members, but that the council would do what it could to prevent clashes in the future.

64.6 **RESOLVED** - That the proposed timetable of meetings for 2011/12 be approved.

#### **65. ATTENDANCE MANAGEMENT**

65.1 The Committee considered a report of the Strategic Director, Resources concerning action taken by the council to manage sickness absence within its workforce and how performance compares with other local authorities over the last five years.

65.2 The Head of Human Resources & Development explained that pilot projects using additional resources had been successful in reducing sickness absences, but that improved levels could not be sustained once funding came to an end. The priority now was to sustain reduced levels of sickness absence and the new policy and electronic system designed to tackle this would come into force on 1 April 2011. Training would be provided to managers, who would automatically receive instant data of sickness and e-alerts when triggers were reached. A report on the progress of the new system would come to the Committee after six months.

65.3 Councillor Fallon-Khan expressed concern that improved sickness levels had not been sustained following the pilots. In his former role as Cabinet Member for Central Services, tackling absence had been a priority, with daily reporting and back to work interviews highlighted as necessary to combat stress in the workplace. He requested

clarification as to why the impact of the pilots had not been built upon throughout the organisation.

- 65.4 The Head of HR&D explained that the pilots had been carried out using additional resources and that a team of 10 people had manually reported sickness absence information to managers instantly. This approach was too resources intensive and could not be sustained without extra funding. Subsequently implementation of an electronic system had been approved and this would go live across the April; it would supply managers with instant data without the need for extra resources and would mean the changes seen during the pilots could be sustained in the long term.

She also explained that HR worked closely with managers to bring conclusions to cases of long term sickness and make occupational health referrals where appropriate. She added that there were cases where managers had failed to inform HR that incidences of sickness had ended, but that this would be prevented in the new system.

- 65.5 **RESOLVED** - That the Governance Committee notes the report.

### PART TWO SUMMARY

#### 66. PART TWO MINUTES OF THE PREVIOUS MEETING

- 66.1 **RESOLVED** - That the Part Two minutes of the meeting held on 4 November 2010 be approved as a correct record.

#### 67. EQUAL PAY (RESIDUAL ISSUES)

- 67.1 The Committee received a verbal update from the Head of Human Resources & Development concerning residual issues in relation to equal pay.

- 67.2 **RESOLVED** – That the update be noted.

The meeting concluded at 6.00pm

Signed

Chair

Dated this

day of



|                         |   |  |                            |
|-------------------------|---|--|----------------------------|
| <b>Subject:</b>         | <b>Local Government Boundary Review at Saltdean</b> |  |                            |
| <b>Date of Meeting:</b> | <b>26 July 2011</b>                                 |  |                            |
| <b>Report of:</b>       | <b>Strategic Director, Resources</b>                |  |                            |
| <b>Contact Officer:</b> | <b>Name:</b>  | <b>Oliver Dixon</b>                        | <b>Tel:</b> <b>29-1512</b> |
|                         |   | <b>Valerie Pearce</b>                      | <b>29-1850</b>             |
|                         | <b>E-mail:</b>                                      | <b>oliver.dixon@brighton-hove.gov.uk</b>   |                            |
|                         |   | <b>valerie.pearce@brighton-hove.gov.uk</b> |                            |
| <b>Wards Affected:</b>  | <b>Rottingdean Coastal</b>                          |  |                            |

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report summarises the latest situation regarding a potential review of the local government boundary at Saltdean.
- 1.2 Previous updates and recommendations on this topic have been brought to Governance Committee, as matters regarding the geographical extent of the council and consequential electoral arrangements fall within its terms of reference.
- 1.3 The Committee is asked to recommend to Cabinet next actions in light of a recent meeting with and guidance from the Local Government Boundary Commission for England.

#### 2. RECOMMENDATIONS:

- 2.1 That the Committee:
  - (a) Notes the latest advice and guidance from the Local Government Boundary Commission for England on the policy and procedures for principal area boundary reviews in general, and for Saltdean in particular.
  - (b) Considers whether to support a boundary review at Saltdean and, if so, whether to recommend a survey of the residents of Saltdean to gauge local support.
  - (c) Refers the matter to Cabinet with recommendations.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Local Government Boundary Commission for England ('the Commission') is the body responsible for conducting reviews of administrative boundaries such as

those between Brighton & Hove City Council and its neighbouring local authorities.

- 3.2 The question of a potential boundary review at Saltdean was last brought to Governance Committee in September 2010 where Members were briefed on the capability and capacity of the Commission to carry out a review at Saltdean in the short to medium term.
- 3.3 At the time, the Commission was unable to offer a definite timeframe for contemplating a review here, as they were still preparing draft technical guidance on the policies and procedures for conducting reviews of that type.
- 3.4 At the meeting, a representative of Saltdean Residents Association (SRA) requested the council to host an informal on-line survey of Saltdean residents to ascertain their views on a potential review, as a way of keeping the matter current, pending the publication of guidance by the Commission. Members agreed to consider the request.
- 3.5 However, within two months the Commission issued consultation on its draft policies and procedures for boundary reviews, and, by agreement with SRA, it was decided not to pursue an on-line survey during this period of policy development.
- 3.6 In December 2010 the council submitted a response to the consultation.
- 3.7 Also that month the Chair of the Commission wrote to the Leader, seeking confirmation that Brighton & Hove City Council still wished the Commission to conduct a review of its boundary with Lewes District Council and East Sussex County Council (ESCC). The Leader replied in the affirmative, re-confirming the Cabinet decision of 9 December 2009.
- 3.8 This led to a meeting between the Commission and the Council on 7 April 2011, attended also by officers from Lewes DC and ESCC, to outline the criteria against which the Commission would decide whether to proceed with a review. These factors were subsequently confirmed in technical guidance issued by the Commission in May, following the consultation exercise.
- 3.9 The Commission will only consider a boundary review request if all the local authorities affected support the proposed change. Since the last time the matter was considered by Governance Committee (Sept 2010) there has been a change of administration in Brighton & Hove and in Lewes. The Cabinets at both authorities need to consider whether they wish to support a boundary review at Saltdean. The position of ESCC is unchanged, having declared their support in principle.
- 3.10 Brighton & Hove's Cabinet will be invited to make a decision in light of recommendations from the Governance Committee. The Lewes administration are aware of the issues but have yet to consider the matter formally.

- 3.11 If all three councils wish there to be a review, each would be required to submit a business case for the proposed change to the Commission, demonstrating:
- (i) how the proposal represents value for money;
  - (ii) how the change would result in effective and convenient local government, reflects community identities and interest, and which therefore has local support; and
  - (iii) how the transfer of electors following the change might be addressed by new electoral arrangements in their area
- 3.12 The Commission has made clear they would only undertake a review on one option for change. This means that, assuming all three councils are behind a review, the councils could survey Saltdean residents on a range of options, but would submit to the Commission a single proposition for change based on the survey outcome.

#### **4. CONSULTATION**

- 4.1 If all three authorities support a review, the business case submitted to the Commission must demonstrate local support. This would necessitate a consultation exercise to canvass the views of Saltdean residents.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 If the decision is taken to ascertain the views of Saltdean residents on a potential boundary change, the survey should be conducted jointly by the three local authorities affected. On that basis, the costs of implementing the survey and analysing the results should be split equally between all three bodies. Budgetary provision to cover the costs of the survey will need to be identified.
- 5.2 Following consideration of such a survey, the business case for a boundary review would need to demonstrate how the review would provide value for money, taking into account transitional and on-going costs.

*Finance Officer Consulted: Anne Silley*

*Date: 12/07/11*

##### Legal Implications:

- 5.3 This report comes before the Governance Committee as the council body responsible for considering local governance issues, and for reasons of continuity, having twice previously considered the Saltdean issue. It is for Cabinet to decide whether to support a boundary review and a survey of residents, having regard to any recommendation the Governance Committee may make.

*Lawyer Consulted:*

*Oliver Dixon*

*Date: 12/07/11*

Equalities Implications:

- 5.4 None arising directly from this report

Sustainability Implications:

- 5.5 None arising directly from this report

Crime & Disorder Implications:

- 5.6 None

Risk and Opportunity Management Implications:

- 5.7 As indicated in the report, the Commission will not proceed with a boundary review unless all the affected local authorities agree to the proposed change. Moving the proposal forward therefore depends on the position adopted not just by the Executive at Brighton & Hove, but that of their counterparts at Lewes District Council and East Sussex County Council.

Corporate / Citywide Implications:

- 5.8 The council will need to continue to liaise closely with Lewes DC and ESCC on this issue, in order to maintain a consistent and shared approach.

**SUPPORTING DOCUMENTATION**

**Appendices:**

None

**Documents In Members' Rooms**

None

**Background Documents**

1. 'Principal Area Boundary Reviews: technical guidance', issued in May 2011 by the Local Government Boundary Commission



**Subject:** Localism Bill - update  
**Date of Meeting:** 26 July 2011  
**Report of:** Strategic Director, Resources  
**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 The Localism Bill was considered by Governance Committee on 1<sup>st</sup> February 2011 and has since completed its passage in the House of Commons and passed to the House of Lords..
- 1.2 This report updates Governance Committee on the progress of the Localism Bill, highlighting the key amendments that have been made to the Bill.

#### 2. RECOMMENDATIONS:

- 2.1 That Governance Committee notes the report and requests further updates as the Bill progresses, including proposals for implementation for Brighton & Hove.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Localism Bill was published on 13<sup>th</sup> December 2010. A report setting out the key provisions and impact of the Bill was considered by Governance Committee on 1<sup>st</sup> February 2011. A copy of the report is attached at Appendix One for reference. Governance Committee requested further reports on the progress of the Bill and this report highlights amendments that have been made to the Bill since February 2011.
- 3.2 The Bill has now passed through the House of Commons, had its second reading in the House of Lords, and is currently being debated line by line in Committee by the Lords. The Bill will then return to the Commons for consideration of Lords amendments. The Government is aiming to achieve Royal Assent in November 2011. The provisions of the Bill will then be brought into force in stages after Royal Assent.

#### House of Commons Amendments

- 3.3 Despite a great deal of debate, the Bill passed through the Commons with relatively few amendments. The main changes are set out below.

## **General Power of Competence**

- 3.4 The general power of competence provides a discretionary power for local authorities to undertake wide-ranging activities (a “power to do anything that individuals generally may do”). The Bill also enables the Secretary of State to remove any constraints in existing legislation that he thinks would restrict authorities from using the new power.
- 3.5 A new clause has introduced a set of conditions that the Secretary of State must comply with in considering whether any particular piece of legislation should be varied or repealed. There were concerns that the scope for the Secretary of State to amend or repeal legislation was too wide. The new conditions are intended to address that, requiring a balancing of public interest and the interests of individuals and that there should be no removal of necessary protections or constitutionally significant provisions.

## **Standards**

- 3.6 The only change made in relation to the provisions relating to standards has been to require that if a local authority chooses to adopt a voluntary code of conduct, or revises or withdraws its code, then the authority must (rather than may) publicise it.

## **Local Referendums**

- 3.7 One change was made in the Commons to remove the power for the Secretary of State to rule that an issue should not be treated as a “local matter” (and therefore not be eligible to be the subject of a local referendum). Further amendments on referendums are considered below following the House of Lords debate.

## **Advice and Assistance**

- 3.8 Four new clauses have been introduced authorising the Secretary of State to provide advice and assistance (including financial assistance) in relation to:-
- The community right to challenge
  - Assets of community value
  - Neighbourhood planning
- 3.9 The aim is to help community groups with the practicalities of exercising these new rights. The advice and assistance includes training or education. Financial assistance can be by any means including a loan, guarantee or indemnity.

## **Neighbourhood Forums**

- 3.10 Under the Bill, areas that do not have a parish council can form a neighbourhood forum to decide on local planning issues. The requirements for neighbourhood forums have been changed so that now they must be established either to further the social, economic or environmental wellbeing of individuals living in the area,

or to promote the carrying on of trades, professions or other businesses in the area (this latter part is new).

- 3.11 Membership of neighbourhood forums has also been amended to broaden the criteria to include individuals who work (as well as live) in the area and elected members. Membership must now include at least 21 individuals (it was originally 3), who must all either live, work or be an elected member for the neighbourhood area concerned.
- 3.12 In deciding whether to designate a body as a neighbourhood forum, the local planning authority must look at the membership and consider whether there is a representative from each of the categories of member (resident, worker, elected member) and whether the membership is drawn from different sections of the community in that area. The local planning authority must also have regard to whether the purpose of the proposed neighbourhood forum reflects (in general terms) the character of the area. These are welcome amendments which should work to improve the legitimacy of neighbourhood forums.

### **Planning permissions – local finance considerations**

- 3.13 One of the most controversial amendments to the Bill in the Commons was to include “any local finance considerations” (such as the New Homes Bonus and Community Infrastructure Levy) to the list of considerations to which the local planning authority is required to have regard when considering an application for planning permission.
- 3.14 There has been widespread opposition to this requirement to have regard to local finance considerations as it is seen as a fundamental threat to the planning system and several groups, including the Royal Town and Planning Institute have called for it to be removed.

### **House of Lords Amendments (as at 12<sup>th</sup> July 2011)**

#### **Elected Mayors**

- 3.15 Two significant amendments have been agreed in the Lords in relation to elected Mayors. Firstly, the ability for elected Mayors to combine their role with that of the Chief Executive has been removed from the Bill. Secondly the provisions relating to “shadow mayors” have been removed. These provisions would have required local authority leaders of specified authorities (the 12 largest cities) to be treated as an elected Mayor pending an election of a Mayor.

#### **Pay Accountability**

- 3.16 The provisions requiring councils to produce senior pay policy statements have been amended to require pay policy statements. Specifically, a local authority pay policy statement under this amendment must include not only pay policies in relation to Chief Officers, but also must include details of the remuneration of its lowest paid employees. In addition, the relationship between the remuneration of Chief Officers and the remuneration of employees who are not Chief Officers

must be included in the statement. Remuneration is defined widely to include salary, bonuses, allowances and compensation.

- 3.17 These amendments reflect support in the Lords for the findings in Will Hutton's report on fair pay in the public sector (15th March) of the benefits of setting decisions on senior pay in the context of the pay of the rest of a body's workforce.

### **Referendums**

- 3.18 A number of practical issues involved in fielding and managing the proposed referendum scheme were raised in both the Commons and the Lords. The Bill enables local people to petition for a referendum to be held on a subject of local concern. There is also provision for ward councillors to request a referendum and for a referendum to be held on a ward basis.
- 3.19 One of the issues debated has been the cost of holding a referendum – the Government estimates the cost of holding a referendum to be 50p per head if held at the time of an election or £1.50 if held another time.
- 3.20 The amendments agreed in the House of Lords make holding local referendums discretionary in many cases. These include where the cost of holding the referendum would be more than 5% of the council tax requirement for that year, where the issue (or a similar issue) has been the subject of a referendum in the previous four years or where there is an alternative statutory process to make representations with a right of appeal.

### **Community right to bid for assets of community value**

- 3.21 The Lords have agreed an amendment which will require the Local Authority to inform the owner of the land in question that a bid has been received. There has also been an amendment to require local authorities to co-operate where the land of community value straddles more than one local authority area.

### **Planning and housing matters**

- 3.22 At the time of writing this report the Lords had not debated the planning and housing elements of the Bill. Officers will be able to give a verbal update at the meeting.

### **Work in Brighton & Hove and next steps**

- 3.23 The Governance Committee has a particular interest in the governance and community empowerment provisions of the Bill as well as an oversight and co-ordinating brief in respect of the other areas. Further updates can be brought to the Committee as the Bill progresses and secondary legislation is drafted. An update on Planning issues was presented to the Planning, Employment, Economy and Regeneration CMM on 7<sup>th</sup> July 2011.

- 3.24 Although there have not been significant amendments tabled in relation to the Community Right to Challenge (to run council services) and the Community Right to Bid (to buy assets of community value), the Government is currently consulting on those provisions. The Council has engaged with these consultations and is awaiting the responses, which are likely to shape the secondary legislation where much of the detail in relation to these provisions will need to be fleshed out.
- 3.25 As detailed above, the Bill is on track to receive Royal Assent in November 2011 and particular provisions will come into force in stages after that date.

#### **4. CONSULTATION:**

- 4.1 No specific consultation has been undertaken in relation to this report, which is for information. Earlier briefings have been taken to Governance Committee and relevant CMMs.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 There are no direct financial implications relating to the recommendations. There are likely to be significant resource implications relating to individual proposals within the Localism Bill as they are taken forward and these will need to be carefully considered, quantified and reported back at a later date

*Finance Officer Consulted: Anne Silley Date: 12/07/11*

##### Legal Implications:

- 5.2 These are set out in the body of the report.

*Lawyer Consulted: Elizabeth Culbert Date: 12/07/11*

##### Equalities Implications:

- 5.3 Equality Impact Assessments have now been published in relation to the provisions of the Bill.

##### Sustainability Implications:

- 5.4 There are no direct sustainability implications arising from this report. Any implications in relation to specific proposals for decision locally will need to be reported as proposals are brought forward.

##### Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 None. This report is for information only – any implications in relation to specific issues for decision locally will need to be reported on as proposals are brought forward.

Corporate / Citywide Implications:

- 5.7 These are addressed in the body of the report.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Report to Governance Committee dated 1<sup>st</sup> February 2011 with appendices.

**Documents In Members' Rooms**

None

**Background Documents**

None

# GOVERNANCE COMMITTEE

## Agenda Item 61

Brighton & Hove City Council

|                         |                                      |   |                     |
|-------------------------|--------------------------------------|---|---------------------|
| <b>Subject:</b>         | <b>Localism Bill</b>                 |   |                     |
| <b>Date of Meeting:</b> | <b>1 February 2011</b>               |   |                     |
| <b>Report of:</b>       | <b>Strategic Director, Resources</b> |   |                     |
| <b>Contact Officer:</b> | <b>Name:</b>                         | <b>Elizabeth Culbert</b>                      | <b>Tel:</b> 29-1515 |
|                         | <b>E-mail:</b>                       | <b>elizabeth.culbert@brighton-hove.gov.uk</b> |                     |
| <b>Wards Affected:</b>  | <b>All</b>                           |   |                     |

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Localism Bill (the Bill) was published on 13<sup>th</sup> December 2010. The Bill has been described as the most radical piece of legislation in the Coalition's programme for government and is a key element in the government's Big Society and decentralisation agendas.
- 1.2 A preliminary report on the anticipated remit of the Bill came to Governance Committee on 16<sup>th</sup> November 2010 and a further report was requested once the Bill was published.

#### 2. RECOMMENDATION:

- 2.1 That Governance Committee notes the key provisions of the Localism Bill and requests further reports as the Bill progresses, including proposals for implementation in Brighton & Hove;

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 This briefing summarises the main provisions of the Bill. The Appendices set out each of the measures in detail. The Bill can be grouped into four key areas, considered below:-

- **Local Authority Governance arrangements**
- **Community empowerment**
- **Planning**
- **Housing**

#### 3.2 Local Authority Governance (Appendix One)

The arrangements for different models of Local Authority Governance and changes to general local government powers and duties are set out in **Appendix One**. The changes include:-

- **Local authority governance** - the Bill sets out new provisions as to the governance arrangements which authorities may adopt and the mechanisms (including timing) for changing governance arrangements. Provisions include a new power for the Secretary of State to require authorities to carry out referendums on a move to a mayoral system.
- For the Governance Committee the proposals in Appendix One will be particularly significant, falling as they do within the Committee's decision making remit
- **The general power of competence** - this new power is intended to free local authorities from the existing restrictions on their ability to undertake activities outside their specific functions and matters incidental to those functions. It will give local authorities the very wide power to "do anything that individuals generally may do".
- **Clarification on predetermination rule** - the Bill aims to clarify that members are not prevented from voting on a matter where they have previously given indications of their view on that issue, as long as at the point the decision is taken this is done with an open mind and taking account of all that is said.
- **Abolition of existing standards regime**- the existing regime, including the Standards Board, the requirement to have a Standards Committee and the model Code of Conduct, is abolished. In its place is a broad requirement for authorities to "promote and maintain high standards of conduct by members", with an optional power for an authority to operate its own code of conduct and a mandatory requirement to operate a list of members' interests.
- **Policy statements on senior staff pay** - these will have to be published annually.

### 3.3 Community Empowerment (Appendix Two)

The Community Empowerment provisions are considered in detail in **Appendix Two**. The key provisions include:-

- **Assets of community value** - a new regime will require authorities to keep lists of "assets of community value" and prevent owners from disposing of such land until community groups have had the opportunity to bid for it.
- **Community right to challenge** - authorities will be required to consider expressions of interest from specified groups who wish to take over the provision of services which are provided by or on behalf of the local authority.
- **Referendums on local issues** - authorities will be required to hold referendums on local issues, either for the whole of their area or a smaller part of it, when this is requested by 5% of residents or at the request of local authority members. The existing provisions prescribing how local authorities deal with petitions are repealed.
- **Annual Council Tax Referendum** – if authorities propose a Council Tax increase in excess of the specified threshold, they will be required to hold a referendum seeking agreement to the proposal for that financial year.



### 3.4 Planning (Appendix Three)

The planning proposals are set out in detail in **Appendix Three** and include:-

- **Plans and strategies** - Regional Spatial Strategies are to be abolished and Councils are to be given greater flexibility in relation to the statutory examination of their development plans.
- **Pre-application consultation** - developers will be required to engage in pre-application consultation on major schemes (within a centrally determined threshold).
- **Neighbourhood planning** – a radical new system of planning and development at neighbourhood level is introduced, incorporating the ability of qualifying neighbourhood bodies to make Neighbourhood Development Orders and Community Right to Build Orders.
- **Community Infrastructure Levy (CIL)** - reporting requirements in relation to the CIL are reduced and the Secretary of State will have the power to require local authorities to pass CIL onto other bodies.
- **Enforcement** - local planning authorities will have the power to decline retrospective planning applications once an enforcement order has been served. The Bill also creates a “Planning Enforcement Order” which will allow local authorities to take enforcement action against a planning breach even where the standard time limits have expired.
- **Nationally Significant Infrastructure projects** – national infrastructure decisions are transferred from the Infrastructure Planning Commission to the Secretary of State.

### 3.5 Housing (Appendix Four)

Significant reforms to the social housing sector are included in the Bill and these are considered in more detail in **Appendix Four**. The measures set out in the Bill include:-

- **Social housing allocation and homelessness** - the Bill gives greater powers to local authorities to develop their own allocations policies and flexibility in terms of dealing with their homelessness obligations.
- **Social housing tenure reform** - there will be a new flexibility for social landlords to introduce fixed term tenancies of two or more years in place of the current lifetime tenancy, and to limit succession rights to a spouse or partner. This will be a flexibility rather than a requirement.
- **Housing finance** - the current centralised Housing Revenue Account system will be replaced with a locally run, self-financing system. Provisions

are made for a one off payment to each council to enable them to support their stock from their own income.

- **Housing mobility** - a National Home Swap Scheme will be introduced with the intention of making it easier for social tenants to move to a new home.
- **Social housing regulation** – the Tenant Services Authority is to be abolished and replaced by a statutory committee of the Homes and Communities Agency.
- The above provisions are those that currently appear on the face of the Bill. There are other significant proposals in relation to housing which are being progressed through separate consultation mechanisms, such as the New Homes Bonus and affordable rent schemes, as discussed at Appendix Four.

### **The Localism Bill - next steps**

- 3.6 The Bill passed its second reading in the House of Commons on 17<sup>th</sup> January 2011 and will now be considered by a Public Bill Committee. The intention is for Committee stage to be completed by 10<sup>th</sup> March 2011. Royal Assent is expected by November 2011. The implementation dates for the provisions in the Bill will vary and be subject to the progress of necessary secondary legislation and guidance.
- 3.7 Officers will ensure that any key amendments and the stages of the Bill's progress are brought to Members' attention.
- 3.8 In anticipation of the significant number of new powers and duties introduced in the Bill, officers will need to bring forward draft proposals for implementation in Brighton & Hove in relation to each area. This will need to include proposals and implications for the Council where previous statutory obligations are set to be repealed - such as the Standards regime and the duty to respond to petitions – as well as proposals to take forward new responsibilities such as neighbourhood planning arrangements, other community empowerment proposals and new housing policies. These will be brought to the appropriate Member forum for each issue.

## **4. CONSULTATION**

- 4.1 No specific consultation was undertaken in relation to this report which is for information. Previous briefings have been taken to Governance Committee and Leaders Group. The Bill is now at Public Committee stage, where written representations from interested parties are invited.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications

- 5.1 It is too early to assess the financial implications arising from the Localism Bill, which is still in draft form. There are likely to be significant resource implications

relating to individual proposals as they are taken forward and these will need to be carefully considered, quantified and reported back at a later date.

*Finance Officer consulted:* Mike Bentley *Date:* 19/01/11

Legal Implications:

- 5.2 The legal implications are addressed within the body of the report.

*Lawyer consulted:* Elizabeth Culbert *Date:* 19/01/11

Equalities Implications:

- 5.3 Equalities implications will be addressed as part of a formal Equality Impact Assessments in relation to the provisions of the Bill and this is anticipated to be published shortly.

Sustainability Implications:

- 5.4 There are no direct sustainability implications arising from this report. Any implications in relation to specific proposals for decision locally will need to be reported on as proposals are brought forward.

Crime & Disorder Implications:

- 5.5 There are no direct crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 There are no direct risk and opportunity management implications arising from this report. Any implications in relation to specific proposals for decision locally will need to be reported on as proposals are brought forward.

Corporate / Citywide Implications:

- 5.7 None at this stage. Any implications in relation to specific proposals for decision locally will need to be reported on as proposals are brought forward.

**SUPPORTING DOCUMENTATION**

**Appendices**

1. Local Authority Governance arrangements
2. Community Empowerment
3. Planning
4. Housing

**Documents in Members rooms:**

None

**Background Documents**

None

## **Local Authority governance arrangements and general powers and duties under the Localism Bill (clauses 1 to 37)**

The first chapter in the Localism Bill is focused on “lifting the burden of bureaucracy” on councils and increasing their powers and flexibility to act in the best interests of their area. The provisions include devolving significant new powers to councils and introducing new flexibilities in relation to local authority governance.

### **1. Local Authority Governance**

- 1.1 The Bill will put in place provisions permitting authorities to change their governance arrangements – including the power to return to the committee system. The Bill sets out the governance options that will be available to local authorities. They will be as follows:
- Executive arrangements (either Leader and Cabinet or an Executive Mayor and Cabinet);
  - A committee system;
  - Another prescribed system (councils may propose their own system, subject to Secretary of State approval).
- 1.2 Authorities operating executive arrangements must continue to have at least one scrutiny committee. Authorities operating under the committee system may have one or more scrutiny committees. Scrutiny powers are consolidated under the Bill and are currently largely unamended from previous legislation.

### **Changing Governance Arrangements**

- 1.3 The process for changing governance arrangements is a two stage one. First, a resolution of Full Council is required. Following such a resolution, changes to governance arrangements can be made **immediately following the next relevant election**.
- 1.4 This means that **the earliest** that Brighton & Hove City Council could change its governance arrangements (subject to the passage of the Bill as currently drafted) would be **May 2015** and every four years after this time. An alternative approach would be to pursue the third option of “another prescribed system” proposed to the Secretary of State which would be dependent upon Regulations and may not be subject to the same timetable. There is also the possibility that the timetable for the transitional provisions will change as the implications of the potentially long wait are examined during the passage of the Bill.
- 1.5 Different provisions will apply for the 12 largest cities, which must hold confirmatory referenda on adopting an executive mayor after the Bill becomes law, with the leader of the council being a “shadow mayor” in the meantime.
- 1.6 Under certain circumstances a referendum must be held when it is proposed to change governance arrangements. This will include where previous changes to governance were also confirmed by referendum, or where the council decides that they want to subject proposals to a referendum. A referendum will also be

## Item 11 Appendix 1a

required where a petition requests one and is signed by 5% of local government electors in the area.

- 1.7 Once a referendum has been held in an area, future changes in governance must be based on a referendum as well. This will limit changes in governance arrangements to once in every ten years in those authorities, as the restriction on the number of referendums on governance arrangements remains – that is governance referendums are prohibited within 10 years of the previous referendum.

### **Powers relating to Executive Mayors**

- 1.8 An executive mayor can also be the Chief Executive of the authority, but may not hold the post of Head of Paid Service. Where this occurs the authority must appoint an officer to be responsible for providing advice to councillors.
- 1.9 The Mayor must, under these provisions, set out in a report his/her plans for the operation of the authority, including cross-cutting strategy and staffing.
- 1.10 Any local public service function may be transferred to the Mayor by the Secretary of State. This must be based on a proposal from the Mayor which must be made to the Secretary of State within one year of the most recent election (which means that Mayors in some areas may have different powers to those in others). “Public service” is not defined, but has the potential to be broad.
- 1.11 An elected executive mayor cannot also be a councillor. Transitional arrangements exist whereby a council’s Leader will be its “shadow mayor” in the period leading up to an election, where governance arrangements have changed accordingly. The shadow mayor does not have the powers of the elected mayor in terms of setting out his/her report on plans for the operation and staffing of the authority;

### **The Committee System**

- 1.12 The Bill covers practical and procedural issues in relation to the committee system, in particular, the delegation of powers under a committee system. The Secretary of State will be making further regulations on delegations. It is anticipated that there will be limits on the use of delegated powers for strategic decision making but that significant freedom will attach to the use of those powers for more operational decisions – encouraging a more streamlined approach to committee decision-making.
- 1.13 As set out above, scrutiny committees are not required to be, but may be, operated by committee system authorities. The Bill makes provision for regulations about the precise powers and composition of such committees. Arrangements are set out to cover the responsibilities of health and community safety, flood risk and crime and disorder scrutiny committees.

**2. Clarification on Predetermination**

- 2.1 The Bill confirms the common law position that a local authority member is not to be taken to have had, or to appeared to have had, a closed mind when making a decision just because that decision maker had previously done anything of relevance to the decision that indicated what view the decision maker took or would or might take. The key point is that a member needs to retain an open mind at the point of taking a decision and that a prior indication of view of a matter does not amount to pre-determination.

**3. Standards**

- 3.1 The existing standards regime, including the requirement to adopt a code of conduct for members, the Standards Board and the procedures for determining complaints about conduct, is abolished.
- 3.2 In its place, the Bill imposes on all authorities a general duty "to promote and maintain high standards of conduct by members". There is a power to adopt a code of conduct that is expected of members, but there is no requirement to have such a code.
- 3.3 Where an authority has a code, if the authority receives a written allegation that a member has/may have failed to comply with its code of conduct then it must (a) consider whether it is appropriate to investigate the allegation; and (b) if it decides that is appropriate, investigate the allegation "in such manner as it thinks fit". If, whether following an investigation or otherwise, the authority finds that a member has failed to comply with its code of conduct, it "may have regard to the failure in deciding whether to take action in relation to the member and what action to take".
- 3.4 As an interim measure, guidance has been given that existing standards cases are to proceed but that a sanction in excess of censure should not be imposed.
- 3.5 In Brighton & Hove, the Council will need to consider whether to revise its existing code, adopt a new code or withdraw its code without replacing it. Equally the role of the Standards Committee will need to be reviewed as its statutory function has been removed. In view of the obligation set out in the Bill for councils to promote and maintain high standards of conduct, there may be support for maintaining some level of standards framework to ensure that, if complaints are made or issues raised, a consistent and proportionate approach is adopted.
- 3.6 In addition to general conduct issues, the Bill makes provision for registration of members' interests. The Secretary of State is empowered to make regulations requiring monitoring officers of local authorities to establish and maintain a register of the interests of members. Those regulations may include provision as to the sanctions that local authorities can impose on members who do not comply with the registration requirements, and requirements to make the registers public. Failure to comply with these regulations can also be an offence, leading to fine and disqualification from acting as a member of a local authority

**4. Policy statements on senior staff pay**

4.1 Authorities will be required to publish senior pay policy statements annually, with the first one to be published by 31 March 2012. The statement will set out the authority's policies for the financial year relating to the remuneration of its chief officers and must cover policies on:

- (a) the level and elements of remuneration for each chief officer;
- (b) the remuneration of chief officers on recruitment;
- (c) increases and additions to remuneration for each chief officer;
- (d) the use of performance related pay for chief officers;
- (e) the use of bonuses for chief officers;
- (f) the approach to payment of chief officers on their ceasing to be employed by the authority;
- (g) the publication of and access to information relating to remuneration of chief officers.

4.2 These provisions will relate to the Chief Executive, statutory and non statutory Chief Officers and the Monitoring Officer. They are in addition to the provisions of the Accounts and Audit (Amendment Number 2) (England) Regulations 2009 which are already in force and introduced a legal requirement for reporting remuneration of senior employees to increase transparency and accountability in Local Government. This data must be published by 31st January 2011 and Brighton & Hove Council is making the relevant preparations to comply with the new requirements.

**5. General Power of Competence**

5.1 The very first provision in the Bill creates a general power to act which effectively puts local authorities on a similar legal footing to individuals. As creatures of statute, local authorities have always been required to identify a specific statutory power for all actions. The general power of competence will change that by enabling local authorities to "do anything that individuals generally may do". This includes doing things "in any way whatever" that are unlike anything local authorities or other public bodies may currently do. Where the general power of competence allows Councils to do something, it can be done anywhere in the UK or elsewhere, for a commercial purpose or otherwise and with or without charge.

5.2 This new general power is framed very broadly and the Government has stated that it is designed "to give councils the legal reassurance and confidence to innovate and drive down costs to deliver more effective services."

5.3 There are restrictions on the power, as it is subject to a number of types of limitation:-

- Existing legislative restrictions will continue to apply to the exercise of the general power. This includes any limitations on existing local authority powers which overlap with the new general competence power;
- Any subsequent limitations expressed in legislation passed after the Bill becomes law will apply;



- Specific limitations in the Bill itself state that authorities cannot use the general competence power to make or alter provisions about the discharge of council functions by committees, joint committees or officers. The power cannot be used to alter models of local governance or to alter the existing restrictions on authorising or delegating the performance of functions.
  - **Limits on the power to charge:** if an authority is providing a service for a non-commercial purpose and the service provision is or could be covered by the general competence power, then the authority can charge for the service only if the authority has no statutory duty to provide the service, the person has agreed to the provision of the service and there would be no power to charge in the absence of the Localism Bill provisions and section 93 of the Local Government Act 2000. Any charges which are levied for a service delivered under the general power for non-commercial purposes must not exceed the costs of providing that service.
  - **Limits on using the power to do things for commercial purposes:** authorities cannot use the power to do something for a commercial purpose under the general power if it has a statutory duty to do/provide it. Anything done for a commercial purpose must be done through a company.
- 5.4 This is a widely drawn, substantive power, expressly broader than the current well-being power (which is repealed). The Courts will continue to apply administrative law principles to the exercise of the new powers. This means that Councils will still need to act reasonably and fairly, in conformance with Convention rights and consistently with their fiduciary duty to the public purse.



## **Community Empowerment under the Localism Bill (clauses 39-88)**

One of the essential actions identified by the Government to achieve decentralisation and disperse power is to empower communities to “do things their way”. The Community Empowerment provisions are set out below.

### **1. Assets of community value**

- 1.1 The Bill introduces a new regime which requires local authorities to keep and publish a list of land in its area that is “land of community value”. The purpose of this list is to give local groups the opportunity to bid for land or assets which they would wish to retain for community purposes, where the owner proposes to sell them. There will be an interim moratorium period on the proposed sale in which local groups have the chance to express an interest in the land, and an overall moratorium period which is the total period for which the disposal can be delayed/halted. During this period any community groups interested in the land will have to produce the finances and complete the deal.
- 1.2 The Bill sets out a procedure for nominating land for inclusion on the list, providing for appropriate notice to landowners. Once the land is included on the list, the owner of the land must not dispose of it unless each of three conditions is met:-
  - (1) the landowner has notified the local authority in writing of his/her wish to dispose of the land and that notice has been published; and
  - (2) either (a) the interim moratorium period has ended without the local authority or the owner having received from any community group a written request for the group to be treated as a potential bidder in relation to the land; or (b) the full moratorium period has ended; and
  - (3) all the relevant protected periods to be prescribed by Regulations are complied with.
- 1.3 Regulations will make further provisions on the form of the list, its contents and, in particular, when land is to be regarded as “land of community value”. These key details will determine which assets are caught by the regime and how long community groups will have to express an interest and sort out their funding to make a bid. Regulations may also address compensation to be paid in relation to this regime.

### **2. Community Right to Challenge**

- 2.1 A new right of community engagement will allow expressions of interest to be submitted by voluntary and community bodies, employees of a relevant local authority and parish councils to bid to a local authority to run a service provided by or on behalf of the council.
- 2.2 Local Authorities will be required to consider expressions of interest received which comply with the relevant requirements. An authority can specify periods during which expressions of interest, or expressions in relation to a particular service, may be submitted and may refuse to consider an expression of interest submitted outside this period. Expressions of interest may only be rejected on

one or more grounds which are to be specified by the Secretary of State in Regulations.

- 2.3 The grounds for rejection and the rules regarding the ability of councils to control the timetable for expressions of interest will be central to understanding the full impact of this provision.
- 2.4 At this stage, the Bill sets out that if the expression of interest is accepted, then the local authority must carry out an appropriate procurement exercise relating to the provision of the service. In considering the expression of interest, the local authority must consider whether acceptance would promote or improve the social, economic or environmental well-being of the authority's area.

### 3. **Referendums on local issues**

- 3.1 The Bill includes a new duty on Councils to hold local referendums. A local referendum must be held where either;-
- (1) a petition is received asking the authority to hold a local referendum on a stated question in a relevant area of that authority (either the whole of the area or one or more adjoining electoral areas within it), and that petition is signed by **5% of local government electors** in that area; or
  - (2) one or more **members of the authority** requests the authority to hold a local referendum on a stated question in a relevant area of that authority. For the request to be valid, each member who requests the referendum must be a member for an electoral area in that relevant area and where an electoral area has more than one member, all or the majority of the members for the area must make the request.
- 3.2 Where a request of one of these two types is received, the authority can only refuse the request on one of the following grounds:
- that the authority thinks that action taken to promote or oppose the referendum question is likely to lead to contravention of an enactment or a rule of law;
  - that the authority thinks that the matter to which the referendum question relates is not a local matter over which the authority has an influence or which affects the authority's area/the inhabitants of the area (the Bill states that a matter is a "local matter" if it relates to the economic, social or environmental well-being of the area in which the referendum is proposed to be held, and it has a particular connection with that area);
  - the referendum question relates to a matter specified by order by the Secretary of State;
  - the petition or request is vexatious or abusive.
- 3.3 In the case of a request from a member, there is a specific requirement that the authority must also pass a resolution to hold the referendum.

- 3.4 In addition an authority can resolve of its own motion to hold a local referendum throughout the area of the authority on a particular question.
- 3.5 The authority may substitute its own wording for the referendum question as submitted by residents or members, if it considers that the wording specified in the petition or request is "misleading". The referendum must be held more than two months but less than twelve months after receipt of the petition/request. The authority has a duty to publicise the referendum (its existence, the date, the question being asked) and a power to publish material either supporting or opposing the question.
- 3.6 The result of the referendum must be published. "As soon as reasonably practicable" after the result is known, the authority must consider what (if anything) it proposes to do to give effect to the result, and if no action is proposed then it must publish that decision together with the reasons for it.
- 3.7 The provisions requiring local authorities to adopt a petitions scheme, including the right to trigger a full council debate and hold senior officers to account are repealed.

#### **4. Annual Council Tax Referendum**

- 4.1 The Bill amends the Local Government Finance Act 1992, setting out provisions on the calculation of council tax increases. New provisions include a requirement to hold a referendum each year on the basic council tax amount fixed for the financial year where the authority proposes an increase which is above a specified threshold, so as to give local residents a power to veto excessive council tax increases.
- 4.2 The referendum, to be held no later than the first Thursday in May in the financial year, will ask local voters to indicate whether or not they accept the proposed council tax figure for that year. If the figure is not accepted, then a substitute figure (calculated by methods set out in the new provisions) will apply in place of the authority's original figure. The result of the referendum must be reported to the Secretary of State. The Secretary of State may make regulations about the conduct of these referendums.



## **Planning reforms under the Localism Bill (clauses 89 to 120)**

The proposals in relation to planning are aimed at decentralising planning as far as possible to local areas and communities with the expectation that economic regeneration will be most efficiently encouraged at that level.

### **1. Plans and strategies**

- 1.1 The system of Regional Strategies is to be abolished. This will enable Brighton & Hove City Council to develop deliverable local housing targets rather than work to imposed regional housing targets.
- 1.2 A new duty to co-operate between councils and other key partners in relation to the planning of sustainable development is introduced. This requires constructive engagement by prescribed bodies, or individuals, in the preparation of development plan and other local development documents and in relation to other activities that support the planning of development, for example through the Local Economic Partnership. This duty extends to bodies beyond local authorities and will be subject to government guidance.
- 1.3 The regime for developing local authorities' planning policies is amended to remove the binding nature of Inspectors' Reports on development. The proposed changes allow greater flexibility for councils to react to statutory examination of their development plans. Local authorities will be able to suggest changes during the examination and withdraw development plan documents before their adoption, without seeking clearance from Government.
- 1.4 There are changes to the role of the Secretary of State in directing changes to local development schemes (the work programming document for the Local Development Framework). Changes – through Planning Inspectors - will now only be permitted for the very restricted purpose of “ensuring effective coverage of the authority’s area by the development plan documents”.

### **2. Pre-application consultation**

- 2.1 The Bill introduces a duty on developers to consult on development proposals with specified people before they make a planning application. Developers will also need to publicise the proposals to "the majority of those in the vicinity of the relevant land". Regulations will set out the categories of development to which this will apply but it is understood that it will concern larger developments only. There will be a requirement for developers to take into account the results of the consultation and be able to demonstrate this.
- 2.2 This formalises a requirement that Brighton & Hove CC has been seeking with major planning applications and is welcomed, particularly the need for applicants to be clear with their supporting documentation how the results of the consultation have been taken into account.

### **3. Neighbourhood planning**

- 3.1 The Bill incorporates a system of planning policy and development orders at “neighbourhood area” level. The neighbourhood areas will be designated by local authorities upon application by the local parish council or, where there is no such council, a community based “neighbourhood forum”. In order to become a neighbourhood forum, an organisation or body will need to seek designation by the local authority and would need to satisfy criteria relating to its social, economic and environmental aims and local membership (including for example that there must be at least three members with a written constitution). Only one forum will be allowed in an area, with no overlapping.

#### **Neighbourhood Development Plans**

- 3.2 The Parish Council or neighbourhood forum will be able to prepare a Neighbourhood Development Plan (NDP) for the approved neighbourhood area which will set proposals for development and use of the land in the area. This will require the local planning authority to support that preparation process and organise the process of its examination and adoption.
- 3.3 A process of independent examination of the plan is proposed to check that the proposed plan is in “general conformity with the strategic development policies contained in the development plan for the area”. If the proposed plan gets through this stage of examination, it will be put to a local referendum and approved if over 50% of those voting are in favour. The plan cannot relate to certain types of excluded development, for example major development or development that requires an environmental impact assessment. An approved NDP will become part of the statutory development plan.

#### **Neighbourhood Development Orders**

- 3.4 In addition, neighbourhood bodies will be able to make a Neighbourhood Development Order (NDO) granting planning permission in advance for development. This could be for specific developments or specific types of development (similar to permission granted by General Permitted Development Order) and could be subject to conditions. NDOs are subject to examination similar to a local plan inquiry, although the presumption is that this will be done by written representations only. As with Neighbourhood Development Plans, if it is to go ahead the NDO must be approved in a referendum which can be just the voters on the neighbourhood area or the local authority can extend it to neighbouring areas as it sees fit.

#### **Community Right to Build Orders**

- 3.5 The Bill also creates a Community Right to Build Order (CRBO) as a particular type of Neighbourhood Development Order. For these orders, “community organisations” will be able to apply for planning permission for specified development in relation to a particular site within the neighbourhood area. The community organisation must be a corporate body established for the express purpose of furthering the social, economic and environmental well-being of individuals living, or wanting to live, in a particular area. More than half of the



members of the community organisation must live in the neighbourhood area and there will be examination and referendum provisions similar to the NDP and NDO provisions. It will be necessary to await further guidance from the Government to understand how CRBO's will be used and the distinction between them and more general NDOs. At this stage it is understood that:-

- CROBOs will be restricted to small scale site-specific development;
- There will be no restriction on the number of promoting "community organisations" in a particular area (unlike a neighbourhood forum);
- Measures will be included to ensure resulting assets will remain in the community.

3.6 The neighbourhood planning proposals will require detailed regulations and guidance on the procedures and application of other planning legislation to these orders. At this stage concerns have been raised regarding how to define neighbourhood areas and in ensuring accountability. Regulations will also cover charging by local planning authorities and other financial assistance in relation to neighbourhood planning.

#### **4. Community Infrastructure Levy**

4.1 The Bill provides greater flexibility for local authorities to adopt the Community Infrastructure Levy (CIL). CIL is an optional tariff that local authorities can impose when granting planning permission to spend on infrastructure. The Bill clarifies that CIL can be used for ongoing operational and maintenance costs of infrastructure. Whilst independent examination of CIL charging schedules will still be required, the Bill restricts the power of the examiner and allows more flexibility for local authorities to amend their schedule to comply with examiner's proposed modifications.

4.2 The Bill also introduces a mechanism for CIL contributions to be passed onto third parties. The Government has indicated that this will be used to pass funds onto neighbourhoods and Regulations will specify the circumstances in which this will occur and how contributions will need to be managed. Community groups could for example spend the money locally on the facilities they want, either by contributing to larger projects funded by the council, or funding smaller local projects like park improvements, playgrounds and cycle paths.

#### **5. Enforcement**

5.1 Several high-profile cases have underlined the difficulty of enforcing against planning breaches when a developer intentionally conceals the true form of a development from a local authority. In the Bill, the Government has tackled this by creating a new concept of "planning enforcement order" (PEO). A PEO from a magistrates court will allow a local authority to take enforcement action against a planning breach even if the standard time limits for planning breaches have already expired. In order to obtain a PEO, the court would need to be persuaded that:-

- there has been an "apparent breach" of planning control (at any time);
- any person has contributed to concealing it; and

- the court considers it "just" to make the order.
- 5.2 The authority must seek the PEO within 6 months of becoming aware of the apparent breach and, if it is granted, then has a year to commence enforcement action (in the normal way).
- 5.3 The Bill also creates a new right for local authorities to decline to determine retrospective applications when a corresponding enforcement notice appeal is outstanding. This is intended to curtail the practice of defending enforcement action and making a new application at the same time – local authorities will not now need to consider the new application.
- 5.4 There are increased penalties for non-compliance with Breach of Condition Notice and an extension of time limit for prosecuting advertisement and certain tree offences as well as increasing powers for the removal of illegal advertisements and graffiti and prevention of fly-posting.

## **6. Nationally Significant Infrastructure Projects**

- 6.1 The Bill abolishes the Infrastructure Planning Commission (IPC) and transfers decision-making on nationally significant infrastructure projects to the Secretary of State. A new Major Infrastructure Planning Unit within the planning inspectorate will be established to examine applications and report and make recommendations to Ministers. The provisions provide that the Secretary of State will be tied to the same timescales for examination and decision-making as apply currently to the IPC under the Planning Act 2008.
- 6.2 In addition, the Bill introduces a new requirement for Parliamentary approval of National Policy Statements. There is also the proposal to streamline existing planning policy statements within a national planning policy framework.

## **Housing reforms under the Localism Bill (clauses 121 to 156)**

The Localism Bill sets out a number of fundamental reforms to the social housing sector. The Government intends that the new proposals will give Councils more flexibility and will be fairer, enabling Councils to genuinely meet the needs of local people.

### **1. Social Housing Allocation**

- 1.1 The Bill amends the Housing Act 1996 so that authorities can prepare an allocation scheme through which they will have the freedom to determine who should qualify to go on their housing waiting list. Whilst the rules on eligibility will continue to be set centrally, this measure will allow local authorities to set waiting list policies that are appropriate to their local area.
- 1.2 Requests for transfer from existing tenants will be able to be dealt with through separate rules and criteria outside the allocations process. This is intended to make it easier for tenants to move and easier for landlords to manage their stock.

### **2. Homelessness**

- 2.1 Under current legislation people who experience a homelessness crisis can insist on being provided with temporary accommodation until social housing becomes available. The Bill will amend the Housing Act 1996 to give local authorities the flexibility to bring the homelessness duty to an end with an offer of suitable accommodation in the private rented sector without requiring the household's agreement.
- 2.2 There will be safeguards: as now, an offer of private sector housing will only bring the duty to an end if the accommodation is suitable for the whole household. The private sector tenancy would need to be for a minimum fixed term of 12 months, and the duty would recur if, within 2 years, the applicant becomes homeless again through no fault of his or her own (and continues to be eligible for assistance).

### **3. Social Housing Tenure – introduction of flexible tenancies**

- 3.1 Currently, social landlords are normally only able to grant secure lifetime tenancies. This means a landlord is not able to review the person's occupation of the property even if subsequent changes, mean that the person's need only short-term. The provisions in the Localism Bill will enable local authority landlords to grant tenancies for a fixed length (the minimum length being two years). Local Authority landlords will retain the power to grant lifetime tenancies and the ability to determine what approach is taken as best fits the local context and needs of the area.
- 3.2 The flexible tenancy would be protected for two years, with 6 months notice to be given of the landlord's intentions at the end of the protection. The Tenancy Standard will be reviewed to fit the new approach. The regime in relation to introductory tenancies and family intervention tenancies may need some modification to fit with new flexible tenancies.

3.3 Under the Bill, new secure tenants will be guaranteed one succession to a spouse or partner, with landlords free to grant further succession rights. Succession rights of existing council and housing association tenants at the time the Localism Act comes into force are not proposed to be affected.

3.4 Councils will be required to introduce a “tenancy strategy” to set out the objectives of the housing authority and to guide lettings policies of all social landlords who must be consulted on its preparation.

#### **4. Council Housing Finance**

4.1 The current annual centralised system for subsidising council housing (the Housing Revenue Account) is replaced with a locally run system. Under the new system, councils will keep their rental income and use it locally to maintain their homes. To achieve this, the Bill will enable a one-off payment between Government and each council.

4.2 This significant proposal is intended to put all local authorities in a position where they can support their stock and housing debt from their own income in future and gives councils control over a key area of spending and service provision.

#### **5. National Home Swap Scheme**

5.1 In order to create more mobility within the social housing stock and give greater choice to tenants over where they live, a national scheme is proposed to enable tenants to see a wide range of properties across providers.

5.2 This measure, authorised in the Bill, is intended to create a National Home Swap Scheme, open to all eight million tenants in social housing in England and will enable a swap of accommodation between tenants where each party moves permanently into their exchange partners’ property.

#### **6. Regulation of Social Housing**

6.1 The system for regulation of social housing is reformed by the Bill. The Tenant Services Authority (TSA) is abolished and its remaining functions will be transferred to the Homes and Communities Agency.

6.2 Housing Associations will continue to be subject to robust economic regulation with a stringer focus on value for money.

6.3 A system of a single Ombudsman specialising in complaints about social housing will be introduced to ensure consistency, and provide a common route of redress for all social housing tenants.

#### **7. Facilitating moves out of the social rented sector**

7.1 The Government is keen to see that support is given to help realise social tenants’ ownership aspirations, which in turn can help to enable better housing outcomes for those in need through more effective use of social rented stock.

The Bill will ensure that housing association tenants who are also members (e.g. share holders) of their landlord organisation are allowed to take up incentive schemes which facilitate moves out of the social rented sector into owner occupation. Current legislation does not allow this because it precludes the making of any gifts (including such an incentive payment) to tenant members or former members.

**8. Other housing reform proposals**

- 8.1 In addition to the above measures that are currently set out in the Bill, a number of consultations have been issued in relation to further housing proposals. These include the consultation on the proposed New Homes Bonus and the measures set out in the “Local Decisions: a fairer future for social housing” consultation, such as affordable rents for social housing and a scheme to bring empty homes back into use.



**Subject:** Review of Petitions Scheme  
**Date of Meeting:** 26 July 2011  
**Report of:** Strategic Director, Resources  
**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 In July 2010, the Council adopted a new petitions scheme. The timing and key elements of the new scheme were driven by the requirements of the Local Democracy, Economic Development and Construction Act 2009 ("the Local Democracy Act").
- 1.2 The Council's scheme goes much further than the statutory requirements in relation to handling petitions. The new scheme was used as an opportunity to improve customer engagement and to offer the public as wide access as possible to council decision making. This report reviews the scheme with the benefit of 12 months' experience of operation and in the context of the Localism Bill.

#### 2. RECOMMENDATIONS:

- 2.1 That Governance Committee:
- (a) Notes the review of the operation of the petitions scheme and e-petitions facility;
  - (b) Considers whether changes to the petitions scheme are required and, if so, makes recommendations for the implementation of such changes to Full Council;
  - (c) Considers whether a further review of the petitions scheme is required once the Localism Bill is enacted and the legal requirement to have a petitions scheme is repealed.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On 15<sup>th</sup> July 2010 the Council approved the launch of a new petitions scheme as attached at Appendix One. The scheme introduced a number of changes to the way in which the Council operates petitions and responds to them. Governance Committee requested that the scheme was reviewed after 12 months in

operation. This report considers the provisions of the scheme, how it has worked in practice and any issues that have arisen.

- 3.2 The Local Democracy Act required the Council to adopt a petitions scheme with certain elements, such as the ability to trigger a Full Council debate and the ability to hold senior officers to account. The scheme adopted by the Council went further than the legal requirements with the aim of encouraging participation in the business of the Council.

### **Key features of the Petitions Scheme**

- 3.3 A copy of the petitions scheme is attached at Appendix One. The key elements of the scheme are set out below:-

- Elected Members are eligible to sign petitions;
- The ability to trigger a debate at Full Council on the subject of the petition is included with a threshold of 1,250 signatories;
- The ability to hold a senior officer to account at an Overview and Scrutiny meeting is included with a threshold of 750 signatories;
- There is a right for the lead petitioner to request a review of the Council's response to the petition where s/he is unhappy with the way that the petition has been handled;
- There is a wide definition of the people who can petition the Council, namely "any person of any age who lives, works, studies or uses services in Brighton & Hove";
- The scheme includes a range of actions that the Council is required to consider in response to a petition;
- The petitioner has an option under the scheme of requesting a response from a senior officer rather than taking the petition to a decision making meeting;
- Vexatious, abusive or otherwise inappropriate petitions are excluded from the scheme, together with petitions which relate to individual planning, licensing or other issues where there is a statutory right of recourse or appeal;
- The scheme formally launched the Council's e-petitions facility.

### **The Localism Bill**

- 3.4 Elsewhere on the agenda Governance Committee will be considering an update on the Localism Bill. One of the changes proposed under the Localism Bill is to remove the requirement for councils to have a petitions scheme. This includes removing the requirement to hold Full Council debates where petitions hit a certain number of signatories and the requirements around reviewing the outcome of petitions and holding senior officers to account. Local authorities will be free to adopt their own mechanisms for responding to petitions as was the position prior to the Local Democracy Act 2009.
- 3.5 The review of the scheme should therefore be considered in the context of the Council no longer being required to operate it once the Localism Bill is enacted.



## **Review of the petitions scheme after 12 months in operation**

- 3.6 Since the petitions scheme and the e-petitions facility were launched in July 2010, there have been a total of 63 e-petitions and 39 paper petitions - making a total of 102 petitions. Of these, 15 petitions have triggered a Full Council debate. This is a significant increase in the number of petitions coming into the Council following the launch of the petitions scheme and the e-petitions facility. By way of comparison, in 2009/2010 – before the petitions scheme and e-petitions facility were introduced – a total of 47 petitions were received.
- 3.7 The petitions that have triggered a full council debate are:-
- **Blakers Park Road Safety** – ongoing
  - **Save the Big Lemon bus** – 2,316 signatories
  - **Gypsies and Travellers** – 1805 signatories
  - **Keep the Level a green space** – 2,498 signatories
  - **Parking for Royal Sussex County Hospital** – 1,745 signatories;
  - **Keep Brighton Unique** – 1,142 signatories;
  - **Save the Drive Cycle Lanes, Hove** – 3,543 signatories;
  - **Save School Sports Partnerships in Our City** – 1,273 signatories;
  - **Bright Start Nursery** – 5,125 signatories
  - **Eco-Friendly Lights for St Ann’s Well Gardens** – 1,476 signatories.
  - **Stop the clearance (Wild Park)** – 1,700 signatories
  - **Parking in Preston Park** – 2,201 signatories
  - **Connexions** – 2,885 signatories
- 3.8 Fifteen minutes is allowed for debate on these petitions at the council meeting. Following the debate, the petitions are referred to the relevant Cabinet Member Meeting for consideration, together with minutes of the debate and, in some cases, with specific recommendations from Council for the Cabinet Member to consider. At the end of the process, the Council’s response to the petition is posted on the Council’s website.

### **Threshold for Full Council debate**

- 3.9 Governance Committee is asked to consider whether the current trigger a for Full Council debate, is set at the right level.
- 3.10 The statutory guidance currently requires councils to ensure that the trigger for a Full Council debate is not more than 5% of the population. This would have been approximately 12,500 in Brighton & Hove. The decision taken was to seek to encourage more petitioners to come forward with the aim of opening up Council decision making. Therefore a very low threshold of 1,250 (0.5%) was set. The figure was set taking into account the fact that there was only one petition which had reached over 1000 signatories in the previous year and the guidance encouraged councils to ensure that the threshold was achievable.

- 3.11 The fact that many more petitions are now reaching high numbers is a sign of the impact of the petitions scheme. Having a target to aim for and the goal of a Full Council debate has successfully encouraged the use of petitions. Also the availability of the e-petition facility has made access to the petitions much easier.
- 3.12 Governance Committee is asked to consider whether the threshold for triggering a Full Council debate is right or whether it is too low. The argument in favour of the current threshold is that it has been shown to be achievable and has been clearly demonstrated to encourage participation in council decision making. The issue to consider is whether, in the time available, there is still an ability to effectively debate the number of petitions that are coming to Full Council.

### **Holding Senior Officers to account, reviewing and excluding petitions**

- 3.13 The provisions to call for a review of the way the Council has handled a petition and to be able to hold senior officers to account have not been engaged. These do, however, provide useful checks in the decision making process and it is proposed that these are retained.
- 3.14 Similarly, the need to exclude petitions on the grounds that they are vexatious, abusive or otherwise inappropriate has not been engaged but again provides a balanced system that has mechanisms in place to prevent abuse.
- 3.15 In terms of who can petition the Council, the new scheme opened up the ability to petition the Council to elected Members and anyone who uses council services, not just to residents, students or those working in the City.
- 3.16 The extension of the ability to petition the Council to non residents who use council services has not created an influx of petitions led by non residents and therefore it is proposed that this opportunity remains in place, providing for the occasions where there may be an impact on non residents or those who do not study or work in the City (such as the History Centre petition from 2010).

## **4. NEXT STEPS**

- 4.1 Governance Committee is asked to consider the current arrangements and make any recommendations for changing the petitions scheme to Council. Governance Committee is also asked to indicate whether it would like to further review the scheme once the Localism Bill is enacted and there is no longer a requirement to have a petitions scheme or whether it would wish to retain the scheme irrespective of a legal requirement to have one.
- 4.2 It is proposed that the Council's e-petitions facility should be retained. This is operated by Democracy Services within existing budgets and has significantly increased the number of petitions coming into the Council. The majority of petitions received use the e-petition facility.

## **5. CONSULTATION**

- 5.1 Consultation has taken place internally with Democratic Services.

**6. FINANCIAL & OTHER IMPLICATIONS:**

Financial Implications:

- 6.1 There are no financial implications arising from the recommendations of this report. Resources required to support the petitions process are met within staffing budgets.

*Finance Officer Consulted: Anne Silley*

*Date: 12/07/11*

Legal Implications:

- 6.2 These are set out in the body of the report.

*Lawyer Consulted: Elizabeth Culbert*

*Date: 12/07/11*

Equalities Implications:

- 6.3 The combination of an e-petitions facility and the ongoing ability to submit paper petitions ensures that there is wide access to Council decision makers.

Sustainability Implications:

- 6.4 The use and promotion of an on-line facility may contribute to a decrease the amount of paper petitions that are submitted.

Crime & Disorder Implications:

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

Risk and Opportunity Management Implications:

- 6.6 None

Corporate / Citywide Implications:

- 6.7 The initiative supports the "Get Involved" programme which seeks to promote the Council, local democracy and active citizenship.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Petitions scheme for Brighton & Hove City Council

### **Documents In Members' Rooms**

None

### **Background Documents**

None

# How to petition the council –

Petitions scheme



**Brighton & Hove  
City Council**

# Petitions

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

You can send us a paper petition and/or set up an e-petition online.

## How to submit a petition

Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition.
- what action the petitioners wish the council to take
- the name, address and contact details of the petition organiser so that we can contact them to explain how we will respond to the petition\*
- the name, address and signature of any person supporting the petition

Petitions can be signed by any person of any age who lives, works or studies in Brighton & Hove or who uses services provided by Brighton & Hove City Council.

Petitions must relate to what the council does or relate to an improvement in the economic, social or environmental well-being of the area covered by Brighton & Hove City Council to which any of our [partner authorities](#) could contribute.

\*The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

## Where to send a petition

Paper petitions should be sent to Democratic Services, Brighton & Hove City Council, King's House, Grand Avenue, Hove, East Sussex BN3 2LS at least 10 days before the meeting at which you would like the petition to be presented.

Follow this [link](#) to create, sign and submit an e-petition.



## What the council will do when it receives a petition

The council will send an **acknowledgement** of all petitions to the petition organiser **within 10 working days** of receipt. This acknowledgement will set out what we plan to do with the petition and when they can expect to hear from us again. The petition will also be published on our website. Whenever possible, we will also publish all correspondence relating to the petition (all personal details will be removed).

We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Once submitted, the petition organiser will be offered the choice as to whether they wish the petition to be:-

- i) presented at the next full council meeting to decide how we will respond; or
- ii) referred directly to the appropriate public decision-making meeting of the council, such as a cabinet meeting, to decide how we will respond; or
- iii) responded to by the relevant Director.

If the petition organiser wishes to refer the petition to a full council meeting or directly to the relevant decision-making meeting, they will be invited to attend the meeting and will be offered the opportunity to either present the petition themselves or for a councillor or someone else to present it on their behalf. Dates and times of all council meetings can be found [here](#).

If the petition organiser would like to present their petition to the council, or would like their councillor or someone else to present it on their behalf, they need to contact Democratic Services on 01273 291006 at least 10 working days before the meeting and they will talk you through the process.

If the petition organiser prefers to receive a response from the relevant Director without the petition being presented at a meeting, a response will be sent to them within 21 working days of the closure of the petition and will be posted on the council's website.



## Full council debates

If a petition contains more than 1,250 signatures and is not a petition requesting **officer evidence**, it will be debated by the full council. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend before a decision is made about how we will respond.

The council will try to consider the petition at its next meeting. This may not always be possible and the petition will then be considered at the next meeting.

The petition organiser will be given 3 minutes to present the petition at the meeting. The petition will then be discussed by councillors for a maximum of 15 minutes. They will then decide how to respond to it at this meeting. Councillors may decide

- to take the action the petition requests,
- not to take the action requested for reasons put forward in the debate, or
- to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the council executive (cabinet) are required to make the final decision, the council meeting will decide whether to make recommendations to inform that decision.

The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## Officer evidence

A petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, a petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If a petition contains at least 750 signatures, **the relevant senior officer** will give evidence at a public meeting of the council's Overview and Scrutiny Committee.





## Officer evidence (continued)

The [Overview and Scrutiny Committee](#) may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting. However, the petition organiser will be able to suggest questions to the chair of the committee by contacting the Head of Scrutiny up to three working days before the meeting. For all Overview & Scrutiny Committees please email [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk) or call the Head of Scrutiny on 291110. The overview and scrutiny meeting does not have the power to make or change decisions but may make a report or recommendations to the relevant decision making meeting. A copy of the overview and scrutiny report or recommendations will be sent to the petition organiser and published on our website.

If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell the petition organiser when and where the meeting will take place. If the petition needs more investigation, we will tell them the steps we plan to take.

## Exceptions

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here:

[Influence council decisions – make your voice heard](#)

We will not take action on any petition which is considered by the council's Monitoring Officer to be vexatious, abusive or otherwise inappropriate and, if this is the case, we will explain our reasons in our acknowledgement of the petition.

In the period immediately before an election or referendum we may need to deal with a petition differently – if this is the case we will discuss with the petition organiser the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons.

To ensure that people know what we are doing in response to the petitions we receive, we will publish the details of all the petitions submitted to us on our website. However, there may be cases where this would be inappropriate.

## How the council will respond to a petition

The council's response to a petition will depend on what it asks for and how many people have signed it. Among the options that we may consider are:-

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the council's Overview and Scrutiny Committee\*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

\*Overview and scrutiny committees are committees of councillors who are responsible for looking at the work of the council and have the power to hold the council's decision makers to account.

If a petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of [local partners](#) and where possible will work with these partners to respond to a petition.

If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will tell the petition organiser the reasons for this. Find more information on the [services for which the council is responsible](#).

If a petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might mean simply forwarding the petition to the other council, but could involve other steps. We will always notify the petition organiser of the action we have taken.



## E-petitions

The council welcomes [e-petitions](#) which are created and submitted through our website. E-petitions must follow the same [guidelines](#) as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. They will also need to decide how long they would like their petition to be open for signatures. Most petitions run for 4 months, but they can choose a shorter or longer time, up to a maximum of 6 months.

When creating an e-petition, it may take five working days before it is published online. This is because we have to check that the content of a petition is suitable before it is made available for signature.

If we feel we cannot publish a petition for some reason, we will contact the petition organiser within this time to explain. They will be able to change and resubmit their petition if they wish. If they do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the council's website.

When an e-petition has closed for signature, it will automatically be submitted to the council. In the same way as a paper petition, we will send the petition organiser acknowledgement of receipt within 10 working days confirming what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website. If the petition organiser would like to present their e-petition to a meeting of the council, or would like a councillor to present it, they should contact the council's Democratic Services team at least 10 working days before the meeting to find out more about the process.



# Frequently Asked Questions

## How do I start an e-petition?

On the [e-petitions homepage](#), select the 'submit a new e-petition' option.

Enter your petition title which the system will automatically check against existing e-petitions to allow you to see if a similar one has been considered recently.

There is also a drop down box which allows you to associate your e-petition with any existing issue in the council's Forward Plan. [The Forward Plan](#) details all of the key decisions to be taken by the council in the coming months.

You will then need to fill in the online form. This will be submitted to the council's Democratic Services team who may contact you to discuss your e-petition before it goes live.

## How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature on the [current email petitions](#) page of our website.

- You can only sign an e-petition once.
- When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address.
- When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition.
- People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.
- From time to time, the council may also submit an e-petition itself to gauge public feeling on a particular issue.

## Can I still submit a paper petition?

You can submit petitions in both forms – you can have a paper version and an online version, although repeat names will be removed. Both forms should run for the same period of time and must be submitted together. When submitting an e-petition request, please let us know if you are running a paper petition as well and this can be highlighted on the website.



## What can I do if I feel my petition has not been dealt with properly?

If you feel that the council has not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the adequacy of the steps that the council has taken in response to your petition.

It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

Your requests for review should be sent to the Head of Scrutiny, Kings House, Grand Avenue, Hove, East Sussex BN3 2LS or by email to [scrutiny@brighton-hove.gov.uk](mailto:scrutiny@brighton-hove.gov.uk)

The committee will try to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee decide we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include setting up an investigation, making recommendations to the council executive and arranging for the matter to be considered at a meeting of the full council.



Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

## Who are the council's partner authorities?

For the purpose of this scheme, each of the following is a partner authority:-

- **East Sussex Fire and Rescue Authority;**
- South Downs National Park Authority;
- **East Sussex Police;**
- a chief officer of police;
- **a joint waste authority established under section 207(1);**
- The South East England Development Agency (SEEDA);

- **NHS Brighton & Hove;**
- Surrey and Sussex Probation Trust;
- **South Downs NHS Trust**
- the Arts Council of England;
- **the English Sports Council;**
- the Environment Agency;
- **the Health and Safety Executive;**
- the Historic Buildings and Monuments Commission;
- **the Learning and Skills Council for England;**
- the Museums, Libraries and Archives Council;
- **Natural England;**

- the **Secretary of State**, but only in relation to—
  - his functions under section 2 of the Employment and Training Act 1973 (c. 50) (arrangements with respect to obtaining etc employment or employees);
  - functions which he has as highway authority by virtue of section 1 of the Highways Act 1980 (c. 66); and
  - functions which he has as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984 (c. 27).

## Who can be called to account?

Senior officers who may be called to give evidence in response to a petition.

- Chief Executive
- Director Children's Services
- Acting Director of Adult Services
- Director Strategy and Governance
- Director of Finance and Resources
- Director of Housing, Culture & Enterprise
- Director of Environment

## Alternative formats and languages

If you would like this information published by Brighton & Hove Council in large print, braille, audio tape, in pictures and symbols, or in a community language please call Democratic Services on 01273 291006.

**Translation? Tick this box and take to any council office.**

ترجمة؟ ضع علامة في المربع وخذها إلى مكتب البلدية. Arabic

অনুবাদ? বক্সে টিক চিহ্ন দিয়ে কাউন্সিল অফিসে নিয়ে যান। Bengali

需要翻譯? 請在這方格內加別, 並送回任何市議會的辦事處。Cantonese

ترجمه؟ لطفاً این مربع را علامتگذاری نموده و آن را به هر یک از دفاتر شهرداری ارائه نمایید. Farsi

Traduction? Veuillez cocher la case et apporter au council. French

需要翻譯? 請在這方格內划勾, 并送回任何市议会的办事处。Mandarin

Tłumaczenie? Zaznacz to okienko i zwróć do któregokolwiek biura samorządu lokalnego (council office). Polish

Tradução? Coloque um visto na quadrícula e leve a uma qualquer repartição de poder local (council office). Portuguese

Tercümesi için kareyi işaretleyiniz ve bir semt belediye burosuna veriniz Turkish

other (please state)

**This can also be made available in large print, Braille, or on CD or audio tape**





**BRIGHTON & HOVE CITY COUNCIL**

**STANDARDS COMMITTEE**

**5.00pm 21 JUNE 2011**

**COMMITTEE ROOM 1, HOVE TOWN HALL**

**DRAFT MINUTES**

**Present:** Councillors: Kitcat, Lepper, Littman, A Norman and Wells

**Independent Members:** Dr M Wilkinson (Chair), Mr Paul Cecil and Mr Peter Rose

**Rottingdean Parish Council Representatives:** Mr John Bustard and Mr Geoff Rhodes

**Apologies:** Councillor Alex Phillips

**PART ONE**

**6. REVIEW OF WEBCASTING GUIDANCE**

6.1 The Committee considered a report from the Monitoring Officer on the Webcasting Protocol.

6.2 Mr Ghebre-Ghiorghis said that the Council has been webcasting for 3 years and at the time of introduction had been hesitant to introduce it as it was experimental. Audience levels had been encouraging however, with significantly higher numbers of the public being reached than physical attendance at meetings would have achieved. Webcasting was therefore an effective way of communicating with residents. The contract for the current provider would end in September 2011 and the authority was currently going through the tendering process with a view to entering into a 3 year contract with the successful provider.

A webcasting protocol had been introduced, which was intended to be helpful to Members, and was a standardised format that other councils were using. Following some issues around the placing of webcast material on other websites however, there had been a desire for more clarification on the protocol, and so a new paragraph was introduced. A few problems with the restrictions of this paragraph had been encountered however. The webcast provider Public-i had enhanced the webcast facility and this enabled Members and members of the public to copy and paste the webcast information onto any site. A standards complaint had been received around this issue, and was eventually considered by the First Tier Tribunal, where some useful guidance was issued to the Council.

The Tribunal gave a view on what amounted to resources, and webcast material did not constitute a resource in the terms of the code of conduct. The Human Rights Act, which gave precedence to freedom of speech, was also considered relevant. Since that case had been heard, a number of other incidents had occurred where material had been put on other websites and it was felt that the additional paragraph of the code had become unenforceable. Four options for Members to consider were set out in the report.

The first option was to retain the protocol as it was currently. This would act as a firm guide but would also block people's rights to freedom of speech. The First Tier Tribunal did not make judgement on whether the protocol was right or not, but it was noted that certain sections had become unenforceable and unworkable. Mr Ghebre-Ghiorghis did not recommend this option.

The second option was to revoke the protocol completely. This option gave simplicity to the issue, but some useful bits of the protocol would also be lost.

The third option was to amend the protocol as per appendix 2 of the report. This would make the copyright position clear and also made the use of webcasts compliant with the general law of England and did not actively endorse alternative usage. Further, this amendment would allow retention of some control over usage. Another consideration was the issue of business use, and whether it was acceptable for commercial operators to use the authority's webcasts and sell them on, which could conceivably happen if there were no controls on the material.

The last option was to retain the webcast protocol and remove paragraph 4.5, which had given rise to most of the problems.

The protocol had been agreed by Governance Committee originally, but it was felt it would be useful for the Standard Committee to give a view on what the preferred option was. The final decision would be made at Governance however. Finally, any protocol needed to be enforceable, tenable and have cross party support.

- 6.3 Mr Rose said that there were copyright and public usage issues to consider here as well as the conduct of Members of the Council and the constraints placed on them. Removing the protocol completely left the copyright issue in limbo, and he felt the principle of this needed to be retained. He was concerned about editorial controls however, as it was difficult to know if meanings had been changed if material was edited, and it could be hard to make a sensible judgement. Mr Rose also felt that commercial use needed to be separated out in some way from the common usage of webcasts, which was more about freedom of information and freedom of speech.
- 6.4 Councillor Kitcat felt that the reality was that the Council was unable to control usage of webcast material on the internet. Satire was permissible under law and the Council did not have the authority to prevent this. He strongly supported option 4 and felt that a statement of copyright was adequate and hoped the local councils would eventually move to a national permissible licence. He did not agree with a protocol that was unenforceable and felt that if the webcasts were on the internet then people should be allowed to use them as at least they were showing an interest in the work of the Council. He realised the concerns about false perceptions being created, but this happened in the local press anyway and so could not be prevented.

- 6.5 Councillor Littman found both sides of the argument interesting, but recognised it was a historical British freedom to satire politicians. Breach of copyright happened all of the time with national political figures and he did not feel the issue of copyright was important. He agreed with a newer version of paragraph 4.5 being drafted, but leaned towards removing it completely.
- 6.6 Mr Cecil noted that the other options were difficult to police and restricted usage of the content.
- 6.7 Mr Rose said he would like to see the deletion of all the subsections of paragraph 4.5 as they were unenforceable, but to keep the rest. How Councillors then used the webcasting protocol would be a matter for the code of conduct rather than the protocol.
- 6.8 Councillor Bustard asked if previous meetings had been edited by the authority. Mr Ghebre-Ghiorghis replied that this was a provision for the Monitoring Officer to edit meetings after the event if difficulties arose in the meeting, this was in particular with reference to things that could lead to the council being liable for defamation.
- 6.9 Mr Cecil asked about whether webcasting material could be in breach of privilege and the Chairman responded that Councils did not have privilege rights.
- 6.10 Mr Rose suggested amending paragraph 4.5 to delete the words after “remain the property of the Council”, and delete the words at parts 1,2 and 3, and amend part 4 to delete the words after “Democratic Services”. Members agreed to this amendment.
- 6.11 **RESOLVED** – that the Standards Committee recommends to the Governance Committee that paragraph 4.5 of the Webcasting Protocol be amended to read as follows:

“The actual webcasts and archived material, and copyright therein, remain the property of the Council. A DVD copy of a webcast can be obtained for a fee of £75 from Democratic Services.”



|                            |                              |
|----------------------------|------------------------------|
| <b>STANDARDS COMMITTEE</b> | <b>Agenda Item 6</b>         |
|                            | Brighton & Hove City Council |

|                         |  |                          |  |
|-------------------------|--|--------------------------|--|
| <b>Subject:</b>         | <b>Webcasting Protocol</b>                       |                          |  |
| <b>Date of Meeting:</b> | <b>21 June 2011</b>                              |                          |  |
| <b>Report of:</b>       | <b>Monitoring Officer</b>                        |                          |  |
| <b>Contact Officer:</b> | <b>Name: Oliver Dixon</b>                        | <b>Tel: 01273 291512</b> |  |
|                         | <b>E-mail: oliver.dixon@brighton-hove.gov.uk</b> |                          |  |
| <b>Wards Affected:</b>  | <b>All</b>                                       |                          |  |

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

1.1 This report considers whether the council should retain or cease its Webcasting Protocol and, if the decision is to retain it, what amendments – if any – should be made.

**2. RECOMMENDATIONS:**

2.1 That Standards Committee agree which of the options listed in paragraphs 3.6 to 3.9 below it wishes to recommend to Governance Committee.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

3.1 The council first agreed a webcasting protocol at Governance Committee in September 2008, together with a ‘Members guide to webcasting’. The intention of the protocol was to encourage and support the use of the webcasting facility and to provide Members with guidance as to how to effectively use the system whilst also seeking to protect Members and the Council from any exposure to potential risks or challenges.

3.2 The protocol was revised at Governance Committee in July 2009 to address the issue of downloading webcast images onto non-council media such as Facebook and YouTube. The relevant part of the protocol was amended to permit the posting of council webcast material onto such media, subject to the prior written consent of the Head of Democratic Services. The revised protocol also prohibited the copying or issuing (as opposed to simple viewing) of webcast images by the public without such consent. A copy of the existing protocol is reproduced at Appendix 1; see in particular clauses 4.5(i) and (ii).

3.3 In 2010 the council’s webcast provider, Public-i, enhanced the system to enable viewers to share one or more agenda items with third parties by any of the following methods:

- e-mailing the item
- embedding the item on a third party website

- including a hyperlink to the item

3.4 The First-Tier Tribunal considered the original version of the webcast protocol in November 2010 at an appeal brought by a Member against a Standards Committee finding of a breach of the Code of Conduct for Members. Upholding the appeal, the Tribunal found that the Member's action in posting a short clip onto YouTube of a webcast featuring a senior member of the council's administration at the time did not amount to a breach of the Code of Conduct on any of the grounds alleged and that did not constitute the "use of Council resources" as envisaged by the code. It should be noted that the Tribunal did not comment on the legality or validity of the protocol. It was dealing only with the question of whether the Member's actions constituted a breach of the code of conduct for Members.

3.5 In view of both the technical enhancement allowing the sharing of webcast agenda items, and the guidance given in the First-tier Tribunal decision in the above case regarding the definition of resources, the Standards Committee is invited to consider whether the council's existing webcast protocol requires further amendment or whether it is needed at all. The suggested options are set out below.

### 3.6 **Option 1 – retain the existing protocol**

The intention of requiring the Head of Democratic Services approval before sharing webcasting data was to protect members and the Council from exposure to potential challenge. It was anticipated that the norm would always be to grant consent but that it offered a check and balance in case the proposed use of the material could in some way not foreseen by the Member lead to a challenge.

For the reasons given in 3.3 and 3.4 above, the existing protocol is no longer enforceable: it does not take into account the latest sharing facility, and does not take account of the First-Tier tribunal's decision.

Option 1 is therefore not recommended.

### 3.7 **Option 2 – withdraw the protocol**

3.7.1 Apart from the rules governing distribution and onward transmission of webcast material, the protocol contains provisions relating to agenda front sheets and signage at meetings; conduct of meetings; termination or suspension of a webcast; and archiving. Even if the parts about copying and distribution are considered obsolete, the remaining provisions are still valid.

It is therefore not recommended to cease using the protocol altogether.

3.7.2 If Members considered a stand-alone protocol unnecessary, it would be possible to incorporate parts of the existing protocol into the council's procedure rules or access to information procedure rules (parts 3.2 and 8.1 respectively of the council's constitution).

3.7.3 It should be noted that even if the council were to withdraw the protocol or remove the restrictions on copying, editing and distribution, the way in which

Members use webcast footage would still be subject to the Code of Conduct. For example, its use must not fail to treat others with respect; nor should it be used in ways that may reasonably be regarded as bringing the member's office or authority into disrepute. Naturally, any allegation of a breach of the code would need to be assessed against established principles, including freedom of speech

### **3.8 Option 3 – amend the protocol**

- 3.8.1 An amended protocol would take account of the sharing technology now available, by affirming that Members may share any complete agenda item using the facility provided. Although the Public-i technology does not allow the sharing of edited clips within an agenda item, this may be technically possible by other means.
- 3.8.2 A revised protocol could encourage Members, when posting any webcast material onto a non-council site, to provide the context. It could expressly prohibit the alteration of words or images originating from a council webcast, so as not to create a false representation of council proceedings. It could also draw a distinction between individual use and use for commercial purposes.
- 3.8.4 A revised protocol also needs to state the council's position in relation to copyright. The existence of the new sharing facility suggests the council is willing for viewers to copy and issue webcast material without entering into or paying for a copyright licence, even though the council owns the copyright in the webcast sound and images. In the absence of any statement regarding copyright, it is unclear whether the council is providing an implied licence to all persons who share the material or is simply not intending to take any action for copyright infringement.
- 3.8.5 For the avoidance of doubt, the council could include a copyright statement in its protocol, as well as on the webcast pages themselves, indicating the extent of copying and communication it is willing to allow. The statement should mention any limitations or exclusions, such as a prohibition against adaptation.
- 3.8.6 A suggested amendment to paragraph 4.5 of the protocol reflecting the above is attached in Appendix 2.

### **3.9 Option 4: Remove the restriction on use of webcast**

- 3.9.1 This involves simply deleting paragraph 4.5 so that all webcast material becomes free for any use by anyone for any purpose. Use by Members would be covered by the Code of Conduct for Members itself without reference to the protocol. This means the Council losing the ability to influence or regulate the way that webcast material is used. It also brings an element of uncertainty regarding the copyright position. On the other hand, it has the advantage of simplicity and is less susceptible to challenge on the grounds of freedom of speech as contained in the Human Rights Act.

#### **4. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 4.1 There are no financial implications arising from this report

*Finance Officer Consulted: Anne Silley Date: 10/06/11*

##### Legal Implications:

- 4.2 The report invites the Standards Committee to make a recommendation to Governance Committee which will consider and decide the matter at its meeting on 26 July 2011.
- 4.3 There is no legal requirement on the council to adopt a webcasting protocol but there are certain democratic and legal benefits in having one as it helps clarify for Members and the public what the Council considers acceptable.

*Lawyer Consulted: Oliver Dixon Date: 10/06/11*

##### Equalities Implications:

- 4.4 The webcasting protocol supports the council's objective of facilitating access to council meetings and of enabling greater transparency of the decision-making process.

##### Sustainability Implications:

- 4.5 There are no sustainability implications arising directly from this report

##### Crime & Disorder Implications:

- 4.6 There are no crime and disorder implications arising from this report

##### Risk and Opportunity Management Implications:

- 4.7 A webcasting protocol makes clear the conduct expected of Members during webcast meetings, and any limitations as to the dissemination of archived footage. It therefore reduces the risk of a challenge to or complaint about Member conduct in those circumstances.

##### Corporate / Citywide Implications:

- 4.8 There are no corporate or citywide implications arising from this report.



## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. The council's existing webcasting protocol
2. Suggested amendment to the protocol

### **Documents In Members' Rooms**

None

### **Background Documents**

None

## The council's existing Webcasting Protocol (as amended in July 2009)

### 1.0 Agenda Front Sheets and Signage at Meetings

- 1.1 Advanced notice of the intention to web cast a meeting will be given on each agenda with the inclusion of the following:

#### “WEBCASTING NOTICE

This meeting may be filmed for live or subsequent broadcast via the Council's web site. At the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

You should be aware that the Council is a Data Controller under the Data Protection Act 1988. Data collected during this web cast will be retained in accordance with the Council's published policy (*Guidance for Employees' on the BHCC website*).

Therefore by entering the meeting room and using the seats around the meeting tables, you are deemed to be consenting to being filmed and to the possible use of those images and sound recordings for the purpose of web casting and/or Member training. If members of the public do not wish to have their image captured they should sit in the public gallery area.

If you have any queries regarding this, please contact the Head of Democratic Services or the designated Democratic Services Officer listed on the agenda.”

- 1.2 In addition signs will be displayed inside and outside the meeting room (see overleaf).

### 2.0 Conduct of meetings

- 2.1 At the start of each meeting to be filmed, an announcement will be made to the effect that the meeting is being web cast, and that the Chairman may also terminate or suspend the web casting of the meeting, in accordance with this protocol. This will be confirmed by the Chairman making the following statement:-

“I would like to remind everyone present that this meeting will be broadcast live to the internet and will be capable of repeated viewing.”

### 3.0 Termination or suspension of web cast

- 3.1 The Chairman of the meeting has the discretion to terminate or suspend the web cast if, in his/her opinion, continuing to web cast would prejudice the proceedings of the meeting.

This would include:

- (i) Public disturbance or other suspension of the meeting;
- (ii) Exclusion of public and press being moved and supported;
- (iii) Any other reason moved and seconded and supported by the Committee.

- 3.2 No exempt or confidential agenda items shall be webcast.

#### **4.0 Access to Webcasts**

- 4.1 Subject to paragraph 4.2 below all archived webcasts will be available to view on the Council's website for a period of six months. Meetings are recorded onto DVD, which will be stored in accordance with records management procedures.
- 4.2 Archived webcasts or parts of web casts shall only be removed from the Council's website if the Monitoring Officer considers that it is necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law doctrine, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information.
- 4.3 If the Monitoring Officer has decided to take such action he must notify all elected Members in writing as soon as possible of his decision and the reasons for it.
- 4.4 The Council expects the Chairman and the Monitoring Officer to ensure that all meetings are conducted lawfully. Therefore, the Council anticipates that the need to exercise the power set out above will occur only exceptionally.
- 4.5 The actual webcasts and archived material, and copyright therein, remain the property of the Council, and the right to copy, issue, rent, perform, communicate or adapt any of the webcast or archived material is restricted as follows:
- (i) Any Member wishing to use a web cast or part thereof on their individual council web pages may do so as long as the whole agenda item is displayed; however, should they wish to post any material onto externally based media such as You-tube or Facebook, prior written approval must be obtained from the Head of Democratic Services;
  - (ii) The use of a webcast or part thereof by any person who is not an officer or Member of the council is prohibited without the prior written approval of the Head of Democratic Services;
  - (iii) A DVD copy of a webcast can be obtained for a fee of £75 from Democratic Services and shall not be altered in any way or played in public.
- 4.6 Any elected Member who is concerned about any webcast should raise their concerns with the Head of Democratic Services or the Monitoring Officer.

#### **5.0 Review & Monitoring**

- 5.1 Operation of the webcasting will be monitored and reviewed from time to time and reported to the Governance Committee.

## **WEBCASTING**

**PLEASE NOTE THAT BRIGHTON &  
HOVE CITY COUNCIL MAY  
BROADCAST THIS MEETING LIVE ON  
ITS WEBSITE AND THE RECORD  
ARCHIVED FOR FUTURE VIEWING  
YOUR PICTURE MAY BE INCLUDED IN  
THE BROADCAST / RECORD  
ACCESSIBLE AT**

**[www.brighton-  
hove.gov.uk/yourcouncil/webcasts/def  
ault.htm](http://www.brighton-hove.gov.uk/yourcouncil/webcasts/default.htm)**

**FOR FURTHER INFORMATION, PLEASE CONTACT  
MARK WALL, HEAD OF DEMOCRATIC SERVICES (01273  
291006 e-mail [mark.wall@brighton-hove.gov.uk](mailto:mark.wall@brighton-hove.gov.uk)**

- 4.5 The actual webcasts and archived material, and copyright therein, remain the property of the Council, and the right to copy, issue, rent, perform, communicate or adapt any of the webcast or archived material is restricted as follows:
- (i) Subject to (ii) and (iii) below, any person may copy and use webcast material or part thereof providing the facility is not used in a way that otherwise breaks the law;
  - (ii) The use of any webcast involving the alteration or editing of the material which results in changing the message or context without the prior written approval of the Head of Democratic Services is prohibited;
  - (iii) The use of webcast for commercial purposes involving simple reproduction is prohibited unless the prior approval of the Head of Democratic Services is obtained.
  - (iv) A DVD copy of a webcast can be obtained for a fee of £75 from Democratic Services and shall not be altered in any way or played in public.



**BRIGHTON & HOVE CITY COUNCIL**

**CABINET**

**4.00PM 9 JUNE 2011**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Randall (Chair), Bowden, Davey, Duncan, Jarrett, Kennedy, Kitcat, Shanks, Wakefield and West

**Also in attendance:** Councillors G Theobald (Opposition Spokesperson) and Mitchell (Opposition Spokesperson)

**Other Members present:** Councillors Carden, MacCafferty, Morgan, K Norman, Summers and Wealls

**PART ONE**

**20. CABINET PORTFOLIOS AND WAYS OF WORKING**

- 20.1 The Cabinet considered a report of the Strategic Director, Resources confirming the Cabinet portfolios agreed by the Leader of the Council on 19 May 2011 and proposing arrangements for the Cabinet Member Meetings to support the new portfolios.
- 20.2 The Chair reported that Chief Inspector Graham Bartlett of Sussex Police was supportive of the proposed approach to public health, which would see it sit alongside work on communities, equalities and public protection.
- 20.3 Councillor Theobald stated that it had been unfortunate that a special meeting of the Governance Committee had not been called to consider the proposals first and that the dissolution of the Sustainability Cabinet Committee was disappointing.
- 20.4 **RESOLVED** - That, having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:
- (a) That the Cabinet portfolios approved by the Leader on 19<sup>th</sup> May 2011, as set out at Appendix One, and the explanatory note, as set out in appendix 2, be noted.
  - (b) That the proposals in paragraph 4 of the report regarding the arrangements for Cabinet Member Meetings be approved.
  - (c) That it be noted that the new Cabinet arrangements and any further modification to ways of working would be considered by the Governance Committee and any changes reported to Cabinet for approval.





|                |                              |
|----------------|------------------------------|
| <b>CABINET</b> | <b>Agenda Item 20</b>        |
|                | Brighton & Hove City Council |

|                         |  |
|-------------------------|--|
| <b>Subject:</b>         | <b>Cabinet Portfolios and Ways of Working</b>                |
| <b>Date of Meeting:</b> | <b>9 June 2011</b>   |
| <b>Report of:</b>       | <b>Strategic Director, Resources</b>                         |
| <b>Contact Officer:</b> | <b>Name: Abraham Ghebre-Ghiorghis Tel: 29-1515</b>           |
|                         | <b>E-mail: abraham.ghebre-ghiorghis@brighton-hove.gov.uk</b> |
| <b>Key Decision:</b>    | <b>No</b>  |
| <b>Wards Affected:</b>  | <b>All</b>   |

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report confirms the Cabinet portfolios agreed by the Leader of the Council on 19<sup>th</sup> May 2011 and proposes arrangements for the Cabinet Member Meetings that will support the new portfolios.
- 1.2 The report also informs Cabinet of proposals to review aspects of the arrangements and that any proposed changes will be reported to a future Cabinet following consideration by the Governance Committee.

**2. RECOMMENDATIONS:**

- 2.1 That Cabinet:
  - (1) Notes the Cabinet portfolios approved by the Leader on 19<sup>th</sup> May 2011 as set out at Appendix One and the explanatory note as set out in appendix 2;
  - (2) Agrees the proposals in paragraph 4 of the report regarding the arrangements for Cabinet Member Meetings;
  - (3) Notes that the new Cabinet arrangements and any further modification to ways of working will be considered by the Governance Committee and any changes reported to Cabinet for approval.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Under the Local Government Act 2000, the Council must appoint a Leader at the Annual Council following local elections. The Leader has the power to appoint Members to serve as Members of the Cabinet and to change the portfolios.

- 3.2 On 19<sup>th</sup> May 2011, the new Leader of the Council designated revised Cabinet portfolios and made appointments to those positions. The Cabinet appointments, and consequential changes to the Scheme of Delegations, took effect immediately. A copy of the amended Scheme of Delegations is attached as Appendix One.
- 3.3 Under the Council's constitution, any Cabinet appointments and any consequential amendments to the scheme of delegations have to be reported to Council for information. This was done as part of the addendum to the Council agenda at annual Council. The documents included an explanatory memorandum, which is attached as appendix 2 for information.

#### **4. ARRANGEMENTS FOR CABINET MEMBER MEETINGS**

- 4.1 The creation of the new portfolios requires a re-examination of the arrangements for Cabinet Member meetings. This is, in particular, the case in relation to functions previously comprised in the delegations to the Cabinet Member for Environment. The intention is to reflect the revised portfolios as much as possible whilst, at the same time, keeping the number of meetings to a minimum. In doing so, regard has been had to the statutory guidance on constitutions which requires arrangements to be efficient, transparent and accountable.
- 4.2 Having regard to the above principles and the Council's wish to see Cabinet Member decisions taken in public, it is proposed that the following arrangements for Cabinet Member meetings apply:
- (a) That the arrangements for Cabinet Member meetings for Housing, Children and Young People, Adult Social Care & Health, Culture Recreation & Tourism continue unchanged;
  - (b) That there be no Cabinet Member meetings for Finance & Central Services, as now;
  - (c) That, given the wide range of functions comprised within the portfolio, there be a separate Cabinet Member meeting for Planning, Employment, Economy and Regeneration. It is proposed that these take place on days currently scheduled for the Environment CMM.
  - (d) That there be joint Cabinet Member meetings for Transport & Public Realm and Environment & Sustainability. These will operate not as a joint committee, but as two separate decision-making meetings that may be held concurrently or consecutively as the Members may decide. It is proposed to use dates currently scheduled for the Sustainability Cabinet Committee with additional dates to be confirmed.
  - (e) Given the nature of functions comprised in the delegations for the Cabinet Member for Communities, Equalities and Public Protection, any decisions are likely to be taken at Officer level (for example environmental health and trading standards) or need to be taken by Cabinet given their cross-cutting nature (for example equalities) or are matters referred to the Community Safety Forum which is chaired by the Cabinet Member. It is therefore not

proposed to have formal scheduled meetings. Should the need arise for formal meetings, they can be called by the Cabinet Member after consulting opposition spokespersons.

(f) That there be a review of the arrangements in the light of experience as part of the next review of the constitution. In the meanwhile, as part of the normal arrangements, the relevant Cabinet Member has the power to vary the meeting days if, following comments, the proposed dates prove inconvenient.

4.3 The Cabinet Procedure Rules and Council Procedure Rules as they apply to the running of Cabinet and CMM meetings remain in place and it is not proposed to change them at this stage.

## **5. CABINET COMMITTEES**

5.1 There is one Cabinet Committee meeting in existence at the moment (the Sustainability Cabinet Committee.) However, in the light of the desire to mainstream sustainability, and given concerns about the effectiveness of the current role of the committee, it is proposed that the future of the committee be considered as part of the next review of the constitution. In the meanwhile, it is proposed not to hold meetings of the committee unless there are pressing reasons and the matter cannot be dealt with conveniently by the Cabinet, in which case the Chair of the Committee may call a special meeting.

5.2 Another option open to the Cabinet would be the establishment of a Cabinet Committee for Environment. However, it is proposed that the arrangements outlined in paragraph 4 should be put in place and the option of an Environment Cabinet Committee considered in the light of experience as part of the next review of the constitution.

## **6. FURTHER REVIEW OF EXECUTIVE AND OTHER ARRANGEMENTS**

6.1 In view of the time constraints, the revised portfolios and the CMM arrangements have not been referred to the Governance Committee in advance of a decision. It is however proposed to refer these changes to the Committee together with any other proposals and the recommendations of the Committee, if any, will be reported to Cabinet for a decision in so far as they relate to executive arrangements.

6.2 Cabinet Members also need to be aware that there are planned reviews regarding the overview & scrutiny arrangements which are likely to result in significant changes to the current ways of working. In addition, there will be opportunities to look at all parts of the constitution, including webcasting, the operation of council procedures and the proposals in the Localism Bill. This will be led by the Governance Committee with the relevant recommendations reported to Cabinet.

## **7. CONSULTATION**

7.1 Democratic Services will consult with affected Members in relation to proposed Cabinet Member meeting dates and times.

7.2 There will be consultation with Members and other affected parties in relation to the wider review of the Constitution referred to in the report

## **8. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

8.1 There are no direct financial implications arising from the proposals in this report.

*Finance Officer Consulted: Anne Silley Date: 27/05/11*

### Legal Implications:

8.2 The appointment to Cabinet portfolios is governed by the Local Government Act 2000 and is a function of the Leader of the Council. This report does not therefore require approval of the new portfolios or the immediate changes necessary to meetings to support those portfolios. However, as changes to the Constitution are normally required to go through the Governance Committee, the report proposes to take a full review of the Constitution to the Governance Committee.

*Lawyer Consulted: Elizabeth Culbert Date: 26/05/11*

### Equalities Implications:

8.3 There will be a focus on ensuring accessibility to all council meetings, including facilities for wheelchairs users, including lifts and toilets as well as the operation of induction loops and other assistance which can be arranged through the meeting venue.

### Sustainability Implications:

8.4 Proposals to increase the prominence of sustainability issues are addressed in the body of the report.

### Crime & Disorder Implications:

8.5 None

### Risk and Opportunity Management Implications:

8.6 None

### Corporate / Citywide Implications:

8.7 The proposals in the report reflect the focus and aspirations of the administration for the City.

## **9. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

9.1 Cabinet Member Meetings could be arranged differently but the proposals in the report best support the Cabinet appointments made by the Leader of the Council on 19<sup>th</sup> May 2011.

## **10. REASONS FOR REPORT RECOMMENDATIONS**

10.1 The report aims to ensure transparency and facilitate discussion in relation to new Cabinet portfolios. It further seeks to inform Members of proposals for full consultation in relation to any future changes to the constitution.

### **SUPPORTING DOCUMENTATION**

#### **Appendices:**

1. Amended scheme of delegations for executive functions.
2. Explanatory note to proposed amendments

#### **Documents In Members' Rooms**

None

#### **Background Documents**

None





# Brighton & Hove City Council

## **SCHEME OF DELEGATIONS FOR CABINET**

Approved by Leader of the Council on 19 May 2011 to come into force with immediate effect.

## **PART 4.1 LEADER & CABINET – GENERAL**

### **1. Role**

The Executive consists of a Leader and Cabinet. The Executive shall carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### **2. Form and composition**

The Executive shall consist of the Leader of the Council (who shall be the Chair of the Cabinet) and between two and nine Councillors appointed to the Cabinet by the Leader.

### **3. Leader of the Council**

The Leader shall be a councillor elected by the Council. The Leader holds office until the annual Council meeting following the next local elections providing that he/she shall cease to be Leader if any of the following takes place:

- a) He/she resigns from the office; or
- b) He/she is suspended from being a councillor under Part 111 of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- c) He/she is no longer a councillor; or
- d) He/she is removed from office by resolution of the Council, or
- e) He/she is otherwise disqualified by law.

If the Leader ceases to hold office before the end of his/her term, the Council shall elect a new Leader, who shall hold office until the annual Council following the next local elections, or until one of the events described in a) to e) above occurs. Until such time as the new Leader is elected, the Deputy Leader (Executive) shall assume the role of the Leader.

No resolution to remove the Leader may be passed unless it complies with the requirements of Rule 25 of the Council Procedure Rules.

### **4. Other Cabinet Members**

**Appointment:** Only Councillors may be appointed to become Cabinet Members. Subject to the legal minimum and maximum, the size and composition of the Cabinet is a matter solely for the Leader to decide. He/she may choose to appoint councillors from any political group or



## **Governance Committee Agenda Item 14(b) Appendix 1**

those not in any political group. The Cabinet need not reflect the overall political composition of the Council. The Leader must report his/her appointments to the Chief Executive immediately they are made and to the next meeting of Full Council. The appointment of Members to the Executive shall be effective immediately the notification is received by the Chief Executive.

**Removal of Cabinet Members:** Cabinet Members shall hold office until:

- a) they resign from office; or
- b) they are suspended from being councillors under Part 111 of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c) they are no longer councillors; or
- d) they are removed from office, either individually or collectively, by the Leader, or
- e) they are otherwise disqualified by law.

Before a decision to remove a Member from the Cabinet shall take effect, the Leader must inform the Council's Chief Executive in writing that he/she has decided to remove the Member from office and the date upon which such removal is to take effect. The removal of the Cabinet Member shall take effect on the date specified in the notice or, if no date is specified, on the date that the notice is received by the Chief Executive.

The notice must also state the identity of any newly appointed member of the Cabinet and, if appropriate, any consequential amendment to the scheme of delegation to Cabinet Members under Part 4 of the Constitution.

The Leader must report his/her decision to remove a Cabinet Member to the next meeting of Full Council and at that meeting the Leader must inform the Council of the identity of the new Executive Member who shall succeed the outgoing Member and, if appropriate, any amendment to the scheme of delegation in part 4 of the Constitution.

### **5. Deputy Leader**

The Leader may appoint one of the Cabinet Members to be Deputy Leader (Executive). Any Member appointed as such shall be able to exercise the functions of the Leader when the Leader is unavailable or unable to act. Any exercise of functions by the Deputy Leader (Executive) shall be subject to any limitations, qualifications or other instructions as may be issued by the Leader either generally or in

## **Governance Committee Agenda Item 14(b) Appendix 1**

relation to the exercise of particular functions. The Deputy Leader (Executive) shall be subject to the same conditions as to appointment and dismissal as apply to any Cabinet Member.

(Note that under current arrangements, the Council may appoint a Non-Executive Deputy Leader which shall not operate as an appointment under Schedule 1 of the Local Government Act 2000 and such a person may not exercise any of the functions of the Leader which are executive functions.)

### **6. Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

### **7. Responsibility for functions**

The Leader shall maintain a list in this Constitution setting out which individual members of the Cabinet (see Part 4), committees of the Cabinet (see Part 4), Officers (see Part 7) or joint arrangements (see Part 5) are responsible for the exercise of particular executive functions.

### **8. Role of Leader of the Council**

All executive functions of the Council are vested by law in the Leader of the Council. He/she therefore has overall responsibility for the discharge of all executive functions.

The Leader shall have overall responsibility at the political level in relation to setting corporate priorities and strategic policy direction. He or she shall be its principal spokesperson on corporate and strategic issues.

The Leader shall chair the Cabinet and guide its work, ensuring coherent direction and action and that, where relevant, proposals are made to Full Council for decision within appropriate timescales.

The Leader shall provide political direction to the Chief Executive and other officers on the overall corporate priorities and objectives set by Full Council and ensure coherent action by the Council both internally and externally.

## **Governance Committee Agenda Item 14(b) Appendix 1**

He/she shall share in the responsibilities of the Cabinet and have the responsibilities of an individual member of the Cabinet, with a specific portfolio of responsibilities as shown in part 4 of the constitution. This shall be without prejudice to the powers of the Leader to exercise all executive powers.

The Leader shall appoint, suspend or remove Cabinet Members as necessary and determine the arrangements for the discharge of executive arrangements.

**Miscellaneous roles:** The Leader shall:

- work closely with other Cabinet Members to ensure the development of effective policies, and high quality services to the City;
- work with the relevant Cabinet Members in developing revenue budget and capital programme strategies and ensuring probity and financial monitoring;
- developing, in consultation and partnership with others, a strategy for promoting the social, economic and environmental well-being of the area; enhancing partnership working and public consultation and participation, as well as developing a public relations/corporate information strategy;
- guide policy and strategy proposals through the Council where the final decision rests with the Council;
- in consultation with the Chief Executive and the Monitoring Officer, to draw up a four month forward programme of Cabinet business and to keep it under review;
- act as an ambassador for the Council;
- maintain professional working relationships and establish mutual respect with the Chairmen of the Council's regulatory and overview and scrutiny committees, and with all other Members and officers;
- be a promoter and upholder of equalities throughout the City and high standards of ethical conduct by the Council's Members and officers.

### **9. Role of Cabinet Members**

## Governance Committee Agenda Item 14(b) Appendix 1

The following roles are allocated to all Cabinet Members:

To work with the Leader and other members of the Cabinet to ensure coherent direction and action by the Council, acting in accordance with Council decisions and, as part of that, to ensure that the Cabinet is informed of events, activities and proposals and involved in all decisions which should be taken collectively. In pursuance of this:

- i) to play a leading role in the management of the Council and decisions about the services it provides and how they are provided, with a view to achieving excellence in the provision of council services;
- ii) to participate, with other members of the Cabinet, in consideration of steps to revitalise local democracy through increased public consultation and participation; ensure high quality services; strengthen the Council's ethical framework; and enhancing, in partnership with others, the Council's community leadership role;
- iii) to provide political leadership on the activities relating to the Cabinet Member's portfolio;
- iv) to provide political leadership to the Chief Executive and other relevant officers on matters relating to the Cabinet Member's portfolio or those activities in respect of which it has been agreed that the councillor should lead; to advise the Cabinet on them and to steer policy developments or changes and other proposals for action requiring the approval of the Council. In so doing, the councillor shall have regard to the overall corporate priorities and objectives set by Full Council and the need for coherent action by the Council both internally and externally;
- v) to exercise executive functions delegated to Cabinet Members by the Leader as set out in Part 4.2 of the Constitution;
- vi) in relation to the Council's Corporate Plan, Cabinet Members shall:
  - a) agree corporate priorities and objectives for consideration by Full Council;
  - b) monitor performance against the Plan;
  - c) review annually the priorities and objectives in the Plan;
  - d) prepare an annual report on the performance achieved by the Council during the previous year.
- vi) to participate with the other Cabinet Members in:

## **Governance Committee Agenda Item 14(b) Appendix 1**

- a) setting guidance which should be given to the Council on the way in which budgets should be prepared, overall budget priorities and the assumptions which should be made in preparing budgets, having regard to the Council's overall corporate priorities and objectives as set out in the Plan; and to recommend to Full Council an annual budget and a three year medium term financial strategy for planning purposes;
  - b) developing a strategy for promoting the well-being of the area and a sense of direction for its communities;
  - c) monitoring the organisation and management processes of the Council to ensure that they continue to meet the needs of the City and to advise the Council on any recommendations for change;
  - d) agreeing a public relations/corporate information strategy and participate in its implementation.
- viii) to encourage and participate in working with partners and other organisations involved in the provision of services which link with those provided by the Council or which have an interest in or contribute to the well-being of Brighton & Hove or communities within it;
- ix) to act as an ambassador for the Council, promoting its work (particularly in those areas relevant to the Cabinet Member's portfolio or where the Cabinet Member has been designated by the Leader to lead or take a special interest) and participating in consultation, listening to, and taking account of, the views of organisations, the public and businesses;
- x) to keep in touch with the views of councillors and take them into account in reaching decisions and, with other Cabinet Members, to consider how Cabinet thinking on strategy and policy issues can best be shared with councillors as it develops;
- xi) within the prescribed timescale, to provide information required by an overview and scrutiny committee (see part 6.1, paragraph 15), and, where requested, to appear before such a committee;
- xii) to fulfil the roles set out in paragraph 2.03 in Article 2 of the Constitution.

### **PART 4.2. RESPONSIBILITY FOR FUNCTIONS**

#### **A. Leader of the Council**

### General Functions

To exercise any function which is designated as an executive function under the law or under the Council's Constitution.

*[N.B. Section 14 of the Local Government Act 2000 (as amended) vests all executive functions in the Leader, who may delegate them to the Cabinet, a committee of the Cabinet, individual Cabinet Members, officers or joint committees. Any such delegation is without prejudice to the Leader's ability to exercise these powers notwithstanding the delegation].*

### Specific Functions

- To determine the appointment and dismissal of Cabinet Members, their portfolios and the scheme of delegations for executive functions.
- The formulation, co-ordination and implementation of corporate policies and strategies and making decisions relating to such matters to the extent that they are not reserved to Full Council.
- To chair Cabinet meetings and major partnerships as necessary and ensure the efficient despatch of business consistent with the Council's policies and strategies.
- To be the lead spokesperson for the Council and deal with external relations with partners and other stakeholders.
- To represent the Council in national and regional negotiations and consultations.
- To lead on consultation and other liaison with local communities.
- Overall responsibility for the performance framework, including the monitoring of targets.
- To lead and co-ordinate the Council's work on key cross-cutting policy areas such as equalities, sustainability and communications.
- To deal with any executive function not specifically delegated to another member of the Cabinet.

**B. The Cabinet**

- 1.1 After the Leader, the Cabinet will operate as the highest executive decision-making body. The following functions shall be discharged by the Cabinet:
- (a) the formulation and submission to Full Council of all plans and strategies that form part of the policy framework.
  - (b) the development, formulation and submission to Full Council of the budget.
  - (c) Any matter which the Cabinet, having regard to the forward plan, decides should be dealt with by the Cabinet.
  - (d) Any matter which the Leader decides should be dealt with by the Cabinet.
  - (dA) Any matter which is delegated to a Cabinet Member for whom no separate Cabinet Member meetings are scheduled
  - (e) Any matter which is delegated to a Cabinet Member, and that Councillor decides to refer the matter to the Cabinet.
  - (f) Any matter which straddles the portfolios of 2 or more Councillors and, in the opinion of the Leader or the Monitoring Officer, is more appropriately dealt with by the Cabinet.
  - (g) Any executive function which is not specifically delegated to a Cabinet Member under this scheme of delegations.
  - (h) Approval of the Council's Risk Management Strategy.
  - (i) Any matter which, under the Council's Financial Standing Orders, Contract Standing Orders or other Council rules, requires the approval of the Cabinet.
- 1.2 When referring or reserving a matter to the Cabinet under sub-paragraphs (c) (d) (e) of paragraph 1.1 above, the Leader or, as the case may be, the Cabinet Member may do so on a one off basis or as part of a general/ standing arrangement.

**C: FINANCE AND CENTRAL SERVICES**

**Delegated Functions**

To exercise the functions of the Council as follows:

**Finance**

- (a) Advising the Leader and Cabinet on budget strategy and the medium term financial plan;
- (b) Reviewing financial management arrangements and performance;
- (c) Reviewing arrangements for securing value for money and efficiency in the use of the Council's resources;
- (d) Reviewing treasury management arrangements and performance;
- (e) Considering reports on financial matters as may be agreed between the Cabinet Member and the Chief Finance Officer and advise the Leader or the Cabinet as appropriate;
- (f) Making decisions or granting authorisations on expenditure in accordance with the requirement of Financial Standing Orders;
- (g) Making decisions on matters which, in the opinion of the Cabinet Member, on the advice of the Chief Finance Officer, are not significant enough to be referred to the Cabinet;
- (h) To provide Member leadership to the finance function.

**Central Services**

All functions regarding the delivery and performance of the Council's support services, in particular:

- Finance
- Property and Design
- ICT
- City Services (except libraries)
- Corporate Procurement
- Legal and Democratic Services
- Policy, Analysis and Performance



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- Communications
- Human Resources and Development

To discharge all functions regarding the establishment of joint working with other authorities, including the establishment of any shared services arrangements.

To receive reports on resourcing, structuring and capacity building in support services and take action as appropriate.

The Council's functions regarding ICT providing that this shall not include approval of the ICT Strategy.

To approve the Council's Planned Property Maintenance Programme.

The acquisition or disposal of properties held centrally or by service areas relating to 2 or more Cabinet Members, up to the value of £1 million providing that the Leader is notified in advance and has no objection. \*

The award of contracts relating to Central Services or those that are Corporate (i.e. not specific to individual services such as corporate stationary, cleaning etc contracts). \*

The Council's functions relating to City Services (except libraries)

[NB.\* These delegations will not preclude contracts, property or other issues of major significance being referred to Cabinet in accordance with the normal rules.]

**D. TRANSPORT AND PUBLIC REALM**

**Highways Management**

To exercise the Council's functions in relation to all highways matters and as highway authority, street authority, bridge authority, including but not limited to highways, bridges, private streets and rights of way.

**Traffic Management and Transport**

- (a) To manage the provision of transport services for service departments including home-school transport and transport for social services;
- (b) To exercise the Council's functions in relation to traffic management and transport and as traffic authority, including but not limited to public passenger transport and the co-ordination of transport for service users;
- (c) To consider and make decisions on proposed traffic orders and rights of way issues where objections have been received and not withdrawn or otherwise resolved;
- (d) To exercise the Council's powers regarding travel concessions.

**Parking**

To exercise the Council's functions in relation to parking, including on and off street parking and decriminalised parking.

**Public Realm**

To exercise the council's functions regarding spaces to which the public have rights of access and consisting of the highway, street furniture on the highway and open spaces or part of open spaces immediately adjacent to the highway to which the public have access.

**E: ENVIRONMENT AND SUSTAINABILITY**

**Parks and Green Spaces**

To exercise the Council's functions in relation to Parks and Open Spaces to the following extent:-

- (a) provision, management and control of parks and open spaces (except those held for housing purposes);
- (b) making countryside management arrangements in liaison with the Sussex Downs Conservation Board (or any successor body) and other environmental bodies;
- (c) provision, management and control of allotments and smallholdings.

**Travellers and Gypsies**

To exercise the Council's functions in relation to travellers and gypsies including the management of authorised sites.

**Waste**

To exercise the Council's functions in relation to waste and as waste collection authority, waste disposal authority and litter authority, including dealing with litter, street cleansing, abandoned vehicles and dog fouling.

**Coast Protection**

To exercise the Council's functions as a coast protection authority.

**Seafront**

To exercise the Council's functions regarding the esplanade, beach and foreshore.

**Sustainability**

To co-ordinate the Council's role and response to cross-cutting sustainability issues such as reducing carbon emissions, projections of a changing climate locally, improving resource efficiency and developing sustainable energy.

**F: COMMUNITIES, EQUALITIES AND PUBLIC PROTECTION**

**Public Safety**

Civil Contingencies

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

**Environmental Health**

To exercise the Council's functions in relation to environmental health, air pollution control, health and safety at work (except in so far as it relates to the Council as an employer) public conveniences, food safety, control of nuisances, including noise control and control of dogs.

**Trading Standards**

To exercise the Council's functions regarding trading standards, including but not limited to consumer protection, product safety, fair trading, metrology, food standards and animal health;

**Licensing**

To exercise the licensing functions of the Council to the extent that they are executive functions, including the formulation and development of the Statement of Licensing Policy and Statement of Gambling Policy prior to their adoption by Full Council.

**Community Safety**

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

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

**Communities**

To co-ordinate and lead on the Council's functions in connection with community engagement and voluntary organisations.

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To co-ordinate and lead on the Council's functions in relation to Equalities and Inclusion

### **Public Health**

To coordinate and make arrangements for the exercise of the Council's functions in relation to public health, for example in relation to:-

- Sexual health;
- Physical Activity, Obesity, tobacco control Programmes;
- Prevention and early detection;
- Children's public health;
- Immunisation; Public Mental Health;
- NHS Healthcheck and Workplace Health Programmes;
- Dental Public Health; Social Exclusion; Seasonal Mortality.

**G: PLANNING, EMPLOYMENT, ECONOMY AND REGENERATION**

**Planning**

To exercise the planning functions of the Council to the extent that they are executive functions, including the formulation and development of the Local Area Framework prior to its adoption by Full Council.

**Economic Growth and Regeneration**

- (a) The Council's functions and partnerships regarding the promotion of economic growth and the establishment and development of business.
- (b) Promoting and developing the economic fundamentals of the City (on occasions with other Cabinet Members) in areas such as adult skills, productivity, development sites etc.

**Major Built Environment Projects**

- (a) To oversee the progress of major projects (including major building, infrastructure or other projects involving the erection or significant alteration of major permanent structures or landmarks) undertaken by the Council, and advise the Leader or the Cabinet as appropriate.
- (b) To review major projects and any project Boards having regard to capacity to deliver, corporate priorities and resources, and advise the Leader or the Cabinet as appropriate.

**Conservation and Design**

To exercise the Council's functions in relation to Conservation and Design including the Hove Borough Council Act 1976

**Building Control**

To exercise the Council's functions regarding building control.

**Council Business Liaison**

To oversee the agenda planning and timetabling of decision-making meetings.

To ensure the efficient dispatch of council business by co-ordinating decision-making and by facilitating liaison between the executive, non-executive members and officers.

To ensure that the Council's business and decision-making is conducted having regard to the principles set out in Article 11 of the Constitution, namely:

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- proportionality
- due consultation and taking of professional advice from officers
- respect for human rights
- presumption in favour of openness, and
- clarity of aims and desired outcomes.

### **H: HOUSING**

#### **Delegated Functions**

To discharge the Council's functions as a local housing authority and, without prejudice to the generality of this paragraph, to discharge the specific functions set out in the following paragraphs.

#### **Strategic and Private Sector Housing**

To discharge the Council's functions in relation to:

- (a) The Council's housing strategy, including the housing investment programme (providing that the final adoption or approval of the housing improvement programme shall be referred to Full Council);
- (b) Homelessness and the allocation of housing;
- (c) 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;
- (d) Tenancy relations and the provision of housing advice;
- (e) Housing loans and grants.

#### **Housing Landlord Functions**

To discharge the Council's functions as a housing landlord including the management of property within the Housing Revenue Account and associated properties.

#### **Supporting People**

To discharge the Council's functions for supporting people under Section 93 Local Government Act 2000 (grants for welfare services).

**I: CHILDREN AND YOUNG PEOPLE**

**Explanatory Note**

*The Cabinet Member for Children & Young People is responsible for education and children's health and social services, including services to young people up to the age of 19. Most of these services are delivered jointly with the Health Service – (see Part 5.2 of the Constitution for details of the Children's Trust Board).*

**Delegated Functions**

To be the Lead Member for Children's Services in accordance with the Children Act 2004.

To exercise all the Council's functions comprised in the Section 75 agreement with Brighton & Hove Primary Care Trust and Sussex Community NHS Trust in relation to children's services.

To exercise the functions of the Council:

- as a Local Education Authority under any enactment relating to education, youth services and the employment of children;
- in relation to educational charities;
- in partnership arrangements with other bodies connected with the delivery of education;
- in relation to social services for children and young people;
- in partnership arrangements with other bodies connected with the delivery of services for children, young people and families;
- regarding families in connection with the functions set out above or where there are no other arrangements made under this scheme of delegation.



**J: ADULT SOCIAL CARE AND HEALTH**

**Explanatory Note**

*The Cabinet Member for Adult Social Care and health is responsible for adult social services and joint delivery of a number of social care and health services with the Health Service - see Part 5.2 of the Constitution for details of the Joint Commissioning Board which oversees these arrangements.*

**Delegated Functions**

**1. Adult Social Services**

- (a) To exercise the social services functions of the Council in respect of adults;
- (b) To exercise all of the powers of the Council in relation to the issue of certificates to blind people; the issue of badges for motor vehicles for disabled people and the grant of assistance to voluntary organisations exercising functions within its area of delegation;
- (c) To exercise the functions of the Council in relation to the removal to suitable premises of persons in need of care and attention.

**2. Partnership with the Health Service**

To exercise the Council's functions under or in connection with the adult services partnership arrangements made with health bodies pursuant to Section 75 of the National Health Service Act 2006 ("the section 75 Agreement").

**3. Learning Disabilities**

To discharge the Council's functions regarding Learning Disability.

**Note**

All the above functions shall be exercised subject to any requirements in the Section 75 Agreement..

**K: CULTURE, RECREATION AND TOURISM**

**Explanatory Note**

*The Cabinet Member for Culture will deal with the Council's functions in relation to culture, arts and heritage; tourism and marketing; libraries and museums; events; and leisure, sports and recreation.*

**Delegated Functions**

To discharge the Council's functions in relation to the following:

**1. Culture, Arts and Heritage**

Culture, including arts and heritage and, without prejudice to the generality of the foregoing, the exercise the Council's functions in respect of arts, entertainment and cultural activities.

**2. Tourism & Marketing**

Tourism, marketing and conferences.

**3. Libraries and Museums**

Libraries, museums, art galleries, historic buildings and their gardens and the functions of the Council regarding public records.

**4. Events**

Events, including the annual programme of entertainment events (providing that if the relevant Strategic Director, or other officer with delegated powers, is of the view that the event is a major event or has corporate budgetary or policy implications the matter shall be referred to the Cabinet).

**5. Leisure, Sports and Recreation**

The provision and management of leisure, sports and recreation facilities.

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**Explanatory Note to Proposed  
Amendments to the Scheme of Delegations to Cabinet**

**1. Introduction**

- 1.1 Under the Local Government Act 2000, the Council has to appoint a Leader at the Annual Council following local elections. The new Leader has the power to appoint Members to serve as Members of the Cabinet and change the portfolios. This was done immediately following Annual Council.
- 1.2 Any new Cabinet appointments and consequential changes to the Scheme of Delegations, once decided by the Leader, take effect immediately. Under the Council's Constitution, the Leader is required to notify full Council of the appointments and any changes to the Scheme of Delegations which was done at Annual Council.
- 1.3 The main changes in the delegations and the rationale for the changes are outlined in the following paragraphs.

**2. Deputy Leader (Executive)  
Planning, Employment, Economy & Regeneration**

- 2.1 This portfolio is designed to bring creativity and energy to attracting investment and delivering regeneration in the City in an inclusive way which maximises economic, social and environmental wellbeing across our communities.
- 2.2 The aim is to pursue a positive vision for the future which looks toward a low carbon economy and maximises the opportunities to create jobs across the full spectrum of the local economy.

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- 2.3 Drawing this range of important responsibilities together provides the opportunity to look beyond traditional notions of planning as an exclusively regulatory activity and tap into an emergent framework that shifts the emphasis to how planning can be used in a positive way to enable and deliver successful outcomes in the right places.
- 2.4 In challenging economic times the combination of activities within this portfolio will place the city council in a good position to explore new models of development for a number of significant projects and to work in an imaginative way with our partners to pursue economic development.
- 2.5 This portfolio also includes responsibility for Council business liaison so that there is greater co-ordination of the decision making process and more coherent and felicitous presentation of the Council's policies.

### **3. Deputy Leader (Non Executive) Transport & Public Realm**

- 3.1 One of the key priorities and challenges facing the City is resolving traffic problems. This requires a focused and systematic approach that generates long term and sustainable transport solutions. Given the importance of this issue to the City, and given the new administration's commitment, it is considered appropriate to designate a stand alone Cabinet post dedicated to this area. The Cabinet Member will work closely with other Cabinet Members such as Environment & Sustainability, Planning, Employment, Economy & Regeneration. The arrangements will however enable this very important function to receive the focussed and dedicated attention it deserves.

### **4. Finance & Central Services**

- 4.1 This brings together the functions responsible for the Council's resources (Finance, Property, ICT) support services (Legal, HR, Policy

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and Communications) and City Services (Revenues & Benefits, Registrars, elections etc). This is in line with the practice in most Councils where these functions are held by the same Cabinet Member although the title may vary with some referring to “Resources” others “Central Services”. This will assist in adopting a co-ordinated approach to all support services and will free up a Cabinet Member portfolio to focus on other key areas of priority.

### **5. Environment & Sustainability**

- 5.1 This portfolio covers the key Council functions that have the most impact on peoples’ sense of environmental wellbeing such as parks and open spaces, collection and disposal of waste and street cleaning. It also covers sustainability. Working closely with other Cabinet Members, especially Transport and Planning, this will help protect and improve the environment for the City.

### **6. Housing**

- 6.1 There is no significant change to this portfolio, but Learning & Disability Services has been moved to Adult Social Care & Health (which reflects the true nature of the function and mirrors the arrangements at officer level where the service is managed as part of Adult Social Care) and travellers has been moved to Environment & Sustainability given the greater relationship with parks and open spaces as opposed to traditional housing.

### **7. Children & Young People**

- 7.1 Given the statutory role of the Lead Member for Children’s Services and the need for a coherent and co-ordinated delivery of all services relating to children, it is not proposed there be any changes.

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### **8. Adult Social Care & Health**

- 8.1 As with Children's Services, there are no changes to this portfolio except that Learning Disability Services will be moved from Housing to Adult Social Care & Health.

### **9. Culture, Recreation & Tourism**

- 9.1 There are no changes to this portfolio.

### **10. Community, Equality & Public Protection**

- 10.1 This function brings together all aspects of the Council's functions regarding the protection of the public ranging from civil contingencies to licensing and environmental health. It also covers community engagement, tackling discrimination and fostering inclusion as well as responsibility for preparing for the transfer of public health.
- 10.2 A common thread running through all the functions comprised in this portfolio is that they are community focussed and this role will increase in importance with the implementation of proposals in the Localism Bill currently going through parliament.

### **11. Next Steps**

- 11.1 It is proposed to undertake a more comprehensive review of the Constitution including the arrangements for Scrutiny, some aspects of the Council's procedures and protocols and rationalising some of the committee arrangements. It is anticipated that the review will be led by the Governance Committee and follow normal consultation processes. The changes proposed in this paper will also be reported to the Governance Committee for information and discussion.

**May 2011**



Document is Restricted

