



**Brighton & Hove
City Council**

BRIGHTON & HOVE CITY COUNCIL MEETING

4.30PM 14 MAY 2020

VIRTUAL MEETING - SKYPE

AGENDA



**Brighton & Hove
City Council**

Council Meeting

Title:	Council
Date:	14 May 2020
Time:	4.30pm
Venue	Virtual Meeting - Skype
Members:	All Councillors You are summoned to attend a meeting of the BRIGHTON & HOVE CITY COUNCIL to transact the under-mentioned business.
	Prayers will be conducted in the Council Chamber at 4.20pm by Reverend Helen Rose
Contact:	Mark Wall Head of Democratic Services 01273 291006 mark.wall@brighton-hove.gov.uk

	<p>Public Involvement 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.</p> <p>Please note that the Public Gallery is situated on the second floor of the Town Hall. We have made a number of adjustments to make the venue as accessible as reasonably possible.</p> <p>If you wish to attend a meeting but are unable to use stairs please contact the Democratic Services Team (Tel: 01273 291066) in advance of the meeting to discuss your access requirements. We can then work with you to enable your attendance and also to ensure your safe evacuation from the building, in the event of an emergency.</p>
	The Town Hall has facilities for disabled people including a lift and wheelchair accessible WCs. In the event of an emergency evacuation there is a special lift which can be used as part of a managed evacuation to assist disabled people. Please refer to the Access Notice in the agenda below.
	An infra-red hearing enhancement system is available within the council chamber to assist hard of hearing people. Headsets and neck loops are provided. If you require any further information or assistance, please contact the receptionist on arrival.

This Agenda and all accompanying reports are printed on recycled paper

AGENDA

1 DECLARATIONS OF INTEREST

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the Monitoring Officer or Democratic Services Officer preferably before the meeting.

2 MAYORAL REPORT 2019/20

13 - 16

To receive the report of the Chief Executive.

Contact Officer: Mark Wall

Tel: 01273 291006

Wards Affected All Wards

3 MAYOR'S THANKS

The Mayor will give thanks for her year in office.

4 ELECTION OF THE MAYOR OF BRIGHTON AND HOVE FOR THE MUNICIPAL YEAR 2020/21

The Mayor will seek nominations for the new Mayor for the municipal year 2020/21.

It is proposed that Council elects Councillor Robins as Mayor for the municipal year 2020/21 and that he be re-elected in May 2021 as Mayor for the municipal year 2021/22 (serving a total of a 2 year term.)

5 VOTE OF THANKS TO THE RETIRING MAYOR

The Mayor will call on Councillor Mac Cafferty to move a vote of thanks for the retiring Mayor.

COUNCIL

6 APPOINTMENT OF THE DEPUTY MAYOR FOR BRIGHTON AND HOVE FOR THE MUNICIPAL YEAR 2020/21

The Mayor will move the appointment of the Deputy Mayor for the municipal year 2020/21.

It is proposed that Council elects Councillor Mary Mears as Deputy Mayor for the municipal year 2020/21 and that she be re-elected as Deputy Mayor in May 2021 for the municipal year 2021/22 (serving a total of 2 year term.)

7 APPOINTMENT OF THE LEADER OF THE COUNCIL FOR THE MUNICIPAL YEAR 2020/21

The Mayor will seek nominations for the appointment of the Leader of the Council for the municipal year 2020/21.

8 APPOINTMENTS FOR 2020/21

The Mayor will move the following appointments for 2020/21:

- (a) To approve the appointment of the Deputy Leader of the Council, Councillor Allcock;
- (b) To approve the appointment of the Leader of the Official Opposition; Councillor Mac Cafferty;
- (c) To note the appointments of the following positions as agreed by the respective Groups represented on the Council:
 - (i) Leader of the Labour Group
Councillor Platts;
 - (ii) Deputy Leaders of the Labour Group
Councillor Allcock and,
Councillor Yates (Finance);
 - (iii) Convenor of the Green Group
Councillor Mac Cafferty;
 - (iv) Deputy Convenors of the Green Group
Councillor Clare (External) and,
Councillor Shanks (Internal);
 - (v) Leader of the Conservative Group
Councillor Bell;
 - (vi) Deputy Leaders of the Conservative Group
Councillor Mears and,
Councillor Wares.

REPORTS FOR DECISION

9 REVIEW OF POLITICAL BALANCE 2020-21

To Follow

Report of the Chief Executive (to follow).

Contact Officer: Mark Wall

Tel: 01273 291006

Wards Affected All Wards

10 REVIEW OF THE COUNCIL'S CONSTITUTION

17 - 32

Extract from the proceedings of the Policy & Resources Committee meeting held on the 30th April 2020 (to follow), together with a report of the Executive Lead Officer for Strategy, Governance & Law

Contact Officer: Elizabeth Culbert

Tel: 01273 291515

Wards Affected All Wards

11 CLOSE OF MEETING

The Mayor will move a closure motion under Procedure Rule 17 to terminate the meeting 4 hours after the beginning of the meeting (excluding any breaks/adjournments).

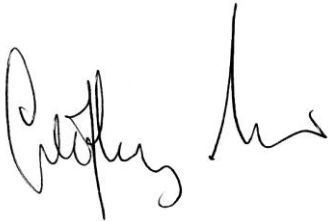
Note:

1. *The Mayor will put the motion to the vote and if it is carried will then:-*
 - (a) *Call on the Member who had moved the item under discussion to give their right of reply, before then putting the matter to the vote, taking into account the need to put any amendments that have been moved to the vote first;*
 - (b) *Each remaining item on the agenda that has not been dealt with will then be taken in the order they appear on the agenda and put to the vote without debate.*

The Member responsible for moving each item will be given the opportunity by the Mayor to withdraw the item or to have it voted on. If there are any amendments that have been submitted, these will be taken and voted on first in the order that they were received.
 - (c) *Following completion of the outstanding items, the Mayor will then close the meeting.*
2. *If the motion moved by the Mayor is **not carried** the meeting will continue in the normal way, with each item being moved and debated and voted on.*
3. *Any Member will still have the opportunity to move a closure motion should they so wish. If such a motion is moved and seconded, then the same procedure as outlined above will be followed.*

Once all the remaining items have been dealt with the Mayor will close the meeting.

Date of Publication - Wednesday, 6 May 2020



Hove Town Hall
Norton Road
Hove
BN3 3BQ

PUBLIC INVOLVEMENT

Provision is made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

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

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

Electronic agendas can also be accessed through our meetings app available through www.moderngov.co.uk

We can provide meeting papers in alternate formats (including large print, Braille, audio tape/disc, or in different languages. Please contact us to discuss your needs.

WEBCASTING NOTICE

This meeting may be filmed for live or subsequent broadcast via the Council's website. At the start of the meeting the Mayor 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 1998. 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

COUNCIL

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.

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

ACCESS NOTICE

The public gallery to the council chamber – which is on the second floor – is limited in size but does have 3 spaces designated for wheelchair users. There is a lift to the second floor and an automatic door and ramped access to the public gallery. There is a wheelchair accessible WC close by. The seated spaces available in the gallery can be used by disabled people who are not wheelchair users, but able to use bench style seating.

The Town Hall has a specially designed lift that can be used in the event of an emergency evacuation. The size of the refuge areas (in the fire protected areas where people unable to use the stairs will wait to be assisted from the building via the lift), will accommodate 2 wheelchair users and several standing users.

If the public gallery is full, Committee Room 1 on the ground floor can be used. This is an inclusive space with video conferencing facilities and AV links to the council chamber, automatic doors, level access, its own step-free fire escape, and nearby WC facilities including wheelchair accessible provision. From this room you can watch the meeting and take part in proceedings, for example if you have submitted a public question.

Please inform staff on Reception if you have any access requirements so that they can either direct you to the public gallery, or to the video-conferencing room as appropriate.

We apologise for any inconvenience caused

FIRE / EMERGENCY EVACUATION PROCEDURE

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by council staff. It is vital that you follow their instructions:

- You should proceed calmly; do not run and do not use the lifts;
- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and

Do not re-enter the building until told that it is safe to do so.

COUNCIL

PROCEDURAL RULES AIDE MEMOIRE

<p>Point of Order</p>	<p>A Member claiming to speak on a point of order or in personal explanation shall be entitled to be heard forthwith. The point of order shall relate only to an alleged breach of a specified statutory provision or a specified Procedure Rule, and the way in which the Member raising it considers that it has been broken.</p> <p>Personal explanation shall be confined to some material part of the speech by him/her which may appear from the current debate to have been misunderstood.</p>	<p>P.R. 15.10</p>
	<p>The ruling of the person presiding on a point of order or on the admissibility of a personal explanation shall not be open to discussion except on a motion of which due notice has been given.</p>	<p>P.R. 15.11</p>
<p>Extensions of Speaking Times</p>	<p>Any extension of time for speeches consented to by the Council shall be limited to 5 minutes. Where necessary the Mayor will call for a show of hands to ensure there is a majority in favour of the extension.</p>	<p>P.R. 16.4</p>
<p>End of meeting Closure Motion</p>	<p>Without prejudice to 17.2 below, when a period of four hours excluding adjournments has elapsed since the commencement of a meeting of the Council, the Mayor shall move, without comment, that the meeting ends and that business be concluded in accordance with Procedure Rule 17.5.</p> <p>Should the closure motion be carried, the Mayor will put any unfinished business to the vote without discussion.</p> <p>Any Member moving a report or a Notice of Motion may withdraw the report or Notice of Motion.</p>	<p>P.R. 17.1</p>
	<p>If the motion under 17.1 or 17.2 is passed then immediately after the vote (in the case of a motion under 17.1) or when the time specified in the motion arrives (in the case of a motion under 17.2):</p> <ul style="list-style-type: none"> (a) no further points of order shall be raised except by the Mayor; (b) the Mayor shall then interrupt the discussion of the question then before the meeting; (c) unless the mover of the motion then under discussion seeks leave to withdraw that motion, the Mayor shall allow him/her to reply to the debate for not more than three minutes; (d) unless the motion then under discussion is withdrawn, the Mayor shall put, without further discussion, all the questions necessary to dispose of that motion; (e) the Mayor shall put, without discussion, all the questions necessary to complete consideration of any reports which remain on the agenda for the meeting, unless the relevant Cabinet Member or Committee Chair (or a person on his/her behalf) indicates a wish to the contrary; (f) the Mayor shall call each Member who has given notice of a motion to be moved at the meeting to move (unless previously withdrawn) without comment, shall permit any motions so moved to be seconded without comment, and shall forthwith put any motions to the vote; (g) finally, the Mayor shall close the meeting. 	<p>P.R. 17.5</p>
	<p>At a time when a period of not less than four hours excluding adjournments has elapsed since the commencement of the meeting of the Council a Member of the Council may move, without comment, that the meeting shall end at a time to be specified in the motion.</p>	<p>P.R. 17.2</p>
	<p>Subject to the Mayor's discretion to refuse a Member's closure motion under PR17.2 (Mayor may refuse to accept the motion if a similar motion has been</p>	<p>P.R. 17.3</p>

COUNCIL

	rejected earlier in the same meeting), any Member has the right to move a closure motion under Council Procedure Rule 17.2	
Quorum	¼ of whole number of Councillors (14).	P.R. 6.1
Interpretation of Procedural Rules	The ruling of the Mayor or person presiding at the meeting as to the construction or application of any of these Procedure Rules shall not be challenged at any meeting.	P.R. 1.4
Cameras / Recording	Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or the power to deal with other misbehaviour or interference with proceedings at a meetings, any person shall be permitted to film, video or photograph the proceedings at Council meetings except for that part of the meeting where the public are excluded pursuant to a resolution passed in accordance with Section 100A(2) or (4) of the Local Government Act 1972 (as amended).	P.R. 29.1
Councillor Written Questions	Written questions can be submitted in accordance with the set deadlines and will be taken as read along with the answer given in the addendum papers which are circulated at the meeting.	P.R. 9.3 P.R. 9.5
Councillor Oral Questions	A period of not more than 30 minutes shall be allowed for oral questions from Members. Oral questions are limited to general policy matters and only the Member asking the question may ask one supplementary question. Members will be restricted to one oral question per meeting.	P.R. 9.7 P.R 9.14
Timing of speeches	Councillor moving proceedings or Motion 5 minutes. A Member moving an amendment is not moving a motion and therefore has 3 minutes as do all other speakers.	P.R. 16.4
Right to Reply	3 minutes to mover of proceedings or Motion at the end of the debate prior to the vote. The mover of an amendment shall have no right of reply to the debate on the amendment.	P.R. 16.6
Amendment of proceedings or Motions	More than one amendment may be moved and discussed at any one time and will be dealt with at the discretion of the Mayor or Chair. If an amendment is not carried, other amendments may be moved to the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion to which any further amendment may be moved.	P.R. 15.5
Notices of Motion	Councillor moving Notice of Motion has right to reply at close of debate. If amendment moved, mover of original Motion also has right to reply at close of debate on amendment. Councillor moving an amendment has no right of reply.	P.R. 16.6
Seconding	When seconding a motion or amendment, a Member may reserve his/her speech until a later period of the debate by declaring his/her intention to do so.	P.R. 15.3
Recorded vote	Support of not less than 1/5 of whole number of Councillors needed (11). Voting may be by roll call or by an electronic method.	P.R. 27.3
Question be now put	Straight majority vote.	P.R.13.1 (f)

Subject:	Mayoral Report 2019-20		
Date of Meeting:	14 May 2020		
Report of:	Chief Executive		
Contact Officer:	Name:	Mark Wall	Tel: 01273 291006
	Email:	mark.wall@brighton-hove.gov.uk	
Ward(s) affected:	All		

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

- 1.1 This report informs Council of the activities of the Mayor, Councillor Alexandra Phillips during the civic year 2019-20.

2. RECOMMENDATIONS

- 2.1 That the report be noted.

3. CONTEXT/ BACKGROUND INFORMATION

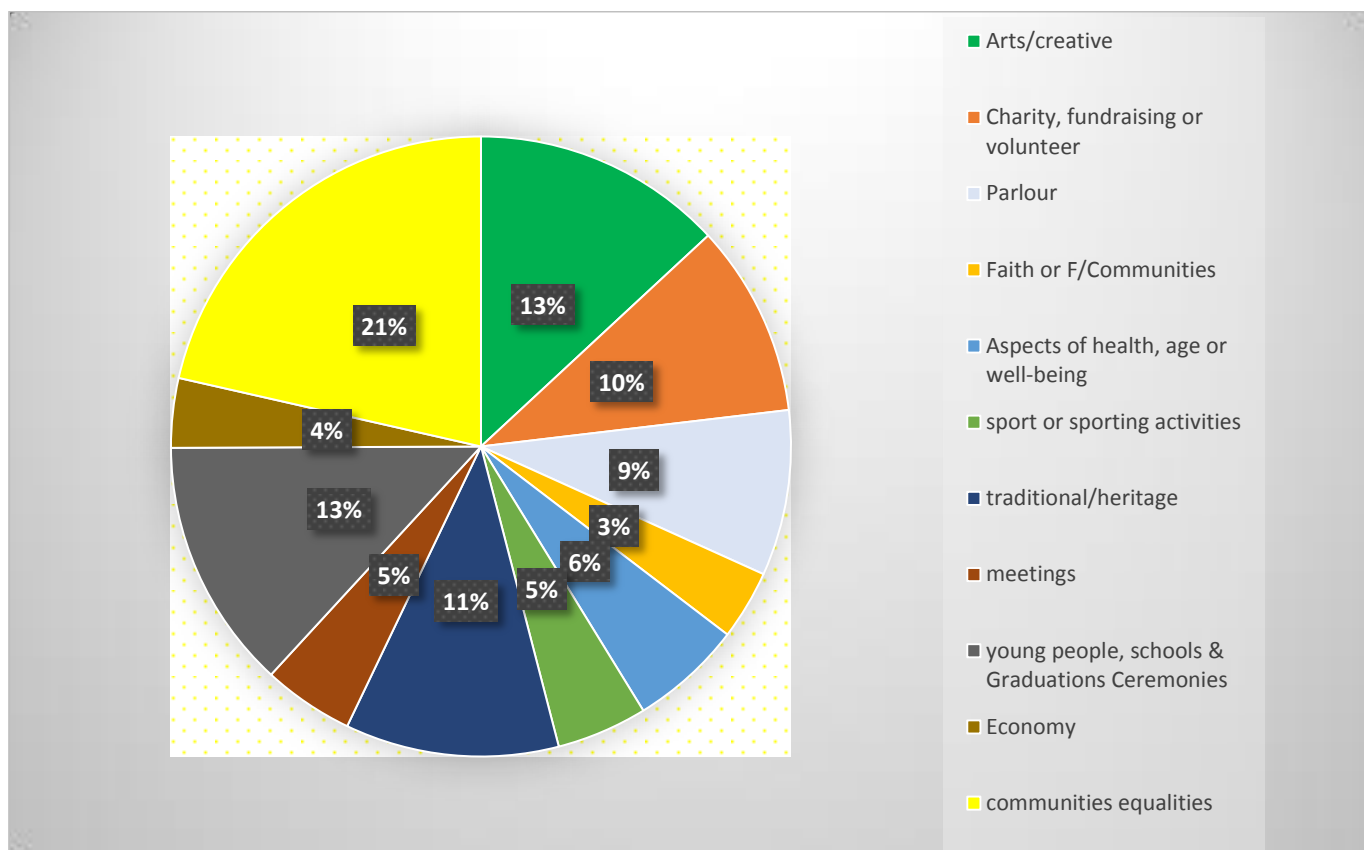
- 3.1 The Mayor is the first citizen of Brighton and Hove and carries out a range of civic and ceremonial duties, representing the council at hundreds of events across the city and around the region.
- 3.2 Many organisations contact the Mayor's office to request mayoral presence at their events. The Mayor's presence helps raise profile, generates publicity and increases opportunities for fund raising.
- 3.3 In addition, during the year of office the Mayor supports local charities by hosting fundraising and volunteer events and assists in raising awareness of the work that the various charities do.
- 3.4 The Mayor of Brighton and Hove is not directly elected, holds no direct power and is politically neutral during their term of office. The role is purely civic and ceremonial.
- 3.5 The Mayor undertakes many different duties including:
- Chairing meetings of Full Council, including the council's budget setting meeting;
 - Supporting the main aims of the council;
 - Representing the council at public, civic and ceremonial events both in and outside of the city;
 - Acting as an ambassador for the city and working with a wide range of local organisations.

3.6 This year the Mayor offered her support to 20 charities. The charities were able to use the Mayoral name to promote events, raise their profile and encourage support.

3.7 During the Mayoral year (2019-20) over three hundred and fifty-nine engagements took place*. The general election in 2019 and the Covid-19 virus impacted on the overall figure of engagements.

3.8 The Covid-19 Community Champions nominations was launched on the 15 April. Over 90+ nominations were received between the 15 April-1 May. A Panel consisting of the Mayor Cllr Alexandra Phillips and three community organisers; Davinder Dhillon Chair of the Chattri Memorial Group, Bert Williams MBE Co-founder of the Brighton & Hove Black History Group and Jessica Sumner CEO of Community Works selected the successful nominees. An event will be held to recognise all those that were nominated by the public, once the social distancing rules are no longer in force. Nominees will be awarded Certificates and it is anticipated that recognition of Community Champions will continue under the incoming Mayor's term of office.

3.9 Mayoral engagements in percentages:



- 21% Involved communities or equalities
- 13% Included young people, schools or graduations ceremonies
- 13% Related to arts and creativity
- 11% Were traditional or heritage (including commemorations)
- 10% Charity, fundraising, volunteers

- 9% Took place in the Mayor's Parlour
- 6% Referred to aspects of health, age or wellbeing
- 5% Involved sport or sporting activities
- 5% Were meetings
- 4% Related to economy
- 3% Involved faith or faith communities

3.10 Highlights in the Mayoral year 2019-2020 include;

- Pride
- Citizenship Ceremonies
- Unveiling of Blue Plaque for Sake Dean Mahomed at the Old Ship Hotel
- Cub Scout Awards Ceremony
- University Graduation Ceremonies
- Chattri Memorial Service
- The Mid-Autumn Festival
- The Golden Handbag Awards
- The Children's Paradeⁱ

3.11 The Mayor's Parlour has been used on many occasions throughout the year, including;

- Charity events celebrating volunteer achievements
- Student visits
- Health and Wellbeing events
- Meetings of the Police Cells Museum Committee, The Mayor's Charity Committee and the Brighton Fund
- Weddings

3.12 The Mayor's Charities benefitted from the use of the Atrium, the Council Chamber, Committee Rooms 2 and 3 and the Mayor's Parlour during the Mayoral Year. The Brighton Women's Centre and Sussex Nightstop held events in the Atrium and ten of the Charities benefitted from the use of the Royal Pavilion in order to raise funds. Due to the Covid-19 the Gala Dinner due to take place in March and the Brighton2Hague Cycle Ride in May were postponed or cancelled.

3.13 The Mayor wishes to thank Anthea Ballam for her work as Chaplain throughout the year.

3.14 The Mayor wishes to recognise and thank Councillor Alan Robins the Deputy Mayor for his tremendous support and flexibility throughout the year. The Mayor also wishes to thank former Mayors Councillors Simpson, West, Theobald and Peltzer Dunn for stepping in to cover engagements during the general election.

3.15 The Mayor would like to extend particular thanks to Councillor Tom Drutt for his support as her Consort. She also wishes to thank friends, family and fellow councillors for their support.

3.16 The Mayor is grateful for the support of officers and particularly wishes to thank

the staff in the Civic Office and those involved in helping to manage the council meetings.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 As this is an annual report of the Mayor there is no need for any consideration of alternative options.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 There has been no other consultation required.

6. CONCLUSION

6.1 That the information contained in the report should be noted.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 There are none arising from this report.

Finance Officer Consulted: James Hengeveld

Date: 04/05/2020

Legal Implications:

7.2 There are none arising from this report.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 05/05/2020

Equalities Implications:

7.3 There are none arising from this report.

Sustainability Implications:

7.4 There are none arising from this report.

Any Other Significant Implications:

7.5 There are none arising from this report.

SUPPORTING DOCUMENTATION

None

ⁱ *Out of the 359 engagements, the Deputy Mayor or former Mayors attended 122 engagements on behalf of the Mayor.

Subject:	Review of the Council's Constitution
Date of Meeting:	14th May 2020 30 th April 2020 – Policy & Resources Committee
Report of:	Executive Lead Officer for Strategy, Governance & Law (Monitoring Officer)
Contact Officer:	Name: Abraham Ghebre- Ghiorghis
	Email: abraham.ghrebre-ghiorghis@brighton-hove.gov.uk
Ward(s) affected:	All

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

- 1.1 This report proposes changes to the Council's Constitution for approval by Policy & Resources Committee and (where relevant) Council. The proposals set out in the report have been considered by the cross-party Constitutional Working Group (CWG).

2. RECOMMENDATIONS:**Policy & Resources Committee:**

- 2.1 That the proposal to make changes to the Scheme of Delegations to Officers in Part 6 of the Council's Constitution relating to the Council's planning functions as indicated in paragraphs 4.1 - 4.3 and Appendix 1, and the proposals regarding Traffic Orders as indicated in paragraphs 4.5 -4.6, be agreed.
- 2.2 That the proposal to make changes to the Scheme of Delegations to Officers in Part 6 of the Council's Constitution in respect of overseas trips (paragraph 4.7) be agreed.
- 2.3 That Full Council be recommended to approve the changes recommended to it in paras 2.4 to 2.6 below.

Full Council:

- 2.4 That the proposed changes to delegations in respect of the Environment Transport and Sustainability Committee indicated in paragraphs 4.5 – 4.6 be agreed.
- 2.5 That the proposal at paragraphs 4.8- 4.9 and Appendix 2 to amend the Council Procedure Rules at Part 3.2 of the Council's Constitution in respect of arrangements for member amendments be agreed.

- 2.6 That the proposal at para 4.10 and Appendix 3 for amendments to Part 8.4 – Guidance for Members and Officers serving on Outside Bodies be agreed.

Policy & Resources Committee and Full Council:

- 2.7 That the Chief Executive and Monitoring Officer be authorised to take all steps necessary or incidental to the implementation of the changes agreed by the Policy & Resources Committee and by Full Council, and that the Monitoring Officer be authorised to amend and re-publish the Council's constitutional documents to incorporate the changes.
- 2.8 That the proposed changes come into force immediately following their approval by Policy & Resources Committee or adoption by Full Council, as appropriate.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Council is required to keep its Constitution under review with a view to achieving efficiency, economy and effectiveness. The cross-party Constitutional Working Group (CWG) was set up to assist with this by considering proposals and advising the Council on proposed changes to the constitution. The current members of the CWG are Councillors Moonan (Chair), Littman and Wares. The proposals set out in the report were discussed and agreed by the CWG on 11th March 2020.

4. PROPOSALS

Planning delegations

- 4.1 This proposal seeks to provide that those planning applications relating to major developments which do not attract a minimum of ten representations may be determined by officers, unless the Chair of Planning Committee or either of the two Opposition Leads for Planning wish the matter to be referred to Committee for decision. This proposal was made to the CWG by the Planning Committee Working Group and suggested wording is attached as Appendix 1.
- 4.2 It should be noted that the above arrangement remains subject to the existing rights of all ward members to 'call in' any planning application, and subject also to the provision whereby the Conservation Advisory Group or (for development in Rottingdean) Rottingdean Parish Council may request that any planning application be determined by Planning Committee.
- 4.3 The objective of this proposal is to streamline process in relation to those applications which do not generate public engagement above the recommended threshold. It is considered that this might potentially reduce the resource burden of Planning Committee.
- 4.4 This Committee may wish to note in relation to Planning matters that proposals to put in place the necessary administrative arrangements to implement a Community Infrastructure Levy (CIL) are being put to a meeting of the Council's Tourism, Equalities, Communities & Culture Committee. That Committee will be asked to consider recommending amends to officer delegations to full Council which achieve this and which also bring officer delegations in relation to other

types of developer contributions (including S106 contributions) into line with the delegations in relation to the administration of CIL.

Traffic regulation order delegations

- 4.5 One unresolved objection to the making of any traffic regulation order (TRO) is currently sufficient to trigger its referral to the Environment Transport and Sustainability Committee. It is proposed that delegations to officers and to that Committee be amended to provide that the threshold for referral to Committee be raised to six or more unresolved objections, and that TRO's may otherwise be determined by officers. It is proposed that this approach be adopted alongside a further change: one whereby ward members would be able to 'call in' any traffic regulation order, whether or not the subject of any objection(s), in much the same way as members may call in any planning application in their ward.
- 4.6 This proposal is made with the aim of reducing the resource expended in drafting and bringing officer reports (an estimated nine or more last year), which are not then called, the majority of which are proposed for safety related issues, for instance double yellow line installations to protect corners and/or the introduction of disabled bays.

Authorisation of overseas trips

- 4.7 It is proposed that the rules be amended to formalise the current expectation that on the (infrequent) occasions where the council is either nominating an individual or group to make an overseas trip, or contributing toward the funding of such an initiative, then that course of action must be authorised both by the Chief Officer with responsibility for the relevant function and also by the Chief Executive.

Procedural rules regarding member amendments to motions

- 4.8 In order to ensure the smooth running of the council's business, Rule 15.4 of the Council Procedure Rules at Part 3.2 of the Council's Constitution provides a process whereby members are expected to submit any amendments to motions by 10am on the day of the meeting.
- 4.9 This requirement does not however permit sufficient time where the relevant decision-making body is meeting at 12 noon or before on any given day. It is therefore proposed that the rules be amended to provide that – in the case of a meeting starting on any given morning – the deadline for the submission of such amendments only be brought forward to 4pm on the previous working day. The proposed wording for the amendment is at Appendix 2.

Update to the Guidance for Members and Officers Serving on Outside Bodies

- 4.10 It has been noted that those officers and members who are appointed as trustees of charitable organisations will have key responsibilities to the relevant organisation. With the aim of assisting particularly those members who have been nominated to a charity by the council in discharging their responsibilities in a compliant way, the council's Guidance on Outside Bodies at Part 8.4 of the Constitution has been amended to signpost Charities Commission guidance. The

Guidance has also been amended to include a list of relevant charitable bodies, for additional clarity. The proposed wording is attached at Appendix 3.

5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 5.1 The Committee or Council could if it wished decide not to implement the changes set out in this Report.

6. COMMUNITY ENGAGEMENT & CONSULTATION

- 6.1 The cross-party Constitutional Working Group has considered the proposals and has made the recommendations in this report.

7. CONCLUSION

- 7.1 The proposals reflect the Council's ongoing efforts to review its Constitution to ensure that it is reflective of current practice and priorities and to achieve clarity and increased efficiency. As a result, it is recommended that the proposals in this Report be approved.

8. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 8.1 There are not expected to be any significant financial implications arising from the recommendations of this report.

Finance Officer Consulted: James Hengeveld Date: 14/04/20

Legal Implications:

- 8.2 Policy and Resources Committee and, where specified in this report, full Council have the authority to make the changes to the Council's Constitution which are set out in the report. The intention is for the proposals to be implemented with immediate effect following the decision of the relevant decision-making body, unless expressly stated to the contrary.

Lawyer Consulted: Victoria Simpson Date: 12.3.20

Equalities Implications:

- 8.3 The proposals in this report have been reviewed for adverse equalities implications.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1 – Delegations in respect of the Council's Planning functions (Part 6)

Appendix 2 – Council Procedure Rules (Part 3.2)

Appendix 3 – Guidance for Members and Officers Serving on Outside Bodies (Part 8.4)

Background Documents

None

Appendix 1

Extract from the Scheme of Delegations: Functions delegated to the Executive Director Economy, Environment and Culture:

[..]

15. Town and Country Planning

- (1) To determine applications in relation to matters listed under Part I of **Schedule 4** to this Scheme of Delegation having regard to the Council's relevant planning policies and published guidelines.

PROVIDED THAT the powers delegated under the above shall NOT apply where:-

- (a) ~~Five or more~~ The specified number of individual written objections relating to material planning considerations pertinent to the application in question have been received within the public consultation period from separate persons or bodies in relation to applications that officers are minded to approve, or where ~~the specified number five or more of~~ individual written expressions of support from separate bodies or persons have been received within the public consultation period in relation to applications that officers are minded to refuse. Only written objections or expressions of support received from persons who live in the immediate vicinity of the application site or who otherwise may reasonably be considered to be potentially directly affected by the proposed development will be taken into account in determining the relevant number of representations required by this paragraph. For the purposes of this sub-paragraph "the specified number" shall be ten or more for applications falling within sub-paragraphs (1) (a) to (d) (inclusive) of Part I and shall be five or more for applications falling within sub-paragraph (1) (e) and paragraphs (2) to (5) (inclusive) of Part I. PROVIDED THAT where the specified number is ten or more and nine or fewer objections or expressions of support have been received, the application in question shall be referred to Planning Committee for determination should the Chair of Planning Committee and/or any of the Opposition Spokespersons deem it appropriate. The Head of Planning will consult with the Chair of Planning and Opposition Spokespersons for this purpose.
- (b) The Conservation Advisory Group (CAG) or Disabled Access Advisory Group (DAAG) requests, within the public consultation period, that an application be determined by the Planning Committee. In making the request CAG or DAAG shall state whether it would be seeking an approval or refusal of the application. If Officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn; or
- (c) A Member requests, within the public consultation period, that an application within their ward be determined by the Planning Committee. In making that request, the Member shall state whether they would be supporting an approval or refusal of the application and shall give their reason or reasons in

writing as to why they consider the application should be determined by Committee and shall set out their representations on the application as part of their request. Members making such requests may attend and address the Committee when the application falls to be determined or may ask for their representations to be read out at the meeting. If Officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn. (NB In any case where the Member is also a member of the Planning Committee and the application is referred to the Committee for determination, they will, if present, having exercised his/her right to make an oral representation to the Committee, need to leave the meeting during the consideration of the application); or

(d) Rottingdean Parish Council requests, within the public consultation period, that an application within the Parish Council area be determined by the Planning Committee. In making the request the Parish Council shall state whether it would be seeking an approval or refusal of the application. If Officers' determination of the application under delegated powers would be in accordance with that request then the request shall be deemed to have been withdrawn; or

(e) the application is an application for Listed Building Consent relating to any of the following:

- Booth Museum, 194 Dyke Road;
- Brighton Bandstand, Kings Road;
- Brighton Corn Exchange;
- Brighton Dome Theatre, Church Street;
- Brighton Museum and Art Gallery;
- Duke of York's Cinema, Preston Circus;
- Hove Library, Church Road;
- Hove Museum and Art Gallery;
- Saltdean Lido;
- Royal Pavilion;
- Preston Manor.

(2) To exercise the Council's functions in respect of certificates of lawful use, tree preservation orders, enforcement action etc. as more particularly set out in Part II of **Schedule 4** to this Scheme of Delegation to Officers.

SCHEDULE 4

Extract from the list of functions delegated to the Executive Director Economy, Environment and Culture in relation to Planning:

Part I

- (1) To determine planning applications and applications to vary or delete conditions attached to planning permissions (including, where relevant, identifying the need for and the settling of terms of Planning Obligations under S106 of the Town and Country Planning Act 1990, the imposition of conditions where consent is granted and the renewal of existing permissions) where the applications relate to the following categories of development:-

- (a) the provision of dwellinghouses where—
(i) the number of dwellinghouses to be provided is 10 or more; or
(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and the number of dwellinghouses to be provided is not known;
(b) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more;
(c) development carried out on a site having an area of 1 hectare or more;
(d) operational development designed to be used wholly or mainly for the purpose of, or material change of use to, treating, storing, processing or disposing of refuse or waste materials;
(e) development not listed in sub-paragraphs (a) to (d) above (inclusive)

- ~~(i) alterations/extensions to single dwellinghouses and buildings containing residential flats;~~
~~(ii) works within the curtilage of buildings which are incidental to their lawful use;~~
~~(iii) changes of use;~~
~~(iv) applications submitted pursuant to Article 4 Directions;~~
~~(v) alterations to or installation of shop fronts;~~
~~(vi) the provision of no more than 9 new dwelling units (net increase), either by the construction of new buildings or by conversion of existing buildings;~~
~~(vii) extensions and alterations to non-residential buildings;~~
~~(viii) applications relating to the formation of accesses, fire escapes, replacement windows, flag poles, the erection of and alterations to walls, fences or other means of enclosure, floodlights, radio and TV masts, telecommunications apparatus, material changes to the external appearance of buildings, including extensions;~~
~~(ix) renewals of temporary permissions;~~
~~(x) applications to vary or delete conditions attached to planning permissions;~~

~~(xi) all other minor planning applications not referred to above.~~

- (2) Applications for permission in principle.
- (3) Applications for technical details consent (including identifying the need for and settling the terms of Planning Obligations under s106 of the Town and Country Planning Act 1990 and the imposition of conditions where consent is granted).
- (4) Applications for consent under the Advertisements Regulations.
- (5) Applications for Listed Building Consent
- (6) To undertake all consultations, notifications and publication of advertisements on behalf of the Council in relation to any of the matters listed above.

Appendix 2

Part 3.2 – Extract from the Council Procedure Rules

Notice of Amendments

15.4 Copies of amendments will be prepared and circulated prior to the start of a Council meeting only if such amendments are presented to the Chief Executive by 10.00am on the day of the Council meeting (or, in the case of any meeting scheduled for 12 noon or earlier on any day, by 4.00pm on the preceding working day). Amendments for which notice has not been given may be permitted at any time at the discretion of the Mayor or Chair if they consider it appropriate with regard to [..]

Appendix 3

Extract from Part 8.4 - GUIDANCE FOR MEMBERS AND OFFICERS SERVING ON OUTSIDE BODIES

[..]

2. COMPANIES

2.1 The obligations imposed by company law are onerous and there are severe penalties for non-compliance with many of the duties imposed on directors. It is important for Members and officers appointed to act as company directors to ensure that they understand the duties and obligations which the law imposes on them.

2.2 A company is a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. A company is distinct from its members, who may be either shareholders or guarantors.

2.3 Whether a company is limited by shares or by guarantee, the day to day management of the company is usually vested in the directors. The members ultimately control the company by electing the directors and deciding the major issues at general meetings. The main differences are as follows:-

- in a company limited by shares the shareholders share the ownership of the company and its profits and if the company is wound up each shareholder is liable to pay an amount equivalent to the nominal value of his or her shareholding;
- a company limited by guarantee does not normally seek to make a profit and in the event of the company being wound up, the members guarantee to make a payment to the level of their guarantee (usually a nominal figure of £1.00). Hence companies limited by guarantee are more commonly used for voluntary and public bodies, especially where charitable status is sought.

2.4 A company is controlled by reference to its 'constitution', which is contained in the Memorandum and Articles of Association. These documents will set out the powers of the company, and the rules by which it is to be managed. Any act carried out by the company that is outside the powers set out in the Memorandum will be unlawful, and a director involved in such an act may be personally liable for any resulting losses.

In general Members and officers should avoid taking executive or managerial responsibility for the company's activities because the duties of executive or managing directors can be particularly onerous. This is because executive directors are directly responsible for particular aspects of the company's affairs. For example, a finance director will have responsibility for the company's financial position, which could give rise to liability for allowing the company to trade while insolvent if the

company goes into liquidation. However, all directors, including part-time and non-executive directors, are required to make themselves fully aware of the company's financial position and should attend Board meetings regularly.

- 2.5 In some situations, the Council may nominate Members or officers to act as “observers” on the board of directors of a company. Although such observers have no specific legal status, Members and officers should be aware that if an observer's involvement increases to such an extent that it could be said that there is an active engagement in the management of the company, he or she may be deemed to be a “shadow director” which may entail liabilities. Any person appointed to this role should therefore ensure that the extent of their role as an observer is clearly defined and agreed to avoid involvement in managing or directing the management of the company.
- 2.6 Under the Companies Act 2006 ('the Act'), directors owe a number of legal duties to their company. These are duties to:
- Act within powers (section 171 of the Act)
 - Promote the success of the company (section 172)
 - Exercise independent judgement (section 173). Although it is permissible to take account of the interests of a third party (in this case the council), a director cannot vote simply in accordance with the council's instructions.
 - Exercise reasonable skill, care and diligence (section 174)
 - Avoid conflicts of interest (section 175). There may be actual or potential conflicts between the interests of the company and those of the council. A Member or officer cannot waive their statutory responsibilities as a director; hence they may have to cease to act as a Member or officer in relation to the particular matter. In extreme cases, the only proper way for the conflict to be resolved may be for the Member or officer to resign either from the company or from the council. [If the company is a charitable company regulated by the Charity Commission the directors will also need to consider Charity Commission guidance \[\\[insert link here\\]\]\(#\) on conflicts of interest.](#)
 - Not accept benefits from third parties (section 176)
 - Declare interest in a proposed transaction or arrangement with the company (section 177). Directors must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association. (Equally, officers are not allowed under cover of their office to take any more than their proper remuneration so they must obtain the consent of the Council if they are to receive any remuneration from a company to which they have been appointed by the Council).

Members acting as directors should be aware of these duties, particularly those which could lead to:

- A conflict with their role as member of the local authority (for example, the duties to promote the success of the company, to exercise independent judgement, and to avoid conflicts of interest).
- Personal liability for the debts of the company

The fact that a director is appointed to a company board as a representative of the council does not diminish these duties.

3. CHARITIES

3.1 Many outside bodies with which Members or officers will be involved will be charities.

3.2 A charitable organisation is one which is formed for one or more of the following charitable purposes:

- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community (as detailed in Section 3 of the Charities act 2011).

3.3 It must operate for the public benefit and have exclusively charitable purposes. It must be registered with the Charity Commissioners. The Commissioners oversee the operations of all charities, and grant consent to various transactions involving charities, where the law requires this.

3.4 The law relating to charities imposes a number of duties and liabilities on those controlling the organisation. They are normally referred to as 'trustees' which will include the directors (of a company limited by guarantee) and the management committee of an unincorporated association.

3.5 Charity Trustees have the following duties:

- (1) A duty to act in accordance with the charities governing instrument and to protect the charity's assets.
- (2) A duty to comply with the Charities Acts and other legislation affecting the charity.
- (3) A duty not to make a private profit from their position.
- (4) A duty to act with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (5) A duty to ensure that the information relating to the trust and trustees is registered with the Charity Commissioners and that the necessary annual accounts and returns are completed and sent.
- (6) Where charitable income exceeds £10,000, a duty to ensure that letters, adverts, cheques etc. bear a statement that the organisation is a registered charity.

Trustees of charities regulated by the Charity Commission must follow Charity Commission guidance [\[insert link here\]](#). In particular they must consider the Charity Commission guidance in relation to conflicts of interest. Where there is a contractual relationship between

the charity and the council, the member will have an obvious conflict of interest when the charity discusses questions relating to that contractual relationship. That member will need to refer to the charity's governing document to determine whether they are able participate or vote where the local authority has an interest that is potentially adverse to that of the charity.

[..]

[The list of outside bodies which are registered as Charitable Companies where the Council has appointed members includes:-](#)

- [Brighton Dome and Festival Limited - Charity Commission link](#)
- [Brighton and Hove Estates Conservation Trust - Charity Commission link](#)
- [Brighton and Hove Music Trust - Charity Commission link](#)
- [Brighton and Hove Seaside Community Homes Ltd - Charity Commission link](#)
- [Gorham's Gift - Charity Commission link](#)
- [The Brighton Fund - Charity Commission link](#)
- [The West Pier Trust Board - Charity Commission link](#)

[The Royal Pavilion and Museums Foundation – Charity Commission link](#)