

# **APPENDIX 1 – PROPOSALS FOR NEW GOVERNANCE ARRANGEMENTS SUMMARY OF NEW CONSTITUTIONAL ARRANGEMENTS FOR BRIGHTON & HOVE**

## **Introduction**

This document sets out the Council's proposals for a leader and cabinet system. It describes in outline the roles of full Council, the Cabinet, overview & scrutiny, the 'local choice' functions and the proposals regarding transitional arrangements. Any move to implement these proposals requires the approval of full Council.

The aim of the new constitutional arrangements is to meet our legal requirements, while delivering on our aspirations to:

- deliver a streamlined and efficient mechanism for decision making, ensuring increased officer and councillor capacity for delivery;
- enable greater levels of openness, transparency and collaboration through an overview & scrutiny committee function, with legally enshrined mechanisms for 'Key Decision' threshold and 'call-ins';
- reduce duplication and increase a 'One Council' approach across all decision making;
- increase public understanding of and engagement in political decision making;
- allow routine decisions to be taken expeditiously, while ensuring that key decisions are thoroughly analysed;
- Clarify responsibility for functions, leading to increased accountability to Council and the electorate.

## **Summary**

The proposed arrangements will include:

- a Leader elected by the Council to serve until the subsequent election;
- a Cabinet of ten members, including the Leader, with the Leader appointing the other nine members;
- all Cabinet decisions to be taken in public (unless exempt);
- 28 days advance notice of all significant decisions to both the public and the overview & scrutiny committees;
- a scrutiny function made up of two standing committees (provisionally titled People and Place), with the opportunity for Task and Finish in-depth Scrutiny Reviews to be commissioned by those Committees to consider specific issues;
- public access to Council and Cabinet meetings, including rights to present petitions and ask public questions.

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## **SUMMARY OF NEW CONSTITUTIONAL ARRANGEMENTS FOR BRIGHTON & HOVE**

### **1. Background**

- 1.1 In May 2023 the Council moved from being a Council with no overall control and a minority administration to a majority Council. The Labour Group of Councillors makes up the majority of Councillors with 36 out of 54 Councillors.
- 1.2 The Council is facing unprecedented financial pressure to manage its budget in the face of reducing Government funding and increasing costs.
- 1.3 In these circumstances, a cabinet system is considered to be a more efficient governance model, which is more reflective of the overall majority control and better placed to respond to the challenging budget pressures. A cabinet of executive decision makers will enable decision-making to be streamlined. Significant decisions may be called-in and scrutinised by overview and scrutiny committees to ensure an appropriate check and balance in the system, with the ability to hold the executive to account.
- 1.4 A move to new governance arrangements is permitted by legislation, which enables a Council to make a change in governance arrangements by resolution of full Council under s9KC(1) of the Local Government Act 2000.
- 1.5 A notice must be published informing the public that the local authority has decided to change its governance arrangements and that a council resolution has been passed in support of this. The Notice must also include details such as the date that the Council intends to change the governance arrangements and the main features of the changes.
- 1.6 There is no statutory duty or formal requirement to carry out formal consultation with the public either in advance or following the Councils' resolutions (other than to publish a Notice as set out above in paragraph 1.5), although Councils may choose to carry out a form of consultation or engagement locally on the key features of the new governance arrangements.
- 1.7 It is proposed to carry out a public consultation from 15th March to 19<sup>th</sup> April with a focus on seeking views on how to make best use of the new arrangements to ensure they include a range of public participation opportunities. Targeted consultation also will take place with City Partners, for example at City Management Board and with the ICB. Elected Members will be offered face to face briefings and feedback sessions.

### **2. Council**

- 2.1 Full Council will consist, as now, of 54 councillors appointed every 4 years at the local elections. The meetings of full Council are presided over by the Mayor: a current councillor who is elected by the other members of the Council every year.

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2.2 Full Council appoints the Leader and approves the Council budget at budget Council. Council also approves a number of key plans and strategies (collectively known as the Policy Framework), which are developed by the Cabinet.

2.3 It is proposed that the Policy Framework remains largely unchanged from current arrangements and that Full Council be responsible for the following plans and strategies:

(i) **those required by law to be adopted by Full Council**

- Annual Investment Strategy;
- Statement of Pay Policy;
- Libraries Plan;
- Crime and Disorder Reduction Strategy;
- Local Transport Plan;
- Plans with Development Plan Document status;
- Youth Justice Plan;
- Statement of Licensing Policy under the Licensing Act 2003;
- Statement of Gambling Policy under the Gambling Act 2005.

(ii) **those which the Council determines should be adopted by Full Council as part of the Policy Framework.**

- Corporate Plan;
- Equality and Inclusion Policy;
- Housing Strategy
- The Council's Economic Strategy
- School Admission Arrangements

2.4 In addition to the Policy Framework, full Council approves Members' Allowances, the Code of Conduct for Members, appointments to external bodies, the establishment and terms of reference of Council committees, changing the name of the area, conferment of titles and honours, the appointment of the Chief Executive, making and amending byelaws. Most of its other functions, such as planning, licensing, audit and standards are delegated

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to committees and sub committees or to officers, who are also responsible for the day-to-day delivery of services.

- 2.5 A summary of the powers of the authority and the body that exercises them is attached as Enclosure 1.

### **3. Local Choice Functions**

- 3.1 A number of functions are designated by law as ‘local choice’ functions, which means the Council can choose to designate them either as council functions or as executive functions to be discharged by the Executive. A list of the local choice functions with proposals as to how they are to be exercised is attached in Enclosure 2.

### **4. The Leader of the Council**

- 4.1 The Leader of the Council (the Leader) is appointed by Full Council at their first meeting following an election (or their first meeting after a vacancy has arisen) and serves until the following election.
- 4.2 The powers that are given to the Executive in this arrangement are given to the Leader personally and may be delegated by them in any way that they see fit.
- 4.3 The Leader (and any person exercising executive powers) can only act within the framework of the key strategies and plans approved by Full Council, including the budgetary framework. Their decisions are also subject to scrutiny and call-in by the Overview and Scrutiny Committees.

### **5. The Executive**

- 5.1 All the functions that are by law vested in the Executive as well as any local choice functions that the Council decides to designate as executive functions will be exercised by the Leader and up to 9 other Cabinet Members. The Leader decides how many executive Councillors to have and their portfolios. The Leader may subsequently change the numbers or the portfolios by notifying the Chief Executive.
- 5.2 Cabinet portfolios will be designated by the Leader.
- 5.3 Executive decisions may be made by the Leader, by the Cabinet as a whole, or by individual Cabinet Members. They may also be made by Officers where specified in the scheme of delegations or where powers are delegated to them by the relevant decision-making body. Any such delegation operates without prejudice to the ongoing powers of the Leader or the delegating body to exercise the function.

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5.4 It is proposed that all meetings of the Cabinet will be held in public unless discussing confidential or exempt business.

### **6. Executive decision-making procedures**

6.1 The procedures proposed for decision making aim to meet the objective of transparent and accountable decision making, while ensuring that routine business can be transacted quickly.

6.2 In statute, some executive decisions are classified as ‘key decisions’ and notice of such decisions needs to be given 28 days in advance of the decision being taken. A key decision is defined in law as an executive decision which is likely:-

(a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the decision relates; or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.

6.3 A financial threshold will be set in relation to criteria (a). Local authorities are required to have regard to statutory guidance when determining which decisions are ‘significant’ under criteria (b).

6.4 The Leader may specify which decisions are to be taken collectively at cabinet, and which by cabinet members individually. It is expected that significant decisions will generally be taken collectively by cabinet.

6.5 The Council will publish a Forward Plan setting out details of all key decisions to be taken and will also publish a record of all key decisions taken by cabinet, individual cabinet members or officers with delegated powers.

### **7. Access to Executive meetings**

It is proposed that:

7.1 All cabinet meetings will be open to the public, and (as now) papers relevant to the decision will be published five working days in advance of the meeting;

7.2 At such meetings, public questions may also be presented where they are relevant to an item on the agenda and at the discretion of the Leader who will manage the business of the meeting.

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- 7.3 It is proposed that any elected Member may also attend Cabinet to make representations on a matter listed on the agenda with the prior agreement of the Leader. The Leader will manage the number of speakers, balancing the number of requests for representation and the volume of business to be transacted.

### **8. Overview & Scrutiny: introduction**

- 8.1 Overview & scrutiny arrangements under the new Constitution will:
- a) enable any member to include an item for discussion at an overview & scrutiny committee;
  - b) give overview & scrutiny the power to question a range of public sector partners including NHS bodies, the Learning and Skills Council, the Police and the Arts Council;
  - c) impose on public sector partners a statutory duty to have regard to Overview & Scrutiny recommendations;
  - d) operate a call-in procedure which will enable key decisions of the Executive that have been made but not yet implemented to be reviewed and referred back to the decision maker for reconsideration.
- 8.2 These powers are in addition to overview & scrutiny committees' powers to investigate any matter related to the authority's functions and to require the Executive to respond to an Overview & Scrutiny report.

### **9. Overview & Scrutiny arrangements**

- 9.1 The Council proposes to have 2 Overview & Scrutiny Committees, provisionally designated as follows:
- People Overview & Scrutiny Committee
  - Place Overview & Scrutiny Committee
- 9.2 Each overview & scrutiny committee will be responsible for agreeing its own work programme. The Chairs of overview & scrutiny committees will meet informally to ensure the effective co-ordination of work programmes.
- 9.3 Full Council will appoint voting or non-voting co-optees to the Overview & Scrutiny Committees as required and permitted by relevant legislation.
- 9.4 Overview & scrutiny committee members, cabinet members or any other member of the Council may give notice in writing requesting an item to be considered as an agenda item for an overview and scrutiny committee..

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- 9.5 Where an overview & scrutiny committee considers special investigation is required, either into a single issue or into a cross-cutting policy area, it will have the ability to appoint a 'Task and Finish' Scrutiny Panel to consider the issue. In order to ensure resources are managed and focused it is proposed that no more than one overview & scrutiny committee Task and Finish Panel will be ongoing in any 6 month period.
- 9.6 To assist in the programming of business and the use of resources, the Committees will publish an annual work programme setting out the main areas of scrutiny during the year. The Executive may provide in advance a suggested list of areas where it believes a scrutiny report would be helpful.

### **10. Call-In**

- 10.1 Once made, an Executive key decision will be published within 2 working days. A valid call-in request will be reported to the next available meeting of the relevant Overview & Scrutiny Committee (or a Special meeting may be convened by the Chair).
- 10.2 Having considered the call-in and the reasons given, the relevant overview & scrutiny committee may either:-
- (a) Refer it back to the decision making person or body for reconsideration;
  - (b) Refer the matter to full Council if it considers the decision is outside the Council's Budget and Policy Framework, following advice from the Monitoring Officer or s151 Officer;
  - (c) Decide to take no further action, in which case the original Executive decision will be effective immediately.

### **11. Regulatory Committees and Sub Committees**

- 11.1 In addition to the Overview & Scrutiny Committees set out above, it is proposed to have the following Regulatory Committees and Sub-Committees:-
- Planning Committee
  - Audit, Standards & General Purposes Committee
  - Standards Hearing Sub-Committee
  - Licensing Committee
  - Licensing Sub-Committee
  - Health & Wellbeing Board

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**12. Transitional Arrangements**

- 12.1 It is proposed that these arrangements will come into force at the Council's annual general meeting on 16 May 2024. It is not proposed to make any transitional arrangements. A Notice publicising the new arrangements will be made available as set out at Enclosure 3.
- 12.2 A review of Members Allowances will be conducted by the Council's Independent Remuneration Panel to reflect the proposed new governance structure and a report with recommendations presented to full Council for approval.



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**ENCLOSURE 1 TO SUMMARY OF NEW CONSTITUTIONAL ARRANGEMENTS**

Under a Cabinet system, all the powers of the authority are divided into the following categories:-

- (1) Those given to Full Council which must be exercised by Full Council;
- (2) Those given to Full Council which may be delegated to committees or officers, and
- (3) Those given to the Leader.

The table below shows which functions fall into each category.

Full Council (must be exercised by full Council sitting as full Council)	Full Council (may delegate to Committees or Officers)	Leader (may delegate to Cabinet Members or Officers)
Approval of the Budget	Planning	Development of budget proposals
Key policies and strategies (The Policy Framework')	Some Health & Safety provisions <sup>1</sup>	All other functions not listed as full Council functions.
Members' allowances	Licensing	
Code of Conduct for members	Elections	
Constitutional amendments	Local Bills	
Byelaws	Pensions	
Appointment of Chief Executive	Some highways functions <sup>2</sup>	
Honours	Approving the accounts	
	Designating alcohol ban areas	

<sup>1</sup>Part I of the Health & Safety at Work etc Act 1974

<sup>2</sup> A series of functions listed in the Highways Act 1980

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**ENCLOSURE 2 TO SUMMARY OF NEW CONSTITUTIONAL ARRANGEMENTS**

**LOCAL CHOICE FUNCTIONS**

Local choice functions are set out in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). These functions may be, but need not be, the responsibility of the council’s Executive. It is up to each council to decide. Having regard to government guidance, it is proposed that local choice functions will be executive or non-executive as set out in the table below.

	<b>LOCAL CHOICE FUNCTION</b>	<b>STATUS OF FUNCTION</b>	<b>DELEGATION TO OFFICERS WHERE APPLICABLE</b>	<b>DELEGATION TO NON-EXECUTIVE COMMITTEES WHERE APPLICABLE</b>
1	Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 to the Functions & Responsibilities Regulations, including:-  The Brighton Marina Act 1967, East Sussex Act 1981, Brighton Corporation and Hove Corporation Acts, Brunswick Square and Terrace Act 1830 and Hove Borough Council Act 1976)	Executive	The relevant member of the Executive Leadership Team and where this is not clear to be determined by the Chief Executive	-
2	Other than those reserved to a Non-Executive committee, the determination of appeals against any decision made by or on behalf of the authority.	Executive	The relevant member of the Executive Leadership Team and where this is not clear to be determined by the Chief Executive	-
3	The making of arrangements pursuant to section 67(1) of, and Schedule 18 to, the 1998 Act (reviews of exclusion of pupils). This is now s.51A of the Education Act 2002	Executive	-	Independent Appeal Panel

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4	The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 Act (admission appeals)	Executive	-	Independent Appeal Panel
5	The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the School Standards and Framework Act 1998 Act (children to whom section 87 applies: appeals by governing bodies)	Executive	-	Independent Appeal Panel
6	Any function relating to contaminated land.	Executive	Executive Director Economy, Environment and Culture	
7	The discharge of any function relating to the control of pollution or the management of air quality	Executive	Executive Director Economy, Environment & Culture	-
8	The service of an abatement notice in respect of a statutory nuisance	Executive	Executive Director Housing, Neighbourhoods & Communities	-
9	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive	Executive Director Housing, Neighbourhoods & Communities	-
10	The inspection of the authority's area to detect any statutory nuisance	Executive	Executive Director Housing, Neighbourhoods & Communities	-
11	The investigation of any complaint as to the existence of a statutory nuisance	Executive	Executive Director Housing, Neighbourhoods & Communities	-
12	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive	Executive Director Economy, Environment & Culture	-

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13	The making of agreements for the execution of highways works	Executive	Executive Director Economy, Environment & Culture	-
14	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions Act 1976	Executive	Executive Director Economy, Environment & Culture	-
15	The appointment of any individual - (a) to any office other than an office in which they are employed by the authority (b) to any body other than (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body And the revocation of such an appointment.	Executive/ Non- Executive	The Chief Executive where the appointment relates to Non-Executive functions.  The Leader where the appointment relates to Executive powers.	-
16	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Executive/ Non- Executive	The Leader where the appointment relates to Executive powers.  The Council where the appointment relates to Non-Executive functions.	-

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**ENCLOSURE 3 TO SUMMARY OF NEW CONSTITUTIONAL ARRANGEMENTS**

**Notice of change to governance arrangements made pursuant to section 9KC of the Local Government Act 2000: changes to have effect at the annual Council meeting on 16th May 2024.**

TAKE NOTICE that Brighton & Hove City Council has resolved to make a change to its governance arrangements to a leader and cabinet form of executive, pursuant to the Local Government Act 2000. This decision was made at the Full Council meeting on 28th March 2024. The main features of the new executive arrangements include a Cabinet consisting of a Leader and 9 executive Councillors.

The proposed arrangements include a scrutiny function consisting of two Overview & Scrutiny Committees and also include the following committees and sub-committees:

- Planning Committee
- Audit, Standards & General Purposes Committee
- Standards Hearing Sub-Committee
- Licensing Committee
- Licensing Sub-Committee
- Health & Wellbeing Board

Those changes will be adopted by full Council at the next Annual Council Meeting on 16th May 2024.

Copies of the document setting out the main features of the new arrangements are available for inspection at the Council's Principal Office at Hove Town Hall, Norton Road, Hove between the hours of 9:00 AM and 5:00 PM. Alternatively, a copy of the document may be inspected on the Council's web site at [www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk).

Any parties wishing to comment as part of the public engagement process regarding how the new arrangements may reflect improved public engagement in decision making are required to do so by 19th April 2024 by [insert link/details].

Given this .... day of March 2024

Abraham Ghebre-Ghiorghis  
Executive Director Governance, People & Resources and Monitoring Officer  
Hove Town Hall, Norton Road, Hove.

