

Subject:	Review of the Constitution – December 2018		
Date of Meeting:	13 December 2018 6 December 2018 – Policy, Resources & Growth Committee		
Report of:	Executive Lead Officer for Strategy Governance & Law		
Contact Officer:	Name:	Elizabeth Culbert	Tel: 01273 291515
	Email:	elizabeth.culbert@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All (All Wards);		

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 & Growth Committee and (where relevant) Council. The proposals set out in the report have been considered by the cross party Constitutional Working Group and by Leaders Group.

2. RECOMMENDATIONS:**That the Policy, Resources & Growth Committee:**

- 2.1 Notes the proposals set out in paragraphs 4.1-4.3 of the report for officers to undertake a review of Committee delegations in relation to homelessness and housing matters and report back to a future PR&G Committee;
- 2.2 Notes the proposals set out in paragraph 4.4 and Appendix 1 of the report for officers to undertake a review of Member Working Groups and agree to discontinue those task and finish Groups that have completed their work and to report back to a future PR&G Committee to seek agreement to the continuance of specific Member Working Groups;
- 2.3 Recommends to full Council the proposed changes to the Council's Constitution set out at paragraphs 4.5-4.8 (Council Procedure Rules – Public Questions) and 4.9-4.10 (Scheme of Delegations to Committees – corporate policy and budgetary implications);
- 2.4 Approves the recommendation set out at paragraph 4.11- 4.12 (Scheme of Officer Delegations - litigated claims handling).

Full Council

- 2.5 That the proposed changes to the Council's Constitution recommended in paragraph 2. 2 above be approved and adopted.

Both Policy, Resources & Growth Committee and Full Council

- 2.6 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 & Growth Committee and by Council, and that the Monitoring Officer be authorised to amend and re-publish the Council's constitutional documents to incorporate the changes.
- 2.7 That the changes proposed in paragraph 2.2 come into force immediately following their adoption at full Council.
- 2.8 That proposed changes set out in paragraph 2.3 come into force immediately following their approval by Policy, Resources & Growth Committee.

3. CONTEXT

- 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 Marsh (Chair), Wares and Littman. The proposals set out in the report were agreed by the CWG on 16th October 2018.

4. PROPOSALS

Housing and Homelessness matters

- 4.1 At the Health and Wellbeing Board in September 2018 a question was raised as to whether the Scheme of Delegations to Committees should be amended to clarify which Committee should receive reports and take decisions in relation to housing and homelessness matters. The Board referred the issue to the CWG for consideration.
- 4.2 Currently, there are concurrent delegations in relation to housing and homelessness matters to Housing and New Homes Committee, the Health and Wellbeing Board and the NICE Committee. The delegations were agreed on the basis that each of these Committees had a role and interest in the issues and there was an expectation of collaboration between the Committees to manage agendas.
- 4.3 The CWG considered the current delegations and agreed that further work was required to identify a model which would ensure that decisions in relation to housing and homelessness issues were taken in the right forum. There was agreement that the arrangements should ensure transparency and reduce duplication where possible. Officers have been asked by the CWG to produce a report which looks at practice elsewhere and sets out the options. Officers will report back to the CWG, PR&G and full Council after May 2019, when proposed changes can be considered alongside any other proposed amendments to the Scheme of Delegations to Committees and Sub-Committees.

Review of Member Working Groups

- 4.4 The CWG considered a briefing paper setting out the current arrangements for Member Working Groups. A copy of the Briefing Paper is attached at **Appendix 1**. The CWG approved the recommendations in the briefing paper to review the current Member Working Groups and ensure that those that were established as task and finish or ad hoc groups are discontinued by May 2019. There will be a report to PR&G Committee following the May 2019 election detailing the remaining 'standing' Member Working Groups and setting out proposals for these going forward, together with clear principles to ensure parent committee oversight of these Groups.

Council Procedure Rules – Deputations, Petitions and Public Questions at Committees and Sub-Committees

- 4.5 Currently, in some Committee meetings, questions, petitions and deputations are being asked on the same issue at successive meetings. The CWG felt that it was important to enable members of the public to raise matters of concern at meetings of the Council and its Committees and Sub-Committees. On balance, however, the CWG agreed that it would be appropriate to apply a 6 month rule to the same matter being raised as a petition, deputation or public question at successive Committees or Sub-Committees. This would not include full Council which the CWG did not consider should have such a limitation. The CWG considered that applying a 6 month rule to Committees and Sub-Committees would ensure that Committee business could be carried out effectively without being dominated by one issue. It was recognised that elected Members can raise matters at Council and Committee meetings by way of Member Letters or Notices of Motion on behalf of residents without limitation and this was considered to be an important safeguard which must be retained.
- 4.6 The proposed new wording (with the new additional wording shown underlined) would be:-

The Chief Executive 'may reject a petition, deputation or question if, following consultation with the Monitoring Officer, it is in his/ her opinion:

- the same, or substantially the same, as a petition, deputation or public question which has been put at a meeting of ~~the Council~~, a Committee meeting or a Sub-Committee meeting in the past six months'.

Conflict between the Council Procedure Rules and the Protocol for Public Questions at Committees

- 4.7 There is inconsistency in the Constitution regarding the rules which regulate public questions. The Council Procedure Rules (last updated July 2018) apply to meetings of full Council, its Committees and Sub Committees. The Protocol for Public Questions at Committees is intended as a standalone guide which is shared with the public, explaining the rules around submitting public questions to Committee meetings (last updated May 2016). The CWG agreed that the two documents needed to be consistent and that the Protocol should be updated to mirror the up to date Council Procedure Rules.

- 4.8 A further amendment is proposed to both the Council Procedure Rules and the Protocol in relation to the grounds for rejection of a public question. The current grounds for the rejection of a public question include that the Chief Executive or the Mayor may reject a question if it is 'not a matter for which the Authority has responsibility or which affects the City'. For those questions directed to Committees, this wording does not assist in ensuring that the question is directed to the Committee with primary oversight of the matter. Therefore it is proposed to include the following additional new wording (shown underlined):-

'The CE or the Mayor may reject a question if... (in the case of full Council) it is not a matter for which the Authority has responsibility or which affects the City, or (in the case of a Committee or Sub Committee) it is determined by the Chief Executive, following consultation with the Monitoring Officer, that the meeting to which the question has been addressed is not the appropriate forum.'

Requirement for matters to be considered by Policy Committees prior to PR&G Committee where there are Corporate Policy or Corporate Budgetary implications

- 4.9 It is currently unclear in the Constitution whether there is a requirement for all matters with corporate policy or budgetary implications to be considered first by the relevant policy committee, before being sent to PR&G for a decision with recommendations. The CWG considered that there should be an explicit requirement for all matters with corporate policy or budgetary implications to be considered first by the relevant service committee. In certain circumstances, the CWG agreed that it may not be appropriate or possible to do this where:-
- It is impractical to do so due to timing or other factors (taking into account that there is an ability to hold Urgency Committees);
 - The matter has been previously considered by a policy committee at an earlier stage and referred to PR&G.

- 4.10 In the above two circumstances the CWG agreed that, following consultation with the relevant Committee Chair, the matter could properly be referred directly to PR&G Committee and that the General Scheme of Delegation to Committees and Sub-Committees should be amended to make these expectations explicit.

Revisions to the Scheme of Delegations to Officers – litigated and liability claims handling

- 4.11 Orbis Finance and Orbis Public Law (OPL) have discussed the transfer of the handling of litigated and liability claims for BHCC and SCC from Orbis to OPL, including the relevant staff and budget. This change follows the Orbis principle that professional disciplines and functions should sit together i.e. placing legal aspects of the insurance function in OPL and financial aspects of the insurance function in Orbis Finance. The longer term plan is to create a single OPL claims handling team as part of an integrated OPL Litigation team.
- 4.12. Following the outcome of a consultation process across Orbis Finance in June 2018, including consultation with OPL and trade unions, 7 claims handling posts have been identified as appropriate to be transferred from Orbis to OPL. This

involves the transfer of 2 staff based at BHCC (1.5 FTE) from Orbis Finance to OPL. Staff will remain employed by BHCC as now. The recommendation for BHCC is therefore to adjust the officer delegations to reflect that the function of litigated and liability claims handling will now be undertaken by the Executive Lead for Strategy, Governance and Law instead of the Executive Director Finance & Resources. All remaining insurance functions will remain with the Executive Director Finance & Resources.

5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 5.1 The Committee or Council could decide not to implement the changes set out in the report.

6. COMMUNITY ENGAGEMENT & CONSULTATION

- 6.1 The Cross Party Constitutional Working Group have been consulted where indicated and Leaders Group considered the proposals set out in the report.

7. CONCLUSION

- 7.1 The proposals reflect the Council's ongoing efforts to review and streamline its processes in an ongoing way so as to achieve both financial savings and increased efficiency. It is therefore recommended that they are pursued.

8. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 8.1 There are no direct financial implications arising from the recommendations in this report. Any costs such as officer time required to implement the constitutional changes will be met within existing resources.

Finance Officer Consulted: Peter Francis Date: 29th October 2018

Legal Implications:

- 8.2 Policy Resources & Growth Committee, and where specified in this report full Council, have the authority to make the changes to the Council's Constitution as set out in the report. The intention is for the proposals to be implemented with immediate effect unless otherwise indicated.

Lawyer Consulted: Elizabeth Culbert Date: 29th October 2018

Equalities Implications:

- 8.3 None

Sustainability Implications:

- 8.4 None

Any Other Significant Implications:

- 8.5 None identified

SUPPORTING DOCUMENTATION

Appendices:

1. Briefing Paper – Member Working Groups