

BRIGHTON & HOVE CITY COUNCIL MEETING

4.30PM 15 DECEMBER 2016

COUNCIL CHAMBER, BRIGHTON TOWN HALL


AGENDA



**Brighton & Hove
City Council**

Council Meeting

Title:	Council
Date:	15 December 2016
Time:	4.30pm
Venue	Council Chamber, Brighton Town Hall
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 Anthea Ballam
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

41 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 committee lawyer or administrator preferably before the meeting.

42 MINUTES

1 - 38

To approve as a correct record the minutes of the last Council meeting held on the 20th October 2016 (copy attached).

Contact Officer: Mark Wall
Ward Affected: All Wards

Tel: 01273 291006

43 MAYOR'S COMMUNICATIONS.

To receive communications from the Mayor.

44 TO RECEIVE PETITIONS AND E-PETITIONS.

Petitions will be presented by Members and/or members of the public to the Mayor at the meeting.

45 WRITTEN QUESTIONS FROM MEMBERS OF THE PUBLIC.

A list of public questions received by the due date of 12noon on the 8th December, 2016 will be circulated separately as part of an addendum at the meeting.

46 DEPUTATIONS FROM MEMBERS OF THE PUBLIC.

A list of deputations received by the due date of 12noon on the 8th December, 2016 will be circulated separately as part of an addendum at the meeting.

COUNCIL

47 TO RECEIVE NOMINATIONS FOR THE DEPUTY MAYOR-ELECT FOR 2017-18

The Mayor will seek nominations for the Deputy Mayor-elect for the 2017-18 municipal year in line with the agreed protocol.

48 WRITTEN QUESTIONS FROM COUNCILLORS.

39 - 40

A list of the written questions submitted by Members has been included in the agenda papers (copy attached). This will be repeated along with the written answers received and will be taken as read as part of an addendum circulated separately at the meeting.

Contact Officer: Mark Wall

Tel: 01273 291006

Ward Affected: All Wards

49 ORAL QUESTIONS FROM COUNCILLORS

41 - 42

A list of Councillors who have indicated their desire to ask an oral question at the meeting along with the subject matters has been listed in the agenda papers (copy attached).

Contact Officer: Mark Wall

Tel: 01273 291006

Ward Affected: All Wards

6.30 - 7.00PM REFRESHMENT BREAK

Note: A refreshment break is scheduled for 6.30pm although this may alter slightly depending on how the meeting is proceeding and the view of the Mayor.

50 CALL OVER FOR REPORTS OF COMMITTEES.

- (a) Call over (items 51-55 and 57) will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) To receive or approve the reports and agree with their recommendations, with the exception of those which have been reserved for discussion.
- (c) Oral questions from Councillors on the Committee reports, which have not been reserved for discussion.

REPORTS FOR DECISION

51 COUNCIL TAX REDUCTION REVIEW

43 - 112

Extract from the proceedings of the Policy, Resources & Growth Committee meeting held on the 8th December 2016, (to be circulated); together with a report of the Executive Director for Finance & Resources (copies attached).

Contact Officer: John Francis

Tel: 01273 291913

Ward Affected: All Wards

COUNCIL

52 REVIEW OF THE CODE OF CONDUCT FOR MEMBERS 113 - 150

Extract from the proceedings of the Audit & Standards Committee meeting held on the 15th November, 2016 together with a report of the Head of Law & Monitoring Officer (copies attached).

Contact Officer: Victoria Simpson

Tel: 01273 294687

Ward Affected: All Wards

53 GAMBLING ACT 2005 - REVISED POLICY 2016 151 - 218

Extract from the proceedings of the Licensing Committee meeting held on the 24th November, 2016 together with a report of the Executive Director for Neighbourhoods, Communities & Housing (copies attached).

Contact Officer: Jim Whitelegg

Tel: 01273 292438

Ward Affected: All Wards

REPORTS REFERRED FOR INFORMATION

The following reports have been referred to the full Council for information in accordance with procedural rule 24.3

54 CUSTOMER FEEDBACK REPORT 219 - 238

Extract from the proceedings of the Audit & Standards Committee meeting held on the 15th November, 2016 together with a report of the Executive Lead for Strategy Governance & Law (copies attached).

Contact Officer: John Peel

Tel: 01273 291058

Ward Affected: All Wards

55 HOUSING DELIVERY OPTIONS - LIVING WAGE JOINT VENTURE 239 - 314

Extract from the proceedings of the Housing & New Homes Committee meeting held on the 16th November, 2016 together with a report of the Executive Director for Neighbourhoods, Communities & Housing (copies attached) and an extract from the proceedings of the Policy, Resources & Growth Committee meeting held on the 8th December (copy to be circulated).

Contact Officer: Martin Reid

Tel: 01273 293321

Ward Affected: All Wards

NOTICES OF MOTION

56 THE FOLLOWING NOTICES OF MOTION HAVE BEEN SUBMITTED BY MEMBERS FOR CONSIDERATION: 315 - 324

(a) Commercial Leisure Accommodation. Proposed by Councillor Morris (copy attached).

(b) Fair Tax. Proposed by Councillor Daniel (copy attached).

- (c) **NHS Sustainability and Transformation Plan.** Proposed by Councillor Page (copy attached).
- (d) **Asset Management Panel.** Proposed by Councillor Miller (copy attached).
- (e) **City Infrastructure.** Proposed by Councillor Bell (Copy attached).

REPORTS REFERRED FOR INFORMATION

The following reports have been referred to the full Council for information in accordance with procedural rule 24.3

57 HOUSING DELIVERY OPTIONS - LIVING WAGE JOINT VENTURE - EXEMPT CATEGORY 3 325 - 332

Extract from the proceedings of the Housing & New Homes Committee meeting held on the 16th November 2016, together with appendix 4 to the report of the Executive Director for Neighbourhoods, Communities & Housing listed as Item 55 on the agenda (copies attached).

Note: Appendix 4 is exempt from publication under Category 3 of the Access to Information regulations.

Contact Officer: Martin Reid
Ward Affected: All Wards

Tel: 01273 293321

58 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.*

COUNCIL

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.

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 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.

COUNCIL

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.

Date of Publication - Wednesday, 7 December 2016



Chief Executive
Hove Town Hall
Norton Road, Hove,
BN3 3BQ

BRIGHTON & HOVE CITY COUNCIL**COUNCIL****4.30pm 20 OCTOBER 2016****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

Present: Councillors West (Chair), Marsh (Deputy Chair), Allen, Atkinson, Barford, Barnett, Bell, Bennett, Brown, Cattell, Chapman, Cobb, Daniel, Deane, Druitt, Gibson, Gilbey, Greenbaum, Hamilton, Hill, Horan, Hyde, Inkpin-Leissner, Janio, Lewry, Littman, Mac Cafferty, Meadows, Mears, Miller, Mitchell, Moonan, Morgan, Morris, Nemeth, A Norman, K Norman, O'Quinn, Page, Peltzer Dunn, Penn, Phillips, Robins, Russell-Moyle, Simson, Sykes, Taylor, C Theobald, G Theobald, Wares, Wealls and Yates.

PART ONE**25 DECLARATIONS OF INTEREST**

- 25.1 Councillor Druitt declared a personal but not prejudicial interest in Item 39(d), Notice of Motion concerning Christmas Parking and Road Closures as he was a Director of the Big Yellow Bus Company. Although he had no direct interest in the matter, he would not take part in the debate on the item.
- 25.2 Councillor Phillips declared a personal interest in Item 39(e), Notice of Motion concerning the Fast Track Cities Initiative 90:90:90, as she worked for the Terrence Higgins Trust and had been granted dispensation to speak and vote on the matter;
- 25.3 Councillor Bennett declared a personal and pecuniary interest in items 31(a), Petition Debate on Family Homes Not HMOs and Item 39(b), Notice of Motion concerning HMO Landlord Licensing and Business Rates, as she was a Landlord.
- 25.4 No other declarations of interests in matters appearing on the agenda were made.

26 MINUTES

- 26.1 The minutes of the last ordinary meeting held on the 21st July 2016 were approved and signed by the Mayor as a correct record of the proceedings, subject to the following amendments:
- (i) Page 19, paragraph 20.4 the word 'approved' in line five to be replaced by 'refused' and

- (ii) Page 13 the voting table to show Councillor Peltzer Dunn as having voted against rather than for, although the actual total number of votes shown was correct.

27 MAYOR'S COMMUNICATIONS.

- 27.1 The Mayor welcomed Councillor Russell-Moyle to the Council as the newly elected Member for the East Brighton Ward. He also welcomed everyone present to the meeting and stated that it was great to be back in the Chamber in Hove Town Hall, which had new furniture and sound and voting equipment. He also noted that the seating had been rotated by 90 degrees reverting to the original layout with councillors facing the crest. He hoped that the new layout and systems would work out well in improving the meeting experience in the chamber.
- 27.2 The Mayor stated that he had some awards to present and firstly wished to offer the Council's congratulations to the City Parks Team who had won two awards, the first from Sussex Heritage Trust's "Public and Community" category, in recognition of the work restoring and interpreting the Level's rich social and cultural history, while "bringing the park into the 21st century".
- 27.3 The second award was the "PiPA Lollipop" from Inclusive Play for the excellent standards of accessibility and inclusivity of The Level's play area - and also the other park features that support those with accessibility needs. He then invited members of the Team to come forward along with Councillor Atkinson to collect the awards.
- 27.4 The Mayor then offered the Council's congratulations to the Cityclean Street Cleaning Team who had been honoured with a national award by the Association for Public Excellence which are designed to recognize frontline council services. Cityclean won the Best Service Team award for Street Cleansing and Streetscene services. He then invited members of the Team to come forward along with Councillor Mitchell to collect the award.
- 27.5 The Mayor then offered the Council's congratulations to the City Transport Team who had received the prestigious Transport Local Authority of the Year award in recognition for their work on a host of initiatives promoting safety and sustainable travel. The team were praised for putting people and places at the heart of our local transport plan. He then invited members of the team to come forward along with Councillor Horan to collect the award.
- 27.6 The Mayor then stated that he would like to offer the Council's congratulations and thanks to Denise D'Souza who recently stood down as Executive Director of Adult Services after completing 30 years' service, and noted that she had been nominated for the Argus Public Service Award.
- 27.7 The Mayor noted that all Members had had the chance to tour Hove Town Hall to see how its interior had been transformed, creating a modern workspace for staff and new areas to accommodate partner organisations. It had been a massive undertaking and he was sure all Members would like to express their thanks to all who had worked so hard from planning right through to painting. He knew staff were pretty pleased with their new work environment and hoped that Members would find that the facilities they

used worked well for them as well. He noted that there had been an opportunity to celebrate some history of the town hall and in tune with that, he was wearing the Hove Mayoral chains.

- 27.8 The Mayor stated that he was plugging away with Facebook, posting to the mayoral page, endeavouring to post on all his engagements to help share the story of the amazing people and communities in the city that he met. The page had a growing following across the city and beyond and was rapidly approaching a 1,000 page likes. The feedback suggested that the stories were well received, and stood the Council, as well as the Mayoralty in good stead.
- 27.9 The Mayor stated that he was very keen to support the city's communities and was glad to say that Hangleton & Knoll had been inviting him to many of their community activities. He had also recently visited Coldean Community Corner, a fledgling project, which was working to strengthen the community in a rather isolated part of the city.
- 27.10 The Mayor noted that his Chaplain, Rev Anthea Ballam and Rev Jeff Jones were organising an interfaith Civic Service at the Unitarian Church New Road. Having visited a number of faith communities he was aware how much they appreciated the interest of councillors and he was also aware that faith was often a key bond for members of the newer BME communities in the city. He hoped that many of the council would be able to attend the service on Sunday 19th December.
- 27.11 The Mayor noted that Remembrance Sunday was fast approaching and that there would be acts of remembrance at the Old Steine and in Portslade on the morning of Remembrance Sunday, followed by a service for the whole city at All Saints Church, Hove in the afternoon. Armistice Day would also be marked in the usual way. He noted that 2016 marked the centenary of the Battle of Boar's Head, "the day Sussex died" as well as the carnage of the Battle of the Somme and Battle of Jutland, which offered special significance to the commemoration year.
- 27.12 The Mayor stated that some Members would be aware that the city recently received a delegation at the Mayor's Parlour from Dieppe, during the town's French/Canadian Film Festival. The visitors were concerned to express their desire to see redoubling of the cultural and economic ties between Dieppe and Brighton & Hove. He hoped that the plans for the Paris to Brighton charity cycle ride being developed with the Brighton Property Consortium and Brighton Fringe would assist the 'entente cordiale.' The plan was to open the Brighton Fringe from the Eiffel Tower with live link up to an outdoor celebration in Brighton & Hove; with the riders arrive in Brighton to be greeted by a special charity event in the city centre. He hoped that the cycle ride would become an annual celebration and a significant fund-raiser for the Mayor's Charities.
- 27.13 The Mayor stated that he was also working on a number of other charity fund-raising events with his 27 mayoral charities and was looking forward to walking, 'the Brighton Way' which City Parks would be leading starting in Saltdean Oval and ending at Emmaus Portslade. It offered a great experience of some of the best urban fringe areas including Castle Hill, Stanmer and the Chattri, and he hoped Members would come along on the 30th April and do at least part of the route.

27.14 He noted that the Mayor's Christmas reception would be held at the Brighthelm Centre with entertainment, a pay bar and other charities on the 16th December.

27.15 Finally, the Mayor stated that one of the great delights of the role of Mayor was to be invited to help celebrate the birthdays of some of the city's eldest citizens. He had attended a number of birthday parties for people over 100 and had recently attended a 70th wedding anniversary of a couple who married just after the War and were still going strong. On Sunday, he had the unexpected delight of meeting one of the youngest citizens, wee baby Nancy Bee, who was just two days old and is the new baby daughter of Robert & Kerry Nemeth. He hoped everyone present would join him in offering their congratulations to Robert & Kerry, who had a truly bee-utiful daughter.

28 TO RECEIVE PETITIONS AND E-PETITIONS.

28.1 The Mayor invited the submission of petitions from councillors and members of the public. He reminded the Council that petitions would be referred to the appropriate decision-making body without debate and the person presenting the petition would be invited to attend the meeting to which the petition was referred.

28.2 Councillor Taylor presented two petitions signed by local residents concerning the provision of double yellow lines and speeding traffic in Reigate Road.

28.3 Councillor Cobb presented a petition signed by 54 residents concerning speeding traffic.

29 WRITTEN QUESTIONS FROM MEMBERS OF THE PUBLIC.

28.1 The Mayor reported that one written question had been received from a member of the public and invited Mr. Hawtree to come forward and address the council.

28.2 Mr. Hawtree asked the following question; "Would Councillor Morgan please tell us when the maintenance and repair work will begin at Hove's esteemed, nationally-renowned Carnegie Library, and how long this will take?"

28.3 Councillor Morgan replied; "Maintenance and repair work on Hove Library has taken place every year, and continues as part of the Planned Maintenance Budget expenditure. This year (2016/17) there is a sum of £15,000 allocated to Hove Library within the Planned Maintenance Budget. This relates primarily to investigating cracking within the building and the boundary wall.

28.4 As well as this work, it is intended to undertake a CCTV drainage survey, commence party wall negotiations for repairs to the boundary wall if applicable, instructing specialist stonemasons to survey the building's facade and prepare estimates for repair. Specialist roofing contractors have surveyed the roofs and are preparing a report with budget estimates on a minimum and maximum specification that should be available by the end of October. In addition to the ongoing repairs and maintenance work, this year an investigation into whether the basement void could be developed into usable space was undertaken. The verdict was that it was not suitable.

28.5 Budgets and programmes of work have yet to be set for 2017-18. The 2014 Hove Library condition survey data is being reviewed to provide minimum and maximum

options for suggested repairs that, in the absence of budget restrictions, might ideally be undertaken over a 5-year period. In practice, the repairs needed to all council buildings will be prioritised within the limited available budgets with a focus on making the building envelope wind and water tight, rectifying structural and health and safety concerns.”

- 28.6 Mr. Hawtree asked the following supplementary question; “Thank you for that response Cllr Morgan which makes my supplementary all the more pertinent and it’s one that all the more residents are asking in this volatile constituency as they continue to watch the webcast of the June 9 meeting. You concluded at the end of item 7 in such a way that residents remain fearful for the survival of our Carnegie library so now with this in mind could I ask you to amplify what you meant by those remarks at the end of your speech to item 7 on June 7 because as a result residents are still weary that the preposterous report is extant rather than extinct.”
- 28.7 Councillor Morgan replied; “I’ll go back and look at the webcast and see what I said and get back to you.”
- 28.8 The Mayor thanked Mr. Hawtree for his questions and noted that concluded the item.

30 DEPUTATIONS FROM MEMBERS OF THE PUBLIC.

- 30.1 The Mayor reported that one deputation had been received from members of the public and invited Sir Ron de Witt as the spokesperson for the deputation to come forward and address the council.
- 30.2 Sir Ron de Witt thanked the Mayor and stated that: “Our residents have been experiencing a steep upsurge in levels of street drinking, alcohol related antisocial behaviour and drug crime which are adversely affecting and compromising their quality of life.

Many now describe Norfolk Square as a no go area and in fact recently has been designated as an antisocial behaviour hotspot by the police. Dealing and drug litter are commonly seen in Brunswick Road and Waterloo Street communities. Brunswick and Palmeira Square have also had problems this summer with tented communities and the associated anti-social behaviour. There is a clear and well evidenced relationship between alcohol consumption and antisocial behaviour and crime there is also a clear evidence relationship between alcohol availability and consumption. We also believe there is a direct causal relationship between the disappearance of our PCOs and the upsurge in antisocial behaviour.

We have therefore raised a petition which we will present today but first a few examples. The Co-op on Western Road has expressed the same frustrations with the lack of visible police presence which we generally feel in our area. In August and September the Co-op recorded 40 incidents of theft of alcohol from its premises that also saw this being consumed on the street. The signs of abuse in our area are written all over; just talk to business owners in Western Road, how many times they’ve had to replace smashed windows. This isn’t just about street drinking it is also yobish behaviour and not to forget the death of a young man outside Temple Inn not so long ago.

For a predominantly residential area we have a very high proliferation of licenses. Within a ten minute walk along less than half a mile of Western Road there are 67 on and off sale licensed premises a high number are after midnight on weekdays and after 11pm on Sundays. Coupling this with the increasing number of students, HMOs, stag and hen houses this is propelling a vibrant night-time economy. Booze and culture of drugs is increasing and spreading from central Brighton along the road to common areas which are residential. This anti-social behaviour may be a low level threat in policing terms but it blights people's lives. Ask Steven a Norfolk Square resident who commutes every day to London but doesn't get to sleep until 3am, ask Olive an elderly Brunswick Road resident who says "I don't feel safe in the area any longer" or Fiona of Brunswick Square who witnessed the event in the Co-op she said "it would have been funny if it hadn't been so violent". Then there was the disappointing article in the press recently saying the Police can't investigate every incident. Our experience is that we don't even see the Police and if they appear at all when contacted it is too late and then they don't get out of their vehicles. Amy called 999 to report a drug dealer in action and was told you shouldn't be ringing 999. John says "I waited 30 minutes for someone to reply to my telephone call, by the time they answered it too late". Recently the Sussex Police and Crime Commissioner Katy Bourne was quoted as saying "the front line for neighbourhood policing is moving off the street and into our front rooms", in our opinion this isn't good enough. Police recorded crime in 2015 increased by 4.5% it has now continued to rise until it has reached 11.8% in the first 4 months of 2016. LATs were set up to bring communities and policing together the Police now no longer attend taking the action out of the Local Action Team.

Therefore we would ask the council to give grave concern at the increasing frequency and severity in incident of antisocial behaviour in the Brunswick and Regency areas and take a firmer stance with alcohol related antisocial behaviours, firmly adhere to its statement of licensing policy and undertake to quickly review the licenses of alcohol outlets that breach license conditions and closely monitor and advises premises with the new café licenses. We request a written response to our petition."

- 30.3 Councillor Daniel replied, "Thank for bringing this deputation to full council. I first want to acknowledge the issues that your area has experienced in terms of antisocial behaviour and to talk about the street community which is made up of both rough sleepers and people who are accommodated but due to their alcohol or other substance misuse and often other mental health problems spend time on the streets.

At times behaviour due to substance misuse and mental health complex needs can become frightening to communities and not just the noise and littering issues that you described. The Council and the Police do tackle areas of the city that are particularly impacted by this antisocial behaviour however I recognise that as resources get ever more limited and stretched public bodies cannot always respond as quickly as communities would expect and I recognise that the Police must sometimes prioritise emergency situations as their resources diminish, however we are not decision makers relating to PCSO as you are probably aware and that is the remit of the Police and Crime Commissioner. People should still report issues to 999 or 101 as appropriate and I too have spent over 45 minutes waiting for a response at times.

Use online reporting if it's not an emergency and if you see someone sleeping rough we would ask you to report them to Street Link which is www.streetlink.org.uk so we can

insure an outreach worker finds them and helps keep them safe. Working with a street community to help prevent antisocial behaviour is part of our rough sleeping strategy as well and there are two key actions relating to this that we have agreed. First ensuring that in priority areas such as yours where there is a large street community that our staff and other staff have clear guidance on how to deal with issues effectively and who's accountable for making those actions happen. Secondly a wider piece of work on communications working to discourage people who are really kind and giving money to beggars but ask them instead to please give that money to charities where they can as that will get people off the streets quicker. We also want to try and make sure all food donated to rough sleepers and the street community not all of whom are rough sleepers is provided inside buildings so people can eat food with dignity and with volunteers who are trained and able to help them off the streets and help them with their alcohol and substance misuse issues if that's what is keeping them there.

On the second point the wider issue of alcohol. As you're probably aware in 2011 the council increase its cumulative impact zone (CIZ) for alcohol licensing to include your area and we now have the largest CIZ in the country and our 2013 'Sensible on Strength' scheme encouraged off-licenses to voluntarily agree to stop selling cheap super-strength beer and cider all of them in the area except the Sainsbury's have signed up to that scheme and I thank them for that and I'm sure your community does too.

In short I believe we have taken every available step to reduce the impact of alcohol related antisocial behaviour and our officers are constantly monitoring this and those hotspots. I do believe that the parts of our rough sleeper strategy which I highlighted demonstrates that we haven't taken our eye off the ball on this issue and I want to encourage you and residents to continue to report issues to us and to the Police."

30.4 The Mayor thanked Sir Ron de Witt for attending the meeting and speaking on behalf of the deputation. He explained that the points had been noted and the deputation would be referred to the Neighbourhoods, Communities & Equalities Committee for consideration at its next meeting. The persons forming the deputation would be invited to attend the meeting and would be informed subsequently of any action to be taken or proposed in relation to the matter set out in the deputation.

30.5 The Mayor noted that this concluded the item.

31 PETITIONS FOR COUNCIL DEBATE

(a) FAMILY HOMES NOT HMOS

31.1 The Mayor stated that where a petition secured 1,250 or more signatures it could be debated at the council meeting. He had been made aware of two such petitions and would therefore take each in turn. He also noted that there was a Notice of Motion listed at Item 39(b) on the agenda which related to HMOs and he was therefore inclined to take it along with the petition in one debate. In addition there were two amendments to the recommendation contained in the covering report to the petition and an amendment to the notice of motion which would also be included before the matter was opened up for general debate.

- 31.2 The Mayor then invited Mr. Gandey as the lead petitioner to present the petition calling on the Council to prohibit the issuing of any future HMO certificates in the Bevendean/Moulsecomb Ward.
- 31.3 Mr. Gandey thanked the Mayor and stated that the petition had reached 1,285 signatures which demonstrated the strength of feeling in the area and the need for something to be done to support families who felt their communities were being broken up.
- 31.4 The Mayor thanked Mr. Gandey and called on Councillor Carol Theobald to move the amendment on behalf of the Conservative Group.
- 31.5 Councillor C. Theobald stated that the matter should be considered by the Economic Development & Culture Committee rather than the Housing & New Homes Committee as it related to planning policy. She also stated that it was felt that the extension of the area of restriction from 50 metres to 150 metres would be helpful for when future applications to convert homes into HMOs were to be made, and hoped the committee would agree to review the City Plan Part One.
- 31.6 Councillor Miller formally seconded the amendment and stated that there was a need to do something to address the proliferation of HMOs in certain areas of the city.
- 31.7 Councillor Meadows moved an amendment on behalf of the Labour & Co-operative Group, calling on the committee to consider extending the current Article 4 Direction area and to better align the planning and licensing functions in relation to HMOs. She also stated that she wished to amend the wording of the amendment to replace the word 'rented' with that of 'HMO' in the final line of 2.2.
- 31.8 Councillor Moonan formally seconded the amendment and stated that it was important to enable planning and licensing functions to work efficiently in relation to their enforcement roles.
- 31.9 Councillor Hill moved the Notice of Motion on behalf of the Labour & Co-operative Group, concerning HMO landlord licensing and business rates.
- 31.10 Councillor Cattell formally seconded the motion.
- 31.11 Councillor Gibson moved an amendment to the motion on behalf of the Green Group.
- 31.12 Councillor Druitt formally seconded the amendment.
- 31.13 Councillor Robins responded to the petition and stated that challenges around the availability of family homes in the city was one of the key themes that emerged in consultation on the Housing Strategy along with the wider impact of student housing resulting from the growth of the universities. He also offered to send Mr. Gandey a full response on the matter and stated that officers would be working with the universities to address ongoing concerns about the number of HMOs and ways to manage existing and future student accommodation.

31.14 The Mayor then opened the matter up for debate and the following Members expressed their views, Councillors Page, Inkpin-Leissner, Wares, Wealls, Marsh, Yates, Hamilton and Drutt.

31.15 In response to the debate Councillor Robins stated that he felt the proposed amendments could be taken forward for consideration at the Economic Development & Culture Committee.

31.16 In response to the debate Councillor Hill stated that she was happy to accept the Green Group's amendment to the notice of motion and hoped that it would be fully supported.

31.17 The Mayor noted that both amendments to the petition report's recommendation were supported by Members and therefore put the amended recommendations to the vote which were carried.

31.18 The Mayor noted that the amendment to the notice of motion had been accepted and put the following motion as amended to the vote,

“This Council resolves:

To request that the Chief Executive writes to the Chancellor of the Exchequer, Secretary of State for Communities and Local Government, the Chair and Vice-Chairs of the Local Government Association and local MPs to request that councils should be given powers to bring landlords of HMOs, party houses and Air BnB properties within the scope of business rates in the same way as for example hotels and guest houses are within the scope of business rates.”

31.19 The Mayor confirmed that the motion which was carried by 31 votes to 19, with 1 abstention as detailed below:

		For	Against	Abstain		For	Against	Abstain
1	Allen	✓			Marsh	✓		
2	Atkinson	✓			Meadows	✓		
3	Barford	✓			Mears		X	
4	Barnett	Not Present			Miller		X	
5	Bell		X		Mitchell	✓		
6	Bennett		X		Moonan	✓		
7	Bewick	Not Present			Morgan	✓		
8	Brown		X		Morris			Ab
9	Cattell	✓			Nemeth		X	
10	Chapman	✓			Norman A		X	
11	Cobb		X		Norman K		X	

12	Daniel	✓			O'Quinn	✓		
13	Deane	✓			Page	✓		
14	Druitt	✓			Peltzer Dunn		X	
15	Gibson	✓			Penn	✓		
16	Gilbey	✓			Phillips	✓		
17	Greenbaum	✓			Robins	✓		
18	Hamilton	✓			Russell-Moyle	✓		
19	Hill	✓			Simson		X	
20	Horan	✓			Sykes	✓		
21	Hyde		X		Taylor		X	
22	Inkpin-Leissner	✓			Theobald C		X	
23	Janio		X		Theobald G		X	
24	Knight	Not Present			Wares		X	
25	Lewry		X		Wealls		X	
26	Littman	✓			West	✓		
27	Mac Cafferty	✓			Yates	✓		
					Total	31	19	1

31.20 RESOLVED:

- (1) That the petition be noted and referred to the Economic Development & Culture Committee for consideration at its meeting on 17th November 2016;
- (2) That the Committee be requested to consider that the City Plan Part One be reviewed to increase the area of restriction from 50 metres to 150 metres where applications for conversion to HMOs will be rejected if more than 5% of current dwellings are already HMOs;
- (3) That the Committee be requested as a priority to consider the extension of the current Article 4 Direction area and options to further extend the licensing of private rented housing; and
- (4) That the Committee consider whether to better align the Planning and Licensing functions in relation to HMOs and learn from other university towns as to more effective management of student HMOs and to request a report on this matter to its next meeting.

(b) SAVE THE DYKE PUB

- 31.21 The Mayor stated that where a petition secured 1,250 or more signatures it could be debated at the council meeting, and invited Ms. Sigfrid as the lead petitioner to present the petition calling on the Council to recognise the Dyke pub as an asset of community value.
- 31.22 Ms. Redfern and Mr. Fardell thanked the Mayor and stated that they would be presenting the petition on behalf of the petitioners and noted that it had reached 1,413 signatures. Ms. Redfern stated that the local community had submitted an application for the pub to be listed as an asset of community value, in order to give them an opportunity to work with interested parties to have the pub restored to its original use. As things stood the current owners had simply closed the pub and reopened it as a furniture shop with no consultation or warning.
- 31.23 The Mayor thanked Ms. Redfern and called on Councillor Cattell to respond to the petition.
- 31.24 Councillor Cattell stated that the change of use was allowed due to the Government's change to permitted development rights last year. She had been advised by officers that the owner of the Dyke Pub followed the correct procedure in carrying out the change of use by writing to the local planning authority, 56 days before, to seek advice as to whether the pub had been nominated as an ACV and as no such nomination was received for the public house before or during the 56 day period, the developer was permitted to change the use of the pub to a shop.
- 31.25 She noted that the council had since received the community's nomination of the former pub as an ACV – and the petition in support of reinstatement of the pub would be noted when considering the nomination. In terms of looking forward the council recognised that pubs are often an important asset to local communities and officers were currently looking into the best approach to tackle the unwanted loss of pubs in the future.
- 31.26 The Mayor then opened the matter up for debate and the following Members expressed their views, Councillors Morris, Littman and G. Theobald.
- 31.27 In response to the debate Councillor Cattell stated that she had recently visited another authority to see how they were attempting to address the use of permitted rights so that similar issues could be prevented.
- 31.28 The Mayor then put the recommendation to refer the petition to the Policy, Resources & Growth Committee to vote which was agreed.
- 31.29 **RESOLVED:** That the petition be noted and referred to the Policy, Resources & Growth Committee for consideration at its meeting on 8th December 2016.

32 WRITTEN QUESTIONS FROM COUNCILLORS.

- 32.1 The Mayor reminded Council that written questions from Members and the replies from the appropriate Councillor were taken as read by reference to the list included in the addendum which had been circulated as detailed below:

(a) Councillor Bell

“In light of the recent blunder by the Planning Department which has led to a 12.5 metre mast being erected next to a school and historic site in my Ward of Woodingdean, would the Chair of Planning Committee please explain how such an error has been allowed to happen and how many other known instances there have been if, as it has been reported, there are no checks to ensure that applicants have receipt of their planning decisions within the time period?”

Hollow apologies, from the Administration are a distraction to a systemic failure within the planning department and despite emails and phone calls we still are unable to inform our residents of what action this Administration is going to take to rectify their mistake. I respectfully request urgent action and response to this question.”

Reply from Councillor Cattell – Chair of the Planning Committee

“I am very sorry for the delay that occurred and resulted in the mobile phone mast and cabinets having received deemed approval, even though the Council opposed the proposals. This was due to an administrative error within the Council following a delay in the application being received by the Planning Department. I apologise to the residents of Woodingdean who initially opposed the application and have raised concerns and campaigned against the installation of the equipment following the works starting on site.

I am aware of three other instances in the last 10 years of other mobile phone installations gaining deemed approval in the City. I have raised this issue with senior managers who are carrying out an investigation into the circumstances behind this deemed approval and the Council’s procedures. Senior managers have met with Cllr Simson and community representatives and have contacted the mobile phone company to seek a resolution. The procedures for handling incoming post have now been changed to eliminate, as far as possible, a repeat of this unfortunate situation.”

(b) Councillor Wares

“Recently in the Argus, the Chair of Environment, Transport and Sustainability commented on her sadness at the decline of our parks and open spaces in the wake of £600,000 savings required to Cityparks’ budget over the next 3 years. What is of greater sadness is the misrepresentation of this figure. According to the Council’s budget papers, Citypark’s overall budget for the next 3 years is gross £11,061,000 of which £7,743,000 is for parks and open spaces. The actual overall saving proposed for the 3 years is £430,000. £200,000 saving against the parks budget which is proposed as a cut in service and £230,000 saving against leisure and allotments dealt with by increasing charges and fees. Conservation and arboriculture’s budget are unchanged.

Therefore, over the next 3 years, the parks and open spaces budget reduction is £200,000; nothing like Cllr Mitchell’s £600,000.

Over the same 3 year period, the traveller budget is £1,839,000 of which a saving of £133,000 is proposed. The City has seen a reduction in unauthorised encampments

following the £2.4m traveller site development that was supplemented with £700,000 of Council tax money coupled with the Police now responding swiftly to end them and PSPOs coming into force later this year.

Rather than Cllr Mitchell continuing with her proposed reduction in Cityparks' budget of £430,000, will she now inform us how much she intends to re-allocate from the over-funded traveller budget towards Cityparks, and how much she anticipates this will reduce her sadness and increase our residents' happiness?"

Reply from Councillor Mitchell – Chair of the Environment, Transport & Sustainability Committee

"I would confirm that there are savings of £600k in the City Parks budget for the three years 2016/17 – 2018/19 inclusive that directly relate to parks and open spaces and are being informed by the 'Big Conversation' consultation. These savings were agreed at budget council in February 2016 and mainly comprise: new service delivery model for parks and open spaces service £200k, reduced contractor budget £38k, achieving self-managed sport and recreation facilities £250k, aligning the retained Ranger Service with the new delivery model to focus on public engagement and statutory functions £102k.

The Traveller Service budget for 2016/17 is £573k. The figure for the three years budget quoted in this question does not take into account the year on year savings being applied. In 2016/17 there was a budget reduction of £41k. Total savings agreed by council for the next three years are £133k. NB This figure may be revised as part of the budget setting process.

The permanent traveller site opened in July 2016 and the transit site opened in August 2016 with 21 pitches. The permanent site development and installation of a suitable drainage system for both sites cost just under £2.4m of which £1.74m was funded by a government grant and £649k funded by the council.

The number of new, unauthorised, encampments has reduced since the opening of both sites as expected, however, we are continuing to review the situation as part of making any recommendations to revise the budget, based on clear evidence, as part of the annual budget process. It should be noted, however, that the Traveller Services budget is held within a directorate separate from City Parks and would not necessarily be used to offset budgets elsewhere."

(c) Councillor Mac Cafferty

Preventing flash floods: Rooftops study

A roof audit study in 2014* found that there was 87 football pitches' worth of new green roof space in the city centre of Brighton and Hove.

The equivalent of up to 100 Olympic swimming pools of water could be held back from the city's roads and drains which could have a significant effect in reducing flooding and the need for infrastructure. Over 2 megawatt hours (MWh) of electricity could be saved every year on cooling costs for buildings – via reduced or avoided air conditioning.

Greening roofs would also reduce the so-called 'Urban Heat Island Effect', potentially providing an additional saving in cooling costs in the city of 1.3million kWh per annum, as well as decreased carbon dioxide emissions. New green roofs create new habitats for plant and animal species and help building energy efficiency.

Can the Chair of the Planning Committee advise on what work is being done by the Administration to bring this important study to fruition.

[*https://building-green.org.uk/2015/01/24/huge-potential-for-green-roofs-to-improve-the-centre-of-brighton/](https://building-green.org.uk/2015/01/24/huge-potential-for-green-roofs-to-improve-the-centre-of-brighton/)

Reply from Councillor Cattell – Chair of the Planning Committee

“Brighton & Hove City Plan Part One recognises the importance of green infrastructure and green roofs in enhancing biodiversity, energy efficiency and mitigating climate impacts. These impacts include urban heat island effect and flash floods caused by heavy rainfall events.

There are direct and indirect references to green roofs throughout City Plan Part One which have facilitated and encouraged the inclusion of green roofs within a number of development schemes in the city, especially major developments (e.g. The Keep, Falmer and applications on several schemes in the New England Quarter).

The council will look for opportunities to consolidate this approach in City Plan Part Two Design policies and the forthcoming Urban Design Framework planning guidance.

Opportunities for green roofs are investigated for schemes where the council has involvement in design, for example:

- The Level Cafe

New Homes for Communities Programme, there are green roofs on:

- Robert Lodge, Whitehawk
- Brooke Mead, City Centre
- And a green wall at Kite Place

The council’s Architecture Team also explores opportunities for green roof applications and these have been successfully installed at:

- Downsview Link College
- Balfour Junior School
- Whitehawk Hub”

(d) Councillor Mac Cafferty

Free and accessible water in Brighton and Hove

Single-use plastic bottles expend finite natural resources, they also create transport and waste. As a seaside city, single-use plastic bottles and bottle tops add to sea pollution: 8

million tonnes of plastic waste enter the sea from land each year. Plastic bottled water is also excessively expensive for the consumer.

The public health benefits of water are widely acknowledged; 1.6 litres of water are needed a day to avoid dehydration. The Refill Project established in Bristol in 2015 works by having free and accessible tap water provided in venues across the city centre. Over 200 participating venues such as cafes, bars, restaurants, banks, galleries, museums and other businesses simply promote their participation. The public has access to free tap water.

Can the Chair of the Environment, Transport and Sustainability Committee advise if the Administration will investigate the idea and bring forward a report to committee?

Reply from Councillor Yates – Chair of the Health & Wellbeing Board

“As part of Sugar Smart Brighton and Hove the public health team have taken some initial steps to investigate the feasibility of a Refill style model for Brighton and Hove. We are all eating 2-3 times as much sugar as we should and we know that sugary drinks make up to 30-40% of young peoples’ sugar intake. Making drinking water more freely accessible across the city is a sustainable and low cost way to improve our residents’ health and reduce plastic bottle waste. The next stage is to develop a project plan including the identification of potential sources of funding. Progress will be reported through the Health and Wellbeing Board.”

(e) Councillor Mac Cafferty

Can the Chair of the Housing & New Homes Committee outline what information housing officers are now legally permitted to routinely collect on tenants?

Reply from Councillor Meadows – Chair of the Housing & New Homes Committee

“The types of personal information that Housing staff routinely collect from tenants is that which is deemed relevant and necessary to the relationship which we have with our tenants as their landlord, our legal responsibilities to them, and their contract with us.

As a data controller under the Data Protection Act (DPA), the Council is required to deal with the personal data of its tenants in a way which is compliant with the data protection principles. It has therefore put in place a raft of arrangements to ensure that the personal data of its tenants is processed fairly and lawfully and only to the degree which is compatible with the Data Protection Act.”

(f) Councillor Taylor

“The works to Westdene Library agreed as part of the Libraries Plan are now some 2 months behind schedule. Will Councillor Hamilton please tell me how this will impact on the savings in the Libraries service budget for 2016/17?”

Reply from Councillor Hamilton – Deputy Chair (Finance) of the Policy, Resources & Growth Committee

“The delays were a result of the complexities of implementing a new door access system, new IT systems and carrying out the necessary checks to ensure that everything will work effectively once the library is open. The delay to re-opening Westdene Library will not have any impact on Library Service budget savings for 2016/17. Westdene Library is now expected to re-open in November.”

33 ORAL QUESTIONS FROM COUNCILLORS

- 33.1 The Mayor noted that eleven oral questions had been received and that 30 minutes were set aside for the duration of the item. He also noted that Councillor Hyde had decided to withdraw her question.
- 33.2 The Mayor then invited Councillor Wealls to put his question to the Chair of the Children, Young People & Skills Committee.
- 33.3 Councillor Wealls asked the following question, “Please can Councillor Chapman assure the council of the administration’s unwavering support for the establishment of the University of Brighton Academies trust free school in the city?”
- 33.4 Councillor Chapman replied, “This administration does absolutely support the University of Brighton’s application. As we know, and as we have been discussing on the cross party working group that Councillor Wealls has been sitting on for the past year, that the new school is needed in the city and we are working hard with the University of Brighton and with officers to try and secure the site for the new school as soon as possible.”
- 33.5 Councillor Wealls asked the following supplementary question, “Given the need for additional secondary school places in the city, which this school is designed to meet, please can you specifically rule out bulge classes or additional forms of entry at any of the city’s existing maintained schools?”
- 33.6 Councillor Chapman replied, “What we will continue to do is work with our family schools across the city to ensure that every child in the city has a place as we are obliged to do. What I will say is that secondary school admissions has been an issue that has rumbled on in this area for years under successive administrations of all colours and we are not going to keep passing the buck we are going to get the basics right. We are going to continue to move towards opening a new school and securing new places for the city’s pupils for generations to come.”
- 33.7 Councillor Mac Cafferty asked, “You’ll now be aware from the very eloquent deputation from my resident of the quantity of antisocial behaviour that has been happening, and if I can be honest I thought it was a rather disappointing response to the deputation. I’ve had dozens of emails and phone calls from worried residents to be fair, Council and Police officers once engaged have worked on solving the problems but obviously current policies and approaches aren’t working. Would Councillor Daniel agree with many of my residents that as antisocial behaviour is now slipping out of control in the city centre that we urgently need the reinstatement of Police Community Support Officers (PCSOs) on our streets at the earliest point, and will she join our calls to the Police and Crime Commissioner (PCC) that we need PCSOs reinstated as soon as possible?”

- 33.8 Councillor Daniel replied, "In brief, especially in regards to PCSOs of course we would support you in your calls for reinstatement of PCSOs. I attend, for this council along with Councillor Wares, the Police and Crime Panel which is scrutinising the PCC, and I have asked her on a number of occasions including the last meeting what measures of success she is going to use around this new model and she has not given me an answer and she has repeatedly not given an answer on what measures of success she's going to use around this new model. My confidence in this new model is therefore very low. This, coupled with the fact that it is so difficult to get through on the 101 number and the PCC's response on the length of time that people wait and in my case I waited 45 minutes, got cut off and then waited a further 45 minutes and got cut off again and never got through which is not now unusual. The PPC's response was that she felt that she might remove any targets around response time because they lead to perverse incentives to give poor customer service which I find absolutely incredible, and how the people of Sussex can have confidence in a model of change which has no measures, a model of change which depends on people phoning a number which they can't get through to, a model of change where PCSOs whose role was around preventing low level crime and low level antisocial behaviour on the basis that they have to go to more harmful, higher risk issues. I don't think that's efficiency because all you're doing is storing up problems and storing up higher cost issues along the way."
- 33.9 Councillor Mac Cafferty asked the following supplementary question, "Would Councillor Daniel and possible Councillor O'Quinn as the Lead in licensing agree to meet with myself, Councillor Sykes and residents as soon as possible to outline how they will help our area enforce, and revisit as necessary current alcohol licensing arrangements which have done so much to grow antisocial behaviour?"
- 33.10 Councillor Daniel replied, "Of course we will meet with you, thank you for raising this Councillor."
- 33.11 Councillor Janio asked, "According to our world renowned and highly respected local newspaper The Argus, Councillor Mitchell 'the parks boss' has expressed her sadness at the decline in our city's green spaces. Mr Mayor I agree with her so, can Councillor Mitchell please confirm tonight as 'the parks boss' and without droning on about Tory cuts which is frankly getting a bit dull and dreary that she will stop her officer's merry jaunts around the city as they are upsetting the users of our parks and open spaces with their talks about proposed cuts before the consultation has completed and the budget published? Also will she agree to abandon the proposed increase in charges for sports and leisure facilities such as those which have been reported to several councillors from the bowling clubs?"
- 33.12 Councillor Mitchell replied, "I do fully appreciate Councillor Janio's sensitivity around the issue of the £600,000 that are to be taken from the City Parks budget over the next three years. It's a shame that that sensitivity isn't actually been translated into perhaps making firmer representations to his government as to what their measures actually mean 'on the ground'. Councillor Janio seems to be suggesting that we curtail the consultation with people. So far we have received nearly 3000 responses to this consultation on the parks and open spaces across this city that are dearly loved and valued by residents and I would hope that Councillor Janio would appreciate that. In terms of stopping officers from going around the parks and open spaces; no, we want to attract as many views as possible."

- 33.13 Councillor Janio asked the following supplementary question, “Councillor Mitchell is also quoted in the Argus as saying that “it saddens her that many of our residents can still remember city parks staff and gardeners, a time when there was more funding available and a real sense of pride in the city’s parks and are now having to witness this decline”. It’s also good to learn that she thinks it’s the Argus that “has taken an interest in the future of parks and open spaces”. Well I can tell you Mr Mayor I wish she’d taken more of an interest in the parks and open spaces because the Conservatives do and we take it very seriously and we are not going to let this matter rest here. So finally will Councillor Mitchell please confirm tonight that the money saved from other areas of the environment budget, some which are detailed tonight in other written answers, will be used to maintain spending on our parks and open spaces and that any proposed increase in charging for sports and leisure facilities will now be scrapped pending cross-party discussions?”
- 33.14 Councillor Mitchell replied, “What this council administration is doing is to follow through on some of the ‘*advice*’ that we have been receiving from the Conservative group over the years about doing things differently, making services pay for themselves and not only the Conservative group but George Osborne who wanted all council to become financially self-sustaining by 2020. That has not been changed by the present Prime Minister, that is the agenda from this dreadful government which we are working to and this is why, where we can, we are seeking to put services on a more self-sustaining footing. Hence the talks with the bowls clubs and other sports organisations and if fact that it is painful for you Councillor Janio again direct your attention to Westminster.”
- 33.15 Councillor Page asked, “We have 20 mile per hour ones but not right across the city. The Times newspaper reported a couple of weeks ago that 51 councils now have a blanket 20mph speed limit in urban areas, with others considering it and in Scotland it is 95% of transport authorities who favour 20mph as a default speed limit in built up areas. Given that we have higher than average collisions at work on the road rates and the reductions in our killed and seriously injured statistics appear to have stalled, can we consider 20mph as a default urban speed limit across the city and what concrete measures are planned to protect vulnerable road users?”
- 33.16 Councillor Mitchell replied, “Thank you for your question Councillor Page and actually I share your disappointment that the 20mph limits are not being adhered to and of course it was your Green administration prior to the current administration that implemented the 20mph limits in that particular way, not a blanket approach, but road by road following consultation with residents and they were very careful to do that and we are where we are. I’m not sure if a default 20mph limit would be adhered to any more than the 20mph limits are being adhered to now. What we are doing is to incrementally work through, with the very limited budgets that we have, a whole series of road safety measures, not least the safer route to school measure where we are working with schools. Where we have also managed to attract sustainable transport funding to bring about behaviour change, which does include safer urban driving practices in particular, and so we are focusing on the road safety budget being prioritised towards those areas where we know there are the highest number of the killed and seriously injured incidents that are happening.”

- 33.17 Councillor Page asked the following supplementary question, “What can we do to get more enforcement of 20mph limits from the Police given that we know our statistics are not improving and I wonder if we have very little ambition or expectation that we are really going to make the roads safer for vulnerable road users?”
- 33.18 Councillor Mitchell replied, “In addition to my previous comments about focusing our road safety budget on those areas where we know that we have already have problems with accident statistics. I think that we can continue with the Sussex Safer Road Partnership to undertake education campaigns the ‘Share the Road’ campaign for example, the work that is done especially around Christmas when the mornings and evenings are darker –‘be seen, be safe’- that type of campaign. We won’t let up on making our roads safer as for the specifics in relation to enforcement that you were talking about that is the responsibility of the Sussex Police and there were some rather mixed messages around when the 20mph limits were introduced as to whether the Police were going to be prepared to enforce that limit or not and I think that is still a grey area.”
- 33.19 Councillor Simson asked, “Could Councillor Mitchell tell me if and when the toilets under Hove Town Hall car park will be reopened bearing in mind they were closed on the understanding that visitors could use those in this building before it was redeveloped and as that option is no longer available it means visitors have to walk a long way to the next nearest convenience?”
- 33.20 Councillor Mitchell replied, “It is my understanding that those toilets were part of the savings that were made in the previous year’s budget and therefore will not be reopened.”
- 33.21 Councillor Simson asked the following supplementary question, “I’m quite upset to hear that as the next nearest convenience is very far away from this building. Can Councillor Mitchell see that the council’s website is updated as it still shows both the toilets both at Hove Town Hall and under the car park. Although it’s a strange thing because in order to find these you have to enter your address to find the nearest toilet and I’m not sure why you would be looking for a toilet near to where you live. Can I just ask that the website is updated and I would urge that there is some kind of provision for people who visit this building?”
- 33.22 Councillor Mitchell replied, “There is a publicly accessible toilet in this building for the public to use and I will ensure that the website is updated.”
- 33.23 Councillor Sykes asked, “As councils around the country are developing budgets we are seeing stories in the news about cuts upon cuts upon cuts and a lot of strong positions from Labour councils on the impact on front line services but I have never seen our Labour administration here quoted in any of these stories.

What is Councillor Hamilton and his administration doing on a national stage to fight for local services and a better settlement in the Autumn statement?”

- 33.24 Councillor Hamilton replied, “As you rightly say we are in a very difficult situation, we are continually making representations, certainly through the LGA and through contacts in our fellow Labour administrations up and down the country. With regards to our budget

development here we have got a situation next month we will have the usual cross-party meetings where we will look at the cuts coming along and make budget proposals and members can come along and decide what they think about those.

Even if all the cuts that were proposed are implemented we still have to find further economies in the budget. After we've had those meetings which I've just referred to we will then of course have another budget review group meeting which of course you are welcome to come to and after that when we get to December we will have a better idea as to what the situation is but as you rightly say at the present time until we get the autumn statement which I believe is coming out in November we won't know where we are. There are various rumours such as local authorities being given the option to increasing the care precept from 2% up to 3% or even 4%.

We do make representation through the LGA, through other councils which are under Labour control; finding out what they are doing to meet the gap and obviously when we come through to the next budget review group meeting I feel we will be in a better position as that will be in after the autumn statement has come out."

- 33.25 Councillor Sykes asked the following supplementary question, "I'm a little disappointed in that response and I'm sure I'm not alone in thinking that it would be great to see a much stronger campaigning position as positions not just as managers from this Labour administration on the extent to which cuts are killing our services locally.

Public consultation last year was constrained so we couldn't have any public scrutiny or questionnaires. Councillor Hamilton said at the time that he would listen to that and he was alive to the possibilities of changing the consultation and so can I ask him what plans around the budget in a very difficult budget year he has?"

- 33.26 Councillor Hamilton replied, "First of all I have just heard that my colleague Councillor Morgan was this very day at the LGA with regard to looking at the budget situation that authorities are facing and representations were being made there.

As you know we don't usually start the consultation on the budget until a bit later on and in fact we will, at the next budget review group, be deciding on the format of the consultation. It might be useful therefore that if you have some ideas as to how it should be done if you can drop those into Nigel Manvell or James Hengeveld or David Kuenssberg now, then when we come to that next meeting we can use your ideas. I know you expressed some concern about the consultation last year and I have a certain amount of sympathy with that but I think that if we want to improve it and I must just say we don't want ideas that are going to cost us £200,000 or some fantastic amount to do it. But if you would like to put in your ideas for this I would be pleased to receive them and indeed anyone else at all if you have ideas as to the best way of consulting on the budget then by all means let us have them."

- 33.27 Councillor Mears asked, "Can the chair of housing confirm that she is totally committed to fully engaged consultation with tenants through Local Area Panels? For those of us that remember stock transfer listening to tenants is very important especially for any administration."

33.28 Councillor Meadows replied, "As you know Housing conducts consultations with its customers in a number of different ways to help us develop policy or strategy and in our own tenancy agreements with our tenants it states that 'we believe it is important that you are involved in housing management decisions that affect you and we will consult with you about any changes to our policy or practice that may substantially change the housing service which we provide to you, your home or your neighbourhood'."

33.29 Councillor Mears asked the following supplementary question, "Can the Chair of Housing now confirm that with the residents' involvement review she will ensure tenants wishes are upheld? They feel that this review has moved away from its original purpose onto satisfaction with housing services endorsed by an officers report on working together. Tenants have now seen the demise of Housing sub-committee replaced by tenant scrutiny panels which tenants feel has no real impact.

Tenants feel their views are being ignored and they are not happy with the move to get rid of area panels nor are they happy as they feel they are being manipulated, proposed to and even lectured to. They would like to see the review taken to the Housing committee for Member's input from all parties before any decisions are taken, will the Chair of Housing agree to this?"

33.30 Councillor Meadows replied, "As I said we have a statutory consultation service and the Housing Landlord service specifically requires us to consult on monitoring review and performance, consult with tenants if proposing to change their landlord or similar significant change and consult tenants once every three years on the best way of involving them in the governance and scrutiny of the Housing Management service and, as you know, that has prompted us to look at the tenant participation structure because, one of the things we have found is that a number of our tenants want to engage with us in different ways. Some of us want to do it online, some of us want to engage personally and some want to do it as tenant organisations and that's great. What we want is for tenants to engage with us and that is part of this tenant participation structure."

33.31 Councillor DrUITT asked, "South Street is a narrow one way street in the old town with double yellow lines one both sides of the road. Since April this year it has become something of a building site with scaffolding, skips, wheelie bins and vans blocking access to the street for residents, visitors and tradespeople almost every day. As the ward councillor I have raised this issue many times on behalf of the residents and traders over the last six months and I glad that a permit for authorised closure has been eventually been applied for. Can Councillor Mitchell tell us why six month of regular unauthorised closures have been tolerated and how much money has the council lost out on in this period?"

33.32 Councillor Mitchell replied, "I am sorry to hear that residents and presumably business have been inconvenienced in that way. I can't answer your question in relation to why it has taken that length of time or the costs involved but I will ensure that you get a detailed response to both of those questions."

33.33 Councillor DrUITT asked the following supplementary question, "The wider issue of enforcement, whether in planning, transport or refuse is one that affects residents across the city and one where the council often seems paralysed. What would be your advice to residents who despite appeal to council officers and indeed ward councillors

are still waiting for enforcement action to take place especially where paralysis occurs as a result of uncertainty as to which department is responsible?”

33.34 Councillor Mitchell replied, “In answering that question I would speak to every councillor here who is a ward councillor and who may be faced with those problems and that would be to get in contact with me and I will escalate it senior officers.”

33.35 Councillor Miller asked, “Does Councillor Hamilton believe the council is sweating all of our commercial assets as far as can be done to ensure that the budget gap is as small as it can be or does he think there is potential to sweat them further from the 1.1%-5% annual return we achieve from them in contrast to the 10% in the private sector in order to fill our budget gap going forward?”

33.36 Councillor Hamilton replied, “This council has large assets: our total portfolio is valued at £1.69bn but that includes the 11,000 plus council properties and that would obviously account for a very large amount of that. We’ve also got over 500 non-housing properties and we’ve got 10.5 acres of farm land.

We don’t just do our own work we use Cluttons for all our urban portfolio and Savills for the agricultural land. Both of those firms are recognised as being well established and competent organisations and they do advise us on transactions we make and on various buildings we can sell. We are always selling properties, if you look through the P,R&G agendas you’ll know we sold a property in Little East Street, we sold one near St. Peters Church and at the moment we are in the process of selling King’s House and we have sold various other building that the council owned that were used for offices which are now redundant. A lot of properties which we own are often on reasonably long-term leases and again through Cluttons we go to those businesses when rent reviews come up and get the best returns that we can.

If we are using professional outside people whose work it is to do this kind of thing then I think we are doing the right thing. The assets that we are actually dealing with on a day to day basis are £195 million and they bring in about £10 million a year which is just over 5% which I think is reasonable in this current situation. If you think there are other ideas we can use to improve that then please come forward with them.”

33.37 Councillor Miller asked the following supplementary question, “If Councillor Hamilton does agree with me that there is potential to sweat our assets further and help fill some of our budget gap then member oversight of our portfolio and such a shared aim which could greatly assist in the strategic vision of the city and regeneration in the central parts of the city could be done on a cross party basis and will he consider ways of doing this?”

33.38 Councillor Hamilton replied, “The first part of the question was do I think we are getting the best return we can? There may be ways of getting more and I do not claim to be a professional investor who could answer that particular question. That’s why I say put ideas in. Our investment strategy is in fact greatly advised by the firms which I have already reported to you, I think that was the second part of your question.

You could have a cross party item on this but I think the way to approach that would be first of all to either put in a letter or ask for an item to go on the agenda at the Economic

Development and Culture committee where then that could be discussed and they could decide whether that was the way forward.”

33.39 Councillor Cobb asked, “My question relates to the workshop at the Hollingdean Dustcart Depot. What problems have been encountered during the works and is there a budget overspend?”

33.40 Councillor Mitchell replied, “I am not aware of any problems during the works apart from perhaps usual construction issues, nor am I aware of any budget overspend. The new maintenance workshops are now completed and the move back for our vehicles from Conway Street is now underway. Several businesses are expressing great interest in using the new workshops that will generate income to the council to help us continue to improve services and to help us to protect jobs.”

33.41 Councillor Cobb asked the following supplementary question, “I must point out that new dustcart lifts were purchased in order to lift the dustcarts up to make working underneath all the easier. These had to be removed because the floors were not level and a portacabin is to be used by workshop staff as changing and coffee/ tea facilities. Can you confirm all of that please?”

33.42 Councillor Mitchell replied, “Thank you that information Councillor Cobb, as I said in my previous response, there were probably some construction issues that had to be overcome during the build. As for tea and coffee being served in a portacabin I will certainly take that issue up for you.”

34 CALL OVER FOR REPORTS OF COMMITTEES.

(a) Callover

34.1 The following items on the agenda were reserved for discussion:

- Item 35 - City Employment & Skills Plan 2016-2020
- Item 36 - 4-Year Funding and Efficiency Plan
- Item 37 - Rent Smart
- Item 38 - Single Homeless and Rough Sleeper Accommodation & Support Services Remodelling & Tender

(b) Receipt and/or Approval of Reports

34.2 The Head of Democratic Services confirmed that Items 35 to 38 had been reserved for discussion;

(c) Oral Questions from Members

34.3 The Mayor noted that there were no oral questions as all the reports had been called.

35 CITY EMPLOYMENT & SKILLS PLAN 2016 - 2020

35.1 Councillor Robins introduced the report which detailed the City Employment & Skills Plan 2016-2020 and was put before the council for adoption. He noted that the

Economic Development & Culture and Children, Young People & Skills Committees had endorsed the plan. The plan was jointly owned by stakeholders and recognised the important economic role in the city and the region and he hoped that all Members would full support the objectives.

- 35.2 Councillor Taylor welcomed the report and stated that there was a need to see an improvement in the labour market and any help to enable young people to develop careers had to be supported.
- 35.3 Councillor Drutt welcomed the plan and commented on the excellent consultation exercise that had been undertaken, which he felt should be recognised as an example of good practice. He felt that it would have been helpful to have involved more young people in the workshops and hoped that this would be given consideration in future consultation exercises.
- 35.4 Councillor Wealls noted that more work was needed to help young people with special educational needs to get into the labour market as there was a large gap currently. He hoped that this would be taken into consideration as the plan was implemented.
- 35.5 The Mayor noted that the plan had been moved and put the recommendation for the City Employment & Skills Plan 2016-2020 to be adopted to the vote, which was carried.
- 35.6 **RESOLVED:** That the Brighton & Hove City Employment & Skills Plan 2016-2020 be adopted by the Council.

36 4 YEAR FUNDING SETTLEMENT AND EFFICIENCY PLAN

- 36.1 Councillor Hamilton introduced the report which detailed the option for the Council to take up a 4-year funding settlement for 2016/17 to 2019/20, as part of the Government's Spending Review. The benefit of taking up the option was that it provided the council with a guaranteed minimum figure for each financial year based on the efficiency plan that it submitted to the Government. He noted that it had been accepted at the Policy Resources & Growth Committee at its meeting on the 13th October and recommended it to the council.
- 36.2 Councillor Sykes stated that he could not accept the idea of having to produce an efficiency plan or signing up to a 4-year settlement and believed that local authorities should challenge the government and defend public services.
- 36.3 Councillor Wealls welcomed the report and supported the plan, which he felt gave the council a degree of flexibility in regard to the use of capital receipts. He noted that all councillors were mindful of the challenges ahead and difficult questions that had to be faced.
- 36.4 Councillor Hamilton noted the comments and stated that most authorities had taken this option as a way forward and would continue to use official channels such as the LGA to put pressure on the Government.

36.5 The Mayor noted that the recommendation from the Policy, Resources & Growth Committee to agree to submit the Efficiency Plan had been moved and put it to the vote which was carried.

36.6 **RESOLVED:** That the Efficiency Plan as detailed in appendix 1 to the report be agreed and submitted to satisfy the conditions of acceptance for the government's 4-year funding settlement for the period 2016/17 to 2019/20.

37 RENT SMART

37.1 Councillor Hill introduced the report which she had asked to be referred to council for information and noted that all councillors were invited to the Rent Smart Partnership event on the 22nd November. The Partnership had evolved as a result of the Scrutiny Panel recommendations in 2015 and was developing a web site which she hoped would prove to be a beneficial resource.

37.2 Councillor Gibson welcomed the report and the initiative and acknowledged the work of Councillor Hill in taking the matter forward. He would be attending the launch and fully supported the partnership.

37.3 Councillor Meadows stated that she fully supported the work to date that Councillor Hill had taken forward in bringing all the partners together. It was a good example of how the council was an enabler and hoped that it would continue to play an important role in this area.

37.4 The Mayor stated that he also wished to acknowledge the focussed and valuable contribution made by Councillor Hill in this area and thanked her for her efforts to date. He then stated that the report had been referred for information and moved that it be noted, which was carried.

37.5 **RESOLVED:** That the report be noted.

38 SINGLE HOMELESS AND ROUGH SLEEPER ACCOMMODATION & SUPPORT SERVICES REMODELLING & TENDER

38.1 Councillor Meadows introduced the report which had been referred for information and detailed the proposed remodelling and retendering of services to meet the changing needs of homeless people in the city. She stated that a new more flexible referral service to support rough sleepers would be introduced with the aim to remove all rough sleeping by 2020.

38.2 Councillor Mears welcomed the report and stated that it was an excellent policy document. She stated that the target of 2020 was a high one and queried whether there would be enough bed space to meet the demand. She had asked on a number of occasions for a report on adult care, including St Mungo's to come to the Housing & New Homes Committee, as a number of questions remained unanswered.

38.3 Councillor Moonan stated that the report had been fully discussed at committee and the team involved had worked extremely hard to bring this forward. It would provide best practice and value for the homeless in the city with services tailored to needs and

assessments made quickly and easily. She agreed that it was disappointing to have fewer beds available but by meeting the needs of those coming into need, people would be able to move forward.

- 38.4 Councillor Gibson stated that he had referred the report to the council to highlight the positive aspects of the report and noted the benefits of expanding Housing First. He believed that the joined up approach would result in a better delivery of services and achieve savings.
- 38.5 Councillor Druitt stated that he supported the ambition of 2020, but felt that the situation was getting worse and was not convinced that reducing funding would help. He hoped that the development of Housing First would be supported by the council and questioned what would be done for those without beds.
- 38.6 Councillor Barford noted that the report had been to the Housing & New Homes Committee and stated that she was happy to meet with Councillor Mears to discuss the provision for adult care. The tendering process was designed to encourage providers to say how they would meet the needs in the future and to modernise the accommodation service, as the provision of a roof was not the only solution required. She believed the city was fortunate to have specialist providers already and hoped that they would be able to meet the needs.
- 38.7 Councillor Meadows noted the comments and stated that she had asked for a report to a future meeting of the Housing & New Homes Committee in relation to Housing First and where savings could be made.
- 38.8 The Mayor stated that the report had been referred for information and moved that it be noted, which was agreed.
- 38.9 **RESOLVED:** That the report be noted.

39 THE FOLLOWING NOTICES OF MOTION HAVE BEEN SUBMITTED BY MEMBERS FOR CONSIDERATION:

(a) PROTECT REFUGEE CHILDREN

- 39.1 The Notice of Motion as listed in the agenda was proposed by Councillor Daniel on behalf of the Labour & Co-operative and Green Groups and seconded by Councillor Littman.
- 39.2 Councillor Daniel noted that since the notice of motion had been submitted, the government had taken action to identify aspects of the Dubs amendment that could be taken forward. She also wished to pay tribute to all councillors who had supported the duty to help refugees and citizens who had provided accommodation and help, including the voluntary sector and hoped that the motion could be supported.
- 39.3 Councillor Simson stated that she fully supported the motion and noted that the government was taking action to meet the Dubs amendment and had announced a new scheme to help those in similar need around the world.

39.4 Councillor Russell-Moyle stated that he was aware of the role played by residents of Brighton & Hove in the past in accommodating child refugees and refugees in the city. Families had made sacrifices to take in refugees and whilst the government action was welcome there was a need to do more. He hoped that everyone would take this on board and welcome refugees into the city.

39.5 The Mayor congratulated Councillor Russell-Moyle on his maiden speech on behalf of the council.

39.6 Councillor Littman stated that the country was facing a crisis which was the tip of the iceberg, people were fleeing homes for safety across the world, with many being victims of circumstances. They were being met with hostility and indifference and it was time to push back against this and provide help and assurance. There would be a cost to the government but he hoped the motion could be supported by all councillors.

39.7 The Mayor then put the following motion as listed to the vote:

“This Council welcomes the Government’s commitment to create a resettlement scheme to bring unaccompanied refugee children in Europe to safety in the UK. We recognise and support the vital role that local councils can and should play in caring for children seeking sanctuary.

As such this Council pledges its support to the Dubs scheme and urges central government to provide funding to build the essential regional infrastructure necessary to secure the placement and support of children across the country and help build them a brighter, safer future.”

39.8 The Mayor noted that the motion was **carried** unanimously.

(b) HMO LICENSING AND BUSINESS RATES

39.9 The Notice of Motion as listed in the agenda was considered as part of Item 31(a) on the agenda and is detailed under that item in the minutes.

(c) DIVERSITY OF SCHOOLS

39.10 The Notice of Motion as listed in the agenda was proposed by Councillor Brown on behalf of the Conservative Group and seconded by Councillor Wealls.

39.11 Councillor Chapman moved an amendment on behalf of the Labour & Co-operative Group which was seconded by Councillor Russell-Moyle.

39.12 The Mayor noted that the Labour & Co-operative Group’s amendment had not been accepted and put it to the vote which was **carried** by 22 votes to 18 with 11 abstentions as detailed below:

		For	Against	Abstain		For	Against	Abstain
1	Allen	✓			Marsh	✓		
2	Atkinson	✓			Meadows	✓		
3	Barford	✓			Mears		X	
4	Barnett	Not Present			Miller		X	
5	Bell		X		Mitchell	✓		
6	Bennett		X		Moonan	✓		
7	Bewick	Not Present			Morgan	✓		
8	Brown		X		Morris	✓		
9	Cattell	✓			Nemeth		X	
10	Chapman	✓			Norman A		X	
11	Cobb		X		Norman K		X	
12	Daniel	✓			O'Quinn	✓		
13	Deane			Ab	Page			Ab
14	Druitt			Ab	Peltzer Dunn		X	
15	Gibson			Ab	Penn	✓		
16	Gilbey	✓			Phillips			Ab
17	Greenbaum			Ab	Robins	✓		
18	Hamilton	✓			Russell-Moyle	✓		
19	Hill	✓			Simson		X	
20	Horan	✓			Sykes			Ab
21	Hyde		X		Taylor		X	
22	Inkpin-Leissner	✓			Theobald C		X	
23	Janio		X		Theobald G		X	
24	Knight	Not Present			Wares		X	
25	Lewry		X		Wealls		X	
26	Littman			Ab	West			Ab
27	Mac Cafferty			Ab	Yates	✓		
					Total	22	18	11

39.13 The Mayor then put the following motion as amended to the vote:

“This Council

- a) Requests the Chair of the Children, Young People & Skills Committee to write to the Head Teachers’ of all the city’s excellent Maintained Schools, Academies, Free Schools and Faith Schools reassuring them and requesting that they remain a key part of the city’s diverse “family of schools” into the future in their existing structures; and
- b) Asks the Leader of the Council to write to Secretary of State for Education explaining the vital role that our schools play, in their existing structures, working together as a “family of schools”, in helping all the city’s children and young people to achieve their goals and ambitions and that promoting selection in education will not reduce educational inequality.”

39.14 The Mayor confirmed that the motion was carried by 22 votes to 19 with 10 abstentions as detailed below:

		For	Against	Abstain		For	Against	Abstain
1	Allen	✓			Marsh	✓		
2	Atkinson	✓			Meadows	✓		
3	Barford	✓			Mears		X	
4	Barnett	Not Present			Miller		X	
5	Bell		X		Mitchell	✓		
6	Bennett		X		Moonan	✓		
7	Bewick	Not Present			Morgan	✓		
8	Brown		X		Morris	✓		
9	Cattell	✓			Nemeth		X	
10	Chapman	✓			Norman A		X	
11	Cobb		X		Norman K		X	
12	Daniel	✓			O’Quinn	✓		
13	Deane			Ab	Page			Ab
14	Druitt			Ab	Peltzer Dunn		X	
15	Gibson			Ab	Penn	✓		
16	Gilbey	✓			Phillips			Ab
17	Greenbaum			Ab	Robins	✓		
18	Hamilton	✓			Russell-Moyle	✓		

19	Hill	✓			Simson		X	
20	Horan	✓			Sykes			Ab
21	Hyde		X		Taylor		X	
22	Inkpin-Leissner	✓			Theobald C		X	
23	Janio		X		Theobald G		X	
24	Knight	Not Present			Wares		X	
25	Lewry		X		Wealls		X	
26	Littman			Ab	West			Ab
27	Mac Cafferty			Ab	Yates	✓		
					Total	22	19	10

39.15 The motion was **carried**.

Closure Motion

39.16 The Mayor noted that the meeting had been in session for 4 hours and in accordance with council procedure rules had to move a motion to terminate the meeting. He therefore put the motion to the vote which was **lost** by 22 votes to 29.

(d) CHRISTMAS PARKING AND ROAD WORKS SUSPENSION

39.17 The Notice of Motion as listed in the agenda was proposed by Councillor Bell on behalf of the Conservative Group and seconded by Councillor Wares.

39.18 The Mayor then put the following motion as listed to the vote:

“This Council resolves to:

1. Request that officers bring a report to the appropriate Committee which, if agreed, would introduce free parking at Norton Road, London Road, Regency Square, High Street and Trafalgar Street car parks on Small Business Saturday (3rd December) and the 3 Sundays before Christmas (4th, 11th and 18th December); and
2. Request that the Chief Executive seeks the suspension of all non-urgent roadworks in the city centre during December.”

39.19 The Mayor noted that motion had been lost by 19 votes to 32 with no abstentions as listed below:

		For	Against	Abstain		For	Against	Abstain
1	Allen		X		Marsh		X	
2	Atkinson		X		Meadows		X	
3	Barford		X		Mears	✓		
4	Barnett	Not Present			Miller	✓		
5	Bell	✓			Mitchell		X	
6	Bennett	✓			Moonan		X	
7	Bewick	Not Present			Morgan		X	
8	Brown	✓			Morris		X	
9	Cattell		X		Nemeth	✓		
10	Chapman		X		Norman A	✓		
11	Cobb	✓			Norman K	✓		
12	Daniel		X		O'Quinn		X	
13	Deane		X		Page		X	
14	Druitt		X		Peltzer Dunn	✓		
15	Gibson		X		Penn		X	
16	Gilbey		X		Phillips		X	
17	Greenbaum		X		Robins		X	
18	Hamilton		X		Russell-Moyle		X	
19	Hill		X		Simson	✓		
20	Horan		X		Sykes		X	
21	Hyde	✓			Taylor	✓		
22	Inkpin-Leissner		X		Theobald C	✓		
23	Janio	✓			Theobald G	✓		
24	Knight	Not Present			Wares	✓		
25	Lewry	✓			Wealls	✓		
26	Littman		X		West		X	
27	Mac Cafferty		X		Yates		X	
					Total	19	32	

39.20 The motion was **lost**.

(e) THE FAST TRACK CITIES INITIATIVE 90:90:90

39.21 The Notice of Motion as listed in the agenda was proposed by Councillor Yates on behalf of the Labour & Co-operative Group and seconded by Councillor Daniel.

39.22 Councillor Phillips moved an amendment on behalf of the Green Group, which was seconded by Councillor Mac Cafferty.

39.23 The Mayor noted that the Green Group's amendment had not been accepted and put it to the vote, which was **carried** by 29 votes to 22 as detailed below:

		For	Against	Abstain		For	Against	Abstain
1	Allen		X		Marsh		X	
2	Atkinson		X		Meadows		X	
3	Barford		X		Mears	✓		
4	Barnett	Not Present			Miller	✓		
5	Bell	✓			Mitchell		X	
6	Bennett	✓			Moonan		X	
7	Bewick	Not Present			Morgan		X	
8	Brown	✓			Morris		X	
9	Cattell		X		Nemeth	✓		
10	Chapman		X		Norman A	✓		
11	Cobb	✓			Norman K	✓		
12	Daniel		X		O'Quinn		X	
13	Deane	✓			Page	✓		
14	Druitt	✓			Peltzer Dunn	✓		
15	Gibson	✓			Penn		X	
16	Gilbey		X		Phillips	✓		
17	Greenbaum	✓			Robins		X	
18	Hamilton		X		Russell-Moyle		X	
19	Hill		X		Simson	✓		
20	Horan		X		Sykes	✓		
21	Hyde	✓			Taylor	✓		
22	Inkpin-Leissner		X		Theobald C	✓		

23	Janio	✓			Theobald G	✓		
24	Knight	Not Present			Wares	✓		
25	Lewry	✓			Wealls	✓		
26	Littman	✓			West	✓		
27	Mac Cafferty	✓			Yates		X	
					Total	29	22	

39.24 The Mayor then put the following motion as amended to the vote:

“The Council supports the aims of the Fast Track Cities initiative and requests that the Health & Wellbeing Board:

- Agrees the Paris Declaration of 1st November 2014 and commits the Council, with the support of health partners, to the 90:90:90 target of 90 % of people living with HIV being aware of their status; 90% of them being on antiretroviral treatment and 90% of those having undetectable viral loads;
- Agrees to Brighton & Hove becoming the first city in the UK to become a fast track city and through sustained efforts work towards the ambition of the Martin Fisher Foundation strategy “Towards Zero, HIV Prevention Strategy: Working together towards Zero new HIV infections, zero HIV related deaths and zero HIV stigma in Brighton & Hove”.
- Agrees to work to end any stigma associated with living with HIV infection.
- Agrees to put a plan in place to achieve this work, including a broad and thorough public engagement campaign, working closely with HIV community organisations in our city.
- Agrees to investigate how the cut of 20% in HIV support services, agreed through budget council, will affect both people living with HIV and people at risk of HIV in the city.”

39.25 The Mayor confirmed that the motion as amended had been carried by unanimously as detailed below:

		For	Against	Abstain		For	Against	Abstain
1	Allen	✓			Marsh	✓		
2	Atkinson	✓			Meadows	✓		
3	Barford	✓			Mears	✓		
4	Barnett	Not Present			Miller	✓		
5	Bell	✓			Mitchell	✓		
6	Bennett	✓			Moonan	✓		

7	Bewick	Not Present			Morgan	✓		
8	Brown	✓			Morris	✓		
9	Cattell	✓			Nemeth	✓		
10	Chapman	✓			Norman A	✓		
11	Cobb	✓			Norman K	✓		
12	Daniel	✓			O'Quinn	✓		
13	Deane	✓			Page	✓		
14	Druitt	✓			Peltzer Dunn	✓		
15	Gibson	✓			Penn	✓		
16	Gilbey	✓			Phillips	✓		
17	Greenbaum	✓			Robins	✓		
18	Hamilton	✓			Russell-Moyle	✓		
19	Hill	✓			Simson	✓		
20	Horan	✓			Sykes	✓		
21	Hyde	✓			Taylor	✓		
22	Inkpin-Leissner	✓			Theobald C	✓		
23	Janio	✓			Theobald G	✓		
24	Knight	Not Present			Wares	✓		
25	Lewry	✓			Wealls	✓		
26	Littman	✓			West	✓		
27	Mac Cafferty	✓			Yates	✓		
					Total	51		

39.26 The motion was **carried**.

(f) COMMUNITY PHARMACY SUPPORT

39.27 The Notice of Motion as listed in the agenda was proposed by Councillor Page on behalf of the Green and Labour & Co-operative Groups and seconded by Councillor Yates.

39.28 The Mayor then put the following motion as listed to the vote:

“This Council believes that the Government's plans to reduce funding for community pharmacies threaten patient access to pharmacies and pharmacy services in Brighton and Hove.

Our local pharmacies are at risk of closure or being forced to cut services such as free delivery of prescription drugs, family planning advice and advice on medicines.

This will put more pressure on GPs and hospitals and impact social services and is at odds with the local Clinical Commissioning Group's desire to increase the use of pharmacists to ease pressure on GPs.

We therefore call on the Government to abandon these cuts and maintain a fully-funded community pharmacy service and request the Leader of the Council to write to the Secretary of State for Health, NHS England and Brighton and Hove Clinical Commissioning Group expressing this view.”

39.29 The Mayor confirmed that the motion had been **carried** by 30 votes to none against, with twenty-one abstentions as listed below:

		For	Against	Abstain		For	Against	Abstain
1	Allen	✓			Marsh	✓		
2	Atkinson	✓			Meadows	✓		
3	Barford	✓			Mears			Ab
4	Barnett	Not Present			Miller			Ab
5	Bell			Ab	Mitchell	✓		
6	Bennett			Ab	Moonan	✓		
7	Bewick	Not Present			Morgan	✓		
8	Brown			Ab	Morris	✓		
9	Cattell	✓			Nemeth			Ab
10	Chapman	✓			Norman A			Ab
11	Cobb			Ab	Norman K			Ab
12	Daniel	✓			O'Quinn	✓		
13	Deane	✓			Page	✓		
14	Druitt	✓			Peltzer Dunn			Ab
15	Gibson	✓			Penn	✓		
16	Gilbey	✓			Phillips	✓		
17	Greenbaum	✓			Robins	✓		
18	Hamilton	✓			Russell-Moyle	✓		
19	Hill	✓			Simson			Ab

20	Horan	✓			Sykes	✓		
21	Hyde			Ab	Taylor			Ab
22	Inkpin-Leissner			Ab	Theobald C			Ab
23	Janio			Ab	Theobald G			Ab
24	Knight	Not Present			Wares			Ab
25	Lewry			Ab	Wealls			Ab
26	Littman	✓			West			Ab
27	Mac Cafferty	✓			Yates	✓		
					Total	30	0	21

39.30 The motion was **carried**.

(g) REPLACING TRULY AFFORDABLE RENTED HOUSING

39.31 The Notice of Motion as listed in the agenda was proposed by Councillor Gibson on behalf of the Green Group and seconded by Councillor Druitt.

39.32 The Mayor then put the following motion as listed to the vote:

“This Council requests:

(a) That the Chief Executive writes to Government calling for:

- 1) An end to the borrowing cap on HRA borrowing to enable new homes to be built through prudential borrowing; and
- 2) A commitment to allow councils to retain sufficient income from the sale of higher value homes to fund its replacement with a socially rented council house.

b) A press release is issued publicising these calls.”

39.33 The Mayor noted that the motion was carried unanimously.

39.34 The motion was **carried**.

40 CLOSE OF MEETING

40.1 The Mayor thanked everyone for attending and closed meeting.

The meeting concluded at 11.05pm

Signed

Chair

Dated this

day of

2016

WRITTEN QUESTIONS FROM COUNCILLORS

The following questions have been received from Councillors and will be taken as read along with the written answer which will be included in an addendum that will be circulated at the meeting:

(a) Councillor Miller

“Will Cllr Moonan endeavour to investigate innovative ways Scandinavian cities such as Copenhagen help rough sleepers into homes, work and a healthier way of life, for example by promoting recycling collection: and will she explore how such methods or best practice parts of them could be transposed to Brighton and Hove in order to help our rough sleepers?”

Reply from Councillor Moonan – Lead Member for Neighbourhoods, Communities & Equalities

(b) Councillor K. Norman

“World Autism Awareness Week takes place from 27th March to 2nd April 2017 so what plans does the Council have to promote and support this event and what will the Council be doing within schools to use the packs the National Autistic Society has created to raise awareness of autism so that as many people as possible learn and understand autism?”

Reply from Councillor Bewick – Chair of the Children, Young People & Skills Committee

(c) Councillor G. Theobald

“How can Cllr. Morgan justify launching a petition to Government, on behalf of Brighton & Hove City Council, when he runs a minority Administration and has no authority to do so under the Council’s Constitution?”

Reply from Councillor Morgan – Leader of the Council

(d) Councillor G. Theobald

“In October 2012, P&R Committee agreed to purchase and install Automatic Meter Reading equipment for water, gas, electricity and heat metered supplies in schools, housing blocks and other corporate property. In the light of recent concerns raised about water leakages on Council-owned allotments, will the Lead Member for Finance & Resources confirm whether or not energy and water usage, and hence running costs, have reduced as a result of the contract?”

Reply from Councillor Hamilton – Deputy Chair (Finance) of the Policy, Resources & Growth Committee

(e) Councillor Cobb

“How much money has the Council spent on paper and other stationery each year over the last 10 years or as far back as records go?”

Reply from Councillor Hamilton – Deputy Chair (Finance) of the Policy, Resources & Growth Committee

ORAL QUESTIONS FROM COUNCILLORS

A period of not more than 30 minutes is set aside for oral questions from Members, at the expiry of which, the Mayor will call a halt and proceed to the next item of business of the agenda. Any Member whose question then remains outstanding will be contacted to determine whether they wish to have a written answer provided or for their question to be carried over to the next meeting.

The following Members have indicated that they wish to put questions to the Leader, Chairs of Committees or Members of the Council that have been appointed to an outside body. The Councillor asking the question may then ask one relevant supplementary question which shall be put and answered without discussion:

- (a) **Councillor G. Theobald**
Subject matter: Council Budget and Government Funding

Reply from Councillor Morgan – Leader of the Council

- (b) **Councillor Page**
Subject matter: City Clean Performance

Reply from Councillor Mitchell – Chair of the Environment, Transport & Sustainability Committee

- (c) **Councillor Wealls**
Subject matter: Support for Parents with Learning Difficulties

Reply from Councillor Bewick – Chair of the Children, Young People & Skills Committee

- (d) **Councillor Deane**
Subject matter: Waste & Recycling

Reply from Councillor Mitchell – Chair of the Environment, Transport & Sustainability Committee

- (e) **Councillor Barnett**
Subject matter: Remembrance Day Parade

Reply from Councillor Morgan – Leader of the Council

- (f) **Councillor Mears**
Subject matter: Housing Maintenance

Reply from Councillor Meadows – Chair of the Housing & New Homes Committee

- (g) Councillor Peltzer Dunn**
Subject matter: Tourism

Reply from Councillor Robins – Chair of the Economic Development & Culture Committee

- (h) Councillor Wares**
Subject matter: Affordable Homes

Reply from Councillor Meadows – Chair of the Housing & New Homes Committee

- (i) Councillor Bell**
Subject matter: Major Works

Reply from Councillor Meadows – Chair of the Housing & New Homes Committee

Council

15 December 2016

Agenda Item 51

Brighton & Hove City Council

Subject:	Council Tax Reduction Review		
Date of Meeting:	15 December 2016 8 December 2016 – Policy Resources & Growth Committee		
Report of:	Executive Director for Finance and Resources		
Contact Officer:	Name:	John Francis	Tel: 29-1913
	Email:	John.Francis@Brighton-Hove.gcsx.gov.uk	
Ward(s) affected:	All		

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

- 1.1 The council introduced a local Council Tax Reduction (CTR) scheme from 1st April 2013 as a result of national changes localising the previous Council Tax Benefit (CTB) system. Under legislation the local Council Tax Reduction Scheme must be reviewed each year. The purpose of this report is to set out that review and the resulting recommendations.
- 1.2 When CTR was introduced the funding for the scheme was reduced by 10% when compared with the costs of the previous CTB scheme. The funding has continued to reduce year on year and the gap between the cost of the current scheme and the estimated funding available for 2017/18 is forecast to be a £4.150million.
- 1.3 The council has a choice to manage this by either, reducing the cost of CTR; reduce funding for other general fund services; or increasing council tax.
- 1.4 In the current financial year the council is absorbing approximately £2.468million of the scheme costs within its General Fund budget.
- 1.5 CTR for people of pensionable age is set according to prescribed rules which are broadly in line with the support offered by the previous national scheme. Councils are given no power to alter the way the scheme works for pensioners, despite the fact that funding is being reduced for this group too.

2. RECOMMENDATIONS:**That the Committee:**

- 2.1 Notes that the Council undertook formal consultation as a part of this review and that as part of the formal consultation a draft scheme was published which contained possible changes to the scheme and people were invited to give their views on that scheme.

- 2.2 Notes the outcome of that consultation (appendix 1) which has been summarised in section 5.4
- 2.3 Notes that an Equalities Impact Assessment (EIA) (appendix 2) has been undertaken on the possible changes set out in the draft scheme and the recommendations set out in 2.9.1 to 2.9.6 in this report. The committee should further note that, to meet their Public Sector Equality Duty, members must give conscientious consideration to the findings of this assessment when making a decision on the recommendations in 2.9.1 to 2.9.6. The actions which will be undertaken as a result of this EIA are set out in section 7.11.
- 2.4 Notes that the Executive Director of Finance and Resources will, prior to 1st April 2017, exercise delegated powers to increase the appropriate calculative elements of the scheme to give effect to national changes.

That the Committee recommends to Council:

- 2.5 It notes that the Council undertook formal consultation as a part of this review and that as part of the formal consultation a draft scheme was published and people were invited to give their views on that scheme.
- 2.6 It notes the outcome of that consultation (appendix 1) which has been summarised in section 5.4.
- 2.7 It notes that an Equalities Impact Assessment (EIA) (appendix 2) has been undertaken on the proposed changes in the draft scheme and the recommendations in this report. It should further note that, to meet their Public Sector Equality Duty, members must give conscientious consideration to the findings of this assessment when making a decision on the recommendations in 2.9.1 to 2.9.6. The actions which will be undertaken as a result of this EIA are set out in section 7.13.
- 2.8 That the Executive Director of Finance and Resources be authorised to amend the council's Council Tax Reduction Scheme (Persons who are not Pensioners) (Brighton and Hove City Council) 2013 to reflect the changes at 2.9 to 2.9.6 below ,and to take all steps necessary and incidental to the introduction of the revised scheme.

Proposed changes to scheme from 1st April 2017

- 2.9 The changes set out in 2.9.1 – 2.9.4 are made to the Council Tax Reduction Scheme (Persons who are not Pensioners)(Brighton & Hove City Council) 2013 to take effect from 1st April 2017. (These changes are set out in more detail in 4.3).
 - 2.9.1 Change the taper rate from 20p to 25p.
 - 2.9.2 To limit maximum CTR to the equivalent available for Band D property.
 - 2.9.3 Change the minimum CTR payable to £5.00 per week.
 - 2.9.4 For people with an entitlement to CTR on 31st March 2017 who will be affected by the provision in 2.9.2 transitional protection will be applied so that no one will be worse off by £10 or more per week as a result of this

provision. This transitional protection will end either: after a year; when a person moves, or when their claim ends, whichever is soonest.

- 2.9.5 As per the four year budget plan previously agreed at February 2016 Budget Council and presented in the three year saving plan on this agenda the permanent budget funding used to support the Discretionary Council Tax Reduction Scheme to be set at a £0.055m for 2017/18. A further £0.095m will be set aside from the Welfare Reform reserve to provide £0.150m discretionary funds overall.
- 2.9.6 Amend the Discretionary Council Tax Reduction Scheme (Brighton & Hove City Council) 2016 so that people who would otherwise qualify for council tax reduction were it not for the provision in 2.9.3 (£5.00 minimum CTR) can apply for Discretionary Council Tax Reduction.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Since April 2013 the Government has prescribed that councils must have their own Council Tax Reduction schemes for people of working age. The schemes for people of pensionable age are set by national rules. In keeping with other councils with responsibility for CTR the scheme in Brighton and Hove is an amended version of the previous national scheme. The differences between the previous scheme and the current scheme are that working age people on CTR receive up to an 80% discount of their Council Tax; the maximum amount of capital a person may hold is £6,000 (reduced from £16,000); an element of the scheme called second adult rebate has been ended; the amounts adult children who live in their parents home are expected to contribute has been increased; and the amount of earnings which are ignored when a person works has been increased for single people, disabled people and carers. The current scheme can be found at www.Brighton-Hove.gov.uk/ctr. The page also contains a list of yearly amendments made since the scheme began. A table of all council's schemes are included in appendix 3.
- 3.2 The calculative elements of the scheme are updated each year in line with national amounts under the delegated powers of the Executive Director of Finance and Resources.
- 3.3 To support people who are in receipt of CTR, the Revenues and Benefits team has a debt prevention team to help people pay their council tax before they fall into arrears; a discretionary fund has been established to support people in exceptional circumstances; and, budgeting and financial advice has been provided initially through a dedicated contract and subsequently through the financial inclusion commission.
- 3.4 Each year, the council must consider whether to revise its scheme or to replace it with another scheme. Any revision the council makes to its scheme must be made no later than 31st January in the financial year preceding that in which the revision is due to take place.

Funding

- 3.5 Since April 2014, funding for the scheme has been incorporated into the Revenue Support Grant and the Business Rates baseline. Accordingly the funding available for CTR is proportional to those incomes. The Revenue

Support Grant income is forecast to significantly reduce over the next three years which means the funding for CTR is reducing in turn.

- 3.6 The current forecast estimates that the shortfall between the current CTR scheme and the funding available for the council in 2017/18 is £4.150m, an increase of £1.682m when compared with the estimated shortfall in 2016/17.
- 3.7 At present all working age CTR recipients receive up to 80% of their council tax. If the council did not subsidise the scheme CTR recipients would only receive up to 42% of their council tax.
- 3.8 The council collects Council Tax on behalf of the East Sussex Fire Authority and the Police and Crime Commissioner for Sussex; any decisions the council makes relating to the CTR scheme affects the council tax base and in turn the resources these precepting authorities can generate.
- 3.9 The caseload numbers have continued to decline over the last year by approximately 4%. This has been dependent on a number of factors, for example continued economic growth. For forecasting purposes the figures in 3.6 and 3.7 assume that the caseload will continue to reduce by 4% for 2017/18.
- 3.10 There are a number of other factors which could impact on the cost of the scheme including when the full roll-out of Universal Credit will commence in Brighton and Hove; changes to rates for family benefits from April 2017; and, increases in the minimum wage.

Context

- 3.11 With few exceptions the Government does not prescribe how schemes should be set for working age people but protects people of pensionable age at equivalent levels of entitlement to that which they would have been entitled to under the previous national scheme.
- 3.12 In April 2013 when CTR was introduced there was a total of 27,809 claimant households, 10,421 of whom were of pensionable age and 17,388 were of working age. As at October 2016 the total number of CTR claims was 22,561 with 8,433 claims from people of pensionable age and 14,128 for people of working age. The reduction in caseload reflects in part changes made to the maximum level of CTR available in April 2016 and broader economic conditions.
- 3.13 The in year collection rate for people on CTR is approximately 80% and the ultimate collection rate for people who had any entitlement to CTR in 2016/17 is likely to be between 85 to 90%. The overall ultimate collection rate for Council Tax in 2016/17 is expected to be 98.28%.
- 3.14 CTR has led to higher administrative burdens because of increased customer contacts due to the extra number of households it now collects Council Tax from. Dealing with these contacts has meant the business model of the revenues service has changed to include dealing with discretionary funds, greater extended repayment arrangements alongside the increase in customer contacts.

- 3.15 The localisation of Council Tax support is one element of the government's welfare reform programme which relates specifically to Council Tax. However, issues of other welfare reforms, affordability (particularly related to housing), household income, the cost of living, the performance of the economy and local employment issues are all related.
- 3.16 A further series of welfare reforms were announced in 2015 and have recently started or are about to start. These include a freeze on most working age benefits for four years from April 2016; changes to the amounts paid for families with more than two children from April 2017; changes to the rates paid to people on Employment and Support Allowance from April 2017; and, changes to the level of the benefits cap from November 2016.
- 3.17 In accordance with legislation the council published a draft scheme (appendix 4) for the purposes of consultation in September 2016. The consultation was open to anyone to respond to but all working age recipients of CTR who would be affected by any of the possible changes were written to and invited to respond.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 There are a series of requirements prescribed by legislation which must be undertaken in order for a council to make changes to its CTR scheme. These requirements are:
- To consult any major precepting authority which has the power to issue a precept to it;
 - Publish a draft scheme in such a manner as it sees fit; and
 - Consult such other persons as it considers are likely to have an interest in the operation of the scheme.
- 4.2 Further to the forecast funding position and following initial consultation with major precepting authorities the council published a draft scheme in September and ran formal consultation until 1st November.
- 4.3 The possible changes set out in the draft scheme were:
- To increase the amount that CTR goes down by for every extra £1 increase in the income a household receives (known as 'the taper') from 20p to 25p
 - To set the maximum rate CTR to the amount payable for a Council Tax Band D property
 - To set the minimum amount of CTR to £5 per week, meaning that households entitled to CTR of less than £5 a week will pay the full amount of Council Tax
- 4.4 The responses to consultation are set out in 5.4

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The council is currently running a cross-cutting programme to understand and plan for the impacts of wider welfare reform. The programme maintains ongoing links, and shares information with community and advice services and

organisations. It also holds regular cross city meetings with a broader set of representatives, including private landlords.

- 5.2 As major precepting authorities, the East Sussex Fire Authority and the Office of the Police and Crime Commissioner were consulted prior to the draft scheme being published and as a part of the main consultation.
- 5.3 Formal consultation was undertaken between 21st September and the 1st November. The consultation was open to anyone to respond to but all working age recipients who would be affected by any of the possible changes set out in the draft scheme were written to and invited to respond. The consultation was promoted through community and voluntary sector and advice agency networks; on social media; through press releases; and, via front line staff who work with people who claim CTR.
- 5.4 A summary of findings from consultation is attached in appendix 1. The main findings to consultation of which there were 81 responses were
- The majority of respondents were not in favour of the change to the Taper rate.
 - The majority of respondents were in favour of limited CTR to the equivalent of a Band D.
 - A small majority were not in favour of the £5.00 minimum CTR.

6. CONCLUSION

- 6.1 The recommendations in this report are formed on the basis of:
- Information from the operation of the scheme so far which shows that the amounts being charged to people on CTR are being collected in line with planning expectations and that the vast majority of customers are engaging with the council about their Council Tax issues.
 - The overall financial position of the local authority which means that assuming a 3.99% increase in Council Tax per year that the council is facing at least a £24m budget gap in 2017/18 and £51m over the three years to 2019/20.
 - The estimated shortfall between the cost of the current scheme and the funding transferred to the council is expected to increase to £4.150m in 2017/18. The scheme as proposed will go some way to meet that reduction in funding but will still mean that the council subsidy to the scheme will be £3.9m. In practice this means the scheme is being supported by Council Tax and Business Rate payers in part in addition to the remaining shortfall being made up by CTR recipients themselves.
 - The council will continue to ensure that CTR recipients are supported in a number of ways including pre-emptive support from the debt prevention team; the use of discretionary funds to help vulnerable people in difficult situations; and, the provision of a community banking partnership in Brighton and Hove
 - The actions that will be undertaken as a result of the EIA.
 - Transitional Protection has been considered. For people with an entitlement to CTR on 31st March 2017 who will be affected by the provision in 2.9.2 transitional protection will be applied so that no one will be worse off by £10 or more per week as a result of this provision. This transitional protection will end either: after a year; when a person moves, or when their claim ends, whichever is soonest.

Anyone affected by the other provisions will be written to with an explanation of the change and invited to apply for the Discretionary Council Tax Reduction scheme.

- In accordance with the four year budget plan presented to Budget Council in February 2016 and the three year budget plan proposals presented on today's agenda the permanent funding for the Discretionary council Tax Reduction Scheme is set at £0.055m but one off funding of £0.045m is set aside from the Welfare Reform Reserve to provide £0.100m discretionary funds overall.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The projected budget gap over the next 3 years is estimated to be £51m and this incorporates the reduction in funding for CTR and assumes the 2016/17 CTR scheme is maintained throughout the 3 year period. Therefore any changes to the scheme that generate additional resources to the council contribute to meeting the budget gap.
- 7.2 The possible changes set out in the draft scheme were estimated to generate £0.255m additional resources for the council, £0.030m for the Police and Crime Commissioner for Sussex, and £0.015m for the East Sussex Fire Authority.
- 7.3 The forecast subsidy the council will pay towards the CTR scheme in 2017/18 will increase to £3.900m from £2.468m in 2016/17.
- 7.4 The estimated cost of the CTR scheme is reflected in the council tax base. The Council Tax base report to Policy, Resources and Growth Committee on the 19 January 2017 will reflect the 2017/18 scheme.
- 7.5 The discretionary fund will set to a minimum of £0.055m supplemented by one off resources set aside within the Welfare Reform reserve of up to £0.095m providing total resources of £0.150m in 2017/18. This will release £0.045m to support the 2017/18 budget.

Finance Officer Consulted: James Hengeveld

Date: 14/11/16

Legal Implications:

- 7.6 The Local Government Finance Act 1992 requires each billing authority, such as the council, to consider each financial year whether to revise its CTR scheme or to replace it with another one. If it wishes to amend its scheme, it must undertake a consultation exercise. The consultation undertaken on revisions to the Council Tax Reduction Scheme followed the statutory requirements of paragraphs 3 and 5 of Schedule 1A to the Act. These requirements are set out in paragraph 4.1 of the report.
- 7.7 Any revision to the Scheme, for implementation in 2017/18, must be made by 31 January 2017.

- 7.8 If any revision to a scheme has the effect of reducing or removing a reduction, the revision must include such transitional provision relating to that reduction as the authority thinks fit. Recommendation 2.9.4 addresses that requirement.
- 7.9 Under Part 3 of the council's constitution, and section 67 (2) (aa) of the 1992 Act, approval of the revised Scheme is reserved to full Council. It is appropriate for the draft Scheme to be considered first by the Policy, Resources and Growth Committee, given its remit in relation to Council Tax and corporate budgetary matters, and to refer its recommendations on the revised Scheme to full Council.
- 7.10 Under section 149 of the Equality Act 2010 a public authority such as the council must in the exercise of its functions have due regard to the need to eliminate discrimination, harassment, victimisation; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This duty is known as the Public Sector Equality Duty (PSED). The EIA is attached to the report as Appendix 2 for Members' consideration. In a recent High Court case, R on the application of Logan v London Borough of Havering, the High Court found that there had been a failure by the full council to have due regard to the PSED because not every member of the council had been provided with a report and accompanying equality impact assessment looking at the possible adverse impact of the changes.
- 7.11 Under the council's Scheme of Delegations to Officers, the Executive Director of Finance and Resources has, subject to any general guidance or limitation imposed by the relevant Committee, delegated power to exercise the council's functions regarding the Council Tax Reduction scheme. Any changes to the scheme, such as an increase in the calculative elements of the scheme, occasioned by national changes will be made under delegated powers.
- 7.12 A draft of the technical changes required to the scheme documents is set out in appendix 5.

Lawyer Consulted:

Liz Woodley

Date: 10/12/16

Equalities Implications:

- 7.13 An EIA was undertaken on the possible changes set out in the draft scheme and the recommendations in this report. A copy of this assessment is included in appendix 2
- 7.14 The findings from the EIA will mean the council will:
- Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing specifically targeted and tailored information for specific groups to organisations which support people with protected characteristics.

- Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances.
- Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work from services throughout the city.
- Ensure staff and advice services are skilled to advise people on the other statutory council tax discounts customers may be entitled to which would help mitigate some of the impacts of reduction of funding for CTR These include the discounts of 25% available for single occupants and the 100% discount which is referred to in legislation as being for people who are severely mentally impaired.

Sustainability Implications:

7.15 There are no sustainability implications relating to this issue

Any Other Significant Implications:

7.16 No other significant implications have been identified relating to this issue

SUPPORTING DOCUMENTATION

Appendices:

1. Consultation Summary
2. Equalities Impact Assessment
3. Breakdown of other council's schemes
4. Draft scheme
5. Draft technical changes to scheme documents

Consultation Summary

This document sets out the response the consultation about the possible changes to CTR from 1st April 2017.

It provides the numerical responses to the questions about whether those people that responded Agreed, Disagree or did not know about a possible change. It also provides a breakdown of the comments made about each issue.

Formal consultation was undertaken between 21st September and the 1st November. The consultation was open to anyone to respond to but all working age recipients who would be affected by any of the possible changes set out in the draft scheme were written to and invited to respond. The consultation was promoted through community and voluntary sector and advice agency networks; on social media; through press releases; and, via front line staff who work with people who claim CTR.

Consultation overview

The consultation asked the following questions:

Part A

- **The taper rate for CTR will change from 20% to 25%**

- Q1. Do you agree or disagree with the proposal to change the taper rate from 20% to 25%?
Q2. Is there anything we haven't considered or any further comments you'd like to make about the proposal to change the taper rate?

Part B

- **CTR will pay up to maximum of 80% of Band B**

- Q3. Do you agree or disagree with the proposal that CTR will pay up to a maximum of 80% of Band D?
Q4. Is there anything we haven't considered or any further comments you'd like to make about the proposal to pay up to a maximum of 80% of band D?

Part C

- **CTR will have a minimum amount of £5 per week**

- Q5. Do you agree with the proposal that CTR will have a minimum amount of £5 per week?
Q6. Is there anything we haven't considered or any further comments you'd like to make about the proposal to set a minimum amount of CTR?

- **General**

- Q7. Is there anything we haven't considered or any further comments you'd like to make about these ideas to reduce the cost of the scheme?

Responses to questions

Q1. Do you agree or disagree with the proposal to change the taper rate from 20% to 25%?

		Frequency	Percent	Valid Percent
Valid	Definitely agree	21	25.9	27.6
	Tend to agree	14	17.3	18.4
	Tend to disagree	8	9.9	10.5
	Definitely disagree	33	40.7	43.4
	Total	76	93.8	100.0
Missing	Don't know / not sure	5	6.2	
Total		81	100.0	

Q2. Is there anything we haven't considered or any further comments you'd like to make about the proposal to change the taper rate?

1. Of the replies to this question 19 set out problems that they felt it would cause with issues around cost and standard of living.
 - 1.1. 11 replies set out concerns that this proposal would act as a disincentive for people to work because their CTR would reduce faster as they earned more.
 - 1.2. 5 comments focussed on the impact the change would have in terms of worsening financial hardship and that people would not be able to afford to pay.
 - 1.3. 3 comments reflected that there has been no increases in benefits to help with affordability; that in conjunction with other measures to benefits it will make things tougher; and, that the increases in the proposed measure is higher than inflation.

2. Of the replies to the question 10 were about concerns about the impacts on specific groups and the overall impact of the measure.
 - 2.1. 6 replies set concerns about the impact on specific groups including: disabled people; pensioners*; families affected by the Benefits Cap; and, people on a low income.
 - 2.2. 4 comments focussed on the risk of increased stress and general wellbeing; the risk to mental health; and, the risk of suicide.

*(Pensioners would not be affected by these provisions. CTR for pensioners is governed by national rules).

3. Of the replies to the question 8 were about issues people felt there would be with the administration of the scheme and the unintended consequences of the change.
 - 3.1. 2 replies set out that they thought the scheme would be complicated to administer

- 3.2. 2 replies focussed on communication including that this would be hard to explain and is not transparent so would be hard to understand.
- 3.3. 4 comments reflected on the financial impact of the scheme including that: It could result in a lower collection rate; that it will cost the council more in the long term; that it will cost the health service more money due to increase in service demand; and, that it is a false economy.
- 4. Of the replies to the question 7 were about alternatives to the possible change.
 - 4.1. 4 replies suggested other groups should pay more including: increasing charges for higher bands; increasing charges for higher earners; that households with spare rooms should pay more; that people with empty properties should pay more.
 - 4.2. 1 comment suggested the taper should mirror income tax rates.
 - 4.3. 1 comment suggested the mayor should take a pay cut.
 - 4.4. 1 comment stated Just don't.
- 5. 2 replies were in favour of the measure or thought it should be increased above £0.25.
 - 5.1. 1 reply suggested the taper should be set at £0.35p.
 - 5.2. 1 reply stated that living in the city is a privilege and paying for that is a must for all people who earn money from any source.

Q3. Do you agree or disagree with the proposal that CTR will pay up to a maximum of 80% of Band D?

		Frequency	Percent	Valid Percent
Valid	Definitely agree	23	28.4	29.5
	Tend to agree	25	30.9	32.1
	Tend to disagree	13	16.0	16.7
	Definitely disagree	17	21.0	21.8
	Total	78	96.3	100.0
Missing	Don't know / not sure	3	3.7	
Total		81	100.0	

Q4. Is there anything we haven't considered or any further comments you'd like to make about the proposal to pay up to a maximum of 80% of band D.

- 6. Of the replies to this question 10 set out problems that they felt it would cause with the standard and cost of living.
 - 6.1. 5 comments were around increased financial hardship including: that it would be unaffordable and increase poverty; that it would increase charges for people on low incomes; and, that it would act as a disincentive to work.

- 6.2. 5 comments were concerned with relating the charge to the size of property rather than income. This included that: the measure could be punitive on a small number of people; that Council Tax bandings are not an accurate reflection on a person's ability to pay; that it would affect people regardless of income; and, that it affects fewer people but they would have to pay more.
7. Of the replies to this question 5 raised concerns about specific groups.
 - 7.1. 2 replies raised the issue that people affected by the Benefit Cap may also be affected.
 - 7.2. 1 reply suggested larger households were more likely to have children in them.
 - 7.3. 1 reply concerned people being unable to move due to having properties in trust.
 - 7.4. 1 reply was concerned that no caveats had been built in for vulnerable groups.
8. Of the replies to this question 5 focussed on issues around moving or housing.
 - 8.1. 2 replies suggested people in larger properties could sublet or downsize.
 - 8.2. 2 replies focused on moving and included; families could move to smaller properties; and, that families face barriers to moving.
 - 8.3. 1 reply highlighted what they felt would be an increased risk of homelessness.
9. Of the replies to this question 9 suggested alternatives or adjustments to the possible change.
 - 9.1. 7 replies suggested raising income through other means including: taxing pensioners more; taxing richer people more; taxing tourists; that households with 2 incomes or more should pay more.
 - 9.2. 3 replies suggested adjustments to the proposals including: that the amount due should depend on the number of occupiers rather than the size of the property; that there should be discretionary relief for people in large properties where a room is used for equipment to support disabled people and, that there should be a 13 or 26 week protection period for people who newly claim CTR.
 - 9.3. 1 reply suggested the council should work with people who own empty properties so they can be leased for rent.
10. Of the replies to this question 3 focused on the reductions to the cost of the scheme of this possible change and issues around administration.
 - 10.1. 3 replies suggested the reductions in the cost to the scheme would be limited for reasons including: that it is pensioners who tend to live in higher banded properties so the impact will be limit; that increased collection costs could offset savings; that increased applications to Discretionary Council Tax Reduction could offset savings.
11. Of the replies to this question 4 were in favour of the possible change or thought it should be taken further.
 - 11.1. 2 replies suggested that anyone living in a band D property should not need CTR.

11.2. 1 reply suggested CTR should be limited to 50% of band D.

11.3. 1 reply stated they thought the idea made sense.

Q5. Do you agree or disagree with the proposal that CTR will have a minimum amount of £5 per week?

		Frequency	Percent	Valid Percent
Valid	Definitely agree	24	29.6	30.4
	Tend to agree	14	17.3	17.7
	Tend to disagree	11	13.6	13.9
	Definitely disagree	30	37.0	38.0
	Total	79	97.5	100.0
Missing	Don't know / not sure	2	2.5	
Total		81	100.0	

Q6. Is there anything we haven't considered or any further comments you'd like to make about the proposal to set a minimum amount of CTR?

12. Of the replies to this question 12 focussed on the problems they felt it would have on the standard and cost of living.

12.1. 8 replies focussed on the potential for this possible change to impact on financial hardship including; that it would increase hardship; and, that £5 per week or £260 per year would be too much.

12.2. 3 replies focussed on interactions with other measures which could increase financial difficulty including: that the interaction with the Taper rate proposal will exacerbate the impact of this measure; and, that it will make it hard for people struggling with Local Housing Allowance freezes and other rising costs.

12.3. 1 reply said that people would become indebted to the council as a result of this change.

13. Of the replies to this question 10 suggested alternatives or adjustments.

13.1. 3 replies were in favour of making the minimum amount higher including; that the minimum amount should be £10; that it should be more than £5 per week; and, that the approach should be tougher.

13.2. 2 replies suggested the minimum amount should be less including; that the minimum amount should be set at £2.30; and, that the minimum amount should be £5 per month

13.3. 1 reply stated they felt there should be no minimum amount.

13.4. 1 reply suggested the measure should apply to pensioners.

13.5. 1 reply suggested there should be safeguards in place for people on zero hour contracts.

13.6. 1 reply suggested an empty properties scheme should be considered instead.

13.7. 1 reply suggested a minimum amount should be set on a case by case basis.

14. Of the replies to this question 8 highlighted the specific concerns with the way the scheme would work under this measure.
 - 14.1. 5 replies focussed that this measure would also exclude people from being able to apply for Discretionary Council Tax Reduction because of the requirement in that scheme to have an entitlement to standard CTR to qualify.
 - 14.2. 2 people highlighted that this measure could create a cliff edge reduction in income where a small increase in earnings could result in a larger drop in CTR.
 - 14.3. 1 reply focussed on the point that this measure effectively does away with the means testing aspect of the scheme for the people who would be affected.

15. Of the replies to this question 2 focussed on the administrative impacts the change may have
 - 15.1. 1 reply said it would create extra work for benefits staff.
 - 15.2. 1 reply said that it would increase collection costs to the council which will reduce the savings made.

Q7 Is there anything we haven't considered or any further comments you'd like to make about these ideas to reduce the cost of the scheme?

16. Of the replies to this question 23 suggested alternatives or adjustments.
 - 16.1. 16 replies suggested alternative ideas for raising revenues, these included: that Council Tax is increased to cover the deficit; that people who can afford it should pay more; that more should be charged for refuse collection, recycling, business charges etc; that CTR should pay up to 75% not 80% of liability; that nudge theory should be used to increase collection; that backdating of CTR should be limited to one month; that properties should be re-banded with more realistic property values; that only pensioners on Pension Credit should be exempt from other CTR measures; that people in expensive properties should be charged more; that empty properties should be taxed more; that the Council Tax base should be increased overall; and, that using the money from the i360 should be used to pay for CTR.
 - 16.2. 7 replies concerned other suggested adjustments or clarifications of the scheme including: that hardship should be avoided by considering cases on an individual basis; that more innovative solutions are needed to support the most needy, eg multiple support bands and tapers; that income should be based on everyone at the property and cross referenced with HMRC records; that pensioners and disabled people with no savings should not have to pay CTR; that if people had paid Council Tax for 5-10 years then they should be able to expect to get help; that the terms of payment for the discretionary scheme needed greater clarity; that changes to the taper should be introduced slowly to give security during a new job;

17. Of the replies to this question 16 raised issues relating to the cost or standard of living.

- 17.1. 10 replies focussed on issues of financial hardship including: that the changes penalise the poorest; that the changes are a disincentive to work; that the council needs to be sure it will not increase homelessness; that the change would increase hardship; that the changes would penalise disabled people.
 - 17.2. 6 replies related to the broader context in which these possible changes would be happening including; that services that provide support with advice or around issues of DLA or PIP are being reduced; that schools and transport are in dire straights and are increasing pressure on families; that it was not fair to carers who cannot work; that some people had no choice over which accommodation they live in; and, that there is no extra income, no help with respite or childcare.
18. Of the replies 15 raised general issues relating to the scheme.
- 18.1. 3 replies were generally in favour of the possible changes including; that they suggested it was a fair scheme; that more people should contribute to CTR; that the scheme would increase revenue.
 - 18.2. 3 replies raised concern how much CTR is paid including: that benefit fraud is not taken seriously enough and that councillors should stand up for people who live within their means; that as long as people on CTR smoke or have tattoos then the scheme is too generous; that people who do not want to work should not be helped at all.
 - 18.3. 2 replies concerned the levels of savings these possible changes would make including: that the level of savings were insignificant; that the cost of administering the changes will limit the effectiveness of the savings.
 - 18.4. 1 reply emphasised they completely disagreed with the proposal to change the Taper.
 - 18.5. 1 reply suggested the consultation related to the possible changes was no more than a PR exercise.
 - 18.6. 5 replies which raised other issues including; that people on CTR do not know how much Council Tax for 2017/18 is going to be yet; that they hold the government responsible for the changes not BHCC; that they did not know what the council could do whilst the government was sticking to austerity; that people who own their homes and are on JSA should get help with repairs; that people who are entitled to CTR must be paid.

Equality Impact Assessment Template¹

Public sector bodies need to be able to evidence² that they have given due regard to the impact and potential impact on all people with 'protected characteristics'³ in shaping policy, in delivering services, and in relation to their own employees.

The following principles, drawn from case law, explain what is essential in order for the Public Sector Equality Duty to be fulfilled. Public bodies should ensure:

- **Knowledge** – everyone who works for the council must be aware of our Equality Duties and apply them appropriately in their work.
- **Timeliness** – you must comply with the Duty at the time of considering policy options and/or before a final decision is taken. You cannot meet the Duty by justifying a decision after it has been taken.
- **Real consideration** – you must consider the aims of the Equality Duty as an integral part of your decision-making process. The Duty is not about box-ticking; it must be done properly, with rigour and with an open mind so that it influences your final decision.
- **Sufficient information** – you must consider what information you have and what further information is needed to give proper consideration to the Equality Duty.
- **No delegation** – the council is responsible for ensuring that any contracted services which provide services on our behalf can comply with the Duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review** – we must have regard to the aims of the Duty not only when a policy is developed and decided upon, but also when it is implemented and reviewed. The Equality Duty is a continuing duty.
- **Proper Record Keeping** – we must keep records of the process of considering the Equality Duty and the impacts on protected groups. This encourages transparency and the proper completion of Equality Duties. If we don't keep records then it may be more difficult for us to evidence that we have fulfilled our equality duties.

For more guidance see the guidance [[weblink](#)] or contact the Communities and Equality Team – x 2301. EIA workshops and support are available through Directorate Equality Groups from the Communities and Equality Team. **1. Equality Impact Assessment (EIA) Template**

¹ Information taken from Equality Act 2010: Public Sector Equality Duty What Do I Need To Know? A Quick Start Guide For Public Sector Organisations – Government Equalities Office May 2011

² To councillors, senior managers, service-users, the public and community and voluntary sector groups

³ 'Protected characteristics' are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. (Also marriage and civil partnership, but only in relation to eliminating discrimination.)

Title of EIA (should clearly explain what you are assessing)	Council Tax Reduction scheme 2017/18	ID No.	
Team/Department	Welfare Reform – Finance and Resources		
Focus of EIA	<p>The focus of this EIA is the impact of what the proposed changes to the CTR scheme from April 2017 would mean for recipients of Council Tax Reduction.</p> <p>A draft scheme for Council Tax Reduction (CTR) which contained three possible changes was published in September 2016 and consulted upon.</p> <p>These possible changes are not currently policy. A decision on whether they should be adopted as a part of the CTR scheme will be made at a meeting of Full Council on 15th December. This EIA looks at the impacts of the possible changes should they be adopted.</p> <p>The draft possible changes were:</p> <p>The taper</p> <p>When people start to receive more income than they would on Job Seekers Allowance, Income Support or Employment Support Allowance (often by working) their CTR goes down by £0.20p for every extra £1 they receive. This is called the taper.</p> <p>It is proposed that the taper is increased from £0.20p to £0.25p. This means that for each extra £1 a person receives, their Council Tax Reduction will reduce by £0.25p rather than £0.20p.</p> <p>It is estimated this change would affect 2298 cases and would mean those people would have to pay an average of £1.74 per week more in Council Tax than they do now. For individual cases this would mean individuals losing between a few pence and £7.50 per week.</p> <p>CTR will pay up to 80% of Council Tax Band D</p> <p>Currently CTR will pay up to 80% of a household's Council Tax liability whichever Council Tax band</p>		

their property is in. Council Tax bands go from A to H. Generally the larger and more valuable a property, the higher band it will be in.

It is proposed that CTR will be based on a maximum of a band D property including the separate maximum CTR payable. For example, at the moment the maximum rate of CTR a person can receive is 80% of their liability. This proposal would mean that the maximum CTR a working age household could receive would be 80% of the Council Tax liability for a Band D property.

It is estimated this change would affect 152 cases and would mean those people would have to pay between £2.08 and £16.69 per week more than they do now.

Minimum amount of CTR

Currently the smallest amount of CTR a household can receive is £0.01p per week.

It is proposed that once CTR entitlement goes below £5 per week, it will then reduce to zero, which means the household would pay the full amount of Council Tax.

For the people affected by these changes this would mean they would have to pay a higher amount of Council Tax than they do now.

It is estimated this change would affect 609 households and would mean those people would have to pay between £0.01 and £4.99 per week more in Council Tax than they do now.

Note: There are likely to be around 300 households who are affected by more than one of these provisions. If these possible changes are adopted these households will be written to and invited to apply for the Discretionary Council Tax Reduction scheme so these circumstances can be taken into account.

Consider:

- How to avoid, reduce or minimise negative impact (if you identify unlawful discrimination, including victimisation and harassment, you must stop the action and take advice immediately).
- How to promote equality of opportunity. This means the need to:
 - Remove or minimise disadvantages suffered by equality groups
 - Take steps to meet the needs of equality groups
 - Encourage equality groups to participate in public life or any other activity where participation is disproportionately low
 - Consider if there is a need to treat disabled people differently, including more favourable treatment where necessary
- How to foster good relations between people who share a protected characteristic and those who do not. This means:
 - Tackle prejudice
 - Promote understanding

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	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback²	Impacts identified from data and feedback (actual and potential)³	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations (You will prioritise these below in section 2)
Age (people of all ages)	Taking each measure separately 3059 households of working age would be affected by these changes. They would exclude people of pensionable age. As a proportion of the caseload people aged 25-34 are slightly		Taking each measure separately 3059 households of working age would have to pay more Council Tax than they do now.	Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations.

¹ 'Data' may be monitoring, customer feedback, equalities monitoring, survey responses...

² Either ongoing links with community and voluntary groups, service-user groups, staff forums; or one-off engagement sessions you have run.

³ If data or engagement are missing and you can not define impacts then your action will be to take steps to collect the missing information.

	<p>more likely to be affected by change to the Taper and the Minimum amount of CTR than other age brackets.</p> <p>As a proportion of the caseload people aged 45-54 are more likely to be affected by the restriction to Band D than other age groups</p> <p>As a proportion of the caseload people aged 55-64 are less likely to be affected by the changes to the Taper and Minimum amount of CTR than other groups and people aged 16-25 are less likely to be affected by the restriction to band D.</p>		<p>People currently in receipt of CTR aged 25-34 and 45-54 are more likely to have to pay more council tax than people in other age brackets as a result of these changes..</p>	<p>This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p>
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	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
Disability (a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities ¹)	<p>(For the purposes of this measure a household is considered to have a member who is disabled if they are in receipt of Disability Living Allowance, Personal Independence Payments or Severe Disablement Allowance)</p> <p>Taking each measure separately 505 households with a disabled member would be affected by one of these changes.</p> <p>350 - the Taper 78 - Restriction to band D 77 - £5 Minimum CTR</p> <p>As a proportion of the</p>		<p>Taking each measure separately 505 households with a disabled member would be affected by these changes and have to pay more Council Tax</p> <p>As a proportion of the caseload households with a disabled member are less likely to have to pay more Council Tax as a result of these changes than other households.</p>	<p>There are a number of provisions within the CTR scheme which recognise and account for the issues faced by disabled people in relation to their finances, These include the full disregard of some income types, for example Disability Living Allowance and Personal Independence payments; and, increases in applicable amounts through specific disability related elements such as the disability premium, the severe disability premium and the carers premium.</p> <p>Consultation has been undertaken with the community and voluntary sector which will help to disseminate information about the possible changes</p> <p>Ensure the provision of clear communications about the change</p>

¹ The definition includes: sensory impairments, impairments with fluctuating or recurring effects, progressive, organ specific, developmental, learning difficulties, mental health conditions and mental illnesses, produced by injury to the body or brain. Persons with cancer, multiple sclerosis or HIV infection are all now deemed to be disabled persons from the point of diagnosis.

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
	<p>caseload households with a disabled member are less likely to be affected by the change to the Taper or the Minimum amount of CTR than households without a disabled member.</p> <p>For the restriction to band D as a proportion of the caseload households with a disabled member are about as likely to be affected by this change as households without a disabled member.</p>			<p>so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p>

	Summary of data ¹ about your service-users and/or staff	Summary of service-user and/or staff feedback ¹	Impacts identified from data and feedback (actual and potential) ¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
<p>Gender reassignment (a transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. A person does <u>not</u> need to be under medical supervision to be protected)</p>	<p>This information is not available at a case level (although it is requested).</p>	<p>The Trans Scrutiny work undertaken by the council and partners identified that Trans people are more likely to be unemployed (because of discrimination) and therefore to be on low incomes</p>	<p>Any households with a transsexual member would have to pay more Council Tax as a result of these changes.</p>	<p>Consultation has been undertaken with the community and voluntary sector which will help to disseminate information about the possible changes</p> <p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Raise awareness of the discretionary</p>

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
				<p>fund with Revenues and Benefit Teams and our internal and external stakeholders.</p> <p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p>
<p>Pregnancy and maternity (protection is during pregnancy and any statutory maternity leave to which the woman is entitled)</p>	<p>Taking each measure separately 112 households with a child under 1 year of age would be affected by one of these changes.</p> <p>89 – The Taper 3 – Restriction to Band D 20 – Minimum amount of CTR</p>		<p>112 Households with a child under 1 year of age would have to pay more Council Tax as a result of these changes</p> <p>As a proportion of the caseload households with a child under 1 year of age are about as likely to have to pay</p>	<p>Consultation has been undertaken with the community and voluntary sector which will help to disseminate information about the possible changes</p> <p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p>

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
	<p>As a proportion of the caseload households with a child under one are about as likely to be affected by all three measures as households without a child under one</p>		<p>more Council Tax as a result of this change as households which do not have a child under 1 year of age</p>	<p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p>

	Summary of data ¹ about your service-users and/or staff	Summary of service-user and/or staff feedback ¹	Impacts identified from data and feedback (actual and potential) ¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations 		
<p>Race (this includes ethnic or national origins, colour or nationality, and includes refugees and migrants; and Gypsies and Travellers)</p> <p>These figures are extrapolated as not all customers have disclosed their ethnicity</p>		overall caseload	The Taper	Restriction to band D	£5 minimum CTR	<p>All customers in this group would have to pay more council tax</p> <p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Raise awareness of the discretionary fund with Revenues and Benefit Teams and our internal and external stakeholders.</p>
	Arab	0.63%	1.05%	0.00%	0.52%	
	Asian or Asian British: Bangladeshi	1.07%	2.51%	3.71%	2.10%	
	Asian or Asian British: Indian	0.34%	0.53%	0.00%	2.63%	
	Asian or British: Pakistani	0.17%	0.40%	0.00%	0.00%	
	Asian or British: Any other Background	1.97%	2.64%	3.70%	2.63%	
	Black-Black British: African	2.32%	1.98%	3.70%	0.52%	
	Black - Black British: Caribbean	0.58%	0.26%	0.00%	0.00%	
	Black - Black British: Other	0.43%	0.13%	0.00%	0.52%	
	Chinese	0.23%	0.39%	0.00%	0.00%	
	Gypsy/Traveller	0.11%	0.13%	0.00%	0.00%	
	Mixed: Any other mixed background	1.04%	1.58%	1.85%	1.05%	
	Mixed: White and Asian	0.69%	0.92%	0.00%	1.05%	
	Mixed: White and Black African	1.42%	1.71%	1.85%	2.10%	
	Mixed: White and Black Caribbean	1.18%	0.39%	0.00%	0.00%	
White: Any other White Background	8.47%	15.30%	9.26%	15.26%		
White: British	78.24%	69.92%	75.93%	73.68%		
White: Irish	1.04%	0.13%	0.00%	0.00%		

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
				Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations 																		
Religion or belief (religion includes any religion with a clear structure and belief system. Belief means any religious or philosophical belief. The Act also covers lack of religion or belief.)	<p>Case level information on religious belief is not available. The following data is from the 2011 Census. There is no reason at present to expect the distribution to vary from the distribution of CTR claimants and these measures</p> <table> <tr> <td>Christian</td> <td>42.90%</td> </tr> <tr> <td>Muslim</td> <td>2.20%</td> </tr> <tr> <td>Buddhist</td> <td>1.00%</td> </tr> <tr> <td>Jewish</td> <td>1.00%</td> </tr> <tr> <td>Hindu</td> <td>0.70%</td> </tr> <tr> <td>Sikh</td> <td>0.10%</td> </tr> <tr> <td>Other religion</td> <td>0.90%</td> </tr> <tr> <td>No Religion</td> <td>42.40%</td> </tr> <tr> <td>Religion not stated</td> <td>8.80%</td> </tr> </table>	Christian	42.90%	Muslim	2.20%	Buddhist	1.00%	Jewish	1.00%	Hindu	0.70%	Sikh	0.10%	Other religion	0.90%	No Religion	42.40%	Religion not stated	8.80%	No specific issues identified or raised by community in informal consultation	All customers in this group would have to pay more council tax	<p>Consultation has been undertaken with the community and voluntary sector which will help to disseminate information about the possible changes</p> <p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances.</p> <p>Raise awareness of the discretionary fund with Revenues and Benefit Teams and our internal and external stakeholders.</p>
Christian	42.90%																					
Muslim	2.20%																					
Buddhist	1.00%																					
Jewish	1.00%																					
Hindu	0.70%																					
Sikh	0.10%																					
Other religion	0.90%																					
No Religion	42.40%																					
Religion not stated	8.80%																					

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
				<p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p> <p>Moneyworks is an organisation funded by Brighton and Hove Council set up to help residents save money, make money and manage their money better. The services are for anyone who is struggling to make ends meet and incorporates community and voluntary services throughout the city.</p>
Sex/Gender (both men and women are covered under the Act)	<p>Taking each measure separately 1,026 households where the claimant is male will be affected</p> <p>796 – The Taper 52 – Restriction to Band D 178 – Minimum CTR</p> <p>Taking each measure</p>		<p>1,026 households where the claimant is male and 1,978 households where the claimant is female would have to pay more Council Tax as a result of these changes.</p> <p>As a proportion of the caseload households where the claimant is female are more likely to</p>	<p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p>

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
	<p>separately 1,978 households where the claimant is female will be affected.</p> <p>1448 – The Taper 100 – Restriction to Band D 430 – Minimum CTR</p> <p>As a proportion of the caseload changes to the Taper and the Minimum Amount of CTR would affect a higher number of households where the claimant is female than male.</p> <p>As a proportion of the caseload households affected by the change Restriction to Band D are approximately the same whether the claimant is female or male.</p>		<p>have to pay more Council Tax as a result of these changes.</p>	<p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p>

	Summary of data ¹ about your service-users and/or staff	Summary of service-user and/or staff feedback ¹	Impacts identified from data and feedback (actual and potential) ¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
<p>Sexual orientation (the Act protects bisexual, gay, heterosexual and lesbian people)</p>	<p>This data has been derived through identifying people who claim CTR as a couple and whether that is as a same sex or different sex couple.</p> <p>Taking each measure separately there are 18 households where the occupants are claiming as a same sex couple who would be affected by these changes.</p> <p>14 – The Taper 2 – Restriction to Band D 4 – Minimum CTR</p> <p>Taking each measure separately there are 1,230 households where the</p>		<p>Taking each measure separately 18 households where the occupant's claims as a same sex couple would have to pay more Council Tax as a result of these changes.</p> <p>Taking each measure separately 1,230 households where the occupants are claiming as a different sex couples will have to pay more Council Tax as a result of these changes.</p> <p>As a proportion of the caseload people in different sex relationships are more</p>	<p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p>

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
	<p>occupants are claiming as a different sex couple.</p> <p>919 – The Taper 108 – Restriction to band D 203 – Minimum CTR</p> <p>As a proportion of the caseload people in difference sex relationships are more likely to be affected by each possible change than those in same sex relationships.</p>		likely to have to pay more Council Tax as a result of these changes than people in same sex relationships.	Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.
Marriage and civil partnership (only in relation to due regard to the need to eliminate discrimination)	<p>Taking each measure separately there are 1,027 households where the claim is from a couple who would be affected by these changes</p> <p>735 – The Taper 85 – Restriction to band D 207 – Minimum CTR</p> <p>Taking each measure separately there are 1,980</p>		<p>Taking each measure separately 1,027 households where the claim is from a couple will have to pay more Council Tax</p> <p>Taking each measure separately 1,980 households where the claim is from a single person will have to pay more Council Tax.</p> <p>As a proportion of the</p>	<p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if</p>

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
	<p>households where the claim is from a single person household</p> <p>1511 – The Taper 67 – Restriction to band D 402 – Minimum CTR</p> <p>The data shows that as a proportion of the caseload people who claim as a couple are more likely to be affected by all three proposed changes than people who claim as a single person.</p>		<p>caseload households where the claim is from a couple are more likely to have to pay more Council Tax than households where the claim is made by a single person.</p>	<p>they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Raise awareness of the discretionary fund with Revenues and Benefit Teams and our internal and external stakeholders.</p> <p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p> <p>Single people affected by this change are entitled to claim an initial 25% discount from their bill which is not subject to a means test.</p>

	Summary of data ¹ about your service-users and/or staff	Summary of service-user and/or staff feedback ¹	Impacts identified from data and feedback (actual and potential) ¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations 		
Community Cohesion (what must happen in all communities to enable different groups of people to get on well together.)	overall caseload	The Taper	Restriction to band D	£5 Minimum CTR	<p>This information will be fed into the work of the economic development team. CVS agencies who work in the most affected wards will be specifically briefed.</p> <p>The Financial Inclusion commission undertaken by the Policy and Communities team which commissioned Moneyworks Brighton and Hove undertook a detailed needs analysis of financial need in the city. This analysis was conducted against protected characteristic and by place. As a result services provided by Moneyworks Brighton & Hove have specifically been commissioned to be provided in the areas of greatest financial need as reflected in the accompanying ward information.</p>	
	East Brighton	183	3	50		
	Queens Park	1312	138	5		40
	St Peter's & North Laine	1003	145	7		48
	Moulsecoomb & Bevendean	1096	146	0		40
	Hollingdean & Stanmer	1011	111	2		28
	Hangleton & Knoll	849	149	10		33
	Hanover & Elm Grove	737	93	10		29
	Goldsmid	740	135	17		39
	Brunswick & Adelaide	534	109	9		22
	Regency	524	93	3		29
	Central Hove	544	94	0		28
	North Portslade	499	74	5		29
	South Portslade	541	93	0		17
	Preston Park	441	80	11		25
	Patcham	461	92	16		23
	Westbourne	456	75	8		31
	Woodingdean	419	71	11		20
	Wish	411	84	6		24
	Rottingdean Coastal	356	78	28		20
Withdean	344	65	15	12		
Hove Park	154	39	32	7		

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
<p>Other relevant groups eg: Carers, people experiencing domestic and/or sexual violence, substance misusers, homeless people, looked after children, ex-armed forces personnel etc</p>	<p>These groups are not specifically identified within CTR data.</p> <p>Households with children</p> <p>Taking each measure separately 1996 Households which contain children would be affected by these measures:</p> <p>The Taper – 1552 Restriction to band D – 117 £5 minimum CTR – 327</p> <p>As a proportion of the caseload households containing children are more likely to be impacted by</p>		<p>All customers in this group will have to pay more council tax</p> <p>Children to whom the authority is parent are protected when they leave the care through automatic access to the discretionary fund.</p> <p>Taking each measure separately 1996 households with children will have to pay more council tax as a result of these changes. As a proportion of the caseload households containing children are more likely to have to pay a higher amount of</p>	<p>There are provisions within the CTR scheme which recognise and account for the issues faced by carers of disabled people, namely the carers premium which increases a carers applicable amount.</p> <p>The Revenues and Benefits team will continue to pro-actively consider children who left care for the discretionary fund.</p> <p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing information to organisations which support people with protected characteristics.</p>

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
	these changes than households without children		council tax as a result of these changes than households without children.	<p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p> <p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p>
Cumulative impact (this is an impact that appears when you consider services or activities together. A change or activity in one area may create an	The reduction in funding for CTR should not be seen in isolation. For recipients of CTR it is fundamentally related to the government's other welfare reforms, the cost of living, the performance of the economy and the availability of work.		<p>Other welfare changes are due to start in late 2016/early 2017. They include:</p> <p>The decrease of the household Benefit Cap from November from £500 per week to £385 per week for families and from £350 per week to £258 per week for</p>	<p>Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work.</p> <p>Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or</p>

	Summary of data ¹ about your service-users and/or staff	Summary of service-user and/or staff feedback ¹	Impacts identified from data and feedback (actual and potential) ¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations
impact somewhere else)			<p>single people.</p> <p>The restriction of Benefits to the levels for two children from April 2017.</p> <p>The reduction in the amount people on Employment and Support Allowance Work Related Activity group will receive from April 2017.</p> <p>The CTR caseload has reduced reflecting national trends and the economic cycle.</p>	<p>translations. This will include providing information to organisations which support people with protected characteristics.</p> <p>Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances. Review take up of the discretionary fund to make sure it is being taken up where there is a need.</p>

	Summary of data¹ about your service-users and/or staff	Summary of service-user and/or staff feedback¹	Impacts identified from data and feedback (actual and potential)¹	All potential actions to: <ul style="list-style-type: none"> • advance equality of opportunity, • eliminate discrimination, and • foster good relations

2. Prioritised Action Plan:

NB: These actions must now be transferred to service or business plans.

Specific action	Evidence of progress / milestones	Lead officer	Timeframe
Ensure the provision of clear communications about the change so people have time to prepare. This will include making information available according to need whether that is through 121 conversations or translations. This will include providing specifically targeted and tailored information for specific groups to organisations which support people with protected characteristics.		Welfare Reform Programme Manager and Revenues and Benefits management team	
Continue to provide a discretionary fund which can be used to increase the amount of CTR anyone can get if they face exceptionally difficult circumstances.		Head of Revenues and Benefits	
Ensure there is availability of advice within the city so people can receive help dealing with benefits, payment of council tax, budgeting and moving towards work. services throughout the city.		Communities and Equalities team	
Ensure staff and advice services are skilled to advise people on the other statutory council tax discounts customers may be entitled to which would help mitigate some of the impacts of	The councils welfare rights team train other council staff providers of advice in the City on a number of subjects including Council Tax Reduction and other discounts	Welfare Reform Programme Manager	

<p>reduction of funding for CTR These include the discounts of 25% available for single occupants and the 100% discount which is referred to in legislation as being for people who are severely mentally impaired.</p>	<p>The Welfare Rights team are now part of the welfare hub and are co located in BARTS with the Discretionary Help and Advice Team, Special Accommodation Team, the Debt Prevention team and Welfare Reform Team. These teams each specialise in supporting and advising the cities most vulnerable citizens</p>		
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EIA sign-off: (to be final this section must be signed and the Publication Template completed – see Section 3 below)

Lead Equality Impact Assessment officer:

Date:

Directorate Management Team rep:

Date:

Communities and Equality Team officer:

Date:

Unitary Authorities

Local Authority	LA area	CTR pays up to % of CT:	Savings limit	Second adult rebate reduced or abolished?	Support restricted to a particular council tax band?	Minimum weekly council tax support payment	Taper rate	Hardship fund
Medway	Unitary Authority	65%	£16,000	Yes	No	£0.00	20%	No
Peterborough	Unitary Authority	70%	£16,000	No	No	£0.00	20%	No
Stoke-on-Trent	Unitary Authority	70%	£6,000	Yes	Yes	£0.00	20%	Yes
Blackpool	Unitary Authority	73%	£16,000	Yes	No	£0.00	20%	Yes
Central Bedfordshire	Unitary Authority	75%	£16,000	Yes	No	£0.00	20%	Yes
Cheshire East	Unitary Authority	75%	£6,000	Yes	Yes	£2.00	20%	No
Cheshire West and Chester	Unitary Authority	75%	£6,000	Yes	Yes	£0.00	20%	Yes
Cornwall	Unitary Authority	75%	£6,000	Yes	Yes	£0.00	20%	Yes
East Riding of Yorkshire	Unitary Authority	75%	£16,000	Yes	No	£0.00	20%	Yes
Luton	Unitary Authority	75%	£16,000	Yes	No	£0.00	20%	Yes
North East Lincolnshire	Unitary Authority	75%	£6,000	Yes	Yes	£2.00	20%	Yes
Rutland	Unitary Authority	75%	£10,000	Yes	Yes	£0.00	25%	Yes
Southampton	Unitary Authority	75%	£16,000	No	No	£0.00	25%	Yes
Southend-on-Sea	Unitary Authority	75%	£6,000	Yes	No	£0.00	20%	Yes
Thurrock	Unitary Authority	75%	£6,000	Yes	No	£0.00	20%	No
Torbay	Unitary Authority	75%	£6,000	Yes	No	£0.00	20%	Yes
West Berkshire		75%	£16,000	Yes	Yes	£3.00	20%	No
North Somerset	Unitary Authority	76%	£16,000	No	No	£0.00	20%	No

York	Unitary Authority	78%	£16,000	Yes	No	£0.00	20%	No
Bath and North East Somerset	Unitary Authority	78%	£10,000	Yes	Yes	£0.00	20%	No
Halton	Unitary Authority	78%	£16,000	No	No	£0.00	20%	Yes
Telford and Wrekin	Unitary Authority	79%	£6,000	Yes	No	£2.50	20%	Yes
Blackburn with Darwen	Unitary Authority	80%	£16,000	No	No	£0.00	20%	Yes
Bournemouth	Unitary Authority	80%	£16,000	Yes	No	£0.50	20%	Yes
Bracknell Forest	Unitary Authority	80%	£16,000	Yes	No	£0.00	21%	Yes
Brighton and Hove	Unitary Authority	80%	£6,000	No	No	£0.00	20%	Yes
Darlington	Unitary Authority	80%	£16,000	Yes	No	£0.00	20%	Yes
Derby	Unitary Authority	80%	£6,000	Yes	Yes	£4.00	20%	Yes
Isle of Wight	Unitary Authority	80%	£6,000	Yes	No	£0.00	20%	Yes
Kingston upon Hull, City of	Unitary Authority	80%	£16,000	Yes	No	£0.00	20%	No
Leicester	Unitary Authority	80%	£6,000	Yes	Yes	£3.70	20%	Yes
Middlesbrough	Unitary Authority	80%	£16,000	Yes	No	£0.00	20%	No
Milton Keynes	Unitary Authority	80%	£6,000	Yes	No	£0.00	20%	Yes
Nottingham	Unitary Authority	80%	£16,000	Yes	No	£0.50	20%	No
Plymouth	Unitary Authority	80%	£6,000	Yes	Yes	£0.00	20%	No
Poole	Unitary Authority	80%	£16,000	Yes	Yes	£0.50	20%	Yes
Portsmouth	Unitary Authority	80%	£16,000	No	No	£0.00	25%	Yes
Reading	Unitary Authority	80%	£6,000	Yes	Yes	£5.00	20%	Yes
Redcar and Cleveland	Unitary Authority	80%	£16,000	Yes	No	£0.00	20%	No
Slough	Unitary Authority	80%	£16,000	Yes	Yes	£0.00	20%	Yes
South Gloucestershire	Unitary Authority	80%	£6,000	Yes	No	£0.00	Less income bands	No
Stockton-on-Tees	Unitary Authority	80%	£16,000	Yes	No	£0.00	20%	No
Swindon	Unitary Authority	80%	£6,000	Yes	Yes	£0.00	20%	No
Wiltshire	Unitary Authority	80%	£10,000	Yes	No	£0.00	15%	Yes

Herefordshire, County of	Unitary Authority	84%	£6,000	Yes	Yes	£0.00	20%	No
North Lincolnshire	Unitary Authority	87%	£16,000	No	No	£0.00	20%	Yes
Hartlepool	Unitary Authority	88%	£16,000	Yes	No	£0.00	20%	Yes
Windsor and Maidenhead	Unitary Authority	90%	£16,000	No	No	£0.00	25%	No
Wokingham	Unitary Authority	90%	£16,000	Yes	Yes	£3.00	25%	Yes
Warrington	Unitary Authority	92%	£16,000	No	No	£0.00	20%	No
Bedford	Unitary Authority	100%	£8,000	Yes	Yes	£0.00	20%	No
Bristol, City of	Unitary Authority	100%	£16,000	No	No	£0.00	20%	No
County Durham	Unitary Authority	100%	£16,000	No	No	£0.00	20%	No
Isles of Scilly	Unitary Authority	100%	£16,000	No	No	£0.00	20%	No
Northumberland	Unitary Authority	100%	£16,000	No	No	£0.00	20%	No
Shropshire	Unitary Authority	100%	£10,000	Yes	No	£0.00	20%	No

Inner London Authorities

Local Authority	LA area	CTR pays up to % of CT:	Savings limit	Second adult rebate reduced or abolished?	Support restricted to a particular council tax band?	Minimum weekly council tax support payment	Taper rate	Hardship fund
Wandsworth	Inner London	70%	£16,000	Yes	No	£0.00	20%	No
Newham	Inner London	80%	£16,000	Yes	No	£0.00	20%	No
Haringey	Inner London	80%	£10,000	No	No	£1.00	20%	No
Lambeth	Inner London	84%	£16,000	Yes	No	£5.00	25%	No
Hackney	Inner London	85%	£16,000	Yes	No	£0.00	20%	No

Southwark	Inner London	85%	£16,000	Yes	No	£0.00	20%	No
Islington	Inner London	92%	£16,000	No	No	£0.00	20%	Yes
Lewisham	Inner London	97%	£16,000	Yes	No	£0.00	20%	Yes
City of London	Inner London	100%	£16,000	No	No	£0.00	20%	No
Hammersmith and Fulham	Inner London	100%	£16,000	No	No	£0.00	20%	No
Kensington and Chelsea	Inner London	100%	£16,000	No	No	£0.00	20%	No
Tower Hamlets	Inner London	100%	£16,000	No	No	£0.00	20%	No
Westminster	Inner London	100%	£16,000	No	No	£0.00	20%	No

Outer London Authorities

Local Authority	LA area	CTR pays up to % of CT:	Savings limit	Second adult rebate reduced or abolished?	Support restricted to a particular council tax band?	Minimum weekly council tax support payment	Taper rate	Hardship fund
Harrow	Outer London	70%	£16,000	Yes	No	£2.00	30%	No
Bromley	Outer London	75%	£16,000	No	No	£0.00	20%	No
Ealing	Outer London	75%	£8,000	Yes	No	£0.00	20%	Yes
Enfield	Outer London	75%	£6,000	Yes	No	£0.00	20%	Yes
Hillingdon	Outer London	75%	£16,000	Yes	No	£0.00	20%	No
Waltham Forest	Outer London	76%	£6,000	No	No	£0.00	25%	Yes
Barnet	Outer London	80%	£16,000	Yes	No	£0.00	20%	Yes
Bexley	Outer London	80%	£16,000	No	No	£0.00	20%	Yes
Brent	Outer London	80%	£6,000	Yes	No	£0.00	30%	No
Sutton	Outer London	83%	£10,000	Yes	Yes	£0.00	25%	Yes

Croydon	Outer London	85%	£8,000	Yes	Yes	£0.00	20%	Yes
Greenwich	Outer London	85%	£16,000	No	No	£0.00	20%	No
Havering	Outer London	85%	£6,000	Yes	Yes	£0.00	20%	No
Redbridge	Outer London	85%	£16,000	Yes	No	£2.00	20%	Yes
Hounslow	Outer London	92%	£16,000	No	No	£0.00	20%	No
Richmond upon Thames	Outer London	95%	£16,000	Yes	Yes	£0.00	20%	No
Kingston upon Thames	Outer London	100%	£16,000	Yes	No	£0.00	20%	No
Merton	Outer London	100%	£16,000	No	No	£0.00	20%	No

Met County Authorities

Local Authority	LA area	CTR pays up to % of CT:	Savings limit	Second adult rebate reduced or abolished?	Support restricted to a particular council tax band?	Minimum weekly council tax support payment	Taper rate	Hardship fund
Barnsley	South Yorkshire (Met County)	70%	£16,000	Yes	No	£0.00	20%	No
South Tyneside	Tyne and Wear (Met County)	70%	£16,000	No	No	£0.00	20%	No
Wakefield	West Yorkshire (Met County)	70%	£16,000	Yes	No	£1.00	20%	No
Tameside	Greater Manchester (Met County)	75%	£16,000	Yes	Yes	£0.00	20%	Yes
Walsall	West Midlands (Met County)	75%	£16,000	No	No	£0.00	20%	No
Bradford	West Yorkshire (Met County)	75%	£16,000	No	No	£0.00	20%	No

Leeds	West Yorkshire (Met County)	75%	£16,000	Yes	No	£0.00	20%	No
Sheffield	South Yorkshire (Met County)	77%	£16,000	Yes	No	£0.00	20%	Yes
Wirral	Merseyside (Met County)	78%	£6,000	Yes	No	£0.00	20%	No
Wolverhampton	West Midlands (Met County)	78%	£6,000	Yes	Yes	£0.00	23%	Yes
Rochdale	Greater Manchester (Met County)	80%	£16,000	Yes	Yes	£0.00	20%	Yes
Wigan	Greater Manchester (Met County)	80%	£12,000	Yes	No	£0.00	20%	Yes
Knowsley	Merseyside (Met County)	80%	£16,000	Yes	No	£0.00	20%	Yes
St. Helens	Merseyside (Met County)	80%	£16,000	Yes	Yes	£1.00	20%	No
Birmingham	West Midlands (Met County)	80%	£16,000	No	No	£0.00	20%	Yes
Dudley	West Midlands (Met County)	80%	£16,000	No	No	£0.00	20%	No
Kirklees	West Yorkshire (Met County)	80%	£16,000	Yes	No	£0.00	20%	No
Calderdale	West Yorkshire (Met County)	81%	£16,000	No	No	£2.00	20%	Yes
Sefton	Merseyside (Met County)	84%	£6,000	Yes	No	£0.00	20%	Yes
Manchester	Greater Manchester (Met County)	85%	£16,000	Yes	No	£0.00	20%	Yes
Oldham	Greater Manchester (Met County)	85%	£16,000	Yes	Yes	£0.00	20%	No

Salford	Greater Manchester (Met County)	85%	£16,000	Yes	No	£1.00	25%	Yes
Newcastle upon Tyne	Tyne and Wear (Met County)	85%	£16,000	Yes	No	£1.00	20%	Yes
Coventry	West Midlands (Met County)	85%	£16,000	Yes	No	£0.00	20%	Yes
North Tyneside	Tyne and Wear (Met County)	90%	£16,000	Yes	No	£0.00	20%	No
Liverpool	Merseyside (Met County)	92%	£16,000	No	No	£0.00	20%	No
Rotherham	South Yorkshire (Met County)	92%	£16,000	Yes	No	£0.00	20%	No
Gateshead	Tyne and Wear (Met County)	92%	£16,000	Yes	No	£1.00	20%	Yes
Sunderland	Tyne and Wear (Met County)	92%	£16,000	Yes	No	£0.00	20%	No
Bury	Greater Manchester (Met County)	100%	£8,000	Yes	Yes	£1.00	20%	No
Stockport	Greater Manchester (Met County)	100%	£8,000	Yes	Yes	£1.00	20%	Yes
Trafford	Greater Manchester (Met County)	100%	£16,000	Yes	Yes	£5.00	30%	Yes
Doncaster	South Yorkshire (Met County)	100%	£16,000	Yes	No	£0.00	30%	Yes
Sandwell	West Midlands (Met County)	100%	£6,000	Yes	Yes	£1.00	20%	No
Solihull	West Midlands (Met County)	100%	£16,000	No	No	£0.00	20%	No

Other Authorities

Local Authority	LA area	CTR pays up to % of CT:	Savings limit	Second adult rebate reduced or abolished?	Support restricted to a particular council tax band?	Minimum weekly council tax support payment	Taper rate	Hardship fund
Kettering	Northamptonshire	55%	£16,000	Yes	No	£0.00	20%	No
Castle Point	Essex	70%	£6,000	Yes	Yes	£0.00	20%	Yes
Surrey Heath	Surrey	70%	£6,000	Yes	Yes	£5.00	20%	Yes
Northampton	Northamptonshire	71%	£16,000	Yes	No	£0.00	20%	No
Rochford	Essex	72%	£6,000	Yes	Yes	£0.00	20%	Yes
Hyndburn	Lancashire	73%	£16,000	Yes	No	£0.00	20%	Yes
North Devon	Devon	75%	£6,000	Yes	Yes	£0.00	20%	Yes
Torridge	Devon	75%	£6,000	Yes	Yes	£0.00	20%	Yes
Basildon	Essex	75%	£16,000	No	Yes	£2.50	20%	Yes
Epping Forest	Essex	75%	£6,000	Yes	Yes	£0.50	20%	Yes
Dacorum	Hertfordshire	75%	£16,000	Yes	Yes	£0.00	20%	No
North Hertfordshire	Hertfordshire	75%	£16,000	No	No	£0.00	20%	Yes
Welwyn Hatfield	Hertfordshire	75%	£16,000	No	No	£0.00	20%	No
Boston	Lincolnshire	75%	£16,000	Yes	Yes	£0.00	20%	No
East Lindsey	Lincolnshire	75%	£16,000	Yes	Yes	£0.00	20%	No
South Holland	Lincolnshire	75%	£16,000	No	No	£0.00	20%	No
King's Lynn and West Norfolk	Norfolk	75%	£6,000	Yes	No	£0.00	20%	No
East Staffordshire	Staffordshire	75%	£10,000	Yes	Yes	£0.00	20%	No
Tamworth	Staffordshire	75%	£16,000	Yes	Yes	£0.00	20%	No
Spelthorne	Surrey	75%	£16,000	No	No	£0.00	20%	No

Worthing	West Sussex	75%	£16,000	No	No	£0.00	20%	Yes
Braintree	Essex	76%	£16,000	No	Yes	£0.00	20%	Yes
Harlow	Essex	76%	£6,000	Yes	No	£0.00	20%	Yes
Chelmsford	Essex	77%	£6,000	Yes	Yes	£0.00	20%	No
Fylde	Lancashire	77%	£16,000	No	No	£0.00	20%	Yes
West Lancashire	Lancashire	78%	£16,000	No	No	£0.00	20%	No
Mid Sussex	West Sussex	78%	£16,000	No	No	£0.00	15%	No
Chiltern	Buckinghamshire	80%	£16,000	Yes	Yes	£0.00	20%	Yes
South Bucks	Buckinghamshire	80%	£6,000	Yes	No	£0.00	20%	Yes
Wycombe	Buckinghamshire	80%	£6,000	Yes	No	£0.00	20%	Yes
Huntingdonshire	Cambridgeshire	80%	£16,000	Yes	No	£0.00	20%	No
East Devon	Devon	80%	£8,000	Yes	Yes	£0.00	20%	Yes
Exeter	Devon	80%	£6,000	Yes	No	£0.00	20%	Yes
Mid Devon	Devon	80%	£8,000	Yes	Yes	£0.00	20%	Yes
South Hams	Devon	80%	£16,000	Yes	No	£0.00	20%	Yes
West Devon	Devon	80%	£16,000	Yes	Yes	£0.00	20%	Yes
Eastbourne	East Sussex	80%	£16,000	Yes	No	£5.00	20%	Yes
Lewes	East Sussex	80%	£16,000	Yes	No	£5.00	20%	Yes
Rother	East Sussex	80%	£16,000	Yes	No	£5.00	20%	Yes
Wealden	East Sussex	80%	£6,000	Yes	No	£5.00	20%	No
Brentwood	Essex	80%	£16,000	No	Yes	£0.00	15%	Yes
Colchester	Essex	80%	£6,000	Yes	No	£1.00	20%	No
Maldon	Essex	80%	£6,000	Yes	Yes	£0.00	20%	Yes
Tendring	Essex	80%	£16,000	Yes	No	£0.00	20%	No
Fareham	Hampshire	80%	£16,000	Yes	Yes	£0.00	20%	No
Gosport	Hampshire	80%	£16,000	Yes	Yes	£0.00	20%	No
Broxbourne	Hertfordshire	80%	£16,000	Yes	Yes	£0.00	25%	No
Hertsmere	Hertfordshire	80%	£16,000	No	Yes	£0.00	20%	Yes
Pendle	Lancashire	80%	£16,000	No	No	£0.00	20%	Yes
Preston	Lancashire	80%	£16,000	No	No	£0.00	20%	Yes

Rossendale	Lancashire	80%	£16,000	No	No	£0.00	20%	Yes
South Kesteven	Lincolnshire	80%	£16,000	No	No	£0.00	20%	No
Hambleton	North Yorkshire	80%	£16,000	Yes	No	£0.00	20%	No
Daventry	Northamptonshire	80%	£16,000	No	No	£0.00	20%	No
East Northamptonshire	Northamptonshire	80%	£16,000	Yes	No	£0.00	20%	No
Wellingborough	Northamptonshire	80%	£16,000	Yes	No	£1.00	20%	No
Newark and Sherwood	Nottinghamshire	80%	£16,000	Yes	Yes	£0.00	20%	No
Mendip	Somerset	80%	£16,000	Yes	No	£0.00	20%	Yes
Taunton Deane	Somerset	80%	£6,000	Yes	Yes	£0.00	20%	Yes
Cannock Chase	Staffordshire	80%	£6,000	Yes	Yes	£0.00	20%	Yes
Lichfield	Staffordshire	80%	£6,000	No	Yes	£0.00	20%	No
Newcastle-under-Lyme	Staffordshire	80%	£6,000	Yes	Yes	£0.00	20%	No
South Staffordshire	Staffordshire	80%	£16,000	Yes	Yes	£0.00	20%	No
Stafford	Staffordshire	80%	£6,000	Yes	Yes	£0.00	20%	Yes
Epsom and Ewell	Surrey	80%	£10,000	Yes	No	£0.00	20%	Yes
Runnymede	Surrey	80%	£16,000	Yes	Yes	£5.00	20%	Yes
Nuneaton and Bedworth	Warwickshire	80%	£16,000	No	No	£0.00	20%	Yes
Horsham	West Sussex	80%	£16,000	Yes	Yes	£0.00	20%	No
Bromsgrove	Worcestershire	80%	£16,000	Yes	No	£0.00	20%	No
Redditch	Worcestershire	80%	£16,000	No	No	£0.00	20%	No
Wychavon	Worcestershire	80%	£16,000	Yes	No	£0.00	20%	No
Wyre Forest	Worcestershire	80%	£12,000	Yes	No	£0.50	20%	Yes
Dartford	Kent	82%	£16,000	No	No	£0.00	20%	No
Gravesham	Kent	82%	£16,000	No	No	£0.00	20%	No
Sevenoaks	Kent	82%	£16,000	No	No	£0.00	20%	No
Shepway	Kent	82%	£16,000	No	No	£0.00	20%	No
Tonbridge and Malling	Kent	82%	£16,000	No	No	£0.00	20%	No
Tunbridge Wells	Kent	82%	£16,000	No	No	£0.00	20%	No
Burnley	Lancashire	83%	£16,000	No	No	£0.00	20%	Yes
South Ribble	Lancashire	83%	£16,000	No	No	£0.00	20%	Yes

Broadland	Norfolk	83%	£16,000	Yes	No	£0.00	20%	Yes
Swale	Kent	85%	£16,000	No	No	£0.00	20%	No
Blaby	Leicestershire	85%	£16,000	Yes	No	£0.00	25%	Yes
Charnwood	Leicestershire	85%	£16,000	Yes	No	£0.00	20%	Yes
Harborough	Leicestershire	85%	£16,000	Yes	Yes	£0.00	20%	Yes
North West Leicestershire	Leicestershire	85%	£16,000	Yes	No	£0.00	20%	Yes
Oadby and Wigston	Leicestershire	85%	£16,000	Yes	No	£0.00	20%	No
South Norfolk	Norfolk	85%	£16,000	Yes	Yes	£0.00	20%	No
Richmondshire	North Yorkshire	85%	£16,000	Yes	No	£0.00	20%	No
Sedgemoor	Somerset	85%	£16,000	No	Yes	£1.00	20%	Yes
South Somerset	Somerset	85%	£6,000	Yes	Yes	£0.00	20%	Yes
West Somerset	Somerset	85%	£6,000	Yes	Yes	£0.00	20%	Yes
Rugby	Warwickshire	85%	£10,000	Yes	No	£1.00	20%	No
Warwick	Warwickshire	85%	£16,000	Yes	No	£0.00	20%	Yes
Fenland	Cambridgeshire	86%	£16,000	No	No	£0.00	20%	No
Uttlesford	Essex	88%	£16,000	Yes	No	£2.00	20%	Yes
Scarborough	North Yorkshire	88%	£16,000	No	No	£0.00	20%	No
Ribble Valley	Lancashire	88%	£16,000	No	No	£0.00	20%	No
Hinckley and Bosworth	Leicestershire	88%	£16,000	Yes	No	£0.00	20%	Yes
Melton	Leicestershire	88%	£16,000	Yes	No	£0.00	20%	Yes
Maidstone	Kent	89%	£16,000	No	No	£0.00	20%	No
South Derbyshire	Derbyshire	90%	£16,000	No	No	£0.00	20%	No
New Forest	Hampshire	90%	£6,000	Yes	Yes	£0.00	20%	No
Rushmoor	Hampshire	90%	£6,000	No	Yes	£0.00	20%	Yes
Ashford	Kent	90%	£16,000	No	No	£0.00	20%	No
North Kesteven	Lincolnshire	90%	£8,000	Yes	Yes	£3.50	30%	Yes
West Lindsey	Lincolnshire	90%	£16,000	Yes	No	£3.00	20%	No
Craven	North Yorkshire	90%	£16,000	Yes	No	£0.00	20%	No
Selby	North Yorkshire	90%	£16,000	Yes	No	£0.00	20%	Yes

Bassetlaw	Nottinghamshire	90%	£16,000	Yes	No	£0.00	20%	Yes
Mansfield	Nottinghamshire	90%	£16,000	Yes	No	£0.00	20%	Yes
Elmbridge	Surrey	90%	£16,000	Yes	Yes	£0.00	20%	No
Reigate and Banstead	Surrey	90%	£10,000	Yes	Yes	£5.00	20%	Yes
East Cambridgeshire	Cambridgeshire	92%	£16,000	Yes	No	£0.00	20%	No
South Cambridgeshire	Cambridgeshire	92%	£16,000	Yes	No	£0.00	20%	No
Amber Valley	Derbyshire	92%	£16,000	Yes	No	£0.00	20%	No
Bolsover	Derbyshire	92%	£16,000	No	No	£0.00	20%	No
Chesterfield	Derbyshire	92%	£16,000	Yes	No	£0.00	20%	No
Derbyshire Dales	Derbyshire	92%	£16,000	No	No	£0.00	20%	Yes
Erewash	Derbyshire	92%	£16,000	No	No	£0.00	20%	No
North East Derbyshire	Derbyshire	92%	£16,000	No	No	£0.00	20%	No
Christchurch	Dorset	92%	£16,000	No	No	£0.00	20%	No
East Dorset	Dorset	92%	£16,000	No	No	£0.00	20%	No
North Dorset	Dorset	92%	£16,000	No	No	£0.00	20%	No
West Dorset	Dorset	92%	£16,000	No	No	£0.00	20%	No
Weymouth and Portland	Dorset	92%	£16,000	No	No	£0.00	20%	No
Cotswold	Gloucestershire	92%	£6,000	Yes	Yes	£0.00	20%	Yes
Havant	Hampshire	92%	£16,000	No	No	£0.00	20%	No
East Hertfordshire	Hertfordshire	92%	£16,000	No	No	£0.00	20%	No
Stevenage	Hertfordshire	92%	£16,000	No	No	£0.00	20%	No
Wyre	Lancashire	92%	£16,000	No	No	£0.00	20%	No
Breckland	Norfolk	92%	£16,000	Yes	No	£0.00	20%	Yes
Great Yarmouth	Norfolk	92%	£16,000	No	No	£0.00	20%	Yes
North Norfolk	Norfolk	92%	£16,000	No	No	£0.00	20%	No
Ryedale	North Yorkshire	92%	£16,000	Yes	No	£0.00	20%	No
Corby	Northamptonshire	92%	£16,000	Yes	No	£0.00	20%	No
South Northamptonshire	Northamptonshire	92%	£16,000	No	No	£0.00	20%	No
Rushcliffe	Nottinghamshire	92%	£16,000	No	No	£0.00	20%	No

Vale of White Horse	Oxfordshire	92%	£6,000	Yes	Yes	£0.00	20%	Yes
West Oxfordshire	Oxfordshire	92%	£6,000	Yes	Yes	£0.00	20%	Yes
Staffordshire Moorlands	Staffordshire	92%	£16,000	Yes	No	£0.00	20%	No
Babergh	Suffolk	92%	£16,000	Yes	No	£0.00	20%	No
Forest Heath	Suffolk	92%	£16,000	Yes	No	£0.00	20%	No
Ipswich	Suffolk	92%	£16,000	Yes	No	£0.00	20%	No
St Edmundsbury	Suffolk	92%	£16,000	Yes	No	£0.00	20%	No
Suffolk Coastal	Suffolk	92%	£16,000	No	No	£0.00	20%	Yes
Waveney	Suffolk	92%	£16,000	No	No	£0.00	20%	No
North Warwickshire	Warwickshire	92%	£16,000	Yes	No	£0.00	20%	No
Purbeck	Dorset	92%	£16,000	No	No	£0.00	20%	No
Chorley	Lancashire	93%	£16,000	No	No	£0.00	20%	Yes
Dover	Kent	94%	£16,000	Yes	No	£0.00	20%	No
Thanet	Kent	95%	£16,000	Yes	No	£0.00	20%	No
Canterbury	Kent	95%	£16,000	Yes	No	£0.00	20%	No
Mid Suffolk	Suffolk	95%	£16,000	Yes	No	£0.00	20%	No
Cambridge	Cambridgeshire	100%	£16,000	Yes	No	£0.00	20%	No
Allerdale	Cumbria	100%	£16,000	No	No	£0.00	20%	No
Barrow-in-Furness	Cumbria	100%	£16,000	No	No	£0.00	20%	No
Carlisle	Cumbria	100%	£16,000	No	No	£0.00	20%	No
Copeland	Cumbria	100%	£16,000	No	No	£0.00	20%	No
Eden	Cumbria	100%	£16,000	No	No	£0.00	20%	No
South Lakeland	Cumbria	100%	£16,000	No	No	£0.00	20%	No
High Peak	Derbyshire	100%	£16,000	No	No	£0.00	20%	No
Teignbridge	Devon	100%	£6,000	Yes	Yes	£0.00	20%	No
Hastings	East Sussex	100%	£16,000	Yes	No	£5.00	20%	No
Cheltenham	Gloucestershire	100%	£16,000	No	No	£0.00	20%	No
Forest of Dean	Gloucestershire	100%	£16,000	No	No	£0.00	20%	No
Gloucester	Gloucestershire	100%	£16,000	No	No	£0.00	20%	No
Stroud	Gloucestershire	100%	£16,000	No	No	£0.00	20%	No

Tewkesbury	Gloucestershire	100%	£16,000	No	No	£0.00	20%	No
Basingstoke and Deane	Hampshire	100%	£16,000	No	No	£0.00	20%	No
East Hampshire	Hampshire	100%	£16,000	No	No	£0.00	20%	No
Eastleigh	Hampshire	100%	£6,000	Yes	Yes	£0.00	20%	No
Hart	Hampshire	100%	£16,000	No	No	£0.00	20%	No
Test Valley	Hampshire	100%	£16,000	No	No	£0.00	20%	No
Winchester	Hampshire	100%	£16,000	No	No	£0.00	20%	No
St Albans	Hertfordshire	100%	£16,000	No	No	£0.00	20%	No
Three Rivers	Hertfordshire	100%	£8,000	No	Yes	£0.00	20%	No
Watford	Hertfordshire	100%	£16,000	No	No	£0.00	20%	No
Lancaster	Lancashire	100%	£16,000	Yes	No	£0.00	20%	No
Lincoln	Lincolnshire	100%	£16,000	No	No	£0.00	20%	Yes
Norwich	Norfolk	100%	£16,000	No	No	£0.00	20%	No
Harrogate	North Yorkshire	100%	£16,000	No	No	£0.00	20%	No
Ashfield	Nottinghamshire	100%	£16,000	No	No	£0.00	20%	No
Broxtowe	Nottinghamshire	100%	£16,000	No	No	£0.00	20%	No
Gedling	Nottinghamshire	100%	£6,000	Yes	No	£0.00	20%	No
Cherwell	Oxfordshire	100%	£16,000	No	No	£0.00	20%	No
Oxford	Oxfordshire	100%	£16,000	No	No	£0.00	20%	No
South Oxfordshire	Oxfordshire	100%	£16,000	No	No	£0.00	20%	No
Guildford	Surrey	100%	£6,000	Yes	Yes	£10.00	20%	Yes
Mole Valley	Surrey	100%	£16,000	No	No	£0.00	20%	No
Tandridge	Surrey	100%	£16,000	No	No	£0.00	20%	No
Waverley	Surrey	100%	£16,000	Yes	Yes	£5.00	20%	No
Woking	Surrey	100%	£10,000	Yes	Yes	£5.00	20%	Yes
Stratford-on-Avon	Warwickshire	100%	£16,000	No	No	£0.00	20%	No
Adur	West Sussex	100%	£16,000	No	No	£0.00	20%	No
Arun	West Sussex	100%	£16,000	No	No	£0.50	20%	Yes
Chichester	West Sussex	100%	£16,000	Yes	No	£1.00	20%	No
Crawley	West Sussex	100%	£9,000	Yes	No	£5.00	20%	Yes

Malvern Hills	Worcestershire	100%	£6,000	Yes	Yes	£10.00	20%	Yes
Worcester	Worcestershire	100%	£6,000	Yes	Yes	£5.00	20%	Yes

Source: counciltaxsupport.org

Brighton & Hove City Council
**Draft Council Tax Reduction Scheme
for people of working age for
consultation**

Published September 2016



**Brighton & Hove
City Council**

What is Council Tax Reduction?

Council Tax Reduction is a system for low income households to help pay towards Council Tax. You may get Council Tax Reduction if you pay Council Tax and your income and capital (savings and investments) are below a certain level.

People of pensionable age are assessed under national rules which the council cannot change. They will continue to have their Council Tax Reduction worked out in the same way as it is now. The council decides on the rules for working age people.

Brighton & Hove's Council Tax Reduction scheme acts as a discount against your Council Tax bill. The scheme aims to limit the impact the government's funding reduction has on the most vulnerable households in the city.

Why is the council publishing this draft scheme?

The council is required to review the scheme every year to consider if changes need to be made which could affect how much residents need to pay. To consider making changes the council must publish a draft scheme and consult on any changes it proposes.

We need to have an agreed scheme in place by January 2017 and are now consulting on these draft proposals for 2017/18.

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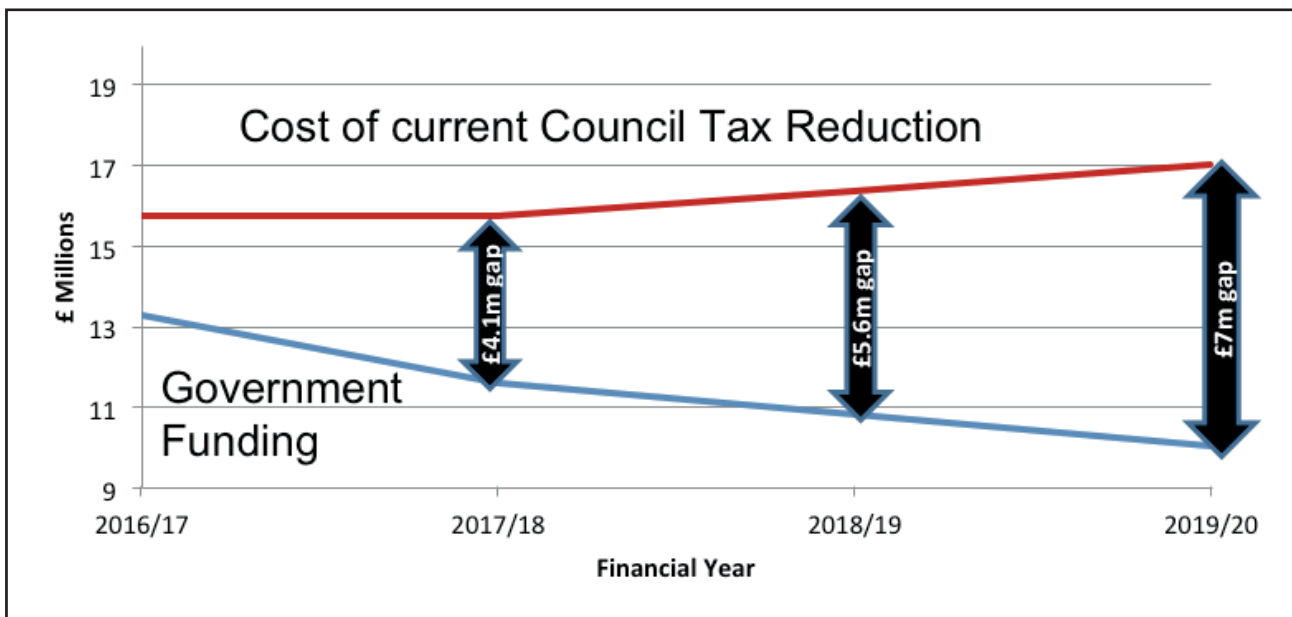
Financial context

The government is continuing to reduce the grant it pays for these schemes, meaning there will be a shortfall of at least £4.1 million to help low income households in Brighton & Hove pay their Council Tax in 2017/18. The scheme set out proposes that the council will absorb around £3.8 million of this.

During the current financial year 2016/17, the council is set to absorb around £2.5 million of the funding shortfall from other council funds, with the rest paid by working age people who receive CTR.

Any increase in the amount the council funds will have an impact on other services run by the council.

The projected reduction in government funding for the scheme is shown below.



The government is also reducing funding for all council services and the budget over the next three years will be challenging. Costs will increase due to inflation, population change and rising demand for services, and this will result in a large funding gap.

The biggest budget challenge is on the services funded by Council Tax, Business Rates, government grants and fees and charges (our general fund). We currently spend around £381 million on a wide range of public services such as, social care for vulnerable children and adults, refuse and recycling, street cleaning, libraries and transport. This doesn't include the money we receive for schools, Housing Benefit and expenditure related to our council housing which is funded directly by tenant rents.

Due to the growing demand for services, inflation and, principally, the reduction in central government funding, we will need to address a budget gap of £44 million over the next three years. We are reducing costs and improving efficiency as much as possible but there are also many difficult choices to make around the services the council will be able to continue to provide or pay for.

Council Tax Reduction for pensioners

There will be no changes for pensioners apart from the usual yearly uprating of allowances and premiums from April 2017. This will mean pensioners will continue to receive the same level of support they do now. These rules are set nationally and the council cannot change them.

Council Tax Reduction for working age people

Decisions on who's eligible to receive help paying Council Tax under Council Tax Reduction (CTR) will continue to be based on a person's income and savings and the amount of Council Tax they pay.

We will continue to provide a discretionary fund to help the most vulnerable households to pay their Council Tax contribution in exceptional circumstances.

Proposed changes to Council Tax Reduction from April 2017 for working age people.

The taper

When people start to receive more income than they would on Job Seekers Allowance, Income Support or Employment Support Allowance (often by working) their CTR goes down by £0.20p for every extra £1 they receive. This is called the taper.

It is proposed that the taper is increased from £0.20p to £0.25p. This means that for each extra £1 a person receives, their Council Tax Reduction will reduce by £0.25p rather than £0.20p.

CTR will pay up to 80% of Council Tax Band D

Currently CTR will pay up to 80% of a household's Council Tax liability whichever Council Tax band their property is in. Council Tax bands go from A to H. Generally the larger and more valuable a property, the higher band it will be in.

It is proposed that CTR will be based on a maximum of a band D property including the separate maximum CTR payable. For example, at the moment the maximum rate of CTR a person can receive is 80% of their liability. This proposal would mean that the maximum CTR a working age household could receive would be 80% of the Council Tax liability for a Band D property.

Minimum amount of CTR

Currently the smallest amount of CTR a household can receive is £0.01p per week.

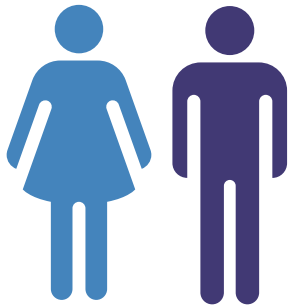
It is proposed that once CTR entitlement goes below £5 per week, it will then reduce to zero, which means the household would pay the full amount of Council Tax.

Other national changes

In addition to these changes, the allowances and premiums in the CTR scheme for pensioners and working age people will be increased in line with national regulations.

Examples:

The following examples are made-up cases to help explain how the proposed new scheme may affect you. The Council Tax figures quoted are based on the 2016/17 rates, which may be increased in 2017/18.



Pensioners stay the same

Couple of pensionable age – the same level of support as now

Michael and Pat are 73 and 71 respectively. They currently claim CTR and are entitled to a reduction of £15.63 a week, based on a means test of their income from state pensions, Michael’s work pension and Pat’s savings. The full liability for their Band B property is £24.35 per week so they are paying £8.72 a week in Council Tax.

Pensioners are assessed under national rules set by the government. Therefore, the reduction they are entitled to remains £15.63 and the amount they have to pay is still £8.72 a week.



Laura makes a claim for Council Tax Reduction No Council Tax to pay

Pensioner – new claim

Laura is 68, she moves from Worthing to a new rented flat in Brighton in May 2015. Laura is on Pension Credit Guarantee Credit. Her new flat is a Band A property. When she moves she makes a claim for Council Tax Reduction.

As Laura is a pensioner and she is on Pension Credit Guarantee Credit, she receives full Council Tax Reduction and does not have to pay any Council Tax.

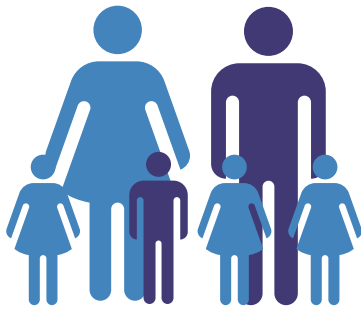


Family in Band F property Maximum Band D rate applies

Single person with children in Band F property – Maximum CTR based on Band D

Darren lives in a Band F property with his children. He is on Income Support and receives Child Benefit and Child Tax Credit. He receives a single person discount and claims CTR for help with his Council Tax. His Council Tax is £33.91 per week and he currently receives 80% of his Council Tax through CTR, which means he pays £6.78 per week.

From April 2017, it is proposed that CTR will be worked out based on a maximum rate of up to 80% of Band D. This means that he will have to pay £8.87 per week.



**Taper rate
Increased to 25%**



**£5 minimum CTR
Full Council Tax applies**

Family affected by taper rate change

Mahendi lives with her partner and children in a band D property. Mahendi earns £9,000 per year and the family also receive Child Benefit, Child Tax Credit and Working Tax Credit. Their Council Tax is £31.30 and they currently receive £11.76 CTR, which means they pay £19.54 per week.

From April 2017, it is proposed the taper rate is changed from 20% to 25%. This means that they will receive £8.44 CTR per week and have to pay £22.86.

Person impacted by minimum amount of CTR

Greg is single, lives in a Band A flat and works earning £125 per week. His weekly Council Tax is £15.65 per week and he receives CTR of £4.14, which means he pays £11.51 a week.

From April 2017, it is proposed that the minimum amount of CTR a person can receive is £5 per week. This means that Greg would no longer receive CTR and would have to pay the full Council Tax rate of £15.65 per week.

Draft technical changes to Council Tax Reduction and Discretionary Council Tax Payment schemes.

The following sets out the draft technical changes which would be made to the Council Tax Reduction scheme if the changes set out in this report are agreed. The Executive Director of Finance & Resources will exercise delegated powers to make the following, or similar, changes to the schemes to give effect to any decision made.

Changes to:

The Council Tax Reduction Scheme (Persons who are not Pensioners) (Brighton & Hove City Council) 2013

Taper

38 (f) (ii) *amount B is 2 6/7 per cent of the difference between his income for the relevant week and his applicable amount, and*

To be deleted and replaced with

38 (f) (ii) *amount B is 3 4/7 per cent of the difference between his income for the relevant week and his applicable amount, and*

Limit to a band D property

47(1)(a) *A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act; and*

To be deleted and replaced with

47(1)(a) *A is the amount set by the authority as the council tax for the relevant financial year in respect of the dwelling in which he is a resident and for which he is liable, subject to any discount which may be appropriate to that dwelling under the 1992 Act or the amount set for a band D property, whichever is the lower figure; and*

Minimum £5 weekly award

41. Classes of person excluded from this scheme

The classes of person described in article 12, 13, 42 and 43 are not entitled to a reduction under this scheme.

To be deleted and replaced with

41. Classes of person excluded from this scheme

The classes of person described in article 12, 13, 42, 43 and 43B are not entitled to a reduction under this scheme.

Insert:

43B. Class of person excluded from this scheme: Minimum weekly award

Where Council Tax Reduction is payable it shall not be payable where the amount to which the person would otherwise be entitled is less than five pounds per week.

Transitional Protection

47A. Transitional Protection - entitlement

- (1) An applicant is entitled to transitional protection calculated in accordance with article 47B where on the 31st March 2016 the applicant -*
- (a) is entitled to an award of council tax benefit, or*
 - (b) has a claim for council tax benefit that is yet to be determined, and the authority is satisfied that he will be so entitled*
- (2) This paragraph applies until an applicant's entitlement to transitional protection ends by virtue of -*
- (a) a change of address, or*
 - (b) the ending of entitlement to a reductions, or*
 - (c) the expiry of the authority's 2015 to 2016 financial year on 31st March 2017 or*
 - (d) where the council tax liability is reduced due to a rebanding or application of discount or exemption which is not Council Tax Reduction*
- whichever is soonest.*

47B. Amount of transitional protection - entitlement

- (1) The weekly amount of transitional protection is calculated in accordance with paragraphs (2) and (3)*
- (2) Where an applicant satisfies paragraph (1) of article 47A the amount of transitional protection is the amount in excess of £1.65 by which Amount A exceeds Amount B,*
- (3) For the purpose of this article -*
- (a) Amount A is the difference between the gross weekly liability for council tax a person is liable for and the persons maximum council tax reduction as set out in paragraph 47(1) as it is in force from 1st April 2016*
 - (b) Amount B is the difference between the gross weekly liability for council tax a person is liable for and the persons maximum council tax reduction as set out in paragraph 47(1) as it is in force between 1st April 2014 and 31st March 2016*

Delete and replace with:

47A. Transitional Protection - entitlement

- (1) *An applicant is entitled to transitional protection calculated in accordance with article 47B where on the 31st March 2017 the applicant -*
- (c) *is entitled to an award of council tax benefit, or*
- (d) *has a claim for council tax benefit that is yet to be determined, and the authority is satisfied that he will be so entitled*
- (2) *This paragraph applies until an applicant's entitlement to transitional protection ends by virtue of -*
- (e) *a change of address, or*
- (f) *the ending of entitlement to a reductions, or*
- (g) *the expiry of the authority's 2017 to 2018 financial year on 31st March 2018 or*
- (h) *where the council tax liability is reduced due to a rebanding or application of discount or exemption which is not Council Tax Reduction*
- whichever is soonest.*

47B. Amount of transitional protection - entitlement

- (1) *The weekly amount of transitional protection is calculated in accordance with paragraphs (2) and (3)*
- (2) *Where an applicant satisfies paragraph (1) of article 47A the amount of transitional protection is the amount in excess of £10.00 by which Amount A exceeds Amount B,*
- (3) *For the purpose of this article -*
- (c) *Amount A is the difference between the gross weekly liability for council tax a person is liable for and the persons maximum council tax reduction as set out in paragraph 47(1) as it is in force from 1st April 2017 caused by the amendment to paragraph 47(1)(a)*
- (d) *Amount B is the difference between the gross weekly liability for council tax a person is liable for and the persons maximum council tax reduction as set out in paragraph 47(1) as it is in force between 1st April 2014 and 31st March 2017*

Changes to:

The Discretionary Council Tax Scheme (Brighton & Hove City Council) 2013

Amendment so those excluded from CTR as a result of the £5 minimum amount can still apply for Discretionary Council Tax Reduction.

5.1.1 is (or was) entitled to a reduction in the amount of council tax payable by that person under the Council's Council Tax Reduction Scheme and

Delete and replace with

5.1.1 is (or was) entitled to a reduction in the amount of council tax payable by that person under the Council's Council Tax Reduction Scheme, or would have been entitled to a reduction in the amount of

Appendix 5 – Council Tax Reduction Scheme Review

council tax payable by that person under the Council's Council Tax Reduction Scheme were it not for paragraph 43B of The Council Tax Reduction Scheme (Persons who are not Pensioners) (Brighton & Hove City Council) 2013

Subject:	REVIEW OF THE CODE OF CONDUCT FOR MEMBERS - Extract from the proceedings of the Audit & Standards Committee meeting held on the 15 November 2016		
Date of Meeting:	15 December 2016		
Report of:	Executive Lead Officer for Strategy, Governance & Law		
Contact Officer:	Name:	John Peel	Tel: 01273 291058
	E-mail:	john.peel@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE***Action Required of Council***

To receive the report concerning the review of the code of conduct for Members referred from the Audit & Standards Committee and to approve the revised Code.

Recommendations:

- 1) That the Council approve the draft revised Code of Conduct for Members referred by Audit and Standards Committee, for implementation with immediate effect and; and
- 2) That Council grant delegated authority to the Monitoring Officer to take appropriate measures to implement the revised Code and to assist existing and new Members with understanding and applying it, including via training.

BRIGHTON & HOVE CITY COUNCIL**AUDIT & STANDARDS COMMITTEE****4.00pm 15 NOVEMBER 2016****COUNCIL CHAMBER, HOVE TOWN HALL****MINUTES**

Present: Councillors A Norman (Chair) Cattell, Cobb, Druitt, Moonan, Morris, Sykes (Group Spokesperson) and Taylor.

Independent Persons: Diane Bushell and Dr David Horne.

PART ONE**50 REVIEW OF THE CODE OF CONDUCT FOR MEMBERS**

- 50.1 The Committee considered a report of the Head of Law and Monitoring Officer that sought approval for a range of proposed amendments to the Code of Conduct for Members. The amendments had been agreed unanimously by a cross party working group of Members, Independent Persons and Officers with the rationale for the changes set out in the body of the report. If approved, the report would be referred to Full Council for adoption.
- 50.2 Councillor Moonan welcomed the detailed and thorough report. Councillor Moonan noted that the report proposed that a substantive breach of the Code may not be referred to a Panel in exceptional circumstances and asked for an example of when that might be enacted. Furthermore, Councillor Moonan asked when the Code would come into effect if agreed by the Committee and Full Council and if the new guidelines would apply to existing complaints. In addition, Councillor Moonan expressed her belief that all Members should be given a detailed update on the changes to the Code, if ratified and proposed that the Political Group meetings might be the best format for doing so.
- 50.3 The Head of Law and Monitoring Officer explained that the Code would come into effect once it had been approved by Full Council. Existing breaches would be determined in accordance with the Code of Conduct in force at the time of the occurrence of the breach. The Head of Law and Monitoring Officer explained that it was proposed that the Monitoring Officer be given the discretion to resolve complaints informally where he considered that exceptional circumstances applied, this even where a substantive breach of the Code was considered to have occurred. He explained that the Code itself created a mechanical process and very occasionally there would be technical breaches of the Code that were not in the public interest to pursue. The option of informal

resolution without a Panel hearing would only be undertaken having consulted with the parties, with an additional safeguard in the form of the Independent Person's agreement.

- 50.4 Councillor Druitt welcomed the clarity that the declaration of interest flowchart provided and asked if a section could be added for the correct course of action for Members where an interest should be declared during a meeting that was not known ahead of the meeting for example, during a debate of an issue.
- 50.5 The Lawyer welcomed the suggestion and confirmed that it could be added to the flowchart.
- 50.6 **RESOLVED TO RECOMMEND:**
- (1) That Audit and Standards Committee consider the draft revised Code of Conduct for Members and the Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members set out in Appendices 1 and 2 respectively and approve Appendix 2 while referring Appendix 1 – with any further recommended amendments – to Council for approval.
 - (2) That Council approve the draft revised Code of Conduct for Members referred by Audit and Standards Committee, for implementation with immediate effect.
 - (3) That Council grant delegated authority to the Monitoring Officer to take appropriate measures to implement the revised Code and to assist existing and new Members with understanding and applying it, including via training.

Subject:	Review of the Code of Conduct for Members		
Date of Meeting:	15 December 2016 15 November 2016 – Audit & Standards Committee		
Report of:	Head of Law and Monitoring Officer		
Contact Officer:	Name:	Abraham Ghebre-Ghiorghis	Tel: 29-1500
	Email:	Abraham.ghebre-ghiorghis@brighton-hove.gov.uk	
Ward(s) affected:	All		

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

- 1.1 To comply with its obligations under the Localism Act 2011, the Council adopted a new Code of Conduct for Members in July 2012 and a Procedure for dealing with complaints shortly thereafter. The Code of Conduct for Members was last reviewed in 2014 by a cross party working group and that group's recommendations adopted by full Council.
- 1.2 To ensure the Code of Conduct for Members' ongoing effectiveness, the Audit and Standards Committee directed at its last meeting that a further cross party working group be convened to review the Code of Conduct for Members and related documents and to recommend any changes which it considered necessary to update and/or clarify the existing arrangements.
- 1.3 This Report seeks the Committee's approval for a range of proposed amendments, all of which were agreed unanimously by the cross party working group of Members, Independent Persons and officers. The rationale for the proposed changes are detailed in the body of this Report.
- 1.4 This Report is initially for consideration by the Audit and Standards Committee, whose recommendations will be referred to Council for approval.

2. RECOMMENDATIONS:

- 2.1 That Audit and Standards Committee consider the draft revised Code of Conduct for Members and the Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members set out in Appendices 1 and 2 respectively and approve Appendix 2 while referring Appendix 1 – with any further recommended amendments – to Council for approval.
- 2.2 That Council approve the draft revised Code of Conduct for Members referred by Audit and Standards Committee, for implementation with immediate effect.

- 2.3 That Council grant delegated authority to the Monitoring Officer to take appropriate measures to implement the revised Code and to assist existing and new Members with understanding and applying it, including via training.

3. CONTEXT/ BACKGROUND INFORMATION

PROPOSED CHANGES TO THE CODE OF CONDUCT: additional clarity regarding the application of the Code and the option of members voluntarily declaring those interests which they are not otherwise required to declare, as well as changes to how interests are described in the Code

- 3.1 It is proposed that the Code be amended so as to create an expectation that the Independent Persons appointed to the Audit and Standards Committee observe the Code of Conduct. This is considered to be appropriate given the role of the Independent Persons appointed to this Committee.
- 3.2 It is also proposed that the Introduction to the Code be amended so that it explicitly clarifies the Code's application to meetings of the Council, its committees and sub committees only. This change makes the Council's current arrangements clearer so as to avoid an expectation - as happened recently and gave rise to a member complaint about a perceived failure to declare a Disclosable Pecuniary Interest at a working group - that the Code requires members to formally declare their interests at any informal meeting or gathering, which it does not.
- 3.3 It is also proposed that the current paragraph 1.8 of the Code be amended so as to clarify the expectation that all members who are bound by the Code must co-operate with any investigation - including but not only any investigation into an alleged breach of the Code - as well as with any investigation that takes place into the alleged unauthorised disclosure of confidential information.
- 3.4 A further proposed change is recommended in the form of specific reference to the practice of members choosing to voluntarily declare interests or facts which others may potentially perceive to be relevant to their decision-making, despite there being no requirement that they be declared.
- 3.5 Further structural changes (not substantive amendments) are also recommended to ensure that the Code of Conduct is made as clear as possible. The first of those is the re-naming of all interests caught by the Code which are not Disclosable Pecuniary Interests as 'Other Interests'. Dealing with all types of interests within the Code, at paragraph 3.2, is considered to make the position as to interests easier for members to understand. So too is the use of the term 'prejudicial interest' in order to describe any interest which requires members to leave the room once they have declared their interest as well as the term 'non-prejudicial interest' which describes an interest which allows members to stay and participate in decision-making once they have declared the relevant interest.
- 3.6 Other amendments to the Code shown by tracked changes are considered to be of a relatively minor nature. They include specific reference to the preference that applications for a dispensation be received by the Monitoring Officer in writing and prior to meetings as well as a reminder that it is for Members to keep their interests under review. They also include greater clarity around the expectation

that the Code will not apply to those Members who are acting or appearing in the view of a reasonable person to be acting in a purely private capacity.

4. PROPOSED CHANGES TO THE PROCEDURE FOR DEALING WITH ALLGEGATIONS OF THE BREACHES OF THE CODE OF CONDUCT FOR MEMBERS: specific reference to the recourse which a subject member has to an Independent Person and a revised set of arrangements regarding the potential for the informal resolution of complaints.

- 4.1 As amended, the Procedure makes specific reference to the potential (which is specifically provided for in the Localism Act) for a member who is the subject of a complaint to consult with one of the Independent Persons. It also clarifies that the provisions as to the publicity of complaints pending their determination apply to all parties to the matter.
- 4.2 The suggested amendments also clarify the Monitoring Officer's existing authority to resolve complaints informally at preliminary assessment stage while also permitting him to resolve matters in this way once formal investigation has commenced where he considers that doing so is in the public interest and has first consulted with one of the Independent Persons.
- 4.3 A further change to existing arrangements is proposed, namely giving the Monitoring Officer the discretion to resolve matters informally where he considers that doing so is in the public interest and has consulted with one of the Independent Persons, this even once the formal investigation has been completed.
- 4.4 The objective of these proposals is to allow the Monitoring Officer the facility to resolve matters informally where there are clear public interest reasons for doing so, this provided that he has considered representations from the parties and consulted with one of the Independent Persons. An example of this might be where matters have proceeded apace since a complaint was first made and then referred for formal investigation and although the member concerned has expressed regret and offered an apology the affected party is not minded to accept it. The Working Group considered that need for the public interest to take precedence was not necessarily compatible with a rule which binds all parties to a hearing with all of the attendant resource and cost implications and without regard to the particular facts of the case.
- 4.5 Substantive breach: although the Monitoring Officer will normally refer matters to a Standards Panel where an investigator's report has concluded that a substantive breach has occurred, it is proposed that he may exceptionally decide that it is not in the public interest to refer the matter to a Panel. This exercise of his discretion is to be enacted only having first 1) recommended to the parties that the matter be resolved informally and given them the opportunity to make representations and also 2) consulted with one of the Independent Persons, who in addition has explicitly agreed with the merits of the Monitoring Officer's recommended course of action. The latter has been designed as an additional safeguard which is appropriate given the stage which proceedings will at that point have reached. This measure aims to provide reassurance to all parties by providing that this additional step is built into this particular situation so as to ensure that fairness is achieved.

- 4.6 Technical but minimal breach: the proposed changes remove the parties' right to have a finding of a technical but minimal breach heard by a Standards Panel. Again the Monitoring Officer may recommend informal resolution to the parties, having first consulted with the Independent person. These amendments make explicit his discretion to resolve matters informally in cases where one or more party has indicated that they nonetheless wish a Panel to be convened.
- 4.7 No breach: the suggested wording brings the position where there is a finding that no breach has occurred into line with that described above in relation to a finding of a technical but minimal breach: the Monitoring Officer is given an explicit discretion to resolve matters informally, without referral to a Panel, when having consulted with one of the Independent Persons he considers that the public interest is best met by such an outcome.

5. OTHER MATTERS

5.1 Flowcharts

- 5.2 The Working Group also considered two flowcharts, which aim firstly to assist Members in deciding whether they have an interest (appendix 3) and secondly to clarify the process of determining complaints (appendix 4). These two flowcharts - amended to reflect the proposed changes - are attached. If the amendments recommended in this report are agreed they will be circulated for illustrative purposes.

5.3 Member Training

- 5.4 Training of members of the Audit and Standards Committee only was carried out during July 2016.
- 5.5 Refresher training for all Members on the Code - and its interaction with predetermination and/or bias – is considered to be a key means of ensuring that Members are as well-equipped as possible to participate in democratic decision-making in a compliant way.
- 5.6 Training for all members on the revised Code will therefore be scheduled to take place once the Code (and for completeness the accompanying Procedure) has been considered and agreed by full Council.

6. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 6.1 The Council is obliged under the Localism Act to make arrangements for maintaining high standards of conduct among members and to make arrangements for the investigation of complaints. The proposals outlined in this report and in the appended documents are made with this aim in mind. No alternative options are mooted.

7. COMMUNITY ENGAGEMENT & CONSULTATION

- 7.1 This report focuses mainly on internal rules and procedures and as a result no need to consult with the local community has been identified.

8. CONCLUSION

- 8.1 Members are asked to note the contents of this Report and to approve the Procedure as amended while recommending the suggestions for amendments to the Code of Conduct for Members (which forms part of the Council's Constitution) to full Council for formal approval.

9. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 10.1 There are no additional financial implications arising from this report

Finance Officer Consulted: Jeff Coates

Date: 04/11/2016

Legal Implications:

- 10.2 These are covered in the body of the report

Lawyer Consulted: Victoria Simpson

Date: 18 October 2016

Equalities Implications:

- 10.3 There are no equalities implications arising from this report

Sustainability Implications:

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

Any Other Significant Implications:

- 10.5 None

SUPPORTING DOCUMENTATION

Appendices:

1. Code of Conduct for Members – showing proposed amendments as tracked changes
2. Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members – showing proposed amendments as tracked changes
3. Flowchart: Guide for Members: do I have an interest?
4. Flowchart: the Procedure for Dealing with Member Complaints

Documents in Members' Rooms:

1. None.

Background Documents:

1. None

CODE OF CONDUCT FOR MEMBERS

Introduction

This Code of Conduct covers all elected members and co-opted members (together referred to in this Code as ‘Member’ or ‘Members’ as appropriate) of Brighton & Hove City Council whenever they are acting as a member or representative of the council or when they claim to act or give the impression of acting as a representative of the council. The Independent Persons who are appointed to the Council’s Audit and Standards Committee are also expected to abide by this Code in terms of the standards of behaviour they observe and by voluntarily declaring any interests they have in any matter under discussion at any meeting.

The requirements outlined in this Code regarding the Declaration of Interests at Meetings apply to formal meetings of the Council, its committees and sub committees and its joint committees and sub committees. Members are however encouraged to voluntarily declare at all meetings, both formal and informal, any facts which they consider may be relevant to the perception of their decision-making, this although they are not required to do so.

The Code does not apply when Members are acting or appearing in the perception of a reasonable person to be acting in a purely private capacity.

When carrying out their public role, Members must adhere to the seven principles of public life – selflessness, integrity, objectivity, accountability, openness, honesty, and leadership, as defined in Appendix BC.

This Code of Conduct should be read alongside the Council’s corporate values – respect, collaboration, efficiency, openness, creativity, and customer focus, as defined in Appendix CD.

When applying and interpreting this Code of Conduct, Members should have regard to the following policies and documents (as amended from time to time):

- (a) Council Procedure Rules
- (b) Arrangements regarding the Register of Members’ Interests
- (c) Practice Note – Use of Council Facilities
- (d) Protocol for Members regarding planning applications
- (e) Code of Conduct for Member/Officer Relations
- (f) Guidance on use of social media
- (g) Guidance on confidentiality
- (h) Anti-fraud and Corruption Strategy

(i) Whistleblowing Policy

Behaviour

- 1.1. Members must behave in such a way that a reasonable person would regard as respectful.
- 1.2. Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- 1.3. Members must not act in a way which a reasonable person would regard as bullying or intimidatory.
- 1.4. Members must not seek to improperly confer an advantage or disadvantage on any person.
- 1.5. Members must not do anything which may cause the council to breach any of its equality duties (in particular as set out in the Equality Act 2010).
- 1.6. Members must only use the resources of the council in accordance with the Practice Note on Publicity and the Use of Council Facilities [*insert hyperlink to Practice Note*].
- 1.7. Members must not disclose information which is confidential or exempt from publication or where disclosure is prohibited by law.
- 1.8. Members must not refuse or fail to –
 - (i) co-operate with official council investigations of any description, including those into alleged breaches of this Code unauthorised disclosures of confidential information (irrespective of which Member may have made such alleged unauthorised disclosures); and/or
 - (ii) provide full access to all material that, in the view of the investigating officer, may be relevant to such an investigation.
- 1.9. Members must respect the impartiality of officers and not act in a way that a reasonable person would regard as bringing an officer's impartiality into question.
- 1.10 When reaching decisions on any matter, Members must have regard to any relevant advice provided to them by the council's—
 - (i) chief finance officer;
 - (ii) monitoring officer; or
 - (iii) chief executive and head of paid servicewhere that officer is acting pursuant to his or her statutory duties.
- 1.11 Where, following a complaint that a Member has breached this Code of Conduct, and the complainant and the Member complained of consent to resolve the matter informally by a particular means, the Member must co-operate and comply with the agreed method of resolution.

Registration of interests

- 2.1. Within 28 days of ~~this Code being adopted by the council, or~~ the Member's election or the co-opted member's appointment (where that is later), Members must ~~register~~ notify with the Monitoring Officer of their Disclosable Pecuniary Interests which ~~interests which~~ fall within the categories set out in Appendixes A. They must also notify the Monitoring Officer of those of their Other Interests which must be entered on the Register of Interests pursuant to para 3.2 of this Code and B.
- 2.2. Upon the re-election of a Member, or the re-appointment of a co-opted member, Members must within 28 days ~~re-notify~~ register ~~notify with~~ the Monitoring Officer of all of their registrable any interests which fall within the categories of Disclosable Pecuniary Interests and Other ~~declarable~~ interests, defined in ~~in~~ Appendixes A and para 3.2 below B, whether previously registered or not.
- 2.3. Members must ~~register with~~ notify the Monitoring Officer of any change to their registrable interests and/or of any new new registrable interests as defined by ~~in~~ Appendixes A and para 3.2 B within 28 days of becoming aware of the relevant interest.
- 2.4. ~~While members must need not notify the Monitoring Officer of all of~~ register a their registrable interests, ny interest which the Monitoring Officer may agree not to make public any interest which s/he agrees is a 'sensitive interest'. A sensitive interest is one which, if made public, could lead to the Member or a person connected with the Member being made subject ~~ed~~ to violence or intimidation.
- 2.5 In the interests of being seen to take decisions in an open and transparent manner and in accordance with the principle of Openness which forms one of the Seven Principles of Public Life (see Appendix B G), Members may voluntarily provide written notification to the Monitoring Officer of their membership _____ _____ _____ of any private club, society or organisation (and of any subsequent change or addition to their membership).
- 2.6 Similarly members may request that facts be minuted at any meeting where they consider that their circumstances affect their relationship to the issue under debate, although they are not compulsorily required to declare them as disclosable pecuniary interests or Other Interests under this Code.
- 2.7 While members may choose to make voluntary declarations to assist in ensuring transparency, paragraphs 2.5 and 2.6 , ~~This section is are not not however~~ to be read as creating any additional obligations on any member to disclose voluntarily any matter which they are not otherwise obliged to declare under the terms of this Code. -

Declaration of interests at meetings

A. Disclosable Pecuniary Interests

N.B. It is a criminal offence to fail to notify the Monitoring Officer of a disclosable pecuniary interest (as defined in Appendix A), to take part in discussion or votes at meetings, or to take a decision, where you have a disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the Monitoring Officer in connection with the registration and/or declaration of interests.

3.1. Where a matter arises at a meeting of the Council, one of its committees or sub committees (or at a joint committee or sub committee), which relates to an interest in Appendix A, Members—

- (i) must declare their interest;
- (ii) may not participate in a discussion or vote on the matter;
- (iii) must, in accordance with council procedure rule 25.4, leave the room where the meeting is held, while any discussion or voting takes place.

B. Other declarable interests, or 'Other Interests'

3.2 Members may have an interest in a matter under consideration even where they do not have a Disclosable Pecuniary Interest. These other declarable interests are known as 'Other Interests' and may be subject to paras 2.1 to 2.4 inclusive in which case they must be notified:

Other Interests which must be notified to the Monitoring Officer:

1. Any body of which the Member is in a position of general control or management, or
2. Any gift or hospitality worth more than an estimated value of £50, which the Member has accepted by virtue of his or her office

Other Interests which need not be notified (but must be declared):

3. Any interest of a financial nature of the Member, their spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners which is not a Disclosable Pecuniary Interest.

~~Where a matter arises at a meeting which relates to or affects either an interest in as defined in Appendix B or~~

~~— any financial interest of the Member, their spouse or civil partner, a person whom they are living as husband or wife, or a person with whom they are living as if they are civil partners (and it is not a Disclosable Pecuniary Interest), Members must declare the that interest at the meeting.~~

3.3 Where a matter arises at a meeting which relates to or affects any Other Interest then (whether or not it is a compulsorily notifiable interest) the Member must declare that interest at the meeting.

3.4 Where the Member has either an Other Interest interest as defined above in Appendix B or a matter affects the declarable interest as described in under paragraph 3.2 and then they must in addition consider whether¹):

- a) their interest is affected by the matter under consideration more than the interests of the majority of people in the area affected by the matter, and if so, whether
b) a reasonable member of the public would think the Member's judgement of the public interest would be adversely affected by the interest.

If the answer to a) and b) above is yes then, the Member—

- (i) must declare the interest at the relevant time;
- (ii) may not participate in a discussion or vote on the matter; and
- (iii) must leave the room where the meeting is held, while any discussion or voting takes place.

3.5 Where the Member has an Other Interest pursuant to para 3.2 but they are permitted to continue participating in decision-making once they have declared it pursuant to para 3.3 then they will have a declarable **non-prejudicial interest**. Where they are not permitted to participate in decision-making either as a result of an Other Interest or because they have a Disclosable Pecuniary Interest then their interest will be a **prejudicial interest**

3.64—Where a matter arises at a meeting which relates to a sensitive interest defined under paragraph 2.4, Members are not required to disclose the nature of their interest. However they must nonetheless disclose the fact that they have a disclosable pecuniary interest and must follow the rules regarding non-participation.

C. Dispensations

~~3.4—Where a matter arises at a meeting which is a sensitive interest as defined under paragraph 2.4, Members do not have to declare the nature of their interest but must follow the rules regarding non-participation.~~

3.75 On a written request made to the council's Monitoring Officer, usually preferably in advance of the meeting, the Monitoring Officer may council may— on the—
~~— advice of the Monitoring Officer~~ following consultation, where reasonably practicable, with either one of
~~—~~ the Independent Persons or the Chair of Audit & Standards Committee – grant a Member a dispensation to participate in a discussion and/or vote on a matter at a meeting where they would otherwise not be allowed to if the Monitoring Officer council believes 1) that the

number of Members

—otherwise prohibited from taking part in the meeting would be so great a proportion of the relevant body as to impede the transaction of the business; or 2) considers that without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote; or 3) considers that it is in the interests of the inhabitants in the council's area to allow the Member to take part; or 4) considers that it is otherwise appropriate to grant a dispensation.

3.86 Members are not required to register or declare an interest that is shared with ordinary members of the public living or working in the area (such as the payment of, or liability to pay, council tax, or having bins collected) or that arises simply from being a Member (such as Members' allowances); or where the interest is otherwise de minimis.

3.97 Accordingly, no Member will need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax reduction schemes, because it is a decision affecting the generality of the public in the council's area, rather than one or more individual:-

:-

3.810 It is at all times the responsibility of each individual member to monitor whether they have any disclosed or as yet undisclosed interests in matters under consideration and to declare these same where necessary. ~~Where such an interest does exist, it is for the member to determine whether their interest affects them more than the majority of people or local arrangements for council tax reduction schemes, because it is a decision affecting the generality of the public in the council's area and to assess how a reasonable member of the public would view their capacity to judge the public interest before making the decision regarding whether to continue participating in decision-making., rather than one or~~
more individual Members.

Appendix A – Disclosable Pecuniary Interests

The interests defined by regulations made under section 30(3) of the Localism Act 2011 are described in the table below.

N.B. Interests listed in this Appendix are those of the Member; or those of their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners), where the Member is aware that their partner has the interest.

Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit

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(other than from Brighton & Hove City Council) made or provided in the 12 month period preceding notification of this pecuniary interest in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts

Any contract which is made between you or other relevant persons* (or a body in which the relevant person has a beneficial interest**) and the relevant authority –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

*A “relevant person” is your spouse or civil partner; a person with whom you are living as husband or wife; or a person with whom you are living as if they were a civil partner.

** A “body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“Director” includes a member of the committee of management of a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union.

See ‘Securities’ below for definition of ‘securities’.

Land

Any beneficial interest in land which is within the area of the relevant authority.

“Land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

Licences

Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies	Any tenancy where (to the member's knowledge) - (a) the landlord is the relevant authority; and (b) the tenant is a "body in which the relevant person has a beneficial interest" (see ** under 'Contracts' for definition) .
Securities	Any beneficial interest in securities of a body where – (a) that body (to the member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. *"Securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society. See 'Land' in left column for definition of 'land'.

Appendix B – Other Interests

- ~~1. Any body of which the Member is in a position of general control or management.~~
- ~~2. Any gifts or hospitality worth more than an estimated value of £50, which the Member has accepted by virtue of his or her office.~~
- ~~3. Any interest of a financial nature of the Member, their spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners which is not a Disclosable Pecuniary Interest.~~

Appendix BC – the Seven Principles of Public Life

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Selflessness	Members should act solely in terms of the public interest.
Integrity	Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity	Members must act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
Accountability	Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness	Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.
Honesty	Members should be truthful.
Leadership	Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix **CD** – the Council’s Corporate Values

Respect	Embrace diversity with kindness and consideration, and recognise the value of everyone
Collaboration	Work together to contribute to the creation of effective and successful decision making forums, working groups and partnerships across the council and beyond
Efficiency	Work in a way that makes the best and most sustainable use of the council’s resources
Openness	Share and communicate with honesty about the council and its decisions and activities
Creativity	Have ideas that challenge the ‘tried and tested’; use evidence of

what works; listen proactively to feedback from constituents and others

Customer Focus

Do your part to help the council deliver its 'Customer Promise' to colleagues, partners and customers; the council aims to listen, to be easy to reach, to be clear, to treat everyone with respect, and to get things done.

Brighton & Hove City Council

Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members

1. Introduction and legal framework

- 1.1 This procedure is made in accordance with section 28(6) of the Localism Act 2011 which requires the council to have in place arrangements for investigating and determining allegations that a member or co-opted member of the council has failed to comply with its Code of Conduct for Members.
- 1.2 This version of the procedure supersedes all previous versions.
- 1.3 The Code of Conduct to which this procedure relates was originally adopted by the Council in 2012 in accordance with section 27 of the Localism Act 2011, has undergone minor revision since then, and is set out at 8.1 in the [Council's constitution](#)

2. Principles

The principles underpinning the procedure are:

- (i) a drive to engender member and public confidence that allegations of member misconduct will be dealt with effectively and efficiently;
- (ii) that Standards Panels reach their findings fairly and independently;
- (iii) that Standards Panel hearings be conducted openly, wherever possible

3. Making a complaint

- 3.1 If a person wishes to make a complaint about Member conduct, they should write to:

The Monitoring Officer
c/o Standards and Complaints
Brighton & Hove City Council

Hove Town Hall
Norton Road
Hove
BN3 3BQ

Or via the following link: [Councillor Complaint](#)

- 3.2 The complainant will be asked to provide their name and a postal or email address. Only complaints from named individuals will be accepted.
 - 3.3 Council officers wishing to complain about Member conduct are recommended to use the Code of Conduct for Member/Officer Relations but still have the option of using the complaints procedure set out here.
 - 3.4 The Monitoring Officer will inform the complainant that their complaint will be assessed against the Code of Conduct for Members and that they may if they wish seek the views of one of the Council's Independent Persons.
 - 3.5 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it, and will send the complainant standard information about the Council's policy on disclosing their identity, as set out in paragraph 4.2 below; and will require the complainant to confirm their agreement to this policy, in order for the complaint to proceed.
 - 3.6 The Council aims to complete the complaint process within a maximum of three months from receipt.
 - 3.7 Once a complaint has been filed with the Monitoring Officer, it may not be withdrawn without the consent of the complainant, the subject member and the Monitoring Officer.
 - 3.8 At an early stage in communications, the Council will discourage all parties – both the complainant and the subject member, as well as any other parties - from seeking actively to publicise the matter before the complaint has been fully determined.
4. Information provided to the Member complained about
 - 4.1 The Member against whom the complaint is directed (the 'subject member') will be notified that a complaint has been received as soon as possible and in any event within 5 working days of the council receiving it, unless the Monitoring Officer considers that doing so may prejudice any investigation into the complaint.
 - 4.2 The Monitoring Officer will provide the subject member with all documentation relevant to the complaint, including the identity of the

complainant except where doing so might compromise the complainant's safety. (See also paragraph 6.2 below)

4.3

5. Preliminary assessment

5.1 Subject to paragraph 5.2, the Monitoring Officer will, in consultation with one of the Independent Persons, carry out a preliminary assessment in order to determine what action should be taken.

5.2 The Monitoring Officer reserves the right to refer the preliminary assessment to the Standards Panel in respect of any complaint.

5.3 The Monitoring Officer will seek to complete his/her assessment within 10 working days of receiving a valid complaint, although the process may take longer if more information is required from the complainant or subject member (or both) for a proper assessment to be made.

5.4 Pursuant to paragraph 5.3, the Monitoring Officer may – having regard to the views of the relevant Independent Person – undertake small-scale preliminary enquiries directly related to the complaint, to help determine whether a formal investigation is required.

5.5 Based on the preliminary assessment, the Monitoring Officer may decide **not** to progress the complaint where –

- (i) the complaint is vexatious or frivolous in nature;
- (ii) if proven, the complaint would not amount to a breach of the code of conduct for members; or
- (iii) it would not be in the public interest to do so.

5.6 Where the circumstances in paragraph 5.5 do not apply, the Monitoring Officer may:

- (i) seek to resolve the complaint informally;
- (ii) arrange for the complaint to be formally investigated;

5.7 An informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or some other action on their part. Where the Member makes a reasonable offer of informal resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. In any event, the Monitoring Officer retains the discretion to resolve matters informally having consulted with the parties as well as with one of the Independent Persons.

5.8 Where the complainant and subject member have consented to resolve the complaint informally by a particular means (for example, by written

apology), the member should co-operate with and adhere to that measure.

- 5.9 Complaints settled informally, whether at this stage or during the course of a formal investigation, will be reported to the Audit & Standards Committee but without naming the parties involved.
- 5.10 Where the parties attempt to resolve the matter informally but fail to reach a mutually agreeable outcome, the matter will, subject to 5.7 above, be referred for investigation. In the subsequent report to a Standards Panel, it will be stated that informal resolution was attempted but did not succeed. Details of the negotiations comprising those attempts will not be published.
- 5.11 If the complaint identifies conduct which, on the face of it, is a criminal offence or regulatory breach by any person, the Monitoring Officer may refer the matter to the Police and/or appropriate regulatory body as well as, or in lieu of, an investigation by the council.
- 5.12 On completion of the assessment, the Monitoring Officer will inform the complainant and subject member of his/her decision, with reasons.

6. Formal Investigation

- 6.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another officer of the council, an officer of another local authority or an external investigator. The Investigating Officer will, subject to any direction from the Monitoring Officer, have discretion as to how the investigation is carried out.
- 6.2 The Investigating Officer will ask the complainant and the Member to provide their explanation of events, and will identify what documents he/she needs to see and whom he/she needs to interview. In exceptional cases, it may be appropriate to keep the identity of the complainant, witnesses, or key documents confidential where disclosure might prejudice the investigation.
- 6.3 The Investigating Officer will produce a draft report and send copies, in confidence, to the complainant and subject member, to give both an opportunity to identify any matter in the report which they feel requires more consideration.
- 6.4 Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer. If the Monitoring Officer is not satisfied that the investigation has been conducted properly or that aspects of the report require revision or clarification, he/she may ask the Investigating Officer to reconsider his/her report.

- 6.5 Copies of the final report will be sent to the complainant and the member concerned.
- 6.6 At any point during the investigation, the Monitoring Officer may consult the parties as to whether they would accept an informal settlement rather than continue with the formal investigation. Having regard to the wishes of the parties and the views of the Independent Person, the Monitoring Officer may halt the investigation and seek to resolve the matter informally. Should that course of action prove unsuccessful, the formal investigation would normally be resumed. However the Monitoring Officer retains the discretion to resolve matters informally having consulted with the parties as well as with one of the Independent Persons where s/he considers that doing so to be in the public interest.

7. Investigation Outcomes

- 7.1 On completion of a formal investigation, the findings available to the Investigating Officer in respect of each element of the Code of Conduct considered relevant are:

- (i) A substantive breach
- (ii) A technical but minimal breach
- (iii) No breach

7.2 **Substantive breach.**

Where the Investigating Officer finds that the subject member has substantively breached one or more elements of the code of conduct, the Monitoring Officer will normally refer the complaint to the Standards Panel for determination.

However where the Monitoring Officer considers exceptionally that it would not be in the public interest to refer the breach to a Standards Panel and has consulted with one of the Independent Persons, then provided that that Independent Person agrees, the Monitoring Officer may recommend to the parties that the matter be settled informally and invite the parties to make representations regarding whether or not they agree. While either the complainant or the subject member may request that the matter be referred to a Panel for determination, the Monitoring Officer will retain the discretion to resolve matters informally having consulted with all of the parties.

7.3 **Technical but minimal breach.**

- 7.3.1 This finding reflects a set of circumstances where the conduct

complained of does – on a strict interpretation – amount to a breach of the code, but little or no culpability attaches to the subject member. This could occur, for example, where the member had made an unintentional and minor administrative error on their declaration of interests by recording relevant information but under the wrong class of interest.

7.3.2 Where the Monitoring Officer, after consultation with one of the Independent Persons, considers that it would not be in the public interest to refer a technical but minimal breach to a Standards Panel, he will recommend to the parties that the matter be settled informally. While either party may request that the matter is referred to a Panel for determination, the Monitoring Officer will retain the discretion to resolve matters informally having consulted with all of the parties.

7.4 **No breach**

7.4.1 If the Investigation finds no breach of the code of conduct, and the Monitoring Officer considers – after consultation with the Independent Person – that there is no public interest in pursuing the matter further, he will contact both parties to ask if they accept the finding and are willing to end the matter there. If they respond in the affirmative, the Monitoring Officer will confirm to the parties in writing that the complaint will be taken no further. If either party rejects the finding or is not willing to conclude the matter, they may make representations to the Monitoring Officer as to why the complaint should nonetheless be referred to the Standards Panel. However the Monitoring Officer retains the discretion to decide to resolve the matter informally, without referral to a Panel.

7.4.2 Similarly the Monitoring Officer may, having consulted one of the Independent Persons, refer the complaint to the Standards Panel, even where the investigation finds no breach and the parties are willing to terminate the matter.

8. Standards Panel

8.1 As soon as reasonably practicable after referring a completed investigation to the Standards Panel for hearing and determination, the Monitoring Officer shall convene a meeting of the Panel.

8.2 The Monitoring Officer shall select the persons to comprise a Standards Panel, in accordance with the following criteria:

8.2.1 Membership of a Standards Panel is restricted to persons who –

- (a) are a member of Audit & Standards Committee; and
- (b) have attended the necessary training and re-training sessions specific to these Panels

8.2.2 The Panel shall consist of 3 or 5 elected members, appointed on a cross-party basis, plus one Independent Person who shall chair the Panel but not vote.

8.2.3 If more than the minimum number of qualified persons (pursuant to paragraph 8.2.1) are available for a particular Panel, selection will be based on (i) the criteria specified in 8.2.2 and (ii) in such a way that ensures a spread of experience across the Panel.

9. Arrangements for and Conduct of the Standards Panel Hearing

9.1 There is a presumption of openness with regard to Panel hearings. Hearings will be conducted in open session unless the Panel resolve that the public be excluded on one or more of the grounds permitted under Part VA of the Local Government Act 1972.

9.2 Where the hearing itself is open to the public, the Panel's deliberations following the hearing will be held in private..

9.3 Care is needed to ensure that the published report detailing the allegation and investigation does not unlawfully disclose personal or sensitive personal data of any party. Accordingly, the Monitoring Officer shall have discretion to redact material from the published report where necessary for data protection purposes.

9.4 Where the complaint concerns the use of an offensive word or expression, the wording will not be repeated in the Panel report more than is necessary and in any event placed within inverted commas, to indicate the words were those allegedly used by the subject member.

9.5 To coincide with the publication of the hearing report, the Council shall (unless the Panel is being advised to consider excluding the public from the hearing) issue a press release about the hearing, which shall include an explanation of the Independent Person's role. Advice will be sought from the council's Head of Communications as to the precise content of the release.

9.6 The Independent Person, in his/her capacity as Panel chair, may – after consulting the Monitoring Officer – issue directions as to the manner in which the hearing is to be conducted.

9.8 Adequate security must be in place throughout the hearing, to protect Panel members and other parties actively involved in the hearing against threats or intimidation.

9.9 Arrangements must be made to ensure the privacy of the Panel while in recess following the hearing.

9.10 Arrangements must enable the Panel to conduct their deliberations in recess without feeling pressurised to reach a decision within a set time.

10. Reaching a Decision

- 10.1 In accordance with statutory requirements, the voting members of the Panel must seek and take into account the views of the Independent Person before reaching their decision in respect of the allegation.
- 10.2 The Panel should, where possible, reach their decision by consensus and vote by acclamation. Where there is disagreement, the matter shall be put to a vote with Members voting for or against the proposal..
- 10.3 The decision of the majority of the Panel Members shall constitute the decision of the Panel. The Chair, being an Independent Person, shall not be permitted to vote or exercise a casting vote.
- 10.4 In the event that no majority decision can be reached (e.g. where one voting member felt unable to decide the allegation), the Panel will make no finding and a fresh Panel shall be appointed to re-hear the complaint.
- 10.5 The decision of the Panel should be owned collectively by all its Members and Panel Members should, as far as reasonably practicable, avoid statements or actions that undermine public confidence in the complaints process.

11. Range of decisions available to the Standards Panel

- 11.1 Having heard the allegation, the Standards Panel may –
- (i) find that the subject member **did fail** to comply with the council's code of conduct for members in one or more respects;
 - (ii) find that the subject member **did not fail** to comply with the council's code of conduct for members;
 - (iii) make no finding in respect of the allegation. It is open to the Panel merely to note the issues raised by the complaint and, if appropriate, to make recommendations which address them.
- 11.2 Even where the Panel finds a breach, it is not obliged to take action in respect of the member. In accordance with section 28(11) of the Localism Act, it must have regard to the failure in deciding *whether* to take action and, if so, what action to take.
- 11.3 Neither the Standards Panel nor any other body of the council has power to suspend or disqualify a member or to withdraw their basic or special responsibility allowance.

- 11.4 Actions the Panel may take in relation to a member who has failed to comply with the code of conduct include:
- (i) publishing its findings in respect of the member's conduct;
 - (ii) writing a formal letter to the member, which could include recommended actions such as an apology;
 - (iii) reporting its findings to Council for information; or recommending to Council that it takes one or more of the actions listed here;
 - (iv) formal censure;
 - (v) recommending to the member's Group Leader that he be removed from any or all of the council's committees or sub-committees;
 - (vi) recommending that the Monitoring Officer offer appropriate training

12. Publicising the Panel's Decision

At the end of the hearing, the Chair will state the decision of the Standards Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Standards Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Standards Panel, send a copy to the complainant and the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Audit and Standards Committee.

13. Right of Appeal

- 13.1 Subject to paragraphs 13.2 to 13.4, the complainant and subject member may each appeal the decision of the Standards Panel.
- 13.2 A request for an appeal must be made in writing to the Monitoring Officer and set out reasons for the request, with reference to the grounds set out in paragraph 13.4.
- 13.3 The appeal request must be received by the Monitoring Officer within 10 working days of the original Panel hearing.
- 13.4 The appeal request will only be granted if one or more of the following criteria are met:

- (i) the hearing was procedurally flawed; a relevant consideration was not taken into account; or an irrelevant consideration was taken into account;
- (ii) new evidence or material has arisen with a direct and significant bearing on the allegation; or
- (iii) the Panel's decision was irrational, meaning it was so unreasonable that no sensible Standards Panel, having applied its mind to the complaint, could have arrived at that decision.

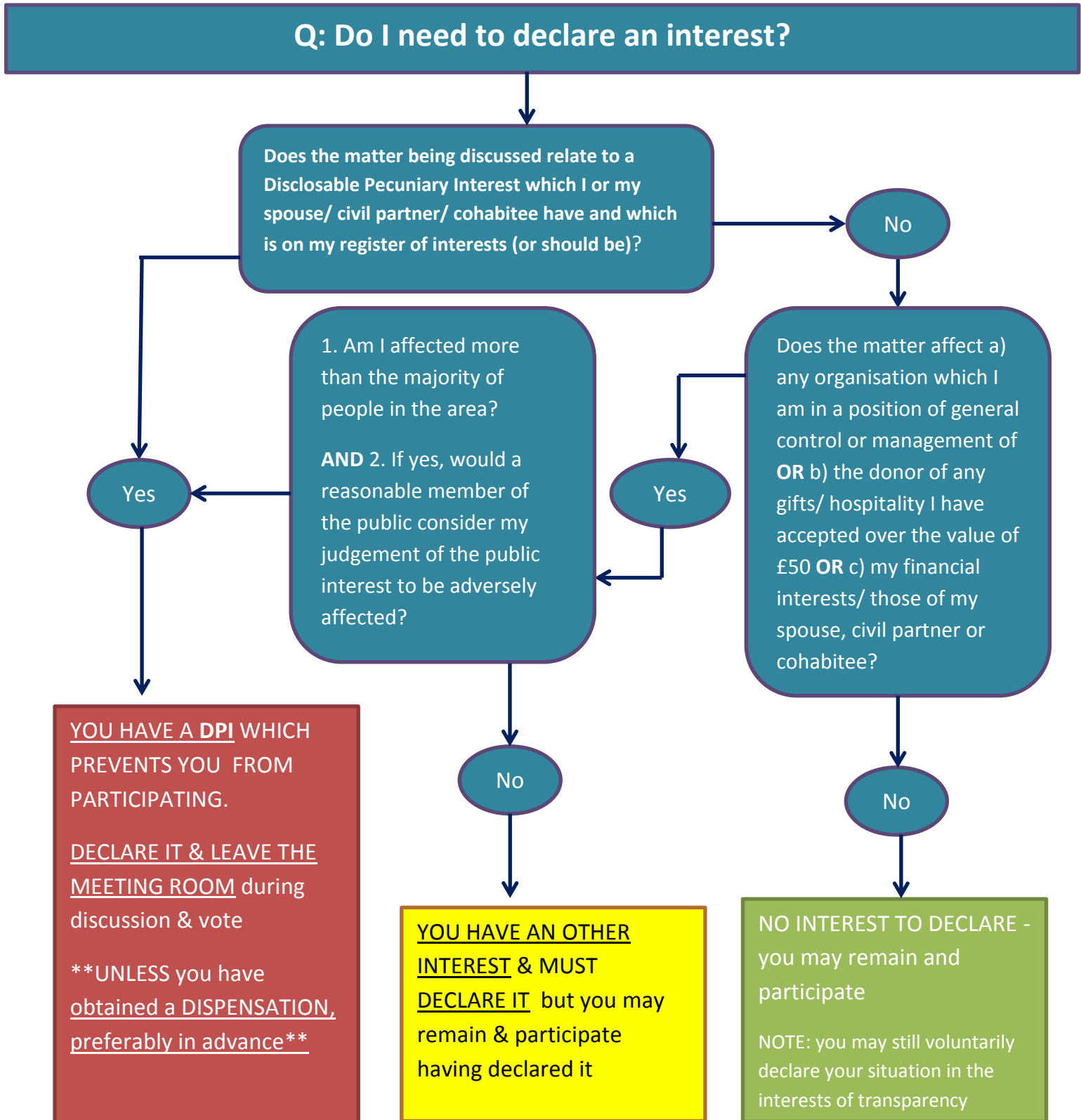
13.5 The decision as to whether the appeal request does fulfil one or more of the above criteria, resulting in the request being granted, shall be in the sole discretion of the Monitoring Officer, in consultation with the Independent Person.

13.6 In the event that an appeal is granted, a Standards Panel composed of different members to the one that heard the original case will consider the entire case. The appeal Panel may dismiss or uphold the appeal. If they uphold the appeal, they may substitute the original decision with a new decision. If the appeal Panel considers that essential information was not included in the investigation, they may refer the complaint back to the investigation stage.

13.7 There is no internal right of appeal from the decision of the appeal Panel.

Guide for members: Do I need to declare an interest at this meeting?

NOTE: this flowchart is not intended to replace the Code of Conduct for members but must be read alongside it. Any queries or requests for a dispensation should be raised with the Monitoring Officer/ the legal team prior to the meeting.



Explanatory notes to interests flowchart: the Code of Conduct for Members outlines the standards of conduct expected of members in relation to the declaring of interests. This flowchart is not a substitute for the Code and must be read alongside it.

.....

1) Disclosable Pecuniary Interests must be registered and also declared at the meeting. **If you/ your spouse/ civil partner/ cohabitee has a DPI in a matter under consideration then you must not participate unless you have been granted a dispensation by the Monitoring Officer.**

Your DPIs include:

- any **sponsorship** received in connection with my election or my duties as a member
- any **employment/trade /office/profession/ vocation** carried out for **profit** or for **gain**
- any **contract not yet fully discharged** between me/my spouse, civil partner or cohabitee OR any body of which I (or my spouse, partner etc) are partner or director OF or have a beneficial interest in
- any **land** I have a beneficial interest in or **licence to occupy**, incl jointly OR **any corporate tenancy** where the Council is the landlord and the tenant is a body in which I (or my spouse, civil partner, cohabitee) have a beneficial interest
- any beneficial interest in (ie a right to profit from) the **securities** (ie shares, stocks, bonds) of a body which has a place or business in the authority's area and exceeds the threshold value*

For the full definition of a DPI, see the [Code of Conduct](#). This also defines your **Other Interests** (any body of which you are in a position of general control or management or gifts or hospitality of an estimated value of £50 or more), including financial interests which aren't DPIs but nonetheless are held by you, your spouse, civil partner or cohabitee.

Dispensations: please be aware of the need to apply to the Monitoring Officer in writing in advance for a **dispensation** where you wish to participate despite having a DPI/ Other Interest.

Voluntary disclosure: while you may not have a DPI or Other Interest in the matter under consideration, you may a) choose voluntarily to disclose an interest or fact before participating or b) decide not to participate on the grounds that there is a potential perception of bias or pre-determination because of an interest held by you/ a relative not covered by the Code or friend. Advice is always available, preferably in advance of the meeting, from your Monitoring Officer or Committee lawyer.

2) FAQs:

1 If I am an ordinary member of a trade union, do I have an interest in matters affecting eg trade union facilities?

The Disclosable Pecuniary Interests which members must declare are prescribed by regulations made under the Localism Act 2011. As BHCC has adopted a Code of Conduct which reflects the definition of DPIs prescribed by regulation, a BHCC member will have a DPI only where they have received financial sponsorship during the qualifying period toward either their election expenses or the carrying out of their duties. Where an ordinary union member has not received financial sponsorship, then a DPI will not arise from the fact of their membership.

Members holding office in a union for which they are unpaid/ receive paid expenses only are unlikely to have a DPI. They may however have an interest which is not a DPI – either a financial or 'Other

Interest’ – in which case they will need to declare that interest and decide whether or not to participate, depending on their assessment of whether a reasonable member of the public would think their judgement of the public interest adversely affected.

2 What about if I own land in the area – can I still participate in the setting of Council tax?

All interests in land (whether freehold, leasehold or some other interest) must be registered as DPIs. At Brighton & Hove, all members are invited to apply to the Monitoring Officer in advance for a dispensation to enable them to participate in setting the Council Tax, precept, or local arrangements for Council Tax. When applying for a dispensation, members are invited to draw attention to any circumstances particular to them/ their spouse or partner (for instance where their spouse’s employment is at risk) additional to their interest in land. That interest must be declared (as an Other Interest) in the normal way even where a dispensation has been granted to allow participation.

3. What if I or my spouse hold an ordinary bank account, for instance a current account with one of the high street banks?

There is no requirement to register ordinary bank accounts as DPIs. Such accounts will not normally be deemed to be an Other Interest under the de minimis rule and so need not be declared.

4. My daughter is a schoolteacher employed by the Council – do I need to declare that?

The Code does not require members to declare any interests which are held by anyone other than themselves or their spouse, cohabitee or civil partner. You are therefore not required to declare interests which affect only your friends or other relatives.

However in a situation which is sensitive – perhaps because there is an obvious financial interest at stake which affects those close to you and/or information relating to your associate/ relative is in the public domain - then you may choose to declare an interest in the interests of transparency. While this sort of declaration is normally voluntary and therefore at the individual member’s discretion, it will be in the authority’s best interests in certain situations, particularly where a Committee is exercising a quasi-judicial function and/or there is a risk of bias or predetermination if you participate in decision-making.

.....

Input regarding your responsibilities under the Code and how to approach the declaration of interests is always available from the Monitoring Officer or the Deputy Head of Law.

October 2016.

The Member complaints process

Complaint received in

criteria for MO when determining whether to investigate:
Vexatious/Frivolous
Complaint outside scope of Code
Not in Public Interest

Preliminary Assessment stage:
Monitoring Officer decides in consultation with one of the Independent Persons

Formal investigation by Investigating Officer

Informal Resolution

No Investigation

Investigating Officer's report to MO

Investigation finds a breach

Investigation finds no breach

Substantive Breach

Technical but minimal breach

MO determines the best outcome in the public interest having consulted with the parties

Does MO Consider - **and the IP agree** - that exceptional reasons in the public interest apply?

Does the Monitoring Officer consider that it is in the public interest to refer to Panel?

Standards Panel

Informal resolution

Yes

No

Yes

No

Standards Panel

MO may resolve via informal settlement having consulted with the parties

MO has discretion to resolve matters informally in the public interest having first consulted/obtained the agreement of one of the IPs

Note: whenever the MO is making a decision as to next steps, he must consult with one of the IPs. In the event that he is exceptionally considering not referring to a Standards Panel a matter in which an investigator considers that a substantive breach has occurred, he may exercise his discretion to resolve matters informally only with the IP's express agreement.

Council

15 December 2016

Agenda Item 53

Brighton & Hove City Council

Subject:	Gambling Act 2005 - Revised Gambling Policy - Extract from the proceedings of the Licensing Committee (Licensing Act 2003 Functions), held on the 24 November 2016		
Date of Meeting:	15 December 2016		
Report of:	Executive Lead for Strategy, Governance & Law		
Contact Officer:	Name:	Penny Jennings	Tel: 01273 291064
	e-mail:	penny.jennings@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE***Action Required of Council:***

To receive the item referred from the Licensing Committee (Licensing Act 2003 – Functions) for approval:

Recommendation:

That the Revised Gambling Policy (as appended to the report and as agreed at the meeting of the Licensing Committee) be approved and adopted by the Council.

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (LICENSING ACT 2003 FUNCTIONS)

5.15PM

THE COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors O Quinn (Chair), Morris (Deputy Chair), Wares (Opposition Spokesperson), Deane (Group Spokesperson), Bell, Cattell, Cobb, Horan, Hyde, Gilbey, Lewry, Page, Phillips, Russell-Moyle and Simson.

PART ONE**18. GAMBLING ACT 2005 – REVISED GAMBLING POLICY**

- 18.1 The Committee considered a report of the Director of Neighbourhoods, Communities and Housing seeking approval to the final version of the “Revised Gambling Policy” as set out in Appendix 1 to the report.
- 18.2 The Licensing Manager, Jim Whitelegg, explained that under the Gambling Act 2005, Licensing Authorities were required to prepare a statement every three years (also known as a Policy) setting out the principles which they proposed to apply when exercising their functions. They were required to publish the Statement/Policy following procedures set out in the Gambling Act 2005 which also set out details regarding whom should be consulted.
- 18.3 At the meeting of the Committee which had taken place on 3 March 2016 it had been agreed that officers initiate consultation regarding a review of the council’s revised Gambling Policy. Officers had re-written the Policy in light of the changes to the Licensing Conditions and Code of Practice (LCCP) and Guidance for Local Authorities (GLA), to incorporate the new social responsibility requirements which had come into force in April 2016. The revised Policy was now set before the Committee for approval.
- 18.4 Councillor Gilbey stated that in some instances Challenge 21 requirements were referred to and in other instances reference was made to Challenge 25, this appeared to be an anomaly and she queried whether this was correct. It was explained that this was correct as the guidance in relation to gambling provisions continued to refer to an age requirement of 21.
- 18.5 Councillor Page enquired whether there was any flexibility around how charges were set and it was confirmed that there was not as this was prescribed by the legislation.

- 18.6 A vote was taken and the 10 Members who were present when the vote was taken voted unanimously that the report recommendations be agreed and that the final version of the Statement of Gambling Policy as set out in Appendix 1 to the report be forwarded to the next scheduled meeting of Full Council for approval and adoption.
- 18.7 **RESOLVED** – That Members agree to refer the final version of the Statement of Gambling Policy as set out in (Appendix 1) to the report to Full Council for adoption
- 18.8 **RESOLVED TO RECOMMEND** – That the final version of the Statement of Gambling Policy be approved and adopted by Full Council having been agreed by the Committee and set out in Resolution 1 above.

Note: Councillors Hyde and Simson were not present at the meeting when the vote was taken.

Subject:	Gambling Act 2005 – revised Gambling policy		
Date of Meeting:	Council 15th December 2016 24 November 2016		
Report of:	Executive Director for Neighbourhoods, Communities and Housing		
Contact Officer:	Name:	Jim Whitelegg, Licensing Manager	Tel: 29-2438
	Email:	Jim.whitelegg@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The Gambling Act 2005 requires Licensing Authorities to prepare, every three years, a statement (also known as a Policy) of the principles which they propose to apply when exercising their functions, and they must publish the statement following the procedure set out in the Act, including whom they should consult.

2. RECOMMENDATIONS:

- 2.1 That members agree to refer the final version of the Statement of Gambling Policy to Full Council for adoption. (Appendix 1)
- 2.2 That the final Statement of Gambling Policy is presented to Full Council.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On 3 March 2016, Licensing Committee received a report and asked officers to initiate consultation regarding a review of the council's revised Gambling Policy. Officers have re-written the Policy in light of the changes to the Licensing Conditions and Code of Practice (LCCP) and Guidance for Local Authorities (GLA), to incorporate the new social responsibility requirements which came into force in April 2016.

4. CONSULTATION

- 4.1 Consultation commenced on 4 April 2016 and lasted 3 months, closing on the 3 July 2016. The revised Policy is a more comprehensive and detailed document and has been updated to include:-
- A section on Local Risk Assessment and Local Area profile (Part C para 13).

- Details and guidance for each type of premises licence issued, including a list of good practice control measures/conditions to promote licensing objectives (Part C).
- An updated enforcement section to reflect work done by the licensing team, including test purchasing.

The revised statement of gambling policy was sent to statutory consultees and was available on the council's website and consultation portal.

4.2 A total of 8 responses were received, 3 from local residents, 1 from Head of Children's Safeguarding BHCC, 1 from East Sussex Fire and Rescue Service and 3 from business/trade organisations. The responses were evaluated and a summary of comments can be found in Appendices 2 and 3. Respondents were generally in favour of the proposed changes. No changes have been made to the policy which was consulted on, other than amending minor typographical errors.

4.3 Before the revised "Statement of Gambling Policy", comes into effect the local authority is required to publish the Statement of policy on the Council's website, and make it available for inspection at one or more public libraries for a period of at least 4 weeks before the date on which it will come into effect. The authority must also publish a notice of its intention to publish a statement no later than the first day on which the statement is published.

The notice must:

- a) Specify the date on which the statement is to be published
- b) Specify the date on which the statement will come into effect
- c) Specify the internet address where the statement will be published and the address of the premises at which it may be inspected, and
- d) Be published on the authority's website and in or on one or more of the following places:
 - A local newspaper circulating in the area covered by the statement
 - A local newsletter, circular or similar document circulating in the area covered by the statement
 - A public notice board on or near the principal office of the authority's public notice board on the premises of public libraries in the area covered by the statement.

4.4 The timetable is as follows:

- Licensing Committee 24 November 2016
- Full Council 15 December 2016
- Advertised and published during December 2016
- January 2017 Revised Statement comes into effect

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no financial implications arising from the production of this statement, as licensing fees are set at a level that will be cost neutral to the licensing authority.

Finance Officer Consulted: Michael Bentley

Date: 18/10/16

Legal Implications:

- 5.2 Local authority responsibilities include: upholding licensing objectives, publishing a three year licensing policy, determining applications for premises licences and regulating members clubs – club gaming and machine permits. The Licensing Committee established under section 6 of the Licensing Act 2003 has authority to exercise functions under the Gambling Act 2005 with the exception of: a resolution not to issue casino licences, the three year licensing policy (full council) and setting fees.

Lawyer Consulted: Rebecca Sidell

Date: 19/10/16

Equalities Implications:

- 5.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling is one of the licensing objectives. The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. "Vulnerable persons" will not be defined but for regulatory purposes the assumption is that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. Operators should encourage where appropriate, strategies for self help and provide information on organisations where advice and help can be sought.

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments.

Sustainability Implications:

- 5.4 None.

Crime & Disorder Implications:

- 5.5 Gambling Commission inspectors have the main enforcement/compliance role. The police and licensing authority officers have powers of entry and inspection.

Risk and Opportunity Management Implications:

- 5.6 Gambling licensing objectives are:
- a) Preventing gambling from being a source of crime and disorder, being associated with crime and disorder, or being used to support crime
 - b) Ensuring gambling is conducted in a fair and open way
 - c) Protection children and other vulnerable persons from being harmed or exploited by gambling.

Corporate/Citywide Implications:

- 5.7 Licensing authorities licence all gambling premises in the city: casinos, bingo, betting, tracks, adult gaming centres, family entertainment centres as well as administering notices and granting gaming permits.

SUPPORTING DOCUMENTATION

Appendices:

- 1. Summary of consultation responses
- 2. Consultation responses received via letter, email and the council's consultation portal.
- 3. Proposed statement of Gambling policy

Documents in Members' Rooms

None

Background Documents

None

Summary of responses

Gambling Policy Consultation 2016

- Total of 8 responses were received, 3 from local residents, 1 from Head of Children’s safeguarding BHCC, 1 from ESFRS and 3 from business/trade organisations.
- Responses from residents- 2 were supportive of the policy, although 1 suggested an exec summary at front of policy. 1 response didn’t comment on policy but wanted large gambling chains to be removed from the City.
- Responses from Head of Children’s safeguarding and ESFRS commented only on typographical errors but no comments were made regarding the policy per se.
- Of the three responses from business, Corals were largely supportive of the policy but stated that a bespoke template for risk assessments would be difficult to implement but have agreed a form with Westminster which would capture the information we require. They also commented that they undertake test purchases via Serve Legal, a third party organisation again done in conjunction with LB Newham, their PA for age restricted sales.
- **Luxury Leisure comment that:**
 - the policy should include a statement that the Authority is subject to and will comply with the Regulator’s Code.
 - They do not agree that it is appropriate to ask licensed operators to design their premises so as not to attract passers by (Para 12.8)
 - Para 12.11 conflicts with Para 12.5 and fails to consider that there are gambling activities children can participate in and there is no law preventing children from being in close proximity to gambling. See also para 13.9 which may need to be revised in relation to residential areas.
 - Para 13.6 should only refer to whether a proposed arrangement **would** be prohibited not whether it **should** be prohibited
 - There is no guidance on how to use the Local Area Profile nor does it contain information on specific ethnic populations nor much detail about vulnerable groups. The requirement to consider other gambling premises in the LRA leans towards a requirement to consider demand when this is not relevant. The LAP is difficult to understand with lots of acronyms and little definition. Para 13.3
 - Para 13.5 final bullet should it read gaming machines rather than gambling
 - Para 13.25 contains a number of inappropriate potential conditions that might be sought by the council which are covered by the LCCP.
 - It is inappropriate to require children to be accompanied by an adult
 - Some paragraphs (14.2 and 15.5) set out ‘appropriate measures’ which are already mandatory conditions and therefore do not need to be included

- There appear to be some types of premises which have no additional measures outlined unlike others (para 16.1)
- Para 17.5 incorrectly mentions B2 gaming machines in Bingo premises when it should state betting premises
- Policy makes several references to Codes of Practice when the only relevant ones are set out in the LCCP
- Para 21.4 should be removed pending outcome of the Commissions consultation
- The policy does not recognise the use by operators of 3rd party test purchasing and should make it clear that the steps listed in para 31.3 are not mandatory
- **Gosschalks Solicitors on behalf of the Association of British Bookmakers commented that:**
- They recognise the importance of gambling policy statement in focussing on the local environment and welcomes the informed approach this will enable operators to take.
- Whilst it is important that the gambling policy statement fully reflects the local area, they are keen that statutory requirements on operators and the local authority are clear.
- Recognition should be given for the work they had done with the LGA regarding the betting partnership framework and the development of primary authority relationships.
- They recognise the importance of local area risk assessments but feel that a bespoke template as recommended in the guidance is not practical for national operators and that to impose a prescribed form would go against the principles of better regulation.
- Any changes in the licensing regime at a local level are implemented in a proportionate manner for example not asking for reviews of local risk assessments with unnecessary frequency when the LCCP states that they should only be redone when there is a significant local or premises change
- Additional conditions should only be imposed in exceptional circumstances when there are clear reasons for doing so and are evidence based
- Local area profile should be included in the body of the policy
- Heading in Part B is amended as currently it more clearly reflects the Licensing act 2003 not the Gambling Act 2005
- Para 13.13 needs to be amended to remove matters that do not and cannot pose risks to the licencing objectives eg ethnicity, areas of high unemployment etc
- The ABB welcomes the acknowledgement in para 13.21 that mandatory and default conditions and LCCP would usually negate the need for local authorities to impose additional conditions but would welcome clarification in the policy that additional conditions would only be imposed where there is evidence of a risk to the licensing objectives that are not met by mandatory and default conditions
- After para 18.2 the statement of licensing principles would be assisted if it were made clear that the licensing authority has the power to limit the number of betting machines but not the number of gaming machines.

Appendix2 – Consultation responses via letter, email and consultation portal

Responders R1-R3 Trade

From:	Response	<i>whether accommodated or reasons not</i>
<p>Gosschalks Solicitors acting for the Association of British Bookmakers (ABB)</p>	<p>The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.</p> <p>This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators’ local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.</p> <p>The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the “aim to permit” principle contained within s153 Gambling Act 2005.</p> <p>The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.</p> <p>It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.</p> <p>Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The</p>	<p>Support for current policy</p>

latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the

“...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.”

The framework built on earlier examples of joint working between councils and the

industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said:

"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

"This project breaks new ground in terms of the industry sharing information, both

<p><i>between operators and, crucially, with their regulator.”</i></p> <p>Primary Authority Partnerships in place between the ABB and local authorities</p> <p>All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.</p> <p>These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.</p> <p>For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.</p> <p>By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.</p> <p>Local area risk assessments</p> <p>With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.</p> <p>Licensees must take into account relevant matters identified in the licensing authority’s statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises</p>	<p>Included in the policy</p>
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licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Concerns around increases in the regulatory burden on operators

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional

	<p>circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.</p> <p>This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.</p> <p>Specific Policy Comments</p> <p>The ABB welcomes your light touch approach to the draft gambling policy and in particular, the acknowledgement that as far as betting offices are concerned, there is no evidence that betting offices have historically required door supervision and that there is no evidence that betting machines give rise to any concerns.</p> <p>The ABB also welcomes the acknowledgement within paragraph 4.2 that many betting offices are already located near schools. Operators already have policies and procedures to ensure that those under 18 cannot bet or indeed enter the premises and all staff are trained in this regard.</p> <p>As far as paragraph 2.17 is concerned, the policy would benefit from slight expansion to acknowledge that whilst the authority may limit the number of betting machines when there is evidence to do so, it cannot limit the number of gaming machines.</p> <p>Conclusion</p> <p>The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.</p>	Support for current policy
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	<p>ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.</p> <p>Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.</p>	
Elizabeth Speed for Luxury Leisure	<p>On behalf of Luxury Leisure, I make the following comments in response to the above consultation draft (the "Draft"):-</p> <ol style="list-style-type: none"> 1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005, it is subject to the Regulators' Code. That code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that supports those it regulates to comply and grow. Additionally, when designing and reviewing policies, the Authority must, among other things, understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. We suggest the Draft be amended to include an express statement that the Authority recognises that it is subject to and will comply with the Regulators' code in relation to matters of gambling licensing and enforcement. 2. The Draft acknowledges the existence of mandatory and default conditions which apply to each premises licence, which as the Authority will appreciate, 	

	<p>should not be duplicated by conditions attached by the Authority. The Authority will also appreciate that it is fundamental that each application is dealt with on its own merits. However, reference is made at Paragraph 9 to an Appendix of a “pool of model conditions”, which we do not have and cannot find on the website. This conflicts with the principle of each application being dealt with on its merits and may conflict with or duplicate areas already covered by the LCCP or mandatory or default conditions. We cannot comment in detail as we have not seen them. We would however point out that section 169 of the 2005 Act does not suggest a pool of conditions should be referred to or adopted – it simply says that conditions may be attached.</p> <p>3. Finally, as the Authority appreciates, children can take part in some gambling. As such, it is not appropriate to say, as is proposed at Paragraph 2.10, that children should not be in close proximity to gambling - plainly they are permitted to be so in relation to gambling they are permitted to participate in.</p>	<p>Agreed: children can be allowed in family entertainment centres</p>
<p>Via Council’s consultation portal</p> <p>13/05/2016 Deb Austin (Head of Children’s Safeguarding)</p> <p>23/06/2016 Local resident</p> <p>23/06/16 Local Resident</p> <p>29/06/16 Local Resident</p>	<p>para 12.12; 13.25 & 22.4 - reference to CRB checks. This should be DBS Para 15.6 - reference to Independent Safeguarding Authority - not clear who/what this refers to?</p> <p>What Brighton needs is to get rid of the big gambling chains. They are ugly, poor service, lack atmosphere, unfriendly and not a nice night out. we need smaller private casinos with good restaurants and entertainment. A good night out. we should encourage that!</p> <p>There needs to be a brief summary (one Page) with access to the full document for those who want to look at it.</p> <p>I agree with the gambling policy</p>	

Gambling Policy (Statement of Principles) 2016 – 2018

Gambling Act 2005

Further copies of this document can be obtained from:

Licensing Team
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

Tel: 01273 294429

Email: Ehl.safety@brighton-hove.gov.uk

Web: <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling>

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Executive Summary

The Gambling Act 2005 obtained Royal Assent in 2005 and came into effect in 2007.

Under Section 349 of the Gambling Act 2005, the Licensing Authority is required to prepare a statement of principles that they propose to apply in exercising their functions under this Act. This process is to be repeated every three years from 31st January 2007.

The consultation process is laid out clearly in the Gambling Act 2005, the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 and the Guidance to Licensing Authorities issued by the Gambling Commission (www.gamblingcommission.gov.uk).

The purpose of the Statement of Licensing Policy is to set out the principles that the Council propose to apply when determining licences, permits and registrations under the Gambling Act 2005.

Any decision taken by the Council in regard to determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it is reasonably consistent with the licensing objectives, which are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The principles to be applied specifically to the determination of premises licence applications include definition of premises, location, duplication with other regulatory regimes, conditions, door supervision, layout of the premises and supervision of gaming facilities. The policy also specifically mentions adult gaming centres, family entertainment centres, casinos, bingo premises, betting premises, tracks and travelling fairs.

The Council has the ability to issue permits for prize gaming and unlicensed family entertainment centres. The Council is able to specify the information it requires as part of the application process which will aid determination and this information is described in this Policy.

Club gaming and club machine permits are also issued by the Council. The process for this is described, along with other processes specified in the legislation for example temporary use notices, occasional use notices and small society lotteries.

Enforcement of the legislation is a requirement of the Act that is undertaken by the Council in conjunction with the Gambling Commission. The policy describes the Council's enforcement principles and the principles underpinning the right of review.

The policy has three appendices, describing the stakes and prizes which determine the category of a gaming machine, a glossary of terms and exempt gaming in pubs and clubs.

1. The licensing objectives

- 1.1. Under the Gambling Act 2005 (the Act) Brighton and Hove Council is the licensing authority responsible for licensing premises for gambling activities as well as granting various other gambling permits. In this document, unless otherwise stated, any references to the Council are to the Brighton and Hove Licensing Authority.
- 1.2. The Council will carry out its functions under the Act with a view to aiming to permit the use of premises for gambling in so far as it is reasonably consistent with the three licensing objectives set out at Section 1 of the Act. The licensing objectives are:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - ensuring that gambling is conducted in a fair and open way;
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.1. More information can be found about how the Council will achieve this in Part B and Part C of this document.
- 1.2. The Council will follow any regulations and statutory guidance issued in accordance with the Act and will have regard to any codes of practice issued by the national gambling regulator, the Gambling Commission.
- 1.3. The Council is aware that in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonable consistent with the licensing objectives, and
 - in accordance with this document.
- 1.4. The Gambling Commission's Licence Conditions and Code of Practice (LCCP) require gambling premises to undertake a risk assessment taking into consideration local information. Specific information about localities is provided in this policy at Part C.

2. Brighton & Hove

2.1. Local features

The population of Brighton & Hove is approximately 275,000, but this number increases significantly in the summer months with the influx of tourists. The local visitor economy is characterised by three sectors: conferences, leisure and English language education. The city receives 10 million tourism day trips and 1.4 million staying visitors per year. 27% of staying visitors originate from overseas. Tourism generates £829m of direct income for local businesses and supports 21,682 jobs. 18% of the total Brighton & Hove labour force is employed in jobs supported by tourism expenditure.

Brighton Marina is one of the largest in Europe, and the City is a major centre for heritage and culture, hosting the largest annual international arts festival in England every May. There are also two Universities, a City College and a large number of language schools, which together make the City very popular with students from many parts of the world. Thirty five percent of the population is aged 20-39, which is much higher than the national average. This is quite different from the large retirement age population associated with many coastal cities and reflects the City's reputation among young people as an attractive place to live.

2.2. Culture and Tourism

Licensing policy supports entrepreneurial activity, promoting the City's businesses, supporting growth of the creative industries sector, extending the business improvement district. The cultural and tourism offer in Brighton & Hove is crucial to the ongoing economic success of the City; it brings both money and jobs. This range of work also provides solutions to some of the problems of inequality in the City. VisitBrighton, the Council's tourism unit, has developed and implemented a full brand strategy and guidelines for the City's tourism offering.

The City of Brighton & Hove already provides many gambling facilities. There are two racetracks, Brighton Racecourse on Whitehawk Down which has been a site of organised public racing since the late eighteenth century and Coral Greyhound Racing Stadium in Hove. Brighton and Hove were two of the 53 permitted areas in Great Britain with four casinos under the 1968 Act. There are numerous bingo and betting premises. As a seaside resort, there is a history of amusement arcades, known as family entertainment centres, and adult gaming centres.

3. The Purpose of the Gambling Act 2005 – Statement of Licensing Policy

3.1. Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose when exercising their functions under the Act. This document fulfils this requirement. Such statement must be published at least every three years. The statement can also be reviewed from "time to time" and any amendments must be consulted upon. The statement must then be re-published.

3.2. Consultation was undertaken with the following:-

- the chief officer of police for the authority's area; and HM Revenue & Customs;
- persons representing the interests of persons carrying on gambling businesses in the authority's area – including existing casino operators, the British Casino Association, betting shops and the Association of British Bookmakers, bingo premises, operators of amusement facilities in the area, the Racecourse Association, Brighton Business Forum;
- persons who represent the interests of persons who are likely to be affected by the Act, including faith groups, local residents and tenants associations, voluntary and community organisations working with children and young people, operators of small lotteries, organisations working with people who are problem gamblers, medical practices, and advocacy organisations such as Citizens Advice Bureau, The Money Advice Trust and National Debtline, GamCare, Members and trade unions, and others via the Council's consultation portal.

3.3. The consultation took place between 4th April and 3rd July 2016 and followed the Council's Officer's Code of Practice on Consultation. The consultation elicited 8 responses which are

available on request. The policy was approved at a meeting of the Full Council on xxxxx.

4. The licensing framework

- 4.1. The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with central government and local authorities to regulate gambling activity.
- 4.2. The Gambling Commission issues operators' licences and personal licences. Any operator wishing to provide gambling at a certain premises must have applied for the requisite personal licence and operator licence before they can approach the Council for a premises licence. In this way the Gambling Commission is able to screen applicants and organisations to ensure they have the correct credentials to operate gambling premises. The Council's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any codes of practice issued by the Gambling Commission. The Council also issues various permits and notices to regulate smaller scale and or ad hoc gambling in various other locations such as pubs, clubs and hotels.
- 4.3. The Council does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission. The National Lottery is not licensed by the Gambling Act 2005 and is regulated by the Gambling Commission under the National Lottery Act 1993.

5. Declaration

- 5.1. This statement of licensing policy will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
- 5.2. In producing this document, the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the policy statement.

6. Responsible Authorities

- 6.1. The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible authorities are able to make representations about licence applications, or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants.
- 6.2. The Council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
 - The need for the body to be responsible for an area covering the whole of the licensing authority's area;
 - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

- 6.3. In accordance with the regulations, the Council designates the Local Safeguarding Children Board for this purpose. The Local Safeguarding Children Board has specific Safeguarding & Child Protection procedures which can be found at <https://sussexchildprotection.procedures.org.uk/>. Applicants may find these procedures useful as a point of reference, a guide for good practice and the mechanism by which to make a referral to Children's social work, when producing their own policies and procedures in relation to the objective of protection of children and vulnerable people.
- 6.4. The contact details of all the responsible authorities under s157 of the Gambling Act 2005 are available on the Council's website within the Gambling Policy at page 39.

7. Interested Parties

- 7.1. Interested parties are certain types of people or organisations that have the right to make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part, a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b).”

- 7.2 The Council is required by regulations to state the principles it will apply to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's guidance to local authorities.
- Within this framework, the Council will accept representations made on behalf of residents and tenants' associations
- In order to determine if an interested party lives or has business interests sufficiently close to the premises to be likely to be affected by the gambling activities, the Council will consider factors such as the size of the premises and the nature of the activities taking place.

8 Exchange of Information

- 8.1 Licensing authorities are required to include in their policy statement, the principles to be applied by the authority with regards to the exchange of information between it and the Gambling Commission, as well as other persons listed in Schedule 6 to the Act.
- 8.2 The principle that the Council applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also have regard to any

guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

8.3 Please note: *names and addresses of those making representations will usually be disclosed to applicants.*

8.4 The gambling authority shall secure the proper integration of this policy with local crime prevention, planning, tourism and cultural strategies by:-

- liaising and consulting with the Sussex Police, HM Revenue & Customs and the Community Safety Strategy representatives, and following the guidance in community safety and crime and disorder strategy;
- liaising and consulting with the planning authority;
- liaising and consulting with tourism, stakeholder groups, business groups such as the business forums and the economic development functions for the Council;
- having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols.

9 Licensing authority functions

9.1 Licensing authorities are responsible under the Act for:

- licensing premises where gambling activities are to take place by issuing premises licences
- issuing provisional statements
- regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- issuing Club Machine Permits to commercial clubs
- granting permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres
- receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises under the Licensing Act 2003, where more than two machines are required
- registering small society lotteries below prescribed thresholds
- issuing Prize Gaming Permits
- receiving and endorsing Temporary Use Notices
- receiving Occasional Use Notices (for tracks)
- providing information to the Gambling Commission regarding details of licences issued (see section above on "Exchange of information")
- maintaining registers of the permits and licences that are issued under these functions.

9.2 Family Entertainment Centres –

Applicants for permits for family entertainment centres will be required to submit enhanced DBS (Disclosure and Barring Service) certificate and declaration from an applicant that he or she has not been convicted of a relevant offence.

9.3 The functions of the Licensing Authority under the Act may be carried out by the Licensing Committee, but a Sub-Committee or by one or more officers acting under delegated authority. Delegated powers shall be in accordance with the table below.

Matter to be dealt with	Full Council	Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		X
Fee setting (when appropriate)		X	
Application for premises licence		If a representation made	If no representation made
Application for a variation to a licence		If a representation made	If no representation made
Application for a transfer of a licence		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Review of a premises licence		X	
Application for club gaming/club machine permits		If a representation made	If no representation made
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

9.4 At the time of adopting this Policy, the Licensing Authority was responsible for the following number of premises licences and permits:

Number of Gambling Authorisations – Current Figures (November 2016)	
Betting Premises Licences	39
Bingo Premises Licences	1
Adult Gaming Centre Premises Licences	12
Family Entertainment Centre Premises Licences	2
Family Entertainment Centre Permits	4
Alcohol licensed premises providing two or less gaming machines	163
Alcohol licences premises providing three or more gaming machines	25
Club Gaming Permits	3
Club Machine Permits	7
Casinos	4
Betting Track	2

10 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

- 10.1 Applicants for premises licences will have to hold an operating licence from the Gambling Commission before the premises licence can be issued. The licensing authority will not need to investigate the suitability of an applicant since the Commission will have already done so for both operating and personal licences.
- 10.2 If, during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.
- 10.3 Licensing authorities will need to consider the location of premises in the context of this objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems, e.g. organised crime, the authority should think about what controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence. Section 169 of the Act allows the authority to impose conditions to prevent disorder.
- 10.4 Consideration may be given to imposition of conditions concerning:
- Security and door supervision – guarding premises against unauthorised access or occupation, or against outbreaks of disorder or against damage may only be undertaken by Security Industry Authority licensed personnel.
 - As set by regulation.
- 10.5 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises, that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

11 Ensuring that gambling is conducted in a fair and open way

- 11.1 Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter dealt with under the operating licence or personal licence.
- 11.2 In relation to the licensing of tracks, the licensing authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances, the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. Off-course operators with on-course facilities may be required to hold a separate betting premises licence for this area, but this will not be a mandatory requirement and will be at the discretion of the racecourse and the betting operator.

12 Protecting children and other vulnerable persons from being harmed or exploited by gambling

12.1 The Act provides the following definition for child and young adult in Section 45:

Meaning of “child” and “young person”

(1) In this Act “child” means an individual who is less than 16 years old.

(2) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

For the purpose of this section, protection of children will encompass both child and young person as defined by the Act.

12.2 The Council will pay particular attention to any codes of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos.

12.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

12.4 In the case of premises licences, the Council is aware of the extensive requirements set out for operators in the Gambling Commission’s Code of Practice. In this document, the Gambling Commission clearly describe the policies and procedures that operators should put in place regarding:

- Combating problem gambling
- Access to gambling by children and young persons
- Information on how to gamble responsibly and help for problem gamblers
- Customer interaction
- Self exclusion
- Employment of children and young persons

12.5 All applicants should familiarise themselves with the operator licence conditions and codes of practice relating to this objective, and determine if these policies and procedures are appropriate in their circumstances. The Council will communicate any concerns to the Gambling Commission about any absence of this required information.

12.6 Applicants may also like to make reference to the Council’s Professional Standards, Safeguarding and Quality Monitoring Team document entitled “[Sussex Safeguarding Adults Policy and Procedures](http://sussexsafeguardingadults.procedures.org.uk/)” which provides extensive guidance on identifying vulnerable people and what can be done to reduce risk for this group. This document can be accessed via <http://sussexsafeguardingadults.procedures.org.uk/>.

12.7 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Gambling Commission, in its Guidance to Local Authorities, does not seek to offer a definition for the term “vulnerable people” but will, for regulatory purposes, assume that this group includes people:

“who gamble more than they want to, people who gamble beyond their means, elderly

persons, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or because of the influence of alcohol or drugs”.

Operators should make information publicly available via leaflets, etc about organisations that can provide advice and support, both in relation to gambling itself and to debt, e.g. GamCare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizens Advice Bureaux and independent advice agencies.

12.8 Applicants should consider the following proposed measures for protecting and supporting vulnerable persons, for example:

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets;
- training for staff members which focuses on building an employee’s ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable.
- trained personnel for the purpose of identifying and providing support to vulnerable persons
- self exclusion schemes
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- posters with GamCare Helpline and website in prominent locations
- windows, entrances and advertisements to be positioned or designed not to entice passers-by.

12.9 It should be noted that some of these measures form part of the mandatory conditions placed on premises licences.

12.10 The Council may consider any of the above or similar measures as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant.

12.11 With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises that are adult-only environments. Children must be protected from being “harmed or exploited by gambling” which in practice means preventing them from taking part in, or being in close proximity to, gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

12.12 Specific measures to prevent this may include:-

- Supervision of entrances
- Segregation of gambling from areas frequented by children
- Supervision of gaming machines in non-adult gambling specific premises
- Gaming machines in betting shops should not be visible from outside the premises
- Enhanced DBS (Disclosure and Barring Service) checks may be required for all applicants in relation to Family Entertainment Centres and declaration from an applicant that he or she has not been convicted of a relevant offence.

These considerations will be particularly relevant on tracks (where children will be permitted in the betting areas on race-days).

- 12.13 Consideration must be given, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will need to be balanced against the authority's objective to aim to permit the use of premises for gambling.
- 12.14 The licensing authority recognises Brighton & Hove Children's Services as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to: Head of Safeguarding, Brighton & Hove City Council, Children's Services, Moulsecoomb Hub North, Hodshrove Lane, Brighton, BN2 4SE in its capacity as the responsible authority.
- 12.15 Children are permitted to enter family entertainment centres and may play category D machines.

13 Premises Licences

- 13.1 The Council will issue premises licences to allow those premises to be used for certain types of gambling. For example premises licences will be issued to amusement arcades, bingo halls, bookmakers and casinos.
- 13.2 Premises licences are subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach other conditions, where it is believed to be necessary and proportionate.
- 13.3 Applicants should also be aware that the Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The Council will also have regard to these Codes of Practice.

Definition of “premises”

- 13.4 Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances.
- 13.5 The Council will take care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the Council will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable so that the separation of different premises is not compromised and that people do not “drift” into a gambling area.
- 13.6 The Council will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues that the Council will consider before granting such applications include whether children can gain access, compatibility of the two establishments; and the ability to comply with the requirements of the Act. In addition, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or could, be prohibited under the Act.
- 13.7 An applicant cannot obtain a full premises licence until they have the right to occupy the premises to which the application relates.
- 13.8 The Council is aware that demand issues (eg. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Council will pay particular attention to the protection of children and vulnerable persons from being harmed or

exploited by gambling, as well as issues of crime and disorder.

13.9 With regard to these objectives, it is the Council's policy, upon receipt of any relevant representations, to look at specific location issues, including:

- the possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area;
- the possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children;
- the size of the premises and the nature of the activities taking place;
- any levels of organised crime in the area.

13.10 In order for location to be considered, the Council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives.

Local Risk Assessment

13.11 From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

13.12 The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstance, including those identified in this policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

13.13 The Council will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation;
- whether the premises is in an area subject to high levels of crime and/or disorder;
- the demographics of the area in relation to vulnerable groups;
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather;
- significant presence of young children, both residents and visitors;
- high unemployment area;
- nearby homeless hostels;
- nearby gambling, alcohol, drug or mental health support facility;
- the area has a high number of rough sleepers/homeless people;
- the area has a specific ethnic population;

- pawn broker/pay day loan businesses in the vicinity;
- other gambling premises in the vicinity.

Information around these groups is available in the Local Area Profile (LAP) in section 13.18.

13.14 In any case, the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

13.15 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by, etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

13.16 Such information may be used to inform the decision the Council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

13.17 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

Local Area Profile

13.18 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Council has published a local area profile. This profile, compiled in conjunction with the Public Health Intelligence Team, can be obtained from <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling>.

13.19 The local area profile should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the profiles, appropriate measures to mitigate risk in the area and how they might be relevant to their

application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations.

- 13.20 The Council recognises that it cannot insist on applicants using the local area profile when completing their risk assessments. However, an applicant who decides to disregard the profile may face additional representations and the expense of a hearing as a result.

Conditions

- 13.21 The Council is aware that the Secretary of State has set mandatory conditions and default conditions and the Gambling Commission has set Licence Conditions and Codes of Practice which are necessary for the general good conduct of gambling premises, therefore it is unlikely that the Council will need to impose individual conditions imposing a more restricted regime in relation to matters that have already been dealt with.
- 13.22 Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Council will attach individual conditions to address this.
- 13.23 Any conditions attached to a licence issued by the Council will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility
 - directly related to the premises and the type of licence applied for and/or related to the area where the premises is based
 - fairly and reasonably related to the scale, type and location of premises
 - consistent with the licensing objectives, and
 - reasonable in all other respects.
- 13.24 Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using, such as supervision of entrances, supervision of adult gaming machines, appropriate signage for adult only areas, etc. There are specific comments made in this regard under each of the licence types in this policy. The Council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.
- 13.25 Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the Council may consider licence conditions to cover issues such as:
- proof of age schemes
 - CCTV
 - supervision of entrances
 - supervision of machine areas
 - a reduction in the number of betting machines (betting premises)
 - the staffing of premises
 - physical separation of areas
 - location of entrance points
 - notices/signage
 - specific opening hours
 - a requirement that children must be accompanied by an adult
 - enhanced DBS checks of the applicant and/or staff

- support to persons with gambling addiction
- policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, and school holidays
- policies to address the problems associated with truant children who may attempt to gain access to premises and gamble
- any one or a combination of the measures as set out in this policy.

13.26 This list is not mandatory or exhaustive and is merely indicative of examples of certain measures which may satisfy the requirements of the licensing authority and the responsible authorities, depending on the nature and location of the premises and the gambling facilities to be provided.

13.27 There are conditions which the Council cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible for the applicant to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- conditions in relation to stakes, fees, winnings or prizes.

Door Supervision

13.28 The Council will consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted, though, that the Gambling Act 2005 has amended the Private Security Industry Act 2001, and that the door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are provided at these premises, the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to carry out a DBS (Disclosure and Barring Service) check on potential staff and for such personnel to have attended industry recognised training.

14 Adult Gaming Centres

14.1 Under the Act a premises holding an adult gaming centre licence will be able to make category B, C and D gaming machines available and no one under 18 will be permitted to enter such premises (see Appendix 2).

14.2 As no one under the age of 18 is permitted to enter an Adult Gaming Centre, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to consider their own measures to meet the Licensing Objectives and comply with all mandatory conditions and Gambling Commission Codes of Practice. However, the appropriate measure may cover issues such as:

- CCTV

- Minimum staffing levels
- Induction training for new staff and refresher training for existing staff
- Refusals register
- Proof of age schemes (e.g. Think 21)
- Third party test purchasing
- Location of entry to premises
- Infra Red Beam positioned across the entrance to the premises.

The list, however, is not mandatory, nor exhaustive and applicants are recommended to consider this Licensing Objective very carefully when applying for an Adult Gaming Centre Premises Licence.

Where the Adult Gaming Centre is situated in a complex, the Licensing Authority will pay particular attention to the location of entry so as to minimise opportunities for children gaining access. In particular, the Licensing Authority will not look favourably on situations where child orientated machines or facilities are sited close to the entrance to an Adult Gaming Centre.

15 Licensing family entertainment centres (FECs)

- 15.1 Licensed family entertainment centres are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.
- 15.2 Licensed family entertainment centres will be able to make available unlimited category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located (see Appendix I).
- 15.3 Where category C or above machines are available in premises to which children are admitted then the Council will ensure that:
- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose, a rope, floor markings or similar provision will not suffice and the Council may insist on a permanent barrier of at least 1 meter high.
 - Only adults are admitted to the area where the machines (category C) are located
 - Access to the area where the machines are located is supervised at all times
 - The area where the machines are located is arranged so that it can be observed by staff; and
 - At the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 15.4 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 15.5 Children and young persons may enter Licensed FECs but are not permitted to play Category C machines. The Licensing Authority will expect the applicant to ensure that there will be sufficient measures to prevent under 18 year olds having access to the adult

only gaming machine areas. The Licensing Authority will expect applicants to meet the Licensing Objectives and comply with all mandatory conditions and Codes of Practice issued by the Gambling Commission. However, appropriate measures may cover issues such as:

- CCTV, specifically sited where the adult machines are likely to be situated
- Controlled supervision of entrance and machine areas
- Physical segregation of machines and areas
- Provision of information leaflets/helpline numbers of organisations such as GamCare
- Minimum staffing levels
- Induction training for new staff and refresher training for existing staff
- Refusals register
- Proof of age schemes (e.g. Think 21)
- Third party test purchasing
- Location of entry to premises
- Infra Red Beam positioned across the entrance to the premises.

This list is not mandatory, nor exhaustive and is merely indicative of example measures.

With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare as appropriate.

- 15.6 Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the Council's Performance and Safeguarding team within Children's Services to determine if their staff need to be DBS checked.

16 Casinos

- 16.1 There are four current casino licences in Brighton & Hove, three of which are currently operating, Mint Casino in Preston Street, Grosvenor Seafront Casino in Grand Junction Road and Rendezvous Casino in the Marina which were licensed under the Gaming Act 1968, and which have been subsequently converted into Gambling Act 2005 Converted Casino Premises Licences. What was the Grosvenor, Fourth Avenue, Hove, Casino licence is current but they are not operating.
- 16.2 Statement regarding casino resolution – The licensing authority has taken a decision to pass a resolution not to issue new casino licences in Brighton & Hove.

17 Bingo Premises

- 17.1 There is no official definition for bingo in the Gambling Act 2005, however, from a licensing point of view there is a category of premises licence specifically for bingo premises which is used by traditional commercial bingo halls for both cash and prize bingo. In addition, this premises licence will authorise the provision of a limited number of gaming machines in line with the provisions of the Act (see Appendix I).
- 17.2 The Council is aware that it is important that if children are allowed to enter premises licensed for bingo, they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are

admitted, then the Council will ensure that:

- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose, a rope, floor markings or similar provision will not suffice and the Council may insist on a permanent barrier of at least one meter high
- Only adults are admitted to the area where the machines are located
- Access to the area where the machines are located is supervised at all times
- The area where the machines are located is arranged so that it can be observed by staff
- At the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
- Children will not be admitted to bingo premises unless accompanied by an adult.

17.3 The Gambling Commission has provided Guidance for Licensing Authorities and Licence Conditions and Code of Practice which are applied to Operators' Licences. The Council will take this into consideration when determining licence applications for bingo premises.

17.4 Where certain measures are not already addressed by the mandatory/default conditions, the Gambling Commission Code of Practice or the applicant, the Council may consider licence conditions to address such issues.

17.5 The Gambling Commission has issued Codes of Practice relating to Bingo premises and the Licensing Authority expects all applicants to comply with these codes. The Licensing Authority will not look favourably upon an application where an applicant seeks a Bingo Premises Licence with the sole intention of placing Category B2 Gaming Machines only in the premises with no provision for facilities for bingo, as this is not considered to be in the spirit of the Act. This is referred to in more detail in the Gaming Machines section of this Policy Statement. Applicants and premises licence holders are reminded of the Gambling Commission's operator licence conditions requiring that bingo is provided as the primary activity in any premises that hold or apply for bingo premises licence.

17.6 Where bingo is permitted in alcohol-licensed premises, this must be low turnover bingo only and applicants are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a Bingo Operating Licence. Definitions of low and high turnover bingo are available by contacting the Licensing Team or by referring to the Gambling Commission's website.

18 Betting Premises

18.1 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises and children will not be permitted entry to a premises with a Betting Premises Licence. They may, however, be permitted entry to tracks and special rules will apply. In addition, the Licensing Authority recommends that an applicant for gaming machines in such premises, considers carefully the location of betting machines to ensure that they are not in sight of the entrance to the premises.

Betting Machines

18.2 While the Licensing Authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. The Licensing Authority will consider limiting the number of machines only where there is clear evidence that such machines have been, or are likely to be, used in breach of the Licensing Objectives. Where there is such evidence, the Licensing Authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter. When considering whether or not to impose such a condition, the Licensing Authority will take into account the following:

- The size of the premises
- The number of counter positions available for person to person transactions; and
- The ability of staff to monitor the use of the machines by children and young or vulnerable persons.

18.3 The Licensing Authority will expect applicants to meet the Licensing Objectives and comply with all mandatory conditions and Codes of Practice issued by the Gambling Commission. In determining whether an application meets the aforementioned criteria, the Licensing Authority may give consideration as to whether appropriate measures are or will be in place to address the matters listed below:

- Minimum staffing levels
- Induction training for new staff and refresher training for existing staff
- Refusals register
- Proof of age schemes (e.g. Think 21)
- Provision of CCTV
- Entry control system
- Supervision of entrances / machine areas
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

18.4 This list is not exhaustive and is merely indicative of example measures. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives.

18.5 With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets /helpline numbers for organisations such as GamCare as appropriate measures.

19 Tracks

19.1 Tracks are sites (including racecourses and dog tracks) where races or other sporting events take place. The Licensing Authority recognise that tracks are different from other premises in that there may be more than one Premises Licence in effect, and that the track operator may not be required to hold an Operator's Licence as there may be several premises licence holders at the track who will need to hold their own operator licences.

As children and young persons will be permitted to enter track areas where facilities for betting are provided (e.g. dog racing and/or horse racing), the Licensing Authority will expect premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. The Licensing Authority will expect applicants to consider their own measures to meet the Licensing Objectives, however, appropriate measures may cover issues such as:

- Proof of Age schemes
- CCTV
- Door supervisors
- Supervision of entrances/exits/machine areas
- Physical separation of areas
- Notices / signage
- Specific opening hours
- Location of entry and gaming machines
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

19.2 Where appropriate, in order for the Licensing Authority to gain a proper understanding of what it is being asked to licence, applicants will be required to:

- Provide a detailed plan of the grounds, indicating where the betting is to take place and the location of the race track;
- In the case of dog tracks and horse racecourses, indicate the location of any fixed and mobile pool betting facilities operated by the Tote or track operator as well as any other proposed gambling facilities;
- Evidence measures taken to ensure the third Licensing Objective will be complied with;
- Indicate what arrangements are being proposed for the administration of the betting; the Gambling Commission and Licensing Authority recommend that betting takes place in areas reserved for, and identified as being for, that purpose;
- Define the areas of the track that will be used by on-course operators visiting the track on race days;
- Define any temporary structures erected on the track for providing facilities for betting;
- Define the location of any gaming machines (if any).

19.3 With regard to gaming machines on tracks, the Licensing Authority will consider carefully the location of any adult gaming machines at tracks to ensure that these machines are in areas from which children are excluded, though it is recognised that children and young persons are not prohibited from playing Category D machines on a track.

19.4 Betting and Gaming Machines on Tracks – The Licensing Authority recognises the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines. It is the responsibility of the track operator to ensure compliance with the law in preventing children from using these machines. It is for this reason the Licensing Authority may consider restricting the number and location of

machines, however, each application will be considered on its own merit.

- 19.5 Self contained betting offices on Tracks – In general, the rules that apply to betting premises away from tracks will apply to self contained betting premises on tracks and the Licensing Authority will consider future guidance from the Gambling Commission about how such premises should be delineated, both to make it clear to the public that they are entering a “betting office” and to prevent the entry of children and young persons. Applicants are recommended to consider the Gambling Commission’s view that it would be preferable for all self-contained premises operated by off course betting operators on track to be the subjects of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off course betting operator running a self-contained unit on the premises.
- 19.6 On advice from the Gambling Commission, the Licensing Authority may attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office. The Licensing Authority would welcome other suitable methods.

20 Travelling Fairs

- 20.1 Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit, provided that certain conditions are met, and this provision continues in similar fashion under the Act.
- 20.2 Travelling fairs have the right to provide an unlimited number of Category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair (see Appendix 1).
- 20.3 The Council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair.
- 20.4 The Council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land which crosses the Council boundary is monitored so that the statutory limits are not exceeded.

21 Gaming Machines

- 21.1 Where the Licensing Authority is uncertain of whether or not a machine is a gaming machine as defined under the Act, it will seek the advice of the Gambling Commission.
- 21.2 Where the Licensing Authority has concerns about the manufacture, supply or repair of a gaming machine, it will bring this to the attention of the Gambling Commission.
- 21.3 The Licensing Authority will expect the holder of a Permit or Premises Licence to comply with the Codes of Practice issued by the Commission on the location of, and access to, Category D machines by children and young persons and their separation from Category C

and B machines where those are also located on the same premises.

- 21.4 The Licensing Authority seeks to discourage applications for Premises Licences for the sole purpose of obtaining the ancillary provision of additional gaming machines where the principal activity either does not take place or is minimal. The Licensing Authority believes that the Gambling Act 2005 intended to set restrictions on the number of gaming machines for certain premises and considers that the fact that the licence authorised the holder to provide facilities for betting or bingo means that the operator must provide those facilities to qualify for the ancillary entitlement to gaming machines. Whilst this has not yet been legally contested, the Licensing Authority fully supports this view. The Licensing Authority is aware that the Gambling Commission has amended its operator licence conditions to address the issue of the primary gambling activity.
- 21.5 Brighton & Hove have a long history of providing family type gaming machines, such as penny falls and cranes. Such machines are primarily aimed at children and family type gaming. We recognise that, on the whole, such machines provide a low risk in relation to the licensing objectives. However, as with all gaming machines, such machines must be operated in a fair and open manner and in line with the protection of children from harm licensing objective.
- 21.6 Any non-monetary prizes within such machines must comply with the maximum prize limits laid down in the regulations prescribing gaming machine categories and entitlements. If items such as toy mobile phones (or other similar novelty items) are offered as prizes, then this Authority will expect to see clear signage (displayed on or near the machine in question) indicating that such items are toys / novelty items.
- 21.7 This Authority will bring to the attention of specific machine operators any examples of prizes which it feels are inappropriate or require clarification to prospective machine users. In addition, where it is able to do so, this Authority will undertake appropriate compliance action when it feels that prizes within penny falls, cranes and other similar machines are outside the scope of the open and fair and protection of children licensing objectives.

Part D Permits, notices and lottery registrations

Permits /Temporary & Occasional Use Notice

Note for information: The Gambling Act 2005 introduced a range of permits for gambling. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. The Licensing Authority may only grant or reject an application for a permit and cannot impose or attach any conditions. There are different considerations to be taken into account when considering the different types of permit applications. Where a Permit is granted, the Licensing Authority will issue the Permit as soon as is reasonably practicable.

22 Unlicensed Family Entertainment Centre (uFEC) Gaming Machine Permits

- 22.1 The term “unlicensed family entertainment centre” is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises is “unlicensed” in that it does

not require a premises licence but does require a permit to be able to provide category D machines. It should not be confused with a “licensed family entertainment centre” which requires a premises licence because it contains both category C and D gaming machines.

- 22.2 The Licensing Authority must be satisfied that the premises will be used as an unlicensed Family Entertainment Centre and Sussex Police must be consulted on all applications.
- 22.3 When determining a permit, the Licensing Authority will have regard to the Gambling Commission’s Guidance to Licensing Authorities and although not required to, will have regard to the three Licensing Objectives.
- 22.4 As these premises particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues. An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and the Licensing Authority will expect applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling, which is permissible in unlicensed FECs;
 - That staff are trained to have a full understanding of the maximum stakes and prizes;
 - The applicant’s previous history and experience of running similar premises;
 - Applicants must produce a DBS check dated within one calendar month of the date of the application being submitted to the Licensing Authority. The Disclosure will reveal the existence and content of any criminal record (not spent under the terms of the Rehabilitation of Offenders Act) held in the name of the applicant.
- 22.5 Where an applicant provides evidence that he has an Operating Licence and has as a result undergone rigorous checks by the Gambling Commission, then a DBS check will not normally be required.
- 22.6 When considering any convictions revealed in an application, the Licensing Authority will consider the nature and relevance of the offence, how long ago the offence took place and any other factors that may be relevant. The application will be subject to the terms of the Rehabilitation of Offenders Act and “spent” convictions may not be referred to when considering the permit application. The application process will make specific reference to the Relevant Offences listed in Schedule 8 to the Gambling Act 2005.
- 22.7 Statement of Principles for Unlicensed Family Entertainment Centres – As these premises are open to children and young persons, the Licensing Authority will require additional information when an applicant applies for this Permit, as follows:
- A scaled plan of the premises indicating the location of Category D machines, Automated Teller Machines and any appropriate notices that are to be displayed;
 - The approximate number of Category D machines that will be provided;
 - Evidence that staff are trained to have a full understanding of the maximum stakes and prizes that are permissible;
 - A basic DBS check dated within one calendar month of the date of the application being submitted to the Licensing Authority (unless the applicant holds a current Operators’ Licence issued by the Gambling Commission);
 - Evidence of staff training by way of a Premises Log Book which should be signed and dated by staff to prove that training has been undertaken and understood;
 - Training for staff as regards dealing with suspected truant school children on the premises;

- Policies and procedures in place to protect children from harm. Harm in this case is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures such as training, covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises;
 - The amount of space around gaming machines to prevent jostling of players or intimidation;
 - Details of opening hours;
 - Approximate numbers of staff employed.
- 22.8 Where an applicant fails to comply with the above requirements, the Licensing Authority may refuse the application. Where there is a reason for such a refusal, the Licensing Authority will notify the applicant of its intention to refuse and the reasons for the refusal. The applicant will then have an opportunity to make representations orally, in writing, or both, and will have a right of appeal against any decision made.
- 22.9 With regard to renewal applications, the Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the Licensing Objectives.
- 22.10 Where the Permit has been granted, the Licensing Authority will issue the permit as soon as is reasonably practicable, and in any event in line with the Regulations issued by the Secretary of State. The permit will then remain in effect for 10 years unless surrendered or lapsed.
- 22.11 The Licensing Authority recommends that applicants for unlicensed FEC Permits consider adopting BACTA's voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility and acknowledges that proactive, specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

23 Gaming Machine Permits in Premises Licensed for the Sale of Alcohol

- 23.1 With regard to gaming machines on premises that sell alcohol, the applicant is entitled to up to 2 gaming machines of Category C or D machines, subject to the applicant notifying the Licensing Authority, paying the prescribed fee and complying with any relevant Codes of Practice issued by the Gambling Commission.
- 23.2 The Licensing Authority may remove the automatic authorisation if:
- Provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives;
 - Provision of the machines is not compliant with the mandatory conditions relating to location and operation of machines;
 - Gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act;
 - An offence under the Gambling Act has been committed on the premises; or
 - The premises are mainly used for gaming.

- 23.3 The Licensing Authority will expect the applicant to comply with any Codes of Practice issued by the Gambling Commission and consider such measures to ensure that the under 18s do not have access to the adult only gaming machines. The Licensing Authority recommends considering such measures as:
- The adult machines being sited close to the bar;
 - The adult machines being sited where staff can monitor them;
 - Appropriate notices and signage;
 - Provision of information leaflets/helpline numbers for organisations such as GamCare.

23.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant”. This Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

23.5 There is no statutory limit on the number of machines which may be applied for. However, it is the Licensing Authority’s policy that a licensing hearing must consider any application for three or more machines where Officers are of the opinion that the premises is not suitable for the number of machines applied for. It is important to note that the hearing is unlikely to grant a permit for more than six machines and even then six machines will normally only be granted to exceptionally large premises.

23.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of machines.

23.7 It is recognised that some alcohol-licensed premises may apply for a premises licence or an uFEC permit for their non-alcohol licensed areas. For the room in question to obtain a permit, its predominant use must be that of an amusement arcade. There must also be some form of acceptable delineation, which indicates that the alcohol area and family entertainment centre are two separate premises.

23.8 Gaming in alcohol-licensed premises – The Licensing Authority recognises that low level gaming may take place in alcohol-licensed premises. Exempt gaming being equal chance gaming that should be ancillary to the purposes of the premises. This gaming, however, is subject to statutory stakes and prize limits determined by the Secretary of State. A nominated gaming supervisor should therefore supervise gaming in alcohol-licensed premises, (i.e. the Designated Premises Supervisor (DPS)) and all gaming should comply

with Codes of Practice issued by the Gambling Commission. As there is likely to be limited regulatory scrutiny of gaming provided in these premises, the Licensing Authority expects the applicant to be aware of, and adopt, these Codes of Practice and to ensure that all gaming in such premises is suitably managed.

24 Prize Gaming Permits

- 24.1 Prize Gaming Permits must be obtained where a Casino or Bingo Operating Licence is not in effect. However, a casino is not entitled to provide bingo without a Prize Gaming Permit. As children and young persons may participate in equal chance prize gaming, and given that the premises will particularly appeal to children and young persons, the Licensing Authority has prepared a Statement of Principles that it proposes to apply in exercising its functions which specifies matters that the Licensing Authority propose to consider in determining the suitability of an applicant for a Prize Gaming Permit.
- 24.2 The Licensing Authority will require detailed information when an applicant applies for this Permit, as follows:
- A scaled plan of the premises indicating the location of the machines, other prize gaming facilities, etc., and any appropriate notices that are to be displayed;
 - Evidence that applicants have a full understanding of the maximum stakes and prizes that are permissible;
 - Evidence that staff are trained to have a full understanding of the maximum stakes and prizes that are permissible;
 - A basic DBS check dated within one calendar month of the date of the application being submitted to the Licensing Authority (unless the applicant holds a current Operator's Licence issued by the Gambling Commission);
 - Evidence of staff training by way of a Premises Log Book which should be signed and dated by staff to prove that training has been undertaken and understood;
 - Policies and procedures in place to protect children from harm. Harm in this case is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures such as training, covering how staff would deal with unsupervised very young children being on the premises or children causing perceived problems on or around the premises;
 - The amount of space around gaming machines to prevent jostling of players or intimidation;
 - Details of opening hours;
 - Approximate numbers of staff employed.
- 24.3 Where an applicant provides evidence that he has an Operating Licence and has as a result undergone rigorous checks by the Gambling Commission, then a DBS check will not normally be required.
- 24.4 When considering any convictions revealed in an application, the Licensing Authority will consider the nature and relevance of the offence, how long ago the offence took place, and any other factors which may be relevant. The application will be subject to the terms of the Rehabilitation of Offenders Act and "spent" convictions may not be referred to when considering the permit application. The application process will make specific reference to

the Relevant Offences listed in Schedule 8 to the Gambling Act 2005.

- 24.5 In making its decision on an application for this permit, the Licensing Authority does not need to have regard to the Licensing Objectives and will take into account, after consultation, any objections that the Police may wish to make, whether relevant to the Licensing Objectives. The grounds for decision-making as regards renewals are the same as for initial applications.
- 24.6 Where the Licensing Authority intends to refuse the application for a permit, it will notify the applicant of its intention to refuse it, stating the reasons and offering the applicant an opportunity to make representations orally, in writing, or both.
- 24.7 Where an application is granted, the Licensing Authority will issue it as soon as is reasonably practicable.
- 24.8 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling, but includes wider child protection considerations.

25 Club Gaming and Club Machine Permits

- 25.1 Members' clubs and miners' welfare institutes may apply for a "club gaming permit" or a "club machine permit". The "club gaming permit" will enable the premises to provide gaming machines (three machines of categories B4, C or D), equal chance gaming, i.e. poker, bingo, etc. A "club machine permit" will enable the premises to provide gaming machines (three machines of categories B4, C or D). Commercial clubs may apply for a "club machine permit" only.
- 25.2 To qualify for these special club permits, a members club must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.
- 25.3 Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that any under 18 year olds do not use the adult only gaming machines. These measures may include:
- The machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised;
 - Notices and signage;
 - The provision of information leaflets/helpline numbers for organisations such as GamCare.
- 25.4 Before granting the permit, the Council will need to satisfy itself that the premises meets the requirements of a members' club, and that the majority of members are over 18.
- 25.5 The Council may only refuse an application on the grounds that:

- The applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which they have applied;
 - The applicant's premises are used wholly or mainly by children and/or young persons;
 - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - A permit held by the applicant has been cancelled in the previous ten years;
 - An objection has been lodged by the Commission or the police.
- 25.6 There is also a "fast-track" procedure available for premises which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure, there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Council can refuse a permit is reduced. The grounds on which an application under the process may be refused are:
- That the club is established primarily for gaming;
 - That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

26 Temporary Use Notices

- 26.1 Temporary use notices allow the use of premises on not more than 21 days in any 12 months period for gambling where there is no premises licence, but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be useful for a temporary use notice would include hotels, conference centres and sporting venues.
- 26.2 Temporary Use Notices allow the use of premises for any form of equal chance gambling where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner.
- 26.3 Only persons or companies holding a relevant operating licence can apply for a temporary use notice to authorise the particular class of gambling permitted by their operating licence.
- 26.4 A temporary use notice must be lodged with the licensing authority not less than three months and one day before the day on which the gambling is due to take place. Detailed information about how to serve a temporary use notice will be available in a separate guidance note.
- 26.5 The Act makes a special reference, in the context of temporary use notices, to a "set of premises" to try and ensure that large premises which cannot reasonably be viewed as separate are not used for more temporary use notices than permitted under the Act. The Council considers that the determination of what constitutes "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a "set of premises", the Council will look at, amongst other things, the ownership/ occupation and control of the premises. The Council will be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

27 Occasional Use Notices (for tracks)

- 27.1 There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice. The application may be made in writing to the Council by the person responsible for the administration of the events on a track, or by an occupier of the track.
- 27.2 The Council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Council will, however, consider the definition of a “track” and whether the applicant is entitled to benefit from such notice.

28 Small Society Lottery Registrations

- 28.1 A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part.
- 28.2 The Act creates two principal classes of lotteries: Licensed lotteries and exempt lotteries. Licensing lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries, there are four sub-classes, one of which is small society lotteries.
- 28.3 A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These will be administered by the Council for small societies who have a principal office in Brighton & Hove and want to run such lottery.
- 28.4 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.
- 28.5 To be “non-commercial” a society must be established and conducted:
- For charitable purposes;
 - For the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
 - For any other non-commercial purpose other than that of private gain.
- 28.6 The other types of exempt lotteries are “incidental non-commercial lotteries”, “private lotteries” and “customer lotteries”. If you require guidance on the different categories of lotteries, please contact the Council’s Licensing Team.
- 28.7 The National Lottery is not licensed by the Gambling Act 2005, and continues to be regulated by the National Lottery Commission under the National Lottery Act 1993.
- 28.8 **Small Society Lotteries**

The Licensing Authority registers and deals with small society lotteries. Promoting or facilitating a lottery falls within one of the following categories:

- Licensed Lotteries (requiring an Operating Licence from the Gambling Commission);
 - Small Society Lotteries (registered with the Licensing Authority); and
 - Exempt Lotteries.
- 28.9 Lotteries permitted to be conducted without a licence from the Gambling Commission and these are:
- Small Society Lotteries (registered with the Licensing Authority);
 - Incidental Non-Commercial Lotteries;
 - Private Lotteries: (Private Society Lottery, Work Lottery, Residents' Lottery);
 - Customer Lotteries.
- 28.10 Societies may organise lotteries if they are licensed by the Gambling Commission, registered with the Licensing Authority or fall within the exempt category. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. However, guidance notes with regard to all lotteries, limits placed on small society lotteries and information setting out financial limits are available by contacting the Licensing Team.
- 28.11 Applicants for lottery licences must apply to the Licensing Authority in the area where the principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area, it will inform the Society as soon as possible, and where possible, will inform the other Licensing Authority.
- 28.12 The Licensing Authority will keep a Public Register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the Register is completed, the Licensing Authority will notify the applicant of registration.
- 28.13 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may, however, seek further information from the Society and in particular may require a copy of the society's constitution.
- 28.14 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
- 28.15 The Licensing Authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled, to refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
- 28.16 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following guidance criteria to all small society lotteries it registers:

- Tickets should not be sold in a street – street includes any bridge, road, land, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
- Tickets may be sold from a kiosk, in a shop or door-to-door.

This approach is consistent with the operating licence conditions imposed by the Gambling Commission upon operators of large lotteries.

Part E - Enforcement

29 Enforcement Principles

29.1 The Council will work closely with the responsible authorities in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following government guidance around better regulation.

29.2 In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council will endeavour to be:

- Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent:** Rules and standards must be joined up and implemented fairly;
- Transparent:** Regulators should be open, and keep regulators simple and user friendly; and
- Targeted:** Regulation should be focused on the problem, and minimise side effects.

29.3 The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

29.4 Where there is a Primary Authority scheme in place, the Council will seek guidance from the Primary Authority before taking any enforcement action. At the time of the publication of this policy, there were four Primary Authority arrangements with host local authorities:

Coral	London Borough of Newham
William Hill	City of Westminster
Ladbrokes	Milton Keynes
Paddy Power	Reading

29.5 Further information, including an index of all Primary Authority arrangements, can be found at <https://primaryauthorityregister.info/par/index.php/home>

- 29.6 The Council will also adopt a risk-based inspection programme in line with government recommendations around better regulation and the principles of the Hampton Review.
- 29.7 The main enforcement and compliance role for the Council in terms of the Gambling Act 2005, will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Council, but will be notified to the Gambling Commission. In circumstances where the Council believes a premises requires a premises licence for gambling activities and no such licence is in force, the Council will alert the Gambling Commission.
- 29.8 The Council will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 29.9 The Council's enforcement/compliance protocols/written agreements will be available upon request.

30 Reviews

- 30.1 A review is a process defined in the legislation which ultimately leads to a licence being reassessed by the Licensing Committee with the possibility that the licence may be revoked, suspended or that conditions may be amended or new conditions added.
- 30.2 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Council to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is:
- In accordance with any relevant code of practice issued by the Gambling Commission;
 - In accordance with any relevant guidance issued by the Gambling Commission;
 - Reasonably consistent with the licensing objectives; and
 - In accordance with this authority's Gambling Act 2005 – Statement of Licensing Policy.

In addition, the Council may also reject the application on the grounds that the request is frivolous, vexatious, will certainly not cause this authority to wish to alter, revoke or suspend the licence, or is substantially the same as previous representations or requests for review.

- 30.3 The Council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

31 Test Purchasing

- 31.1 This Authority will undertake covert test purchasing exercises in order to check compliance with the requirement that under-18s do not access "adult only" gambling facilities. This exercise is in response to concerns about underage gambling vulnerabilities in particular sub-sectors of the gambling industry. Under the terms of the Gambling Commission's

Licence Conditions and Codes of Practice, operators must monitor the effectiveness of their policies and procedures for preventing underage access to gambling premises and products. At the time of the drafting of this policy, certain sub-sectors of the gambling industry had not provided the Gambling Commission with any assurances that this was happening. Those sub-sectors are, broadly, the small and medium-sized Betting Premises, Adult Gaming Centres and Family Entertainment Centres.

31.2 Both this Authority and the Gambling Commission have particular concerns with regards to access to adult only gaming machines, which may be accessible without any interaction between the player and a member of staff. With this in mind, this Authority will continue with its policy of targeted test purchasing exercises.

31.3 Those premises that fail a test purchase will be asked to address the weaknesses in their underage gambling procedures shown by this test and submit improvement plans, and in appropriate cases, enforcement action will be taken. There are a number of steps which this Authority would recommend to operators in order to prevent underage access and monitor the effectiveness of their policies, including:

- Re-positioning of machines and change of layout
- Infra red security beam to alert staff to presence of customers in age-restricted areas and maglocks to restrict access
- Maintenance of a Refusal Register
- Independent test purchasing
- Upgrade CCTV
- Induction and refresher training for staff
- Challenge 25
- Signage and Prominent GamCare Documentation
- Minimum levels of supervision.

Contact Details, Advice and Guidance

Further details for applicants about the gambling and application process, including application forms, can be found:

- By contacting the Licensing Team at: Bartholomew House, Bartholomew Square, Brighton, BN1 1JP. Tel. 01273 294429, E-mail ehl.safety@brighton-hove.gov.uk, via www.brighton-hove.gov.uk (search under Licensing Act 2003 and follow the gambling links), or via Customer Services Contact Centre.
- Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- Police Licensing Unit, Police Station, John Street, Brighton, BN2 2LA.
Tel: 01273 665523
- Fire Authority, East Sussex Fire and Rescue Service, Brighton & Hove Fire Safety Office, Hove Fire Station, English Close, Hove, BN3 7EE. Tel: 01323 462130
- Planning, Development Control, Hove Town Hall, Norton Road, Hove, BN3 1PT. Tel: 01273 290000
- Environmental Health, Environmental Protection Team, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP. Tel: 01273 290000
- Child protection – Children and Young People’s Trust, Assistant Director, (Children’s Social Care), Hove Town Hall, Hove, BN3 4AH.
- HMRC, National Registration Unit, Betting and Gaming, Portcullis House, 21 India Street, Glasgow, G2 4PZ. Tel: 0845 010 9000.

Appendix I – Glossary of terms

Term	Description
ATM	Auto teller machine or cash machine
Betting	Betting is defined as making or accepting a bet on the outcome of a race, competition or other event or process or on the outcome of anything occurring or not occurring or on whether anything is or is not true. It is irrelevant if the event has already happened or not, and likewise whether one person knows the outcome or not. (Spread betting is not included within this definition).
Betting Machines / Bet Receipt Terminal	Betting machines can be described as automated betting terminals where people can place bets on sporting events removing the need to queue up and place a bet over the counter.
Bingo	There are essentially two types of bingo: cash bingo, where the stakes paid make up the cash prizes that can be won and prize bingo, where various forms of prizes can be won, not directly related to the stakes paid.
Book	Running a “book” is the act of quoting odds and accepting bets on an event. Hence the term “Bookmaker”.
Casino games	A game of chance, which is not equal chance gaming. Casino games includes Roulette and black jack, etc.
Chip	Casinos in the UK require you use chips to denote money. They are usually purchased and exchanged at a cashier’s booth.
Coin pusher or penny falls machine	A machine of the kind which is neither a money prize machine nor a non-money prize machine.
Crane grab machine	A non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person’s success in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects.
Default condition	These are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the Council.
Equal Chance Gaming	Gaming which does not involve playing or staking against a bank.
Fixed odds betting	If a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not “gaming” see below), then it is likely to be betting at fixed odds.
Fixed Odds betting terminals (FOBTs)	FOBTs are a type of gaming machine which generally appear in licensed bookmakers. FOBTs have “touch screen” displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.
Gaming	Gaming can be defined as “the playing of a game of chance for winnings in money or monies worth, whether any person playing the game is at risk of losing any money or monies worth or not”.
Gaming Machine	Any type of machine allowing any sort of gambling activity, including betting on virtual events but not including home computers even though users can access online gaming websites.

Term	Description
Licensing Objectives	<p>The Licensing Objectives are three principal goals which form the basis of the Act. Stakeholders who have an interest in the Act need to try and promote these objectives: The licensing objectives are:</p> <ul style="list-style-type: none"> • Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime • Ensuring that gambling is conducted in a fair and open way • Protecting children and other vulnerable persons from being harmed or exploited by gambling.
Lottery	<p>A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part. A lottery is defined as either a simple lottery or a complex lottery. A simple lottery is one where persons are required to pay to participate and one or more prizes are allocated to one or more members of a class and the prizes are allocated by a process which relies wholly on chance. A complex lottery is where persons are required to pay to participate and one or more members of a class and the prizes are allocated by a series of processes where the first of those processes relies wholly on chance. Prize means money, articles or services provided by the members of the class among whom the prize is allocated. (It should be noted that the National Lottery is not included in this definition of lottery and is regulated by the National Lottery Commission).</p>
Mandatory condition	<p>A condition which will be set by the Secretary of State (some set out in the Act and some to be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The Council will have no discretion to alter or remove these conditions.</p>
Money Prize Machine	<p>A machine in respect of which every prize which can be won as a result of using the machine is a money prize.</p>
Non-money prize machine	<p>A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize. The winner of the prize is determined by:</p> <ul style="list-style-type: none"> • The position in which the coin or token comes to rest after it has been inserted into the machine, together with the position of other coins or tokens which have previously been inserted into the machine to pay a charge for use, or • If the insertion of a single coin to pay the charge for use enables the person using the machine to release one or more tokens within the machine, the position in which such tokens come to rest after being released, together with the position of other tokens which have previously been so released.
Odds	<p>The ratio to which a bet will be paid if the bet wins. E.g. 3-1 means for every £1 bet, a person would received £3 of winnings.</p>
Off-course betting operator	<p>Off-course betting operators may, in addition to premises away from the track, operate self contained betting premises within a track premises. Such self-contained premises will provide facilities for betting on both events taking place at the track (on-course betting), as well as other sporting events taking place away from the track (off-course betting). In essence, such premises operate like a traditional high street bookmakers. They will, however, only normally operate on race days.</p>

Term	Description
On-course betting operator	The on-course betting operator is one who comes onto a track temporarily, while races are taking place, and operates at the track side. On-course betting operators tend to offer betting only on the events taking place on the track that day (on-course betting).
Pool Betting	For the purposes of the Gambling Act, pool betting is made on terms that all or part of the winnings: <ul style="list-style-type: none"> • Shall be determined by reference to the aggregate of the stakes paid or agreed to be paid by the persons betting; • Shall be divided among the winners; or • Shall or may be something other than money. For the purposes of the Gambling Act, pool betting is horse-race pool betting if it relates to horse-racing in Britain.
Regulations of Statutory Instruments	Regulations are a form of law, often referred to as delegated or secondary legislation. They have the same binding legal effect as Acts and usually state rules that apply generally, rather than to specific persons or things. However, regulations are not made by Parliament. Rather, they are made by persons or bodies to whom Parliament has delegated the authority to make them, such as a minister or an administrative agency.
Representations	In the context of the Gambling Act, representations are either positive statements of support or negative objections which are made in relation to a licensing application. Representations must be made in time, e.g. during a designated notice period.
Responsible authority (authorities)	Responsible authorities (RAs) are agencies which have been appointed by the Gambling Act, or regulations to fulfil a designated role during the licensing process. RAs must be sent copies of all licensing applications and have the power to make representations about such applications. RAs also have the power to ask for licences to be reviewed.
Skill machine / Skill with prizes machine	The Act does not cover machines that give prizes as a result of the application of pure skill by players. A skill with prizes machine is one on which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine. An example of a skill game would be trivia game machines, popular in pubs and clubs, which require the player to answer general knowledge questions to win cash prizes.
Spread betting	A form of investing which is more akin to betting, and can be applied either to sporting events or to the financial markets. Spread betting is regulated by the Financial Services Authority.
Stake	The amount pledged when taking part in gambling activity as either a bet, or deposit to the bank or house where the house could be a gaming machine.
Statement of principles document	A document prepared by the Council which outlines the areas that applicants need to consider before applying for gaming permits.
Table gaming	Card games played in casinos.
Tote	“Tote” is short for Totaliser, a system introduced to Britain in 1929 to offer pool betting on racecourses.
Track	Tracks are sites (including horse tracks and dog tracks) where races or other sporting events take place.

Appendix 2 – Gaming Machines

This appendix describes the categories of gaming machine as set out in the Act (and in regulations) and the number of such machines that may be permitted in each type of gambling premises.

- Table 1 below sets out the current proposals for the different categories with the maximum stakes and prizes that will apply. This table will be updated as soon as the proposals are confirmed.
- Table 2 overleaf shows the maximum number of machines permitted and in the case of casinos the ratios between tables and machines.

Table 1

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 (with the option of a max £20,000 linked progressive jackpot on a premises basis only)
B2	£100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D – money prize	10p	£5
D – non-money prize (other than a crane grab machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£15 (of which no more than £8 may be a money prize)

¹ The category B2 is not actually a traditional slot machine. It refers to a type of gaming machine known as a fixed odds betting terminal (FOBTs). These are a new type of gaming machine which generally appear in licensed bookmakers. FOBTs have ‘touch-screen’ displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.

Table 2

Premises Type	Machine category						
	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act Casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks operated by pool betting		Maximum of 4 machines categories B2 to D (except B3A machines)					
Bingo Premises ¹					Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*	No limit C or D machines	
Adult gaming centre ²					Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*	No limit C or D machines	
Licensed family entertainment centre ³							No limit C or D machines
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes with permits ⁴					Maximum of 3 machines in categories B3A or B4 to D*		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises with licensed premises gaming machine permit						Number of category C-D machines as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D

1. Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premise. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A.
2. Adult gaming centres are entitled to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13th July 2011, they are entitled to make available four Category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.
3. Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.
4. Members' clubs and miners' welfare institutes with a club gaming permit, or with a club machine permit, are entitled to site a total of three machines in categories B3A to D, but only one B3A machine can be sited as part of this entitlement.
5. Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

Appendix 3 – Summary of Gaming Entitlements for Clubs and Pubs

	Members' club or MW institute with club gaming permit	Bridge or whist club	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	<u>Poker</u> £1000 per week £250 per day £10 per person per game <u>Other gaming</u> No limit	<u>Poker</u> £1000 per week £250 per day £10 per person per game <u>Other gaming</u> No limit	<u>Cribbage & dominoes</u> No limit <u>Poker</u> £100 per premises per day <u>Other gaming</u> £5 per person per game
Limits on prizes	No limit	No limit	<u>Poker</u> £250 per game <u>Other gaming</u> No limit	<u>Poker</u> £250 per game <u>Other gaming</u> No limit	<u>Poker</u> £100 per game <u>Other gaming</u> No limit
Maximum participation fees – per person per day	<u>Bridge and/or whist*</u> £20 <u>Other gaming</u> £3	£18 (without club gaming permit) £20 (with club gaming permit)	<u>Bridge and/or whist*</u> £18 <u>Other gaming</u> £3 (commercial club) £1 (members club)	<u>Bridge and/or whist*</u> £18 <u>Other gaming</u> £1	None permitted
Bankers or unequal chance gaming	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
Limits on bingo	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	No bingo permitted	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.

* On a day when no other facilities for gaming are provided

Produced by

Licensing Team
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton and Hove BN1 1JP

Tel: 01273 294429

Email: Ehl.safety@brighton-hove.gov.uk

Web: <http://www.brighton-hove.gov.uk/content/business-and-trade/licensing-and-gambling>

Council

15 December 2016

Agenda Item 54

Brighton & Hove City Council

Subject:	CUSTOMER FEEDBACK REPORT - Extract from the proceedings of the Audit & Standards Committee meeting held on the 15 November 2016		
Date of Meeting:	15 December 2016		
Report of:	Executive Lead Officer for Strategy, Governance & Law		
Contact Officer:	Name:	John Peel	Tel: 01273 291058
	E-mail:	john.peel@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE***Action Required of Council***

To receive and note the item referred from the Audit & Standards Committee for information:

Recommendation: That the Council notes the extract from the Audit & Standards Committee and the report.

BRIGHTON & HOVE CITY COUNCIL

AUDIT & STANDARDS COMMITTEE

4.00pm 15 NOVEMBER 2016

**COUNCIL CHAMBER,
HOVE TOWN HALL**

MINUTES

Present: Councillors A Norman (Chair) Cattell, Cobb, Druitt, Moonan, Morris, Sykes (Group Spokesperson) and Taylor.

Independent Persons: Diane Bushell and Dr David Horne.

PART ONE

51 CUSTOMER FEEDBACK REPORT

- 51.1 The Committee considered a report of the Executive Lead Officer- Strategy, Governance & Law that provided assurance to the Committee that the Council has an effective Customer Feedback system that included detail and analysis of the complaints received.
- 51.2 Councillor Cobb asked if Members were included as professionals as defined in the report.
- 51.3 The Customer Experience Lead confirmed that this was the case adding that Councillors played an important role in the complaints process as advocates for residents.
- 51.4 Councillor Cobb noted her disappointment that Members were subject to the same ten working days timeframe for responding to complaints as others adding that this should be shorter for Members due to the important role they played.
- 51.5 Councillor Sykes asked if complaints registered through social media platforms were recorded.
- 51.6 The Customer Service Experience Lead clarified that complaints made through social media were not currently recorded and the data covered complaints and compliments made via telephone, email and the web form on the council website.

- 51.7 Councillor Druitt asked if it was intended to include complaints and compliments made through social media in the future as from his own experience, this was a popular way to contact services and Members and the current data may not reflect an accurate picture.
- 51.8 The Customer Service Experience Lead clarified that social media compliments and complaints were monitored manually but this entailed significant human resource. A software programme that monitored social media posts and gauged emotion and subject was currently being investigated as an option for the future.
- 51.9 The Executive Lead Officer - Strategy, Governance & Law clarified in relation to Member correspondence that the question of responses to Members had been considered two years ago and it was agreed that Members should receive an acknowledgement within two working days and a full substantive response within five working days. On occasions where that might not be possible the Member should be informed of when they may expect a full response.
- 51.10 **RESOLVED:** That the Committee note the report.

53 ITEMS REFERRED FOR INFORMATION

- 53.1 The following item was referred to Full Council on 15 December 2016, for information.
- Item 51 – Customer Feedback Report.

Subject:	Customer Feedback Report		
Date of Meeting:	15 November 2016		
Report of:	Executive Lead Officer – Strategy Governance & Law		
Contact Officer:	Name:	Brian Foley	Tel: 29-3109
	Email:	Brian.foley@brighton-hove.gov.uk	
Ward(s) affected:	All		

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

- 1.1 To provide assurance to the Committee that the Council has an effective Customer Feedback system which is able to ensure that:
- Complaints from members of the public are dealt with promptly and efficiently.
 - Appropriate performance targets are set and monitored to ensure there is continued improvement in the way customer and service user dissatisfaction is dealt with.
 - Where corrective action is required this is addressed.
 - Analysis of complaints and compliments are used to improve the way services are provided.
- 1.2 To provide assurance that any major areas of concern that might require further investigation are being considered.

2. RECOMMENDATIONS:

- 2.1 That the Committee note the report
- 2.2 That the Committee should receive a similar report four times a year

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Customer Feedback is important to the Council. The feedback we receive from customers and service users about what disappoints or delights them provides insight on what members of the public value and can inform decisions on where improvements should be made.

- 3.2 A failure to deal with complaints promptly and effectively can affect levels of customer satisfaction and present a level of risk to organisational reputation. The Customer Feedback Team are working with key services to promote and improve the way customer dissatisfaction is dealt with.
- 3.3 The information within the Appendix to this report is taken from the council's performance reporting system and is shared with the Executive Leadership Team's Performance Board.
- 3.4 The following set of Key Performance Indicators are used to measure Customer Feedback.
- Number of Stage One complaints received
 - Number of Stage One complaints upheld
 - Number of Stage Two complaints upheld
 - Number of Ombudsman complaints upheld
 - Number of compliments

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Results for the full year 2015/16 showed a 20% decrease in Stage One complaints and an increase of 20% in compliments received. Numerically, complaints reduced from 1957 to 1567 and compliments increased from 648 to 781.
- 4.2 We have set a target for a further 5% reduction in complaints throughout 2016/17 which is 372 in each quarter. In Quarter One (Q1) the result was 460, which was Red, the direction of travel was worsening.
- 4.3 In Quarter Two (Q2) the result was 407, which continues to be Red but the direction of travel is improving compared to Q1.
- 4.4 Stage One complaints can be reduced by addressing the underlying issues that give rise to customer dissatisfaction and by giving front line teams the means to resolve issues at first point of contact.
- 4.5 There were two teams, City Parks and Sport & Leisure where complaint levels increased compared to Q1, in all other teams there were improvements or no change.
- 4.6 In comparison to 2015/16 the time taken to reply to complaints is taking longer. The percentage of complaints replied to within 10 working days has reduced and a greater percentage took more than 20 working days.
- 4.7 The Customer Feedback Team produce a weekly chase up list for members of the Corporate Management Team. The Directors for the teams where there are the most significant delays have given their assurances this is being dealt with.
- 4.8 The proportion of complaints upheld at Stage One is an indicator of how well teams are resolving dissatisfaction at point of contact. If a matter becomes a formal complaint and is upheld we question why it was not possible to resolve it without recourse to the complaints process.

- 4.9 The proportion of upheld formal complaints steadily reduce from 39% in 2014/15 to 31% in 2015/16, to continue the improvement we have set a target of 28% for 2016/17.
- 4.10 In Q1 there were 460 Stage One complaints of which 155 were upheld or partially upheld. This gives a figure of 34%, and a Red rating. The direction of travel was worsening. For Q2 there were 407 complaints of which 168 were upheld or partially upheld. This gives a figure of 41% and continues to have a Red rating and a direction of travel which is worsening.
- 4.11 Teams with higher than the target level of upheld complaints and where their direction of travel was worsening were City Clean, City Parks, Children's Social Care, Adult Social Care, Repairs & Maintenance, and Life Events.
- 4.12 Stage Two complaints are investigated by the Customer Feedback Managers who are independent of services. A low percentage of upheld or partially upheld results at Stage Two is interpreted as showing that on the whole team managers carrying out Stage One investigations have reached a fair and reasonable decision.
- 4.13 The target result for 2016/17 Stage 2 complaints upheld or partially upheld is 15%. The result for Q1 was 21% which was Amber, there was a slight improvement on the 2015/16 figure. The result for Q2 is 13% and is Green. The direction of travel is improving.
- 4.14 The Local Government Ombudsman's Annual Review of Local Government Complaints stated that nationally it upheld 51% of detailed investigations in 2015/16, up from 46% the previous year.
- 4.15 The Council's target result for 2016/17 of 20% aims for continued improvement in resolving complaints before they are referred to the Ombudsman.
- 4.16 In Q1 there were 9 complaints to the Ombudsman with one complaint upheld, the result was 11% which is Green. In Q2 there were 15 complaints to the Ombudsman with 3 complaints upheld. The result was 20% which is Green however the direction of travel of worsening.
- 4.17 Compliments are a valued source of feedback and help teams understand what customers really appreciate about the way they are delivering their services.
- 4.18 For 2015/16 the total number of compliments recorded was 781, a 10% improvement for the year is 860 (215 per quarter). For 2016/17 Q1 there were 214 compliments, this is an Amber rating. In Q2 there were there were 216 and this slight increase turns the rating Green.
- 4.19 We record compliments from members of the public and from other professionals. By professionals we mean colleagues from other departments and people working in other agencies or partner organisations. In Q2 we have started to separate the external and internal professionals' compliments.

4.20 In Q2 91% (196) of compliments received were from members of the public and 9% (20) from professionals.

4.21 Further information about the results and the actions being taken by teams to address red ratings is given in the appendices.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The information in the report is derived from feedback received directly from members of the public. The results obtained have been shared with senior officers in the services referred to and their comments have been incorporated.

6. CONCLUSION

6.1 We are able to assure the Committee that:

- The concerns about the timeliness of responses have been addressed with Directors and corrective action is being taken.
- Performance targets have been set, are regularly monitored and reported to the Council's Executive Performance Board.
- Services take account of the customer feedback they receive and have identified ways to improve their performance and the services they offer.
- The Customer Feedback process is robust and is able to identify when and where any major areas of concern arise and can bring this to the attention of relevant senior officers to act upon.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 The costs of Customer Feedback in terms of administration and compensation awards (where appropriate) are met within existing allocated budgets.

Finance Officer Consulted: James Hengeveld

Date: 17/10/16

Legal Implications:

7.2 The Council follows statutory complaints procedures for complaints about Adult and Children's Social Care and a corporate complaints procedure under which complaints about other council services are dealt with. .

Lawyer Consulted: Victoria Simpson

Date: 17/10/16

Equalities Implications:

7.3 There are no direct Equalities implications.

Sustainability Implications:

7.4 There are no direct Sustainability implications.

Any Other Significant Implications:

7.5 There are no other significant implications

SUPPORTING DOCUMENTATION

Appendices:

Documents in Members' Rooms

1. None

Background Documents

1. None

Appendix 1: Number of Stage One complaints received

Position:

This information relates to complaints from members of the public about all services delivered by the Council including statutory Adult Social Care, Children Social Care and Corporate Complaints.

The target for 2016/17 is to drive continued improvement with a 5% reduction on the result of the preceding twelve months. The annual result for 2015/16 was 1567, the green target is 1488, which is 372 per quarter. The result for Q1 (March to May) was 460 which was Red, and for Q2 (June to Aug) there were 407 complaints and remains a Red rating. The direction of travel is improving.

For key services in Q2 the number of complaints, direction of travel compared to Q1 and main issues of complaint were:

- City Parks = 21 (Red/Worsening); Grass Verges, Weeding
- Sport & Leisure = 10 (Red/Worsening); Disagree with decision
- Cityclean = 108 (Red/Improving); Recycling missed, Refuse collection missed, Failure to provide bins, Street cleaning not done
- Parking = 27 (Green/Improving); PCN, Parking Permits, Pay & Display
- Highways = 13 (Green/Improving); Road Safety, Road Repairs, Streetlighting
- Development Management = 4 (Green/Improving); Disagree with decision
- Tourism & Venues = 0 (Green / Level)

- Revenues & Benefits = 29 (Green/Improving); Legal Action, Incorrect Assessment,

- Childrens Social Care = 17 (Green/Worsening) Unhappy with SW, Not supporting parent
- Health & Disability = 2 (Green/Level); Delay, Unhappy with decision
- Education & Skills = 1 (Green/Improving); Unhappy with decision

- ASC = 12 (Green/Improving); Quality of services

- Repairs & Maintenance = 72 (Red/Level) Delay completing repair, Communication
- Regulatory Services = 8 (Red/Level); Failure to take action, disagree with decision
- Housing Services = 31 (Red/Improving); Low level ASB, Lack of action
- Housing Needs = 23 (Green/Improving); Banding, Disagree with decision

- Life Events = 5 (Green/Improving); Poor delivery of service

Few other local authorities provide their annual complaints data and where they do the corporate complaints processes used often differ so that direct comparisons are not easily made.

For 2015/16 67% of replies were sent within 10 working days, 12% took longer than 20 working days. In Quarter 1 2016/17 61% of replies were sent within 10 working days, 18% took longer than 20 working days. In Q2 61% were replied to within 10 working days, 17% have taken longer than 20 working days but at the time of writing 24 complaints had not been replied to and the final figure will be adjusted when the results are available. Response times are clearly taking longer than in 2015/16.

The Customer Feedback Team issues weekly reminders to all members of CMT which show what complaints have not been replied to. The teams that are having the greatest difficulty responding in a timely manner are City Clean, Housing Options and Development Management.

Commentary:

The Customer Feedback Team review Customer Feedback results with all major teams. There are six teams where the number of complaints received have been classified as Red (City Clean, City Parks, Sports & Leisure, Repairs & Maintenance, Housing Services and Regulatory Services) and of this group there are three teams (City Parks, Sports & Leisure, and Children's Social Care) where the number of complaints have increased compared to Q1. In all other services the complaint numbers are either level or reducing.

Comments from the services where there are increased complaints were:

- City Parks are looking at different options for the ways in which the service they provide can be funded.
- Sports & Leisure, the Head of Service considered the increased complaint numbers was understandable in the context of the increased numbers of visitors during the summer season. There are a whole range of improvements being made to the seafront and one of the latest improvements will be to the Volks Railway following the securing of external funding. As reported in Q1 much work is done by event organisers to minimise the impact of events on local people and visitors who do not wish to take part in the events.
- Children's Social Care saw a significant decrease in complaints in Q1 as a result of their new delivery model, there has been a very small increase in Q2 but this may be considered a minor fluctuation in complaint levels and is not indicative of an increasing trend. This service are now communicating recommendations arising from customer feedback to all their practitioners.

Actions:

1. City Clean. Priority has been given to the introduction of income generating commercial work. This may impact on previously planned work to improve in-cab communications using mobile technology. Action Date: Ongoing Action Lead: Waste Contracts & Projects Manager

2. City Clean. Online ordering process and assessment of qualification for larger refuse bins being reviewed. Action Date: Ongoing. Action Lead: Waste Contracts & Projects Manager
3. City Clean. Greater emphasis has been placed on Enforcement and dealing with Fly Tipping, 800 fines have been issued in the city since April compared to 80 in the whole of last year. This has had a positive impact on littering and street waste in the city and will enable investment in moveable cctv to be located at fly tipping hotspots and improving the environment for residents. Action Date: Ongoing. Action Lead: Waste Contracts & Projects Manager.
4. Housing Repairs & Maintenance: There is a new text service for responsive repairs. A text is automatically sent out when a job order is closed asking for feedback. The resident can respond by text and if they raise any outstanding issues or concerns, they will receive a call within 24 hours and a resolution will be found. Action Date: September 2016. Action Lead: Head of Housing Strategy Property & Investment
5. Implementation of system to create better understanding of repair requirements to housing stock to be implemented. Action Date: March 2017. Action Lead: Business & Performance Manager.
6. Revised tenant repairs handbook. Action Date: March 2017. Action Lead: Customer Service Manager.
7. Housing Services: The re-organisation of the service with a more efficient structure and improved focus on vulnerable people and the need for residents to contact fewer people. It is anticipated this will lead to fewer complaints. Action Date: October 2016. Action Lead: Assistant Director – Housing
8. Benefits & Revenues: A set of measures with a digital focus appear to have had an impact on reducing the number of complaints received. These include student discounts, exemptions, direct debits, an online benefit form, and online questions. A text service now reminds people when they are late in making payments. People are being encouraged to make use of online services and eBilling will be introduced for next financial year. Action date: April 2017, Action lead: Head of Benefits & Revenues.
9. Parking: A “self serve” system is being introduced where customers can access information online when they are issued with a PCN . It will enable people to fully understand why a PCN has been issued and help them understand if they are likely to be successful in an appeal. Action date: November 2016. Action Lead: Parking Strategy Manager.
10. All overdue complaints are made known to senior managers in a weekly publicised list. Action Date: Ongoing. Action Lead: Customer Experience Lead
11. Quarterly meetings with heads of service to review complaints performance. Action Date: Ongoing. Action Lead: Customer Feedback Managers

Appendix 2: Number of Stage One complaints upheld

Position:

Teams should endeavour to avoid issues of dissatisfaction becoming formal complaints by resolving the matter with their customers. This is good customer service and avoids the cost of engaging the complaint process. If a team identifies there has been a mistake team members should have the skills, the knowledge and be empowered to resolve the issue.

The average percentage of complaints upheld or partially upheld over the two year period 2013/14 and 2014/15 was 39% across all services. Result for the year 2015/16 was 31.0% (468/1567). For 2016/17 a target of 28% will continue that trend by setting a 10% improvement.

In the reporting period 2016/17 Q1 there were 460 Stage One complaints of which 155 were upheld or partially upheld. This gives a figure of 34%, and had a Red rating. The direction of travel was worsening. For the period 2016/17 Q2 there were 407 complaints of which 168 were upheld or partially upheld. This gives a figure of 41% and continues to have a Red rating and a direction of travel which is worsening.

There is no comparator information available from other authorities.

Commentary:

We have complaints data about all service teams but more closely monitor and report on the activity of a group of services who have a high profile or significant levels of complaint. Services with higher than the target level of upheld or partially upheld complaints and where the trend was not improving in Q2 were:

- City Clean: In Q2 there were 108 complaints of which 74 were upheld (=68%) compared to 38% in Q1. The issues driving complaints are Missed recycling collection, Missed refuse collection, and Failure to provide bins. Problems with call handling have impacted on dealing with missed collections, the Service Level Agreement for missed collections is 24hrs, but many email reports were not being picked up within that time. Difficulties with staffing levels are contributing to the increased percentage of valid complaints. Permanent recruitment is now taking place and this should help resolve the underlying issues.
- City Parks: In Q2 there were 21 complaints of which 8 were upheld (=38%) compared to 20% in Q1. The key issues have been growth of weeds and lack of verge cutting. City Parks accept this has been an issue for them and there are greater issues they face regarding the upkeep of, allotments, parks and sports pitches. City Parks are working with sports clubs, governing bodies and other interested parties to identify how grounds maintenance can be funded.
- Children's Social Care: In Q2 there were 17 complaints of which 7 were upheld (=40%) compared to 33% in Q1. Complaints about Children's Social Care are often complex and multi-stranded and the issues are highly emotional. It frequently follows that in the course of resolving a complaint Managers will

identify areas of the service which could have been better delivered. CSC have developed and are using a system for communicating service improvements to all practitioners on a quarterly basis.

- Adult Social Care: In Q2 there were 21 complaints of which 9 were upheld (=42%) compared to 43% in Q1. Similarly to Children's Social Care the complaints are often complex and multi-stranded and it is often found that a part of the overall complaint is upheld. ASC are about to introduce Electronic Self Assessment which will minimise the double handling of data, freeing staff to focus on other tasks and reducing waiting times.
- Repairs & Maintenance: In Q2 there were 72 complaints of which 41 were upheld (=57%) compared to 53% in Q1. A new text service for responsive repairs seeking feedback on all closed works. If any outstanding issues or concerns are raised the tenant will be called within 24 hours and a resolution arranged. This should reduce complaints and the percentage of upheld issues.
- Life Events: In Q2 there were 5 complaints of which 3 were upheld (=60%) compared to 38% in Q1. A modernisation programme for Bereavement Services has begun which will streamline processes for booking and tracking events for customers and provide a legal register.

Actions:

1. City Clean: Permanent recruitment of staff for the contact centre will bring improvements in the communication and reporting of missed collections. Action Date: November 2016. Action Lead: Head of Business Support and Projects.
2. City Parks: Discussions are taking place to identify alternative ways in which grounds can be maintained. Action Date: Ongoing. Action Lead Policy and Major Projects Manager.
3. Adults Social Care: Introduction of Electronic Self Assessment will stream line process. Action Date: December 2016. Action Lead: General Manager.
4. Repairs & Maintenance: A new text service to check if there are outstanding issues following repairs work has gone live. Action Date: October 2016. Action Lead: Head of Housing Strategy Property & Investment.
5. Life Events: Modernisation programme for Bereavement Services. Action Date: Ongoing. Action Lead: City Services Manager

Appendix 3: Number of Stage Two complaints upheld

Position

Stage 2 complaints are investigated by the Customer Feedback Managers who are independent of services. A low percentage of upheld or partially upheld results at Stage 2 can indicate that service managers carrying out Stage 1 investigations have reached a fair and reasonable decision.

The target result for 2016/17 Stage 2 complaints upheld or partially upheld is 15%. The Q1 (March – May) result was been 21% which was Amber and showed a slight improvement on the 2015/16 figure. The result for Q2 (June – August) is 13% and is Green. The direction of travel is improving.

There is no comparator information available from other authorities about the percentage of Stage 2 complaints upheld.

Commentary

Heads of Service tell us that greater effort is being placed on resolving customer dissatisfaction by their managers. To assist in this Customer Feedback Managers hold quarterly meetings with Heads of Services and Senior Managers where there is discussion about the quality of responses. Additionally, the Customer Feedback Team offer training in developing investigations skills and identifying service improvement as part of the Council wide learning programme and on an ad-hoc basis where a learning need is identified. Feedback received from delegates who have attended is that the workshops are very informative and useful. This appears to be having a positive effect on the quality of Stage 1 complaints and is reducing the cases upheld at Stage 2.

The challenge for the future will be to continue to improve the skills of all managers and their teams so that people who have raised complaints at Stage 1 can recognise that their issue has been fairly investigated and that they have been treated with empathy and respect. Recognising when something has gone wrong, giving an explanation and a meaningful apology in a timely manner is really important for improving overall customer satisfaction.

Progress has been good in Q2 and only a few teams have higher than the target level of upheld or partially upheld complaints at Stage 2 and a trend which was not improving. However it should be noted that as there are only a small number of Stage 2 cases for each team an increase of a single upheld case can cause a big percentage change.

- **City Clean:** In Q2 there were 108 Stage 1 complaints which have resulted in 5 Stage 2 complaints (Escalation rate=4.6%). Of those 5 complaints 2 were upheld (40%). In Q1 there were 5 Stage 2 and 1 was upheld (20%).
- **Parking:** In Q2 there were 25 Stage 1 complaints which have resulted in 4 Stage 2 complaints (Escalation rate=16%). Of those 4 complaints 1 was upheld (25%). In Q1 there were 3 Stage 2 and 0 were upheld (0%).

- **Housing Needs:** In Q2 there were 23 Stage 1 complaints which have resulted in 4 Stage 2 complaints (Escalation rate=17.3%). Of those 4 complaints 1 was upheld (25%). In Q1 there were 8 Stage 2 and 2 were upheld (25%).
- **Revenues & Benefits:** In Q2 there were 29 Stage 1 complaints which have resulted in 4 Stage 2 complaints (Escalation rate=13.7%). Of those 4 complaints 1 was upheld (25%). In Q1 there were 4 Stage 2 and 0 were upheld (0%).

Actions:

1. The Customer Feedback Team will continue to provide support, advice and training to enable service managers to give high quality response to complaints which focus on either resolving matters or giving clear explanations why service have to be delivered as they are. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
2. The Customer Feedback Managers will continue to meet with service managers to identify service improvements and to improve the quality of Stage One replies. (Action Date: Ongoing. Action Lead: Customer Experience Lead)

Appendix 4: Number of Local Government Ombudsman complaints upheld

Position

The target result for 2016/17 for complaints referred to the Ombudsman which are upheld or partially upheld is 20%. In the reporting period Q1 (March to May) there were 9 complaints with one complaint upheld, the result was 11% which is Green. In the reporting period Q2 (June to July) there have been 15 complaints referred to the Ombudsman with 3 complaints upheld. The result was 20% which is Green however the direction of travel is worsening.

There is no quarterly comparator information available from other authorities about the percentage of LGO complaints upheld.

Commentary

The cases which the Ombudsman upheld were in:

- **Blue Badge** assessment: Ms X was unhappy with Council's decision not to renew her Blue Badge. The Ombudsman found that, while the assessor failed to record some information in the assessment report, this did not result in an injustice to Ms X.
 - The Council agreed the Ombudsman's recommendation and has reminded its mobility assessors to ensure they complete all the relevant sections of the mobility assessment form.
- **Library**: The Council failed to review its decision to keep Mr X on its Clients of Concern register which banned him from Library Y. This fault did not cause Mr X significant injustice.
 - The Council has developed a process to ensure Client of Concern reviews should not be missed and have a longer term aim of making this a fully automated process.
- **Housing Needs**: The Council was not at fault for refusing Ms X's request to be placed in the top priority band for housing transfer. It considered relevant information and applied its criteria for housing allocations properly when it decided to place her in Band B. Its stage two complaint response wrongly told Ms X it had not received any recommendation or advice to support her application. It also wrongly advised Ms X it had placed her in Band A.
 - The Council has apologised to Ms X for the distress caused by these mistakes.
 - Additionally, the Council has identified that information was stored on separate systems and now has a procedure to ensure that the correct information is being placed on the correct system.

Actions:

1. The Customer Feedback Team will continue to provide support, advice and assistance to services to enable managers to give high quality responses to the Ombudsman which reflect the service and their attempts to resolve complaints in the best possible light. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
2. Actions identified by the Ombudsman for service improvement will be communicated to the relevant team and will be monitored to ensure they are carried out. (Action Date: Ongoing. Action Lead: Customer Experience Lead)

Appendix 5: Number of Compliments

Position

For 2015/16 the total number of compliments recorded was 781, a 10% improvement for the year is 860 (215 per quarter). For 2016/17 Q1 there were 214 compliments, this is an Amber rating. In Q2 there were there were 216 which is Green and improving.

In Q1 88% of compliments received were from members of the public and 12% from professionals.

In Q2 91% (196) of compliments received were from members of the public and 9% (20) from professionals.

By professionals we mean colleagues from other departments and people working in other agencies or partner organisations. In Q2 we have started to separate the external and internal professionals' compliments.

The reasons for compliments from members of the public were:

Customer Focus	Q2= 83(42%)	Q1=89(47%)	15/16=21(33%)
Personal Qualities	Q2= 27(13%)	Q1=40(21%)	15/16=132(20%)
Good Processes	Q2= 65(33%)	Q1=33(18%)	15/16=112(17%)
Quality of Outcome	Q2=11(6%)	Q1=17(9%)	15/16=107(16%)
Quality of Input	Q2=10 (6%)	Q1=9(5%)	15/16=79(12%)

The reasons for compliments from professionals were:

Customer Focus	Q2=10(50%)	Q1=10(40%)	15/16=18(14%)
Quality of Input	Q2=5(25%)	Q1=6(24%)	15/16=36(29%)
Personal Qualities	Q2=1(5%)	Q1=4(16%)	15/16=30(24%)
Quality of Outcome	Q2=3(15%)	Q1=3(12%)	15/16=10(8%)
Good Process	Q2=1(5%)	Q1=2(8%)	15/16=31(25%)

In Q2 the results by Directorate were:

• Economy, Environment & Culture	Q2=80	Q1=59
• Families, Children & Learning	Q2=23	Q1=34
• Finance & Resources	Q2=10	Q1=20
• Health & Adult Social Care	Q2=56	Q1=47
• Neighbourhoods, Communities & Housing	Q2=38	Q1=46
• Strategy Governance & Law	Q2=9	Q1=8

There is no comparator information available from other authorities.

Commentary

The guidance we are giving to help people understand what we mean by compliments is:

“A compliment is when someone makes a proactive attempt to congratulate a service provider and explains why they appreciated the service provided.”

During Customer Service week we published a selection of compliments on the wave (intranet) to encourage services to tell us about the compliments they receive so we can review them and identify and share the good things customers comment on.

Compliments are included in the quarterly discussions between service leads and Customer Feedback Managers to inform service improvements.

Some service areas have reported a significant increase in the compliments they receive.

Actions:

1. The Customer Feedback Team will continue to encourage and remind teams to send their compliments to CustomerFeedback using the generic email address as this will enable us to build a picture of what customers find valuable. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
2. The value of Compliments is promoted in the Complaints Investigation and Service Improvement workshops. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
3. Analyse compliments received and discuss with services leads in quarterly meetings to inform service improvements (Action Date: Ongoing, Action Lead: Customer Feedback Managers)

Council

15 December 2016

Agenda Item 55

Brighton & Hove City Council

Subject: Housing Delivery Options – Living Wage Joint Venture - Extract from the proceedings of the Housing & New Homes Committee meeting held on the 16 November 2016.

Date of Meeting: 15 December 2016

Report of: Executive Lead Officer for Strategy, Governance & Law

Contact Officer: Name: **Caroline DeMarco** Tel: **01273 291063**

E-mail: caroline.demarco@brighton-hove.gov.uk

Wards Affected: All

FOR GENERAL RELEASE***Action Required of Council***

To receive the item referred from the Housing & New Homes Committee for information.

Recommendation: That the Council note the resolutions of the Housing & New Homes Committee and the report.

BRIGHTON & HOVE CITY COUNCIL
HOUSING & NEW HOMES COMMITTEE
4.00pm 16 NOVEMBER 2016
COUNCIL CHAMBER, HOVE TOWN HALL
MINUTES

Present: Councillors Meadows (Chair); Councillor Hill (Deputy Chair), Councillor Mears (Opposition Spokesperson), Councillor Gibson (Group Spokesperson), Councillors Atkinson, Barnett, Bell, Druitt, Lewry & Moonan.

PART ONE

40 HOUSING DELIVERY OPTIONS – LIVING WAGE JOINT VENTURE

- 40.1 The Committee considered a report of the Executive Director Economy Environment & Culture which set out a proposal from Hyde Housing Association to develop a Living Wage Joint Venture with the council to acquire land and develop new homes for lower cost rental and sale for low income working households in the city.
- 40.2 Following the deferral of the report submitted to the September Committee meeting, officers had carried out further work including ongoing financial and legal due diligence on the terms of the proposed joint venture; meetings between the council and Hyde's legal teams; further development of key documents; and additional briefings for Housing spokespersons and their lead members/political groups. Details of the briefings were set out in the report. A comprehensive list of Frequently Asked Questions had also been produced and appended to the report to help inform member decisions at Appendix 3. A financial summary was contained in Part Two of the agenda.
- 40.3 Prior to the consideration of the current report, members had a 40 minute adjournment to receive advice from officers on the amendments received from the Conservative and Green Groups. The report was presented by the Head of Housing Strategy, Property and Investment, and the Programme Manager, Regeneration. They were accompanied by the Principal Accountant and Matthew Waters from Bevan Brittan.
- 40.4 Councillor Mears stated that the Conservative Group had submitted an amendment in time and had been informed that due to the complexity of the questions, the amendment could not be debated at the meeting today. She put forward a further amendment requesting a Special meeting of the Housing & New Homes Committee be held, shortly before the Policy, Resources & Growth Committee on 8 December 2016 in order to consider the report and allow officers to respond to questions. The amendment was seconded by Councillor Bell.

40.5 The Chair asked members to vote on whether to defer the report to a Special meeting of the Housing & New Homes Committee on 8 December before Policy, Resources and Growth Committee. Four members voted for the amendment and six members voted against. The amendment to defer the report was therefore not agreed.

40.6 Councillor Mears presented the original Conservative amendment as follows.

“That the recommendations on page 62 of the agenda be amended as follows:

2. RECOMMENDATIONS:

2.1 That Housing & New Homes Committee:

i) Recommends the report to Policy, Resources & Growth Committee as set out at paragraph 2.2 subject to the following safeguards being put in place to protect the Council:

- a) That prior to the signing of any Heads of Terms agreement or other legally binding agreement to form this Joint Venture, Housing and New Homes Committee, Policy, Resources and Growth Committee and Full Council must ratify such a decision, with all members receiving the external advice sought including but not restricted to that from Queen’s Counsel on reverse Teckal, VAT and corporation tax liability and the likely outcome should a court conclude that the LLP would breach the requirement to use a company where something is done for commercial purposes as set out in the legal advice. As well as but not exclusively providing members with the ‘Independent financial/treasury management advice that will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum’ as outlined in the report.*
- b) That the appointments from the Council to the management board, shall include as the councils three members of the board, the chair of the housing and new homes committee, the opposition spokesperson of the housing and new homes committee and the minority groups spokesperson of the housing and new homes committee. Such positions should be capable of being substituted for by other members, and relevant council officers may attend purely in an advisory capacity to assist members. The Chair of the Board should also be the chair of the committee, who will hold a casting vote: in perpetuity. Final details of this officer advisors list, should come back to a future Housing and New Homes Committee for final approval, with any future changes to be agreed by later meetings of a committee which holds the same housing functions as this current committee.*
- c) That no HRA asset will be transferred or sold into the Joint Venture and this shall be written into the Heads of Terms, or equivalent legal agreement or final contracts.*
- d) That the HRA will have first refusal of any General Fund land being sold to the Joint Venture, with member oversight of this being considered for any sum above and including zero pence at the Estate Regeneration Board.*

- e) *That a short 30 day Prior Information Notice be issued to ascertain, and this should be clearly set out in the OJEU Council Documents, whether another registered provider believes their frameworks could provide better value for money for the Council's significant investment than Hyde's: whilst clearly stating the Council has no legal compulsion to procure in this instance, and if responses to the PIN are received this is not binding for a full procurement process to be gone through. The results of which should be brought back to a future Housing and New Homes committee meeting, for the committee to assess whether a full procurement process, if any registered provided responds positively to the Prior Information Notice, should be undertaken in the interest of value for money. The Procurement Advisory Board prior to the results coming to committee should also consider the results, and make recommendations which will be included in the report back to this committee.*
- f) *Further financial modelling should be undertaken and reported back to a future meeting of this committee for approval, as well as Policy Resources and Growth Committee and Full Council. This financial modelling should include SFVM and NPV calculations over each, 2, 5, 7, 10, 15, 20 and 40 years period, not simply the current 60 years one modelled as earlier exit is a possibility. This should also be a more extensive combination of sensitivity analysis at each of these time periods of the proposed joint venture. These should include both a best and worst cases scenario for each, but as a minimum should include a rental market reduction of 10%, an interest rate increase up to and including 8%, stress testing of the current proposed unit cost with additional 10% contingency and fees, construction costs increases of 20% seen on other council schemes, exposure of the LLP to corporation tax and VAT which should include tax increases and decreases down to 12% and up to 40%, as we are still waiting on Counsel Advice on this. This model should also include provision for legal advice should the dispute resolution mechanisms fail and achieving each element of the council's affordable housing brief in full, not simply partially. This modelling and sensitivity analysis should also include a market value of property reduction of 20%, at any stage, and the likely effect on the sale of shared ownership properties or propensity of ownership default of the shared ownership properties if the UK entered recession and GDP contracted by 7%, and the financial impact on the joint venture and council, including but not exclusively of mortgage companies having first refusal over the LLP retained, rented percentage of these shared ownership properties, using historic recession trends particularly the results on Housing Associations of the 2008 financial crisis.*
- g) *That the council, in order to protect general fund services, internally underwrite the risk of any exposure to the loan for the LLP, which could result in the joint venture in any one year resulting in a deficit for the general fund; including any extension to right to buy: with the council's existing general fund asset portfolio (as the sale of any of these assets should be used to fill the gap if the sale of the joint venture properties is unobtainable) and/or future in year loans to fill any gap, which the JV profits in subsequent years could repay. This to ensure that should there be a deficit in any year, that in none of these years will the general fund have to make reductions to services to make*

loan repayments. This being conditional on it being a non-HRA loan. This to form part of the heads of terms, contract or equivalent legal document by the council solely and/or the Joint Venture.

- h) That a full and in depth review spanning the preceding 5 years of Hyde Housing Association and Hyde Housing Group be conducted and reported back to members at a future meeting of this Committee. This should also include a 5 year outline of all credit rating agency ratings, outlining every upgrade and/or downgrade over this period.**
- i) The Heads of Terms should clearly state at 2.1.6 d) the council or a third party to provide corporate and financial services, with an added, on costs incurred basis. Clarification on the requirement for a procurement process to be undertaken should these good or services be provided by a third party should also be set out to members at a future meeting of this committee.**
- j) Legal advice on state aid compliance should be provided extensively at the relevant committee agreement stage for the sale of any council land to the Joint Venture and the annual approval of the business plan approval stage.**
- k) It should be explicit in the heads of terms or subsequent contracts that any profit from the Joint Venture should be split on a 50/50 basis.**
- l) That the Heads of Terms be amended at 3.3.5 g) to delete '(or first phase)' and to instead read 'whole development'.**
- m) That financial solvency checks for its lifetime be conducted on 'Hyde New Build' as outlined at 4.1.2 of the heads of terms.**
- n) Changes to the Heads of Terms be made to ensure that only the Housing and New Homes Committee can agree to a change in the reserved matters list and this cannot form part of the annual business plan to be changed.**
- o) The expenses policy of the LLP as set out at 4.10 of the Heads of Terms should be agreed by a future meeting of this committee prior to the Heads of Terms being signed.**
- p) The Heads of Terms be amended at 4.15 to read that 97% of fair value of 3 independent valuers, including the district valuer, shall be transferred in the event of a default.**
- q) The Heads of Terms be amended at 4.17 so that any third party must undergo financial solvency checks and be approved by the remaining partner of the Joint Venture.**

2.2 That Policy, Resources & Growth Committee:

- i) Support in principle the living wage joint venture proposal **subject to the further safeguards being put in place outlined above**; and**
- ii) Give delegated authority to the Executive Director of Economy, Environment & Culture following consultation with the Executive Lead Officer for Strategy Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:**

- a. *develop and negotiate the deal with Hyde;*
 - b. *agree and authorise execution of **develop** the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture; **both of which should come back to a future Housing and New Homes Committee, Policy Resources and Growth Committee and Full Council for final approval.***
 - c. *make ~~the appointments~~ **suggestions on the Council officer advisory attendees** from the Council to the management board; **as the councils three members of the board shall be the chair of the housing and new homes committee, the opposition spokesperson of the housing and new homes committee and the minority groups spokesperson of the housing and new homes committee. Such positions should be capable of being substituted for by other members, and relevant council officers may attend purely in an advisory capacity to assist members. The Chair of the Board should also be the chair of the committee, who will hold a casting vote: in perpetuity. Final details of this advisors list, should come back to a future Housing and New Homes Committee for final approval.***
- iii) *Note that reserved matters (as detailed in 3.30) will come back to **the Housing and New Homes committee, as well as the Policy Resources and Growth Committee** for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV."*

- 40.7 The Executive Lead Officer for Strategy, Governance and Law explained it would be difficult for officers at today's meeting to give confident legal, financial and practical implications of the proposals contained in the amendment. By law the Committee were required to ensure that they have taken all relevant considerations into account, including the legal, financial and practical implications of what the Committee are proposing. If the amendment was moved as it was, it could potentially amount to negating the proposal in the report, because the level of change had significant implications. Given that situation the committee had two options in terms of how it wanted to proceed. The first one was to defer the item or to defer to a Special Housing & New Homes Committee. That idea was not supported. The other way to proceed was for the Committee to instruct officers to prepare a covering report addressing the points raised in the Conservative amendment and for that to be submitted to the Policy, Resources & Growth Committee so that they would be fully sited about the issues. Officers would be happy to facilitate a member briefing so that the PR&G Committee would have the benefit of that input.
- 40.8 The Executive Lead Officer for Strategy, Governance and Law suggested that if Councillor Mears was happy to proceed on the basis outlined above then the committee could vote on that. If she wanted to vote on the amendment as it was presented above, rather than taking a report to PR&G Committee, that would cause difficulties.
- 40.9 Councillor Mears requested an adjournment to discuss the advice given above. The Chair agreed to the adjournment.
- 40.10 Following the adjournment the Executive Director, Finance & Resources addressed the Committee as Section 151 officer. He stressed that the proposals in the amendment

were quite complex and officers had not had time to carry out any work in considering the proposals and were not in a position to provide advice to members.

40.11 The Executive Lead Officer for Strategy, Governance and Law explained that the suggested way forward did not reject the amendments. PR&G Committee would have a full set of amendments before it. It would also have the officers' comments on those amendments, including the legal and financial implications. Meanwhile, officers would be happy to facilitate a briefing for members.

40.12 Councillor Mears stated that the Conservative Group agreed to amend the original Conservative amendment to state that officers would be instructed to prepare a report covering issues raised in the draft amendment to the Policy, Resources & Growth Committee and that a briefing be arranged before Policy, Resources & Growth Committee to which members of Housing & New Homes Committee were invited.

40.13 Councillor Bell seconded the amendment to the amendment.

40.14 The Chair stated that the Committee would now need to consider the Green amendments. There would then be a debate and members would come back to the vote.

40.15 Councillor Gibson read out the Green amendments as follows:

First Green amendment:

"That the following amendments be made to the recommendations listed under point 2, so that the document reads as follows:

2.2 That the Policy, Resources and Growth Committee:

ii) Give delegated authority to the Executive Director of Economy, Environment and Culture following consultation with the Executive Lead Officer for Strategy, Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:

a. Develop and negotiate the deal with Hyde; ***in which the following are sought:***

- 1) ***100% of nominations for Living Wage Rented Housing are provided only for households from the BHCC waiting list, for whom specifically, the market rent for housing in the private sector exceeds 50% of their income.***

This is estimated at an annual gross income of:

- £36,000 for a three-bed
- £31,000 for a 2 bed,
- £22,500 for a one bed
- £16,000 for a studio

- 2) ***That 100% of nominations for shared ownership properties are achieved for residents with a local connection to Brighton and Hove, as defined in the***

Housing Allocations Policy

- 3) ***That a 'first refusal' option is agreed in the event Hyde become bankrupt; and/or that in the event that Hyde should separately dispose of their stake in the partnership, that their stake be sold to the council or to a charitable housing association, with charitable objectives;***
- 4) ***That the rent levels set are reduced to the levels modelled in the 30% of living wage rent sensitivity test, (made possible by lowering the rate of return in the base model)***

~~b. agree and authorise execution of the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture;~~

b. the final terms of the agreement be put forward and agreed by full meeting of Council, prior to the completion of the deal;

~~c. Make appointments from the Council to the management board;”~~

Second Green amendment:

That the following addition be made to the recommendations listed under point 2, section (iii), so that the document reads:

iii) Note that the reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV

iv) That reserved matters for the Joint Venture should include:

- (a) An option to veto any future rent increases that exceed increases in the National Living wage;***
- (b) An option to veto any future rents increases that raise combined rents and service charges above the Local Housing Allowance;***
- c) An option to increase allowances for maintenance of properties after year 10 in the model.”***

Third Green Amendment

“That the following addition be made to the recommendations listed under point 2, section (iii), so that the document reads:

iii) Note that the reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV.

v) That should the business model exceed its projected rate of return, all surplus council monies be ring fenced exclusively to provide additional council owned emergency accommodation for homeless people and additional living wage rented housing”

40.16 Councillor Druitt seconded the Green amendments as outlined above.

40.17 Councillor Hill stated that the Labour group had no objections to the Green amendments as described above. There was also no objection to the Conservative amendments as further amended above. Councillor Hill stressed the importance of the initiative which would make a great difference to people in the city.

40.18 Councillor Gibson raised the following issues:

- It was important to achieve cross party support for the initiative.
- Councillor Gibson shared concerns that HRA assets were being sold. He was attracted to the idea of a first refusal on general fund sites for HRA development.
- The initiative was an exciting and innovative proposal with a number of benefits.
- Concern was expressed about the affordability of the scheme, and most of the amendments the Green group were proposing were designed to address that aspect. The proposed rent was double the amount of council rents.
- He considered that the proposals would fail to deliver living waged rented housing. The amendment sought to make it more affordable for more people in the city.
- The amendment was saying that if the national living wage isn't progressed the council should have safeguards in place.
- Concern was expressed that the modelling for management and maintenance was considerably lower than the amount that the council spends on average. In the longer run it might not be sufficient to properly maintain the properties. The amendment was asking if the council could revisit this after 10 years.
- Should the business model make more money for the council then this should be put into council owned emergency accommodation and living wage rented housing.

40.19 Councillor Atkinson thanked all the officers for all the work they had put into the proposals which would provide a large amount of family housing. The issue of non-competitive procurement was well covered in Section 3.1.1 on page 64 of the report. Section 3.10 pointed out that Hyde was a nationally recognised organisation and a longstanding member of the affordable housing delivery partnership. Section 3.30, laid out in some detail the strategic control the council would exercise over the operation. It also suggested that that a senior councillor could sit on the board of the joint venture thereby giving even more democratic input. The joint venture fitted in with the proposed allocations policy. Hyde would not charge access fees when the partnership was buying goods or services using Hyde's frameworks. The proposed venture provided the unique opportunity to build a large number of new homes for local people.

40.20 Councillor Bell stated that the Conservative Group fully supported the concept of the proposals and thanked Hyde for bringing this to the officers and for the time spent on the proposal. The Living Wage Joint Venture was something the city really needed. Councillor Bell was concerned despite all the meetings that had been held over the months and all the questions asked and answers given, the papers in front of members did not bear a lot of resemblance to what councillors had at the last committee meeting.

40.21 Councillor Bell raised a number of issues which were answered by officers as follows:

- The scheme of delegation referred to the Estate Regeneration Board and the Strategic Delivery Board, both of which contained cross party membership.
- Modelling assumptions had been reviewed as detailed in part 2 of the report. Funding would be something that would come back to the Policy Resources & Growth Committee and it would be determined on how the LLP was structured. That matter had not been discussed with Hyde and Bevan Brittan.
- Section 106 financial implications were based on £6000 per property which was a standard assumption for this size of development.
- Greater Brighton references were referred to in the report to give contextual reference, as officers wanted to show members the body and the breadth of efforts they were making to improve housing. The references did not relate directly to the Joint Venture. Paragraph 3.34, clearly showed how JV allocation was cross reference with the council's allocation policy. There was no indication anywhere that the JV properties would be allocated to anybody other than those living and working in Brighton & Hove. Under the frequently asked question number 4, page 94, officers had outlined how they would make sure these homes go to local households.
- It was confirmed that officers were not talking about HRA land being transferred. Officers could amend the papers to reflect that for the Policy, Resources & Growth Committee. There was different legal advice on the sale of HRA land to the sale of general fund land, so Bevan Brittan had provided advice to both. This JV was not about HRA land.
- In regard to questions about the land terminology such as transfer and drawdown, it was confirmed that any land going from the council would be going in at value. Transfer was a legal term that would have to happen to effect that. The council would still be receiving market value for it. With regard to legal questions around the Board and conflicts there would be considerations around conflicts whether it the Board members were officers or councillors. With regard to costs incurred, the Heads of Terms stated that the services for which Hyde were providing development management services would be carried out on a cost incurred basis. They would be not be making a profit. If the council provided services to the vehicle then that would also be on a cost incurred basis.
- Hyde was proposing to enter into a contract directly with Hyde New Build. The council would have a contract with the parent company. There would therefore be no need for a parent company guarantee. Hyde New Build limited provided the design and build services to Hyde Housing Association. They were proposing that Hyde New Build could be used to provide design and build services and that could be cost efficient for the joint venture. Hyde New Build was set up over 5 years ago and had a trading history and accounts and details could be provided.
- Officers had sought to answer questions on the running of the company and the Board on frequently asked question number 14 on page 97. The suggestion that members should be members of the Board was one of the amendments that would be going forward to the Policy, Resources and Growth Committee. The governance structure was a reserved matter. Anything officers discussed with Hyde would be brought back to members for approval. With regard to options appraisal, officers had

tried to demonstrate in the report that there were a range of options. Two of the options were in front of members today. The Wholly Owned and the Joint Venture. Any other options would have to be agreed by Committee.

- The £3 figure for £1 of investment was a national collation. Details could be circulated to members after the meeting. Officers had not identified which sites would be transferred. They had to make sure that the JV would work. Some work had been carried out on the types of sites required but they had not been identified or agreed. There would be a full consultation process on any sites that did come forward. They would all need to come through committee for agreement.

40.22 Councillor Druitt wanted to put on record that the hours that councillors had spent having multiple meetings did not seem to be the right way to carry out democracy. He asked if everyone could reflect on that and explore other ways in the future. He shared a number of concerns expressed by the Conservative group but he was happy to trust Policy, Resources & Growth Committee on the legal and financial due diligence of the joint venture. Councillor Druitt wanted to see the Conservative amendments explored in full at the briefing and at PR&G Committee. He welcomed all the work that had gone into the joint venture, but considered that there needed to be more effort in ensuring that the rents were truly living wage rents.

40.23 Councillor Mears raised a number of concerns and questions which were answered as follows:

- Delegated authority was in consultation with the two cross party boards. Under 2.2 (iii) noted that reserved matters would come back to the Committee for approval. Paragraph 3.30 outlined a full range of reserve matters that would have to come back to members; this included the business plan for the JV, any funding and any issues to do with governance as well as any disposals.
- The affordable housing brief was a means by which the council try and maximise the number of affordable housing in the city. The reason for doing this was to seek a significant number of rented homes. Size standards did link to the previous Homes and Community Association size standards and this was one of a number of options that were being considered to deliver new homes.
- In terms of whether there were enough sites for a 1000 homes, the purpose of the list officers shared confidentially with members was to review the sorts of sites that might be used. There were HRA sites included in that list: however, it was confirmed in this joint venture officers were absolutely not talking about HRA sites coming into the joint venture.
- Members were reminded that all sites that come forward for disposal or transfer to the joint venture would need to go through Housing & New Homes Committee.
- With regard to comments about the report changing since the last meeting it was explained that Bevan Brittan had been engaged for 6 months or so supporting the council. Bevan Brittan always tried to update the advice as the project had evolved. The papers had been updated to remove issues that were no longer on the table or to add more detail where there was more clarity.
- Paragraphs 4.16 to 4.18 of the draft heads of terms were highlighted. At the last committee members wanted more detail and more focus about what might happen at the end of the venture. Bevan Brittan had sought to capture the key principle that the

council would have a lock in period during which it would know there would be certainty regarding the partners. In any event the council would have first right of refusal in the event that Hyde at some point in the future had an intention to walk away. The restriction on the use of the housing would always continue.

- The capital budget of £151,000 referred to in paragraph 8.3 was presented to committee last march. This was funding for legal and financial advice and was made up of strategic investment fund money and DCLG money carried forward.
- Officers had provided summaries of the models in the report. If an additional level of briefing was required that would be arranged.

40.24 Councillor Moonan echoed thanks to the officers for the work that had gone into the report. She welcomed the opposition's agreement in principal. The project was a sound and exciting proposal. Detail was important and Councillor Moonan welcomed the questions being raised and the examination of the detail. It was necessary to ensure all of those concerns were answered. Meanwhile, the proposals would boost the local economy by providing many local jobs as well as homes. The scheme was aimed at low income families and key workers who were struggling to pay private rents in a private rented sector. Through the scheme they would be provided with homes with a 40% discount which will make them much more affordable.

40.25 The Chair commented that this joint venture with Hyde Housing would allow the council to build up to 1000 affordable homes, as they would be based on the national living wage (by the time these homes are built) not the Brighton & Hove Living wage which was higher. This made the homes much more affordable. These homes would be more environmentally friendly, cheaper to heat, and more efficient on water consumption. That would save people another 40% on their fuel bills. On average each house could save up to £108 a week which would be life changing for many people.

40.26 The Executive Lead Officer for Strategy, Governance and Law stated that Councillor Bell had raised the issue of officers making appointments to outside bodies. He confirmed that under the council's constitution the appointment to outside bodies is reserved to full council.

40.27 The Committee voted on the Conservative amendments as amended so that they would be referred to PR & G Committee with an officer's report addressing the issues raised. Meanwhile officers would arrange a briefing before Policy, Resources & Growth Committee to which Housing & New Homes Committee members would be invited. The amendment to the amendment was unanimously agreed.

40.28 The Committee voted on the Green amendments and these were unanimously agreed.

40.29 The Committee voted on the main recommendations which became the substantive recommendation as amended and these were agreed by five votes in favour and four abstentions.

40.30 **RESOLVED:-**

- (1) That the Housing & New Homes Committee recommends the report to the Policy, Resources and Growth Committee as set out in paragraph

2.2, as amended.

- (2) That officers be instructed to take a report to Policy, Resources & Growth Committee addressing the issues raised in the Conservative draft amendment.
- (3) That officers arrange a briefing before Policy Resources & Growth Committee to which Housing & New Homes Committee members are invited to ensure members are fully briefed on the answers to the Conservative draft amendment.
- (4) That the following amendments be made to the recommendations listed under point 2, so that the document reads as follows:

2.2 That the Policy, Resources and Growth Committee:

- i) Support in principle the living wage joint venture proposal; and
- ii) Give delegated authority to the Executive Director of Economy, Environment and Culture following consultation with the Executive Lead Officer for Strategy, Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
 - a) Develop and negotiate the deal with Hyde; in which the following are sought:
 - 1) 100% of nominations for Living Wage Rented Housing are provided only for households from the BHCC waiting list, for whom specifically, the market rent for housing in the private sector exceeds 50% of their income. This is estimated at an annual gross income of:- £36,000 for a three-bed- £31,000 for a 2 bed,-£22,500 for a one bed-£16,000 for a studio
 - 2) That 100% of nominations for shared ownership properties are achieved for residents with a local connection to Brighton and Hove, as defined in the Housing Allocations Policy
 - 3) That a 'first refusal' option is agreed in the event Hyde become bankrupt; and/or that in the event that Hyde should separately dispose of their stake in the partnership, that their stake be sold to the council or to a charitable housing association, with charitable objectives;
 - 4) That the rent levels set are reduced to the levels modelled in the 30% of living wage rent sensitivity test, (made possible by lowering the rate of return in the base model)
 - (b) the final terms of the agreement be put forward and agreed by full meeting of Council, prior to the completion of the deal;

- iii) Note that the reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV:
- iv) That reserved matters for the Joint Venture should include:
 - a) An option to veto any future rent increases that exceed increases in the National Living wage
 - b) An option to veto any future rents increases that raise combined rents and service charges above the Local Housing Allowance;
 - c) An option to increase allowances for maintenance of properties after year 10 in the model
- v) That should the business model exceed its projected rate of return, all surplus council monies be ring fenced exclusively to provide additional council owned emergency accommodation for homeless people and additional living wage rented housing.

PART TWO SUMMARY

46 LIVING WAGE JOINT VENTURE - EXEMPT CATEGORY 3

- 46.1 The Principal Accountant presented the financial summary of the Living Wage Joint Venture proposal as detailed in appendix 4 to the report discussed at Item 40 in Part One of the agenda.

47 PART TWO PROCEEDINGS

- 47.1 **RESOLVED** - That the appendix attached at Item 46 remains exempt from disclosure to the press and public.

Subject:	Housing Delivery Options – Living Wage Joint Venture		
Date of Meeting:	16 November 2016 – Housing & New Homes Committee 8 December 2016 – Policy, Resources & Growth Committee		
Report of:	Executive Director for Economy, Environment & Culture		
Contact Officer:	Name:	Martin Reid Sam Smith	Tel: 01273293321 01273291383
	Email:	martin.reid@brighton-hove.gov.uk sam.smith@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee support in principle for the Living Wage Joint Venture proposal and delegation of authority to relevant Executive Directors to progress this opportunity with Hyde with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.* Following September Committee further work has been undertaken including: ongoing financial and legal due diligence on the terms of the proposed joint venture; meetings between the council and Hyde's legal teams; further development of key documents; and, additional briefings for Housing spokespersons and their lead members / political groups. Details of briefings are outlined in this report. A comprehensive list of Frequently Asked Questions has also been produced and appended to this report to help inform member decisions (Appendix 3).
- 1.2 The opportunity considered in this report is a proposal from Hyde Housing Association to develop a Living Wage Joint Venture with the council to acquire land and develop new homes for lower cost rental and sale for low income working households in the city. This proposal is informed by the outcome of the Housing Market Intervention options study presented to Housing & New Homes Committee in March 2016. Committee approved the Housing Delivery Options report and agreed to the procurement of legal and other specialist advisers to pursue this work.
- 1.3 The key aim of this project is the provision of lower cost rented housing. Supply of new lower cost rented homes is not keeping pace with demand and there is limited evidence of market appetite from developers and Registered Providers to deliver this product. There is also potential to generate a long term income for the council through funding returns and/or a margin through lending from the council.

- 1.4 The council has appointed Bevan Brittan LLP as its legal advisors. This report provides an overview of an offer to develop a Joint Venture (JV) for the development of lower cost rental and sale homes for low income working households in the city from Hyde Housing Association. Appendix 1 provides an overview of legal advice to date that has been provided by Bevan Brittan in relation to this opportunity. Appendix 2 provides a copy of the draft Heads of Terms document. Appendix 3 provides a list of frequently asked questions and answers. Appendix 4 in Part 2 of the report provides a summary of the Strategic Financial Viability Model and sensitivity analysis.

2. RECOMMENDATIONS:

2.1 That Housing & New Homes Committee:

- i) Recommends the report to Policy, Resources & Growth Committee as out at paragraph 2.2

2.2 That Policy, Resources & Growth Committee:

- i) Support in principle the living wage joint venture proposal; and
- ii) Give delegated authority to the Executive Director of Economy, Environment & Culture following consultation with the Executive Lead Officer for Strategy Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
 - a. develop and negotiate the deal with Hyde;
 - b. agree and authorise execution of the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture;
 - c. make the appointments from the Council to the management board;
- iii) Note that reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV.

3. CONTEXT/ BACKGROUND INFORMATION

Action since September 2016 Housing & New Homes Committee

- 3.1 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee support in principle for the Living Wage Joint Venture proposal and delegation of authority to relevant Executive Directors to progress this opportunity with Hyde with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.*
- 3.2 Since September Housing & New Homes Committee Council officers, Bevan Brittan (the Council's lawyers) and Hyde have further developed legal documentation, continued to review the financial model and undertaken additional councillor briefings as outlined below:
- Progressed development of legal documents, including Living Wage Joint Venture draft Heads of Terms, following Committee discussion,

incorporating: Governance (Reserved Matters, Board, Deadlock, Dispute Resolution); Structure (LLP direct participation; Exit routes; Planning, Allocations Policy, Support services – Council role; Hyde frameworks; VFM assurance; VAT on development).

- Progressed financial matters, including financial model assumptions sensitivity analysis and funding.
- In addition to briefings undertaken prior to the September Committee report, further briefings & updates for members have been undertaken since Committee, including: Estate Regeneration Members Board (17 October 2016); Labour Group (24 October 2016); Green Housing & New Homes Committee Members (31 October 2016), Green Group (31 October 2016); Conservative Housing & New Homes Committee Councillors (1 November 2016). Conservative Group (7 November 2016).
- A detailed response has also been prepared to questions on the potential joint venture with Hyde Housing raised by councillors and political groups. Questions arising from these meetings / groups are provided as a list of Frequently Asked Questions appended to this report.

Background

- 3.3 Brighton & Hove is a growing city with high housing prices, low incomes, an ageing population and a significant proportion of households with support needs. There are over 23,000 households on the joint housing register, 1,800 households in temporary accommodation and rising homelessness. Social housing makes up only a small proportion of the overall housing in the city with 9.8% of homes owned by the local authority and 5.1% by Registered Providers (RPs).
- 3.4 Housing demand, growth in the private rented sector and rising rents have an adverse effect on affordability of housing in the city. This has contributed to a decline in owner occupation as those seeking to buy their own home are increasingly unable to take advantage of housing for sale either through cost or as a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners.
- 3.5 This increasing housing demand, reduced public subsidy for affordable homes (in particular no funding for lower cost general needs rented homes) and a shift away from development of rented and family homes remain key challenges identified by the Council's Housing Strategy and Budget. This has an adverse impact upon the Council's ability to respond to the needs of a growing more diverse population and the council's capacity to maintain mixed and balanced communities and retention of lower income working households and employment in the city.
- 3.6 For stock holding authorities such as Brighton & Hove, the Housing Revenue Account debt cap, reduction in rental income of 1% per annum over four years and the potential impact of Housing & Planning Act (in particular proposed High Value Void tariff) will restrict resources available for new build and regeneration.
- 3.7 The HRA medium term and 30 year financial forecast was reported to Housing & New Homes Committee (13 January 2016) which showed that the Council is nearing its self-financing cap (or limit) on the amount of HRA borrowing permissible for capital investment. For Brighton & Hove this limit is currently set at £156.8 million and the outstanding debt reaches its peak in 2023/24 where the borrowing level is £147.4 million leaving headroom of only £9.4 million.

- 3.8 This position means that the Council needs to look at alternative funding and delivery mechanisms if it is to deliver the new affordable homes the city needs. The council has also been looking other opportunities including those related to the structures researched in the Housing Market Intervention project in order to deliver new homes potentially financed from outside the HRA.
- 3.9 Options to mitigate reduced public subsidy for affordable rented homes and Registered Provider shift away from development of this type of accommodation have been subject to regular discussion and review at our Affordable Housing Delivery Partnership (RPs, Homes & Community Agency (HCA) and council) meetings. In particular, as addressing the acute shortage of affordable rented homes and in particular family housing has been identified as a key priority in our Housing Strategy.

Joint Venture with Hyde Housing

- 3.10 Hyde Housing Association (Hyde), a long standing member of our Affordable Housing Delivery Partnership, has approached the Council with a proposal which could deliver 1,000 new lower cost rental and sale homes for low income working households in the city whilst generating a long term return for the council and Hyde.
- 3.11 The proposed Joint Venture is an attractive opportunity for the Council to accelerate the delivery of lower cost homes for rent and sale for low income working households that the city needs whilst generating a return on our investment. Our legal advisors have provided advice that the Council can enter into the JV without a procurement process for the following reasons: There is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services; this is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions; public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.

The Hyde Living Wage Housing proposal

- 3.12 This is a proposal for a JV partnership between Hyde and the council to be established as a 50:50 Limited Liability Partnership (LLP). The concept behind the Joint Venture is that the sum of the whole is greater than the value of the individual parts. By combining resources, funding, technical expertise and supply chain, the council and Hyde could deliver more together than individually.
- 3.13 There are risks and opportunities entering into any joint venture and there are a number of important considerations for the council. The first is selecting the right partner with the same objectives. The objectives of Hyde as a charitable housing association whose core purpose is as a housing charity providing low cost homes is a good fit with the council's aspirations to deliver a supply of good quality low cost homes for local people in housing need, including for low income working households essential to the economy of the city.
- 3.14 The joint venture model also enables the Council to access Hyde's commercial developer skills, expertise and resources, in particular the volume buying power of their framework agreements for both consultancy and construction services which would deliver commercial savings, reducing the cost of delivery. Hyde also has

substantial experience delivering major regeneration projects as part of its house building programme of circa 1,500 homes per annum. Hyde have an excellent track record of delivery of new homes within the city and the council is confident that the joint venture will deliver the new homes that are so needed in Brighton & Hove.

- 3.15 The cost and risk of developing the homes would be shared equally between the project partners as would the commercial returns.
- 3.16 The JV would deliver 1,000 new homes let and sold on sub-market terms:
- 500 homes at sub market prices which are affordable to rent for working Brighton & Hove residents earning the new National Living Wage (assumed delivery from 2019 onwards); and
 - 500 shared ownership homes affordable to buy for Brighton & Hove residents on average incomes.
- 3.17 Living Wage housing in this context is defined as a home provided at a cost which is at 40% of gross pay to a household earning the new national Living Wage. Current estimates are that this would require an average 40% discount on the market rent. This compares to a 20% discount for the Government's Affordable Rent product.
- 3.18 The Housing Strategy approved at Council in March 2015 highlighted key themes including the availability of affordable family homes, in particular rented homes, and the economic impact of this lack of housing supply on our ability to retain lower income working households and employment in the City. In our Housing Strategy we are committed work collaboratively with Adult Social Care, Children's Services and Health colleagues to meet our shared objectives including the availability of homes in the city to meet the needs of their workforce and those of other employers for whom the recruitment and retention of lower income workers in Brighton & Hove has increasingly become an issue. The proposed Living Wage Joint Venture would align to our strategic aim of contributing to addressing this issue.
- 3.19 The nature of the joint venture would provide the flexibility to sell homes from developments if it was in the JV's best interests. This is not currently envisaged, however the model would allow this flexibility subject to agreement from both LLP Members and within legal constraints on commercial activity.
- 3.20 The LLP will operate within the parameters of a Business Plan approved by both parties and subject to reserved matters. The initial Business Plan would be annexed to the shareholder agreement for the LLP (known as a Member's Agreement) which would be signed by the Council and Hyde. This is an important document that sets out, how the LLP will be run, including amongst other things: how profits are shared, who needs to agree decisions, members' responsibilities, dispute resolution and how members can join or leave the LLP.
- 3.21 It is proposed that the joint venture would have no direct staff, with services contracted in from the partners or from external contractors as necessary. The proposal from Hyde which is currently under consideration and is subject to negotiation is that they would provide development, sales and marketing and letting services to the JV with the Council providing financial and corporate services. There is an indicative allowance for corporate and financial services within the financial model. The provider of these services (which could be the Council) will need to ensure that full costs are recovered and this will be subject to

final schedule of service agreed with the LLP. A services agreement would be put in place with each of the partners at the point of forming the joint venture. It is yet to be agreed which party will provide the property management services.

- 3.22 The business case is supported by a Strategic Financial Viability Model (SFVM) to demonstrate a viable financial model and the scale of development that could be supported by an approximate level of investment. The council's Finance team have reviewed the financial model and its inputs, testing assumptions and auditing the validity of the outputs, i.e. carrying out due diligence on the business case and SFVM.
- 3.23 The initial proposal is for £105.47million total investment and Hyde propose that the council and Hyde both provide £52.7million funding to achieve this.
- 3.24 It will also be possible for the council to invest commuted sums it is able to raise from developers in lieu of onsite s106 affordable housing into the JV and therefore reduce the level of cash that the Council has to source from Public Works Loan Board (PWLB) or existing resources. The Council agreed how commuted sums should be calculated in relation to planning applications at the June 2016 meeting of Economic Development and Culture Committee and they are likely to continue to accumulate in the future. However it should be noted that the level of commuted sums collected is only likely to constitute a small percentage of the overall investment requirement. In addition, this is likely to be affected by the introduction of the requirement of Starter Homes on all major planning applications.
- 3.25 Value would be returned to the Council and Hyde through profit distributions and/ or repayment of debt in respect of loans made, with the balance depending on the final agreed approach to funding. Sensitivities and scenarios have been modelled evidencing the impact of various events including rising construction costs, changes to property prices, changes in rental amounts, interest rate assumptions and different accommodation sizes and standards. Profit generated from the JV will be an ongoing revenue income to the council as detailed in the Financial Implications section of this report and associated appendices.
- 3.26 An advantage of the proposed Limited Liability Partnership corporate structure is that the LLP Members retain their own tax profile. In other words the corporate structure is tax transparent and the profits would be subject to tax based on the corporate tax status and affairs of each individual LLP member.
- 3.27 Investment into the joint venture will be on State Aid compliant terms at a market rate. In the longer term the JV may opt to retain the portfolio but seek an external funder to invest.
- 3.28 The initial estimate of the investment requirement taken from the SFVM is detailed on the table below. The table details the anticipated development costs for each of the five years of the project. The Council contribution is based on half of these costs minus the anticipated annual shared ownership sales.

Year	Costs £M	BHCC £M	Sales £M	JV Debt £M
1	17.13	8.57	0	17.13
2	17.32	7.95	-1.41	33.04
3	45.50	14.28	-16.95	61.59
4	48.60	15.75	-16.95	93.10
5	35.92	9.48	-16.95	112.02
6	7.54	-3.30	-14.13	105.47

Governance of the Joint venture

- 3.29 Governance of the JV will be key to ensuring it is able to operate effectively and meet the best interests of the Council and key considerations are outlined in more detail in Appendix 1. The Council will interact with, and be able to exercise control over, the joint ventures activities in three principal ways:
- as a landowner, with contractual rights governing what sites the Council wants to transfer and on what terms;
 - as a member of the LLP, which in broad terms is equivalent to being a shareholder of a company (i.e. an owner of the vehicle);
 - through appointees to the management board, which is comparable to a company's board of directors.

Reserved Matters

- 3.30 The Council, and Hyde, will retain strategic control over the LLP's operation through their rights as members of the LLP. This will be achieved through the Council having the right to approve the LLP's annual Business Plan and the requirement that certain listed decisions, referred to as reserved matters, will have to be referred back to it rather than being within the discretion of the management board. It is proposed that this level of strategic control, i.e. the right to make decisions as member of the LLP, is retained by councillors. Reserved matters are likely to include:

Officers and members of the LLP

- Agreeing the appointment and the appointment terms (including any remuneration terms), or the removal, of any management board member other than one appointed by Hyde or the Council.
- Approving the admission of further members to the LLP or agreeing any rights or restricting attaching to any shares/equity allocated to such new members.
- Agreeing or approving any increase in the maximum size of the management board.

Future direction and development of the LLP

- Agreeing to enter into or entering into any debt facility or loan agreement other than the member loan agreements
- Forming any subsidiary or acquiring an interest in any other LLP or participating in any partnership or joint venture (incorporated or not).
- Amalgamating or merging with any other LLP or business undertaking.
- Selling or disposing of any part of the LLP
- Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent)
- Apply for the listing or trading on any stock exchange or market.

Management of the business of the LLP

- Changing the name of the LLP.

- Adopting and/ or agreeing any material amendments or variations to a Business Plan.
- Creating or agreeing to create a charge, security or encumbrance over the LLP's assets, interest or income.
- Changing the nature of the business of the LLP or commencing any new business which is no ancillary or incidental to the business.
- Agreeing to enter into or entering into any acquisition or disposal of any material assets by the LLP.
- Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the business or materially varying any such arrangements, contracts or transactions.
- Appointing and changing the LLP's auditors.
- Agree to make or making any loan (otherwise than by way of a deposit with a bank or the institution, the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading) or giving any guarantee (other than in the normal course of trading) or indemnity outside the normal course of business
- Changing the accounting reference date of the LLP
- Accepting any capital contributions in the LLP.
- Authorising the return of any capital contributed to the LLP to a member.
- Allocating and distributing any profit of the LLP.

3.31 The Council and Hyde will have the right to appoint a management board. The board will be given a role equivalent to a company's board of directors meaning the individuals will have duties to manage the activity of the LLP acting in the best commercial interests of the LLP for the benefit of the Council and Hyde as its members and will have the task and remit of implementing the Business Plan set by the Council and Hyde and subject to those matters / decisions reserved to the members. The main costs for running the board will officer and member time from the Council and Hyde and costs associated with arranging and holding board meetings. These will need to be covered by both parties in the JV and it is likely that council or Hyde building will be used to host board meetings.

3.32 The level of discretion given to the management board will depend on the precise framing of the Business Plan – i.e. how prescriptive or flexible it is – and what the reserved matters are.

3.33 The proposal is for a board of six, three to be appointed by Hyde and three by the Council. It is for the Council to determine who represents it on the Board and this could include elected member representation. There are arguments for and against, in the case of the latter largely around potential conflicts of interest, However, in response to feedback from Councillors, officers are working on the basis that the JV Board would require elected member involvement to enable agile decision making. This is ultimately a decision for elected members, for example it could be that the Council's elected member on the Board is the Chair of the Housing & New Homes Committee. The relatively low number of management board members should ensure that the LLP is focussed and operationally flexible, enabling it to deliver the objectives of the Living Wage proposal faster and in a more streamlined way. Potential conflicts of interest will need to be managed and these are outlined in more detail in Appendix 1.

Allocations and nominations

- 3.34 The Living Wage proposal concurs with the Council's draft Allocation Policy which proposes an income cap against size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from the Living Wage housing. The income caps have been set such that households who could expect to pay more than half of their income on average market rents would be retained on the Register whilst those who would expect to pay a lesser percentage would no longer be on the Register and hence would ensure they do not benefit from Living Wage homes. The Council can also develop a Local Letting Policy for these properties to give priority to those on the Housing Register who are working.

Land disposal to the Joint Venture

- 3.35 The Council may dispose of land to the JV on the basis of open market valuation assessed in line with legal obligations in respect of land disposals by councils to secure 'best consideration'. Any land disposal by the council would follow the usual processes and procedures within the council prior to transacting any disposal including Policy, Resources & Growth Committee approval in the normal way.
- 3.36 The joint venture would complete the transaction to purchase the land once it is satisfied that any scheme is viable as evidenced by the individual Scheme Financial Viability Appraisal (SFVA). Any land purchase by the JV would follow agreed corporate governance procedures within the JV as set out in the initial Business Plan.
- 3.37 For any disposal of land by the Council to the JV, the Council would follow all normal and prudent commercial practices, including obtaining the opinion of a professionally qualified independent valuer, in order to comply with the required legal process for any disposal of an interest in land.

Hyde Procurement Frameworks

- 3.38 The proposal is that Hyde's procurement frameworks will be used for construction and professional services relating to the development of the homes. The frameworks Hyde have procured are accessible to the Joint Venture and the Council under procurement law. They have been procured following EU and UK procurement regulations and value for money has been extensively tested through this process. Hyde have shared full details of their frameworks with the project group, who have reviewed this documentation closely and are satisfied that they offer a good option for delivery of JV projects.
- 3.39 Other organisations have joined and used Hyde's frameworks so that they can access the services and reduce procurement timescales and complexity (including other housing associations, registered providers and local authorities). Hyde generally charge for access to their frameworks, and it is worth noting that other local authorities and housing associations are paying Hyde considerable

sums to use them. It has been negotiated and agreed that Hyde will not charge these access fees to the JV when the LLP is buying goods or services through Hyde's frameworks. The LLP will also benefit considerably from Hyde's volume buying power, providing efficiencies and economies of scale.

- 3.40 The Hyde frameworks include some suppliers that have previously or are currently in contract direct with the council, including Westridge Construction Limited, the main contractor under the successful Strategic Construction Partnership. Each development delivered under the framework will have its own procurement process within the framework with a mini-competition undertaken between contractors providing a further opportunity to test value for money, ensuring that economically advantageous price is achieved and reducing the risk of anti-competitive behaviour and/or supplier complacency.
- 3.41 The joint appointment of an independent Project Monitor / Quantity Surveyor will provide an additional layer of assurance for both the Council and Hyde as they will provide a full value for money assessment of each contract that is delivered through the JV. Projects will not proceed without assurance that the individual project represents value for money and is in accordance with the overarching Business Plan.

4. RISK AND OPPORTUNITIES

- 4.1 A number of risks have been identified by the project team and the Council's legal advisors:

Risk	Details	Action
Consents and Best Consideration	Failure to structure arrangements to meet general consents could mean needing to go to the Secretary of State which would create uncertainty over timing and ultimately whether or on what terms consent would be given.	Legal advice has been taken to ensure regulations are met.
State Aid	An issue if contribution of land for no consideration or additional rights.	Legal advice has been taken that advise that the project is compliant
Site identification	Not able to identify suitable sites to transfer to the JV.	Sites are being reviewed and any council sites will be brought to future committees once confirmed as suitable for the JV.
Project financing	Understanding of financial risks and mitigation. Commuted sums may not be realised.	Extensive financial due diligence work has been undertaken to mitigate this risk, including modelling the council's investment assuming 100% borrowing and modelling various scenarios to test the sensitivity of

		the Strategic Financial Viability Model. Independent financial/treasury management advice will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposals are achieved.
Governance	The governance structure needs to be fit for purpose in managing delivery of development and does not cause inappropriate conflict issues that affect ability of the Council to manage the JV or the JV to manage its business.	Legal team have developed a range of options for the structure that have been discussed with Hyde.
Planning	Changes to national and / or local Planning policy framework. Including potential impact of Housing & Planning Act, in particular in relation to Starter Homes. Not able to gain planning permission for specific schemes or maximise capacity of sites.	Early planning advice will be taken on individual schemes. Planning Performance Agreements and Design Panels will be used for individual projects as required.
Community opposition	Potential opposition to schemes.	Communities will be engaged in a similar way to they have been for the New Homes for Neighbourhoods programme, for example using Planning for Real techniques.
Tax	Tax implication and liabilities such as SDLT and VAT need to be reviewed in relation to the proposed structure.	Tax advice has been given on the proposed structure and will continue to be reviewed with the progression of the JV proposals. The financial model includes An allowance for SDLT. Legal advice is that VAT liability is low risk as there are well established methods to ensure VAT is not payable of developments. Legal advice is that the council can directly enter the LLP, therefore the returns to the council would not liable for Corporation Tax. Counsel advice has been sought to confirm this.
Policies and standards	The current proposals do not fully meet the council's Affordable Housing Brief standards in terms of unit size, mix, Life Time Homes and percent of wheelchair accessible units. However the proposal	Sensitivity analysis has been undertaken on a range of potential changes in relation to these policies.

	does address issues of housing supply and in particular the provision of lower cost rented homes.	
Housing Market	Impact of any future economic uncertainty on the housing market and construction costs will be monitored. A significant fall in the housing market or increase in construction costs may require additional borrowing or increased percentage of sales.	Sensitivity analysis has been undertaken on a potential drop in house prices and increase construction costs. House prices would have to fall significantly to incur a loss on shared ownership sales.

5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

5.1 The Council has a number of existing options to deliver of new lower cost homes in the city including: continued work with our Affordable Housing Development Partnership; our New Homes for Neighbourhoods Programme (subject to Housing Revenue Account borrowing Cap); joint work with Planning in support of delivering Planning Policy Affordable Housing Requirements; freedoms and flexibility to accelerate housing delivery sought as part of Greater Brighton Devolution proposals. For the reasons outlined in this report the Council has also been investigating a number of additional delivery options in order to find a range of mechanisms to increase the supply of affordable housing in the city. This includes the work undertaken in the recent Housing Market Intervention report by Trowers & Hamblins and Savills, as well as the JV proposals from Hyde Housing.

5.2 Alternative options that have been considered are provided in the list below. It is likely that a range of delivery options will be progressed in the longer term in order to maximise the delivery of new homes. Individual proposals would need to be agreed by relevant committees.

- Wholly owned council vehicle e.g. Housing Company
- JV with a Registered Provider
- A joint venture procured under The Public Contracts Regulations 2015
- Disposal of sites to private developers
- Do nothing

6. COMMUNITY ENGAGEMENT & CONSULTATION

6.1 General consultation on our approach to stimulating new house building, making best use of our Housing Revenue Account (HRA) assets and estate regeneration through the New Homes for Neighbourhoods programme has been undertaken with councillors, council tenants and leaseholders through reports and presentations to Housing & New Homes Committee.

6.2 Consultation with residents and ward councillors on specific schemes and sites will require a similar level of community engagement as with the existing New Homes for Neighbourhoods Programme, for example Planning for Real techniques. This has followed a comprehensive process with ward councillors, residents and other stakeholders engaged and consulted at all key stages of individual projects. Consultation will also be undertaken via the Planning process.

7. CONCLUSION

- 7.1 The offer from Hyde to establish a Joint Venture company provides an excellent opportunity to combine resources and expertise to make a significant contribution to tackling the city's housing crisis by delivering additional lower cost homes for sale and rent to low income working households. It is considered that Hyde's track record of delivery, along with their scale and experience will enable the council to deliver new homes that represent value for money and that are of good quality.

8. FINANCIAL & OTHER IMPLICATIONS:

- 8.1 This report sets out financial modelling in the form of the Strategic Financial Viability Model (SFVM) to develop a Business Case for the development of 1,000 new homes in a Joint Venture with Hyde. Although the overarching aim of this proposal is to provide 1,000 new homes at no net cost to the council (through any surpluses financing the debt), the current model also provides the council with a positive return after repayment of debt.
- 8.2 The recommendation therefore in this report is to support in principle the living wage proposal and give delegated authority to develop and negotiate the deal with Hyde, agreeing the Heads of Terms and other principle documentation to implement the proposed Joint Venture. If this recommendation is approved, finance officers, as part of the JV project team, will continue to review the SFVM and ensure financial due diligence is followed throughout the process to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposal are achieved. This will include obtaining independent financial advice to support the council through the negotiations and implementation of the Joint Venture.
- 8.3 It is anticipated that the cost of this independent financial advice will be met through the capital budget of £0.151 million, which was approved for legal and financial advice for Housing Delivery Options. If there are any significant variations to costs, this would be reported and approval sought through the councils budget management process.
- 8.4 Officers have reviewed the SFVM for the Hyde Joint Venture proposal, which includes a review of its inputs, testing of the assumptions and auditing the outputs, and have carried out various sensitivity analysis of the SFVM. Part 2 of this report (Appendix 4), includes a summary of the financial model results, main assumptions used and sensitivity analysis that has been carried out.
- 8.5 The JV proposal requires £105.47 million total investment to develop 1,000 new homes over a 5 year period. The proposal is that Hyde and the council provide 50/50 funding of £52.7 million each to fund the investment requirements.
- 8.6 The council has yet to decide how it will fund its investment into the Joint Venture and this decision will be informed by the structure of the LLP (including whether the council directly enters into the LLP or through a wholly owned company). The council's investment of £52.7 million will be financed mainly from borrowing and some commuted sums. The initial financial modelling carried out assumes the council will undertake borrowing to fund its equity investment, this shows that the

returns on investment will achieve surpluses to the council after financing costs of borrowing (both interest and capital repayments). The financial modelling shows that the council's share of surpluses are forecast to total £221.4 million over 64 years with a net present value (NPV) £37.6 million (i.e. the return at today's values).

- 8.7 How the council enters into the LLP and the terms of funding could impact on the amount of forecast return to the council, which could reduce the cash surplus after borrowing costs and corporation tax liability. Sensitivities modelled in appendix 4 show that returns to the council would still be positive and are therefore still recommended. One of the principal documents to be developed is the Members' Agreement which will govern the commercial terms of the joint venture and how the two parties will jointly run and fund the LLP.
- 8.8 The table in paragraph 3.28 provides the forecast investment requirement for the JV profiled over the first 5 years. Any borrowing undertaken by the council to fund the council's share of investment will need to be included councils capital borrowing limits which are approved Policy, Resources and Growth Committee.
- 8.9 The council will need consider how it is going to cover the financing costs of borrowing during the construction stage and include this in its medium term financial plans. This will be required to be funded through the General Fund and the best economic option for this interest cover will need to be considered as part of the council's Treasury management decisions. Initial estimates of the total cost to the General Fund could be in the range of £0.023 - £0.045 million over a 4 year period.
- 8.10 The reserved matters will include any Business Plans and disposal of land/sites to the JV and will be reported to appropriate committees for approval. Each development will be have its own viability model and will only proceed if it is consistent with the approved overarching Business Plan .
- 8.11 As with other new developments in the city, the council will also receive income associated with the development of these 1,000 new homes. S106 income is estimated in the region of £6.0 million. It is also estimated that the delivery of an additional 1,000 properties in the city would raise in the region of £0.830 million in council tax income per annum, this is a prudent estimate based on a number of assumptions such as council bands, discounts applied and assumed council tax increases. It is difficult to assess the additional revenue relating to the New Homes Bonus scheme as the Government is amending the scheme to sharpen the incentive whilst reducing the overall funding, including looking at a maximum of 4 years payments instead of 6 years but potentially could go as low as 2 years. Under the current scheme, the council could receive a maximum of £1.25 million per annum over 4 years for delivery of 1,000 properties, if these were over and above the number of properties that fall out of the scheme or potentially receive a significantly reduced sum.

Finance Officer consulted: Susie Allen

Date: 07/11/16

Legal Implications:

- 8.12 As set out in the body of the report, the council has appointed Bevan Brittan LLP as its legal advisor and continues to provide advice to the council in relation this matter. The legal advice so far is set out in the body of the report as well as in the Appendices attached to this report.

Lawyer consulted: Jo Wylly

Date: 7/11/16

Equalities Implications:

- 8.13 An increase in housing supply will extend opportunities to provide new, well designed homes to accommodate local households on the Housing Register who are in housing need.

Sustainability Implications:

- 8.14 Attaining high sustainability standards is an important in delivering homes that are energy efficient, minimise carbon emissions and reduce water usage. Addressing fuel poverty and reducing total costs of rental or ownership is also an important consideration.

SUPPORTING DOCUMENTATION

Appendices:

1. Bevan Brittan advice to BHCC on the Joint Venture proposal
2. Draft Heads of Terms
3. Frequently Asked Questions
4. Part 2 Summary of Strategic Financial Viability Model and sensitivity analysis (see item 46 on Part Two of the agenda)
5. Conservative Group & Green Group Amendments

Documents in Members' Rooms

None

Background Documents

1. Housing Delivery Options - Housing & New Homes Committee Report 2 March 16
2. Housing Delivery Options – Policy & Resources Committee Report 17 March 16

Crime & Disorder Implications:

- 9.1 The development of Special Purpose Vehicle and / or Joint Venture partnerships offers the opportunity to provide new, well-designed homes which link to the council's wider regeneration aspirations for the city, including the council's economic development and sustainability objectives. Well-designed urban housing has been shown to influence the rate of crime and disorder as well as the quality of life for future occupants.
- 9.2 Vacant sites can sometimes attract anti-social behaviour. With careful planning, the future development of these sites is likely to improve the safety of existing neighbourhoods by reducing crime and the fear of crime.

Public Health Implications:

- 9.3 There are strong links between improving housing, providing new affordable homes and reducing health inequalities. Energy efficient homes which are easier and cheaper to heat are likely to have a positive influence on the health of occupants of the new homes.

Corporate / Citywide Implications:

- 9.4 Increasing Housing Supply is a City Plan and Housing Strategy priority. In particular, meeting our housing target of 13,200 new homes in the City by 2030.
- 9.5 In addition, in our Housing Strategy (2015) priority of increasing housing supply to meet identified needs, we are committed to work collaboratively with Adult Social Care, Children's Services and Health to reduce long term social care cost pressures and address issues arising with recruitment and retention of lower income staff in the City essential to the operation of these services.
- 9.6 In exploring Housing Delivery Options we are also working in support of the following Corporate priorities:
 - **Increasing Equality**- Coordinate services and spending better between public services to improve equality.
 - **Economy, Jobs and Homes** - Enable development of new, affordable homes, working with government, Registered Providers and other partners to maximize investment.
 - **Health & Wellbeing** - support for key worker housing to meet Health and Social Care employee requirements.
 - **Contributing to the Medium Term Financial Strategy** - Maximising New Homes Bonus and Council Tax revenue resources through improving housing supply; Ensuring Housing investment aligns with the Corporate Plan priorities.
 - **Greater Brighton** – Accelerating housing delivery through exploring housing market intervention / housing company models at a Greater Brighton level. Delivering activity alongside other initiatives and ensuring that the

strength of the housing market is captured to meet local needs including housing type and tenure

9.7 The JV will bring a number of benefits to the city and council including:

- 1000 new affordable homes
- Potential long term revenue income from surpluses
- Regeneration of key sites and public realm improvements
- Each new home has potential to generate new Council Tax and New Homes Bonus
- Potential £3 of economic output for every £1 of public investment based on national calculations
- Apprenticeships and training

BRIGHTON & HOVE CITY COUNCIL

ADVICE ON JOINT VENTURE WITH HYDE HOUSING

1 OVERVIEW

- 1.1 Brighton & Hove City Council (**Council**) is considering a proposal by Hyde Housing (**Hyde**) to enter into a corporate joint venture for the purposes of acquiring and developing property for the provision of sub-market rent products linked to living wage and shared ownership housing (**Living Wage Proposal**).
- 1.2 This is a summary paper providing headline advice on the legal viability of the proposal highlighting key areas that will require further advice if the proposal is developed further.
- 1.3 The Living Wage Proposal is a legally viable structure. The joint venture could be structured so that the Council could enter into the arrangements with Hyde without a competitive procurement process. Whilst there is no legal requirement to undertake a competitive procurement process, the Council should satisfy itself as to the appropriateness of Hyde as a partner and the commercial terms being proposed.

2 LIVING WAGE PROPOSAL

- 2.1 The proposal is that:
- 2.1.1 the Council and Hyde enter into a 50 / 50 corporate joint venture established as a limited liability partnership (**LLP**);
- 2.1.2 the LLP is established for the Living Wage Proposal;
- 2.1.3 the Council and Hyde each contribute 50 per cent of the LLP's required capital (estimated by Hyde to be £54m each);
- 2.1.4 the Council and Hyde will:
- (a) each be entitled to appoint three members to the LLP's management board;
 - (b) appoint a chair of the board for the term of one year, which right will rotate between them, with the Council being entitled to exercise it first. The chair will not be entitled to exercise a casting vote in the event of any deadlock;
- 2.1.5 the LLP purchases sites to deliver the development. These could be either sites identified by the Council as being potentially suitable or from third parties;
- 2.1.6 the LLP appoints:
- (a) contractors and professional team for development, from Hyde's frameworks where possible;
 - (b) Hyde's trading company (**HNB**) as development manager on a costs incurred basis;
 - (c) [Hyde] as housing and asset management services on a costs incurred basis;
 - (d) the Council or a third party to provide corporate and financial services;
- 2.1.7 the Council and Hyde jointly appoint an independent project monitor who will undertake a value for money assessment of each proposed project with a view to either giving or refusing consent for it to be implemented by the LLP.

3 CORPORATE STRUCTURE

- 3.1 The Council has the power to enter into the proposed structure, but would not necessarily need to set up a Council-owned intermediary trading company to do so.
- 3.2 A company is required where the Council is relying on the general power of competence (s.1 Localism Act 2011), as is proposed here, and is doing something for a commercial purpose. There is a question as to whether the purpose of the joint venture is commercial. If an activity's primary purpose is to make profit, either immediately or in the longer term, then it is reasonable to conclude that it is being performed for a commercial purpose. If the primary purpose is something else, but profit may be realised as an ancillary or incidental benefit, then that should not require the use of a company.
- 3.3 The Council has a strategic objective to increase affordable housing both within the housing revenue account (**HRA**) and also outside of it by using housing delivery vehicles. The Living Wage project is being established for the purposes of achieving this. It is reasonable to conclude that a company is not required and an LLP would not breach the requirement to use a company where something is done for a commercial purpose. There will be a residual risk of a court concluding otherwise as there does not seem to be any case law on the point even though the LLP model has been used this way before, for example, see [Matrix Homes](#) in Manchester, which was incorporated as an LLP.
- 3.4 If the joint venture is established for a commercial purpose, for example increased elements of private sale then the use of a company would be a lower risk approach. Hyde and the Council are obtaining a Counsel opinion on this point to provide assurance. If there is an unacceptable level of risk on direct participation the overall structure would stay the same but with the Council participating through a holding company which could for example be the wholly owned housing company being considered.
- 3.5 An LLP would be a viable vehicle for the joint venture and would offer tax transparency meaning tax is assessed in the hand of the members. This would be particularly advantageous if the Council enters into the LLP directly as the Council's share of revenue would be assessed for tax within the hands of the Council which would then be able to benefit from its advantageous tax position, e.g. exemption from corporation tax.

4 PROCUREMENT / SELECTION OF HYDE

- 4.1 The Council is subject to procurement legislation that requires it to run competitive tenders when awarding contracts for goods, works or services. The Living Wage Proposal involves the Council selecting Hyde without a tender. There are a number of grounds that could justify the Council doing so and present a low risk procurement position, namely:
- 4.1.1 there is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services;
- 4.1.2 this is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions;
- 4.1.3 public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.

Contracting authority status and contracting between the entities

- 4.2 The LLP is likely to be classified as a contracting authority under the Regulations. This is because it will fall within the definition of "bodies governed by public law". Corporate bodies set up by local authorities or other contracting authorities are often classified this way even though there is the

potential to structure them so that they do not do so. The Regulations permit a controlling authority to contract directly (without a tender) with a controlled person and vice versa.¹

- 4.3 In order to meet the requirements in respect of the LLP any intermediate companies should also be structured to be contracting authorities. This point, and HNB's contracting authority status, will need to be considered further with Hyde. It would not be an issue if a joint venture model involving direct ownership by Hyde and the Council is taken forward.
- 4.4 Although there are no plans in the current proposed structure for either the Council or Hyde to purchase goods, works or services from any of the other parties in the arrangement, the potential for them to do so will therefore exist.
- 4.5 Where there is only one controlling authority, the Regulations also explicitly permit the controlled person to award contracts directly to the controlling authority, known as "reverse" Teckal after the case the exemption was originally based on. However, the Regulations do not explicitly permit or prohibit an award by a controlled person where there is more than one controlling authority, as will be the case here. This may be relevant as the LLP may contract with the Council for corporate, finance and lending services, and with Hyde and HNB for housing management and development management services.
- 4.6 In our view it would be difficult to challenge successfully the award of such contracts on these grounds, particularly as they will be related to the wider Living Wage project, and will enable the LLP to meet the objectives for which it was established rather than to pursue alternative aims, perhaps competing with others on the market. The use of competitive procurement routes to appoint providers of services and works relating to the development, such as the frameworks as considered below, would mitigate risk as the market would still be engaged with the opportunity.
- 4.7 The appointment of Hyde for development and possibly also for management services is to be done on a costs incurred basis rather than for profit which supports the applicability of the procurement exemptions outlined above.

5 STATE AID

- 5.1 The state aid rules prohibit the Council from transferring its resources to a third party in a way that could distort competition and affect cross-border trade in the European Union. This will need to be considered in relation to the selection of Hyde and the transfer of assets (e.g. land and funding) to the LLP or Hyde.
- 5.2 Where an advantage is being given to the LLP or Hyde the Council's best approach to mitigate state aid risk is likely to be relying on the market economy investor principle. This provides that if the Council can demonstrate that it is acting as a rational private sector investor in similar circumstances would, then the activity is not a breach of the state aid rules. To rely on this the Council should provide funding and any other resources transferred to the Living Wage LLP on market terms. This is what is being proposed in the Living Wage Proposal.
- 5.3 There is also an exemption in the state aid rules for support given to services of general economic interest, which include social housing. This is potentially relevant if any resources will be transferred by either the Council or Hyde at below market value, and will require additional terms to be included in the transfer documents to ensure that the requirements of the exemption are met. Structuring the transaction to comply with the SGEI exemption could be the best way of mitigating state aid risk in relation to any transfers of land at undervalue.

6 LAND TRANSFERS – MARKET VALUE, CONSENTS AND SDLT

- 6.1 The Council will transfer land to the LLP as part of the Living Wage Proposal. In addition the LLP could purchase land from the market. The proposal for Council land to be transferred needs to be considered in light of the consent framework that exist for:

¹ Regulation 12.

- 6.1.1 disposal of HRA property;
- 6.1.2 disposal general fund property; and
- 6.1.3 financial assistance, which could include both the funding of the vehicle and any gratuitous benefit such as transfer of land at undervalue.

HRA Land

- 6.2 Any disposal of HRA land will need to either have prior consent of the Secretary of State or compliance with one of the more general consents issued under s.32 Housing Act 1985. There is a general consent available in respect of disposal of vacant land which could be used.
- 6.3 Disposal of vacant land at less than market value is likely to constitute a financial assistance for the purposes of s.24 Local Government Act 1988 (**1988 Act**) requiring specific consent from the Secretary of State or compliance with one of the general consents under s.25 1988 Act. There is a general consent for disposal of vacant land which would require transfer of the freehold or leasehold of over 99 years and would prohibit the Council from maintaining or managing the housing.
- 6.4 There are not any current plans to use any HRA land and any disposal would be on market terms so this is not seen as an issue.

General fund land

- 6.5 The Council has a broad power to dispose of property held in the general fund in any manner it wishes subject to an obligation to do so for the best consideration reasonable obtainable (s.123 Local Government Act 1972).
- 6.6 The Council can dispose of property held in the general fund for less than market value provided that consent is obtained from the Secretary of State. The Local Government Act 1972 General Disposal Consent (England) 2003 (**General Consent 2003**) is a wide reaching consent that allows disposal at an undervalue to promote economic, social or environment wellbeing. The difference between the market value and the consideration must not exceed £2 million, and a "professionally qualified valuer" must give a view as to the likely amount of the undervalue. If open space will be disposed of then there are additional publicity requirements.
- 6.7 In determining what the value of the land is for this purpose it is the unrestricted value that is considered, i.e. the amount which would be received for the disposal of the property where the principal aim was to maximise the value of the receipt. Voluntary restrictions imposed by the Council, such as a restriction in the proposed lease to use the land for social housing, would not be taken into account.
- 6.8 If one of the general consents is not applicable then the Council would need to approach the Department for Communities and Local Government to obtain Secretary of State consent to the disposal on the proposed terms. There is not a statutory framework for this process so it would be uncertain as to how long it would take and whether it would be given.
- 6.9 Where land is appropriated to planning purposes then it would need to be disposed of for market value unless the Council obtained SoS consent to an undervalue disposal. This requirement overrides the General Consent that allows a disposal at an undervalue of up to £2m (as considered in paragraphs 6.6 to 6.8).
- 6.10 This has the potential to be a significant factor given the Council would need to appropriate to planning to benefit from s.237 Town and Country Planning Act 1990 which allows for override of easements or interests annexed to land, such as right to light or support which is common with developments.
- 6.11 Again, the proposal is for land disposals to be at market value so it is not envisaged that there will be any issue in relation to best value duties or planning appropriation.

SDLT

- 6.12 The entity/entities will be subject to Stamp Duty Land Tax (**SDLT**) on land purchases, including the acquisition of land from the Council as the transaction.
- 6.13 The deemed market value rules for SDLT purposes apply on a transfer to a connected company or on a transfer by a partner to a partnership so, regardless of whether the joint venture entity is a company or an LLP, the market value rules could apply. The mechanism for determining market value follows the capital gains tax mechanism, which considers (in effect) what the consideration would be in a hypothetical sale at arms length (there are more details in the RICS Valuation Professional Standards).
- 6.14 The valuation would take any covenant imposed by the Council on the use of the land, e.g. restriction for social housing, into account – assuming that it affected the property at the transfer date. However, HMRC are unlikely to accept that there is *no* market value, although they may be prepared to agree that the market value is *de minimis* and potentially below the threshold, if a valuation following the RICS standards would determine that the market value was below threshold.
- 6.15 In *IRC v Gray (Executor of Lady Fox decd.)* it was held that valuation must be based on the assumption that the property *could* be sold in the open market, even if it was in fact inherently unassignable or held subject to restrictions on sale. The relevant question to value the property is what a purchaser would have paid to enjoy whatever rights were attached to the property at the relevant date, assuming such a hypothetical sale.
- 6.16 The SDLT payable is based on a formula which - effectively - means that the market value of the share that is allocable to the other partners (i.e.: other than the one contributing) is subject to SDLT. So, in a 50/50 partnership, a contribution of land by one partner to the partnership would result in an SDLT charge on 50% of the market value of the property.
- 6.17 Group relief will not be available for acquisitions from the Council as the Council's interest in the joint venture will be below that required for SDLT group relief to be available and, in the case of an LLP, an LLP cannot be a qualifying subsidiary for SDLT group relief in any case as it has no share capital and so cannot meet the definition.

7 GOVERNANCE

- 7.1 The governance structure for the joint venture will be framed by the Council's role and rights as a member of the LLP, even if this is indirectly through a company. There would also be a board charged with management of the LLP.
- 7.2 The members of the joint venture will retain strategic control over the operation of the vehicle through the right to approve, and monitor delivery of, a business plan and the requirement that certain listed decisions, referred to as "reserved matters", must be referred back to the owners rather than being within the discretion of the board. The principle is that the joint venture partners approve the business plan and the board then have the remit and discretion to implement it subject to the reserved matters. The level of discretion given to the board depends on the framing of the business case – i.e. how prescriptive or flexible it is – and what the reserved matters are.
- 7.3 The board of the LLP would be given a role equivalent to role of a board of directors on a company. Although a board member of an LLP is not the same as the director of a company, it is common in the governance documents to treat the position as the same meaning the individual will have duties to act in the best commercial interests of the LLP for the benefit of both parties. The Living Wage Proposal suggests a board of six, three to be appointed by Hyde and three by the Council. It would be possible for members or officers of the Council to be board members. On a joint venture of this nature focused on delivery of operational matters an officer majority board would typically be recommended with strategic and significant control retained to members via the shareholder or LLP member rights. It is proposed that there is one councillor and two officers appointed.
- 7.4 It is generally easier to manage conflicts of interests issues for an "officer board member" than for an elected member as the Council can agree to the officer continuing to act as an officer despite

potential conflicts and agree not to take action against the individual where the individual is required to act contrary to the interests of the Council due to the person's role as a board member.

- 7.5 Where a board member is a councillor, the person must disclose any potential conflicts of interests and observe the requirements of the Code of Conduct of the Council. The board member must also be careful (when undertaking their Council role) to behave in ways which avoids suggestions of bias or predetermination.
- 7.6 Whilst the Council could grant a dispensation under the Code of Conduct to allow a councillor to continue to take decisions relating to the joint venture within the Council, it is not possible for the Council to avoid accusations of bias or predetermination, especially if the councillor is particularly senior. Participation on the board of the joint venture could therefore preclude a councillor from being involved in decisions within the Council relating to the joint venture and this will need to be a factor in deciding what councillor(s) would be suitable to act on the board.
- 7.7 The risks around conflicts for officer board members are hard to manage where officer directors are responsible within the Council for decisions materially affecting the vehicle. This risk is best mitigated by not putting Council officers who are directors of Council vehicles or joint ventures in roles where they have to make decisions relating to those vehicles. For this reason we would advise against statutory officers (monitoring officer, s.151 officer and the head of paid service) being appointed as board members as they may be required to undertake their statutory roles in relation to the vehicle at some point which would raise difficult conflicts. If this is a requirement we advise careful thought and further advice is taken on how to mitigate the impacts.

4th November 2016

Living Wage Joint Venture

Heads of Terms v.7 24.10.16

1 BACKGROUND

- 1.1 Hyde Housing Group (**Hyde**) and Brighton & Hove Council (**Council**) wish to work together in partnership. They intend to establish a limited liability partnership (**LLP**) to act as a joint venture vehicle for the construction of 1000 homes to meet the needs of the residents of Brighton and Hove¹. These will include a new Living Wage rent housing model for low income working households and shared ownership homes. The activity will generate an annual surplus to be distributed to Hyde and the Council as the members of the LLP.
- 1.2 Various Council-owned properties have been identified as potentially being suitable for the joint venture. Any decision by the Council to dispose of any property to the LLP would be a decision for the Council undertaken in accordance with the Council's normal governance and procedural arrangements for disposal of land. Various additional properties owned by the Council, or properties owned by Hyde or any third party, may be identified from time to time and the parties will decide whether to pursue the acquisition and development of those properties on a case by case basis in accordance with the documents referred to in paragraph 2.
- 1.3 These heads of terms represent the commercial agreement of the parties at the current stage of negotiations. Whilst this document therefore reflects a reasonably advanced agreed position on the fundamental features of the joint venture, these heads of terms are not exhaustive or intended to be legally binding². The parties only intend to be legally bound to one another when they enter into formal contracts for that purpose.

2 DOCUMENTATION

- 2.1 The joint venture will be based around the following principal documentation:
- 2.1.1 overarching strategic land agreement (**OSLA**)
 - 2.1.2 limited liability partnership members' agreement (**Members' Agreement**)
 - 2.1.3 [funding agreements]
 - 2.1.4 development management agreement (**DMA**)
 - 2.1.5 asset management agreement (**AMA**)
 - 2.1.6 residential management agreement (**RMA**)
 - 2.1.7 corporate and financial services agreement (**CFSA**)
- 2.2 In addition, the members will approve a Business Plan and financial model. Any material amendments to the Business Plan and/or financial model will require the approval of the LLP's members.

¹ Advice is being taken on how the structure could work to ensure minimal irrecoverable VAT. This may require an additional company (a "VAT Shelter") to enable separation between asset ownership and development or the use of one of the Hyde companies to develop.

² Confidentiality and exclusivity are normally elements that are sometimes made legally binding. It is assumed that there are no legally binding elements given the NDA that has been signed and no proposal for exclusivity.

3 OSLA

3.1 Parties:

3.1.1 Council;

3.1.2 [Hyde]; and

3.1.3 LLP.

3.2 The OSLA will govern the arrangements between the Council [and Hyde] as landowners and the LLP. This will allow the Council [and Hyde] to establish a clear separation of duties and responsibilities when dealing with the LLP in their capacity as a landowner.

3.3 The OSLA will provide appropriate controls, protections and mechanisms for the timing of the drawdown of land from the Council and/or Hyde into the LLP. The following controls, protections and mechanisms are envisaged:

3.3.1 the circumstances under which properties will be transferred into the LLP;

3.3.2 an option for the LLP to call down identified properties once the relevant property is vacant;

3.3.3 the obligations to be performed by each of the Council or Hyde and the LLP in order to prepare and enable properties to be drawn down:

(a) when a property is ready to be drawn down, the LLP will have a period of [] months within which to exercise a drawdown option and if the option is not exercised within this period it will lapse and the property will cease to be included in the OSLA;

(b) all properties will be drawn down on the basis of either a lease or a freehold transfer which will be granted by the landowner to the LLP. Properties may not be drawn down for land banking but must be developed in accordance with the agreed Business Plan. The option preconditions will be framed so that at the time of draw down, a property must be ready for development in accordance with the Business Plan for that property;

3.3.4 the price to be paid for a property will be established (or verified) upon draw down on the basis of a pre-agreed appraisal and approval methodology including circumstances where less than market value consideration is to be provided;

3.3.5 preconditions for exercise of draw down option – any option to draw down a property will become exercisable by the LLP when the following have been achieved:

(a) the LLP has adopted a Business Plan for the relevant property (which is consistent with the overarching LLP Business Plan) and includes an indicative development programme for the property;

(b) the proposed development scheme satisfies a viability test in accordance with the overarching LLP Business Plan and there is a development appraisal adequately costed and verified in sufficient detail to support the viability test;

(c) the project monitor or development manager has signed off a value for money certificate in respect of construction costs;

- (d) the project monitor or development manager has provided a report to the LLP on likely values and costs within specified parameters to support the development appraisal;
 - (e) vacant possession can be obtained when needed (and/or arrangements for further decant are in place);
 - (f) planning consent has where relevant been obtained by the LLP for the development (or first phase if a multi phased scheme). The assumption in respect of any Council property is that the costs of obtaining planning permission will be met by the LLP (funded 50:50 by the LLP's members) and the property will be valued and transferred with the benefit of planning permission;
 - (g) funding has been agreed for the development (or first phase);
 - (h) any required amendments to the pro forma lease or transfer documentation for the relevant property have been approved by the landowner (acting reasonably); and
 - (i) any consents for disposal which have not already been obtained have been given; and
- 3.3.6 viability test – prior to exercising any draw down option, the LLP must be satisfied that development is viable in accordance with the Business Plan and financial model. Viability testing (and market analysis) will be on the basis of pre-agreed required levels for IRR for development so that the viability test (and the resulting residual land value), is determined by external or objective market criteria. Elements such as construction costs and anticipated values must have been costed and verified in sufficient detail to ensure that the viability test is robust. This will in part be satisfied by the project monitor/development manager signing off or reporting on certain aspects of the proposed development, as set out above.
- 3.4 Separately, the Council may wish to obtain its own independent report to ensure it is satisfied that the resulting land value and "value for money" analysis meets the Council (as landowner)'s regulatory and constitutional requirements for land disposals.
- 4 MEMBERS' AGREEMENT**
- 4.1 Parties:
- 4.1.1 Council;
 - 4.1.2 [Hyde] [Hyde New Build]³; and LLP.
- 4.2 The parties will make the following funding available by way of non-interest bearing debt to the LLP:
- 4.2.1 Council: £[] on the timetable provided at Schedule [];
 - 4.2.2 [Hyde] [HNB]: £[] on the timetable provided at Schedule [];
- 4.3 on terms to be agreed between the members and the LLP and recorded in member loan agreements. The parties will hold the following interests and voting rights in the LLP:
- 4.3.1 Council: [50]%
 - 4.3.2 [Hyde] [HNB]: [50]%

³ To further mitigate any risk associated with the question of whether the Council can directly participate in LLP Hyde's 50% interest may be shared between two entities

- 4.4 The Members' Agreement will govern the commercial terms of the joint venture and how the two parties will jointly run and fund the LLP.
- 4.5 The stated business of the LLP will be: [].
- 4.6 Strategic control over the operation of the LLP will be retained by the members through the right to:
- 4.6.1 approve the LLP business plan; and
 - 4.6.2 make decisions on a unanimous basis in respect of those matters listed at schedule 1 (**reserved matters**).
- 4.7 If a matter which would otherwise be a reserved matter is included in the Business Plan, then there is no requirement to obtain an additional approval in respect of that matter and the LLP has the authority to proceed and implement it. As a result, reserved matter approval should only be sought in respect of matters outside the Business Plan.
- 4.8 The parties will establish an LLP management board comprising of [six] individuals:
- 4.8.1 Hyde appointees: [];
 - 4.8.2 Council appointees: [].
- 4.9 One member of the board shall be appointed as chair for an annual term. The right to appoint the chair shall rotate between the parties and the Council shall make the first appointment. The chair will not have a casting vote.
- 4.10 The parties do not intend that a management board member will provide any goods or services to the LLP in a personal capacity. Accordingly, the LLP shall not remunerate any member of the management board and expenses shall only be paid in accordance with a policy approved from time to time.
- 4.11 The management board will have the task of delivering the business plan.
- 4.12 Each management board member shall have one vote on any matter unless he/she has a conflict of interests. A conflict of interests in this context means a personal conflict, a conflict between his/her appointing member (or member of its group) and the LLP (including under any contracts between them) or actual or alleged default of that member under the Members' Agreement. If at any point a conflict of interest arises, the conflicted member and its appointees to the management board member shall be excluded from the LLP's decision-making processes in respect of the matter giving rise to the conflict of interest.
- 4.13 Any deadlocked decision at management board level (arising by reason of the same number of votes cast for and against a resolution, or by reason of a lack of quorum) may be referred by any management board member to the members for resolution.
- 4.14 If at any point the members are unable to agree as to how the LLP should proceed in relation to a reserved matter or a matter referred to them by the management board, a deadlock shall have arisen and the following deadlock resolution procedure shall apply:
- 4.14.1 the matter shall be escalated within each member's organisation to [] for the Council and [] for Hyde;
 - 4.14.2 failing resolution it may be referred by either member to non-binding mediation; and
 - 4.14.3 failing resolution through mediation, either member may give notice that the LLP should be independently valued and sealed bids made by each member for the other member's

equity and debt interests in the LLP. In the event neither member makes a bid, the parties shall do all things necessary to approve a winding up of the LLP.

- 4.15 If a member suffers or commits a default event under the Members' Agreement (broadly, a change of control, unremedied material or persistent breach or insolvency), the other member shall have the right, but not the obligation, to acquire the defaulting member's equity and debt interests in the LLP at 90% of the fair value of those interests as determined by an independent valuer.
- 4.16 A member may transfer its equity and debt interests in the LLP:
- 4.16.1 at any time, to another member of its group, provided the transferee has a sufficient financial covenant to meet its obligations under the Members' Agreement, and provided that there is a transfer back in the event the transferee leaves the group of the original member transferor;
 - 4.16.2 at any time, with the prior written consent of the other member;
 - 4.16.3 after an initial lock in period (equivalent to practical completion [*in respect of which development?*] plus one year), to a third party but only after offering those interests to the other member on the same terms.
- 4.17 Any incoming third party shall be required to adhere to the terms of the Members' Agreement and the Business Plan then in force. In no circumstances shall a transfer of interests in the LLP be permitted where the transferee is an "unsuitable person" (broadly, a person with a material interest in the production, distribution or sale of tobacco, alcohol or pornography, any person whose activities are incompatible with the provision of housing services or services to the public sector in general, or any person who poses or could pose a threat to national security).
- 4.18 On the [seventh] anniversary of the Members' Agreement and on the expiry of each subsequent seven year period, the members will consider their continued relationship and each of them will have the following rights:
- 4.18.1 to call for the sale of the LLP's assets and its liquidation; and
 - 4.18.2 [alternative exit events].

5 DEVELOPMENT MANAGEMENT AGREEMENT

- 5.1 Development Management Agreement between the LLP and HNB for the management of all development services (**DMA**).
- 5.2 The LLP will appoint HNB pursuant to the DMA in a form to be agreed, but which will include the following key items:
- 5.2.1 a fee calculated on costs (including costs of the Chief Executive, overheads, business rates, etc.) as signed off by the project monitor, to be payable in accordance with the agreed relevant financial model;
 - 5.2.2 an agreed scope of service; and
 - 5.2.3 [*other key terms to be determined including relationship with proposed project monitor role*]

6 ASSET MANAGEMENT AGREEMENT & RESIDENTIAL MANAGEMENT AGREEMENT

- 6.1 The new homes will be managed by [] who will provide both housing management and asset management services.

- 6.2 The LLP will appoint an housing and asset manager pursuant to a management agreement in a form to be agreed with:
 - 6.2.1 an agreed scope of services and KPIs;
 - 6.2.2 a fee calculated on costs as signed off by the project monitor, to be payable being not less than [TBA] subject to [RPI][CPI] increase; and
 - 6.2.3 []

7 CORPORATE AND FINANCIAL SERVICES AGREEMENT

- 7.1 Corporate and Financial Services Agreement between the LLP and [] for company secretarial, tax and accounting services (**CFSA**);
- 7.2 The LLP will appoint a provider pursuant to a services agreement in a form to be agreed and following an open tender process against an agreed scope of services and KPIs, and including the following key items:
 - 7.2.1 a fee calculated on costs as signed off by the project monitor, to be payable being not less than [£] a month subject to [RPI][CPI] increase];
 - 7.2.2 an agreed scope of services; and
 - 7.2.3 []

These heads of terms are non - binding and subject to contract.

.....
Signed for and on behalf of Hyde Date

.....
Signed for and on behalf of the Council Date

Schedule – Reserved Matters

Officers and members of the LLP

- 1 Agreeing the appointment and the appointment terms (including any remuneration terms), or the removal, of any management board member other than one appointed by Hyde or the Council.
- 2 Approving the admission of further members to the LLP or agreeing any rights or restrictions attaching to any shares/equity allocated to such new members.
- 3 Agreeing or approving any increase in the maximum size of the management board.

Future direction and development of the LLP

- 4 Agreeing to enter into or entering into any debt facility or loan agreement other than the member loan agreements
- 5 Forming any subsidiary or acquiring an interest in any other LLP or participating in any partnership or joint venture (incorporated or not).
- 6 Amalgamating or merging with any other LLP or business undertaking.
- 7 Selling or disposing of any part of the LLP.
- 8 Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent).
- 9 Apply for the listing or trading on any stock exchange or market.

Management of the business of the LLP

- 10 Changing the name of the LLP.
- 11 Adopting and/ or agreeing any material amendments or variations to a Business Plan.
- 12 Creating or agreeing to create a charge, security or encumbrance over the LLP's assets, interest or income.
- 13 Changing the nature of the business of the LLP or commencing any new business which is not ancillary or incidental to the business.
- 14 Agreeing to enter into or entering into any acquisition or disposal of any material assets by the LLP.
- 15 Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the business or materially varying any such arrangements, contracts or transactions.
- 16 [Appointing and changing the LLP's auditors].
- 17 Agree to make or making any loan (otherwise than by way of a deposit with a bank or other institution, the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading or giving any guarantee (other than in the normal course of trading) or indemnity outside the normal course of business.
- 18 Changing the accounting reference date of the LLP.
- 19 Accepting any capital contributions in the LLP.

- 20 Authorising the return of any capital contributed to the LLP to a member.
- 21 Allocating and distributing any profit of the LLP.

DRAFT

Frequently Asked Questions

Potential Joint Venture between Brighton & Hove City Council and Hyde Housing Association

1. Why is the council proposing to enter into a Joint Venture?

The proposed Joint Venture is an attractive opportunity for the Council to accelerate the delivery of lower cost homes for rent and sale for low income working households in Brighton & Hove whilst generating a return on our investment. This proposal supports Housing Strategy priorities around improving the supply of affordable homes and City Plan priorities around meeting the need for new housing in the City.

The Council has been looking at a range of funding and delivery mechanisms to meet our identified need for lower cost homes the city needs. Hyde Housing Association (Hyde), a long standing member of our Affordable Housing Delivery Partnership, has approached the Council with a proposal which could deliver 1,000 new lower cost rental and sale homes for low income working households in the city.

This is one of a number of options we are proposing to deliver new lower cost homes in the city, including;

- A wholly owned Council housing company, building upon Government funded Housing Market Intervention research reported to Housing & New Homes Committee in March 2016;*
- Continued work with our Affordable Housing Delivery Partnership including Registered Provider partners, the Council and the Homes & Communities Agency;*
- Our New Homes for Neighbourhoods Programme, subject to current limitations of the Housing Revenue Account (HRA) borrowing cap;*
- Making best use of existing stock through our Hidden Homes and conversions projects, supporting delivery of new homes as part of our HRA Asset Management Strategy;*
- Joint work with Planning in support of delivering Planning Policy, Affordable Housing Requirements;*
- Freedoms and flexibilities to accelerate housing delivery in the city sought from Government as part of Greater Brighton Devolution proposals.*

Hyde have developed a distinctive proposal with both types of homes tailored to the specific needs of local people within Brighton & Hove. The opportunity is attractive as it can be delivered quickly as it does not require a lengthy procurement and mobilisation process. It also has the advantage of being a partnership with a trusted partner who has similar aims to the Council and are the only developing Housing Association currently based within the city's boundaries. Hyde also have an excellent track record of delivering new build projects within the city and have delivered more new affordable homes than other Registered Providers and developers in recent years. Hyde also have a good history of bringing additional benefits such as employment, training and apprenticeship opportunities for local people. This makes the JV an attractive opportunity for the Council to accelerate the delivery of lower cost homes for

rent and sale for low income working households that the city so desperately needs whilst generating a return on our investment.

2. What is the Living Rent Joint Venture Proposal?

The proposal is to establish an equal Joint Venture (JV) Limited Liability Partnership (LLP) between Brighton & Hove City Council and Hyde Housing Association. The partners would provide equal funding to build new homes for low working households in Brighton & Hove. The JV would aim to deliver 1,000 lower cost homes for rental and sale, including:

- *500 lower cost homes at sub market prices which are affordable to rent for working Brighton & Hove residents earning the new National Living Wage (assumed delivery from 2019 onwards); and*
- *500 shared ownership homes affordable to buy for Brighton & Hove residents on average incomes.*

3. Why is the council looking at projects like this?

Brighton & Hove is a growing city with high housing prices, low incomes, an ageing population and a significant proportion of households with support needs. There are over 23,000 households on the joint housing register, 1,800 households in temporary accommodation and rising homelessness. Social housing makes up only a small proportion of the overall housing in the city with 9.8% of homes owned by the local authority and 5.1% by Registered Providers (RPs).

Housing demand, growth in the private rented sector and rising rents has an adverse effect on affordability of housing in the City. This has contributed to a decline in owner occupation as those seeking to buy their own home are increasingly unable to take advantage of housing for sale either through cost or as a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners.

This increasing housing demand, reduced public subsidy for affordable homes (in particular no national funding for lower cost general needs rented homes) and a shift away from development of rented and family homes remain key challenges identified by the council's Housing Strategy and Budget. This has an adverse impact upon the council's ability to respond to the needs of a growing more diverse population and the council's capacity to maintain mixed and balanced communities and retention of lower income working households and employment in the city.

4. How will you ensure the homes go to local households?

The primary purpose of this JV proposal is to provide lower cost rental and sale homes for low income working households in Brighton & Hove. There is no intention to provide nomination rights or access to households who do not live or work in the City.

Our Housing Strategy highlighted key themes including the availability of affordable family homes, in particular rented homes, and the economic impact of this lack of housing supply on our ability to retain lower income working households and employment in the City. In our Housing Strategy we are committed work collaboratively with Adult Social Care, Children's Services and Health colleagues to meet our shared objectives including the availability of homes in the city to meet the needs of their workforce and those of other employers for

whom the recruitment and retention of lower income workers in Brighton & Hove has increasingly become an issue. The proposed Living Wage Joint Venture would align to our strategic aim of contributing to addressing this issue.

The Living Wage proposal concurs with the Council's draft Allocation Policy which proposes an income cap against size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from the Living Wage housing. The income caps have been set such that households who could expect to pay more than half of their income on average market rents would be retained on the Register whilst those who would expect to pay a lesser percentage would no longer be on the Register and hence would ensure they do not benefit from Living Wage homes. The Council can also develop a Local Letting Policy for these properties to give priority to those on the Housing Register who are working.

With regard to lower cost homes for sale, the proposal does not including making use of Government funding which enables us to limit availability of homes to households who live and work in Brighton & Hove. Government shared and lower cost home ownership schemes are resourced to meet national housing strategy requirements and do not apply local connection criteria with regard to applicants for homes for low cost sale developed through Registered Providers in the City.

5. What are the wider benefits of the joint venture?

There are a number of potential wider benefits of the JV for the city, these include:

- *700 opportunities for education, training and apprenticeships*
- *An average of over 400 FTE construction jobs supported each year for 5 years*
- *4,500 direct and indirect jobs supported*
- *After leakage and displacement, the joint venture produces over 2600 net new jobs*
- *Estimated Gross Value Added to the economy of £350M over 5 years*
- *New Council Tax revenues – see Finance section below*
- *New Homes Bonus – see Finance section below*
- *£6M of direct investment into new civic and community infrastructure through S106, benefitting the wider city*

6. Could the JV deliver more than 1,000 homes?

The Council has looked at the potential for Joint Ventures to also deliver larger estate regeneration projects, but any such projects would be brought forward as separate proposals with their own bespoke financial model and funding proposal that would need to be agreed by the Housing & New Homes and Policy, Resources and Growth Committees.

We may also be approached in the future with other JV proposals. These would also have to be carefully considered to ensure compliance with our strategic, financial, procurement and governance requirements, including approval through Committee under existing procedures.

Any increase in the scale or funding for the project proposed with Hyde (such as increasing the number of homes beyond 1,000) would be a reserved matter and require the unanimous approval of the investors (which for the Council would require new Housing & New Homes and Policy Resources & Growth committee approvals).

7. Why doesn't the Council do this on its own?

The Joint Venture means that the council is able to share investment and risk with Hyde to double the capacity available for building new homes by delivering them through a Joint Venture. Working in partnership with Hyde also means that we are able to benefit from their volume buying power as they build an average of 1,500 new homes a year, providing efficiencies and economies of scale. This means that more than double the amount of homes can be built than if the Council progressed the project on its own.

FINANCES

8. How much would each partner invest in the Joint Venture?

It is estimated that each partner would need to invest £53M (a total of £106M) to deliver the 1,000 homes. Within this overarching financial model and business case, each proposed scheme would be subject to separate financial viability testing and approval process.

9. Where will the council borrow the money from?

For financial modelling purposes it has been assumed that the Council will use the Public Works Loan Board to borrow the required equity. Any new borrowing will have to be deemed affordable, prudent and sustainable in order to meet the requirements of the Prudential code. The full due diligence process on the business case/business plan of the JV would meet this requirement as it would demonstrate that the borrowing is affordable for the council to repay debt from the council's share of surplus returns from the JV. Actual investment decisions will be made appropriate to the funding terms agreed in the Members agreement.

The Council follows the Prudential Code, and any new borrowing limits (i.e. the maximum the council is able to borrow) is approved by Budget Council within the budget report each year.

10. What is the expected return on investment?

The Financial model has estimated that the rate of return for the model is in the region of 8%. This is considered a good rate of return.

11. What is the expected Council Tax from the new homes?

It is estimated that the delivery of an additional 1,000 properties in the city would raise in the region of £0.830 million in council tax income per annum, this is an estimate based on a number of assumptions such as council bands, discounts applied and assumed council tax increases.

12. What is the expected New Homes Bonus from the new homes?

It is difficult to assess the additional revenue relating to the New Homes Bonus scheme as the Government is amending the scheme. Under the current scheme, the council could receive a maximum of £1.25 million per annum over 4 years for delivery of 1,000 properties, if these were over and above the number of properties that fall out of the scheme or potentially receive a significantly reduced sum.

13. How will value for money be assured with the provision of works, goods and services to the Joint Venture?

Goods, works and services purchased by the JV (which will be a Limited Liability Partnership or LLP) will be subject to a procurement process (for example consultancy and construction services). The proposal is to use Hyde's competitively tendered Open Journal of the European Union (OJEU) compliant consultancy and construction frameworks. Each development delivered under the framework will have its own procurement process within the framework with a mini-competition undertaken between contractors providing a further opportunity to test value for money, ensuring that economically advantageous price is achieved and reducing the risk of anti-competitive behaviour and/or supplier complacency.

Other organisations have joined the Hyde's frameworks so that they can access the services and reduce procurement timescales and complexity (including other Housing Associations Registered Providers and Local Authorities). Hyde generally charge for access to their frameworks, and it is worth noting that other local authorities and housing associations are paying Hyde considerable sums to use them. It has been negotiated and agreed that Hyde will not charge these access fees to the JV when the LLP is buying goods or services through the frameworks. The LLP will also benefit considerably from Hyde's volume buying power, providing efficiencies and economies of scale.

Project monitor

The joint appointment of an independent Project Monitor will provide an additional layer of assurance for both the Council and Hyde as they will provide a full value for money assessment of each contract that is delivered through the JV. Projects will not proceed without assurance that the individual project represents value for money.

Mutual benefits and incentives

While the primary purpose of the joint venture is to provide lower cost housing for low income working households in Brighton & Hove, there is a commercial rate of return expected to be returned from the Council's investment. The proposed legal and financial structure of the JV ensures that both parties' interests are aligned through the investment returns. The only way either Hyde or the Council can earn a profit from the venture is through the investment return on its equity invested. Therefore for Hyde to be making money from the venture the Council would be earning exactly the same return. In simple terms what's good for Hyde financially in the JV is good for the Council. The structure therefore gives assurance as it motivates the right behaviours of the Council's JV partner, in this case Hyde, as it is in the mutual interests for both parties to minimise all costs to maximise the return on their investment. This helps to ensure value for money for both parties.

14. What are the costs of running the company and board?

The main costs for running the board will be officer and Member time and costs associated with arranging and holding board meetings. These will need to be covered by both parties in the JV and it is likely that council or Hyde building will be used to host board meetings.

There is currently an indicative allowance of £60K per annum for corporate and financial services within the financial model. The provider of these services (which could be the Council) will need to ensure that full costs are recovered and this will be subject to a final schedule of services agreed with the LLP.

15. What sensitivities have been tested?

The following sensitivities have been tested:

- Inflation assumption reduced to 1% over 60 years
- Rents reduced to 30% of living wage
- Construction costs increase by 10%
- Market Value of properties decrease by 5%
- National Space Standards applied
- Market Value of properties increase by 5%
- Construction costs decrease by 10%
- Loan rate sensitivity

16. How are the figures for Market Sales calculated?

The assumptions come from Hyde's experience of having sold several hundred shared ownership homes locally and a market research exercise by Hyde. The final values would of course vary by site and actuals could be lower or higher than the average assumed but the figure used for the financial modelling is considered to be achievable under current market conditions. The financial modelling we have completed to date shows that there are significant surpluses within the model.

17. Why has the council not produced its own financial model?

The Strategic Financial Viability Model produced by Hyde is considered to be an industry standard form which uses prudent financial assumptions and forecasts to analyse the financial viability of major capital projects.

The model is an open excel file which has been reviewed and analysed by the Council's Finance team and is considered to be an adequate financial modelling tool. The Council's audit of the model shows that the calculations and cashflows calculate correctly and the financial inputs and outputs of the model have been validated by the Council's Finance team.

Brighton & Hove City Council has developed its own excel viability modelling for its smaller developments in the New Homes for Neighbourhood programme, which has commenced the delivery of over 200 homes to date. Both financial models use a similar set of parameters and assumptions, except that Hyde's model is a more sophisticated modelling tool appropriate to the size and complexity of the proposed Joint Venture and therefore more appropriate to use for reviewing the JV business case proposal.

The Council has reviewed the model and its inputs, testing assumptions and auditing the validity of the outputs being produced. The Council's Finance officers, who are experienced in providing support for the New Homes for Neighbourhood programme and other major projects, have then updated and reproduced the excel financial model to test various scenarios and the sensitivity of the financial business case.

Additional independent financial/treasury management advice will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposals are achieved.

In conclusion, the Council's Finance officers are satisfied with the validity of the financial information produced using the SFVM.

18. What would happen if a number of issues happened at the same time e.g. house prices drop, construction costs increase, deflation and not being able to sell shared ownership properties?

The purpose of the Joint Venture is to deliver 1,000 lower cost rented and sale homes for low income working households. The financial modelling to support the business case for the JV proposal shows that in addition to providing 1,000 homes the JV is forecast to generate a significant long term financial return for the Council and Hyde.

Officers have tested several different scenarios that could impact on these surpluses and the ability to fund repayment of general fund borrowing used to fund the Council's equity investment and are satisfied that the financial case is sound and robust. Although unlikely to all occur, the effect of these possible combination scenarios has been tested and although they could reduce the returns, the forecast return to the council would still be positive.

19. What happens if the JV is not able to sell the shared ownership properties?

The risk of selling shared ownership properties is considered to be low; the cost of buying a shared ownership property from the scheme is comparable or lower than the cost of privately renting in Brighton & Hove and is therefore an attractive option for local buyers who are unable to afford to buy 100% of a property. Whilst the strategic financial model shows 500 shared ownership properties being constructed, the reality is that these would be developed in phases over 5 years, so at no time would the Council be exposed to the risk of 500 shared ownership sales (the maximum would be around 50 sales at any one time).

If homes were not selling or were selling at reduced prices, this would trigger a review of the business plan by the JV partners. Hyde has a strong track record of developing and selling shared ownership property and has evidence of sustained demand for property in the Brighton & Hove area. House prices could fall up to 48% before the Council and Hyde would face losses on the shared ownership properties being proposed. This is a much higher margin than for most speculative developers of even outright sale housing, who typically work on gross margins of between 15 – 25% subject to the risk of a given project. Therefore, whilst there is risk in developing and selling shared ownership housing, the risk is mitigated by the phased nature of the business plan and the margin.

It should be noted that as well as downside risks modelled and shown above, there is the possibility that returns to the investors could be higher as the economic situation could improve in a way that favours the financial model.

20. Why is this not being undertaken through the Housing Revenue Account?

The Housing Revenue Account (HRA) does not have financial capacity to deliver the significant amount of lower cost rented housing required in the City. This position means that

the council needs to look at alternative funding and delivery mechanisms to deliver the new lower cost homes this city needs. The option being considered by the Council is to deliver new homes through a partnership through the General Fund.

If circumstances change that increase the financial resources of the HRA, options would be reviewed for increasing housing supply through the HRA. The Council could not fund its equity contribution to the proposed LLP from the HRA as the properties would then be required to be held within the HRA to do this, which they would not be as the properties would be owned by the LLP.

21. What are the risks for the General Fund?

The Strategic financial viability modelling supports the business case for the JV proposal. The forecast internal rates of return, total gross development value/cost ratio and sensitivity analysis provide financial reassurance that the JV Business Case proposals are sound and robust.

It was highlighted in the September H&NH committee report financial implications that the council's General Fund would need to cover financing costs of borrowing during the construction stage, the estimated costs of this not being significant, ranging between £23-45k.

The Council's equity investment to the JV is incremental and is phased over 5 years; equity funding will only be committed to individual projects that pass agreed viability tests.

The financial performance of the LLP against the Business Plan will be regularly monitored and reported to Members of the Board in accordance with the Heads of Terms and schedule of services.

The LLP will be operated according to sound commercial principles in the best interests of the LLP Members, if economic conditions change over the period, the Board would need to review the Business Plan in order to mitigate any adverse impacts of market changes and could decide to pause or stop the venture depending on the situation faced.

22. Are the maintenance costs in the financial model high enough?

The Strategic Financial Viability Model includes allowances for management, responsive maintenance and life cycle costs for ongoing stock investment (described as major works sinking fund in assumptions table). These costs are based on the actual costs incurred by Hyde and used across its development programme.

The life time costs allowance (sinking fund) would be held in the LLP reserves for future investment when required and no costs associated with the management, maintenance and repair of homes held in the LLP will fall to the General Fund or Hyde.

The Council's Finance department have reviewed the assumptions and costs compared to those used in BHCC New Homes for Neighbourhood (NHFN) viability modelling and consider them comparable and adequate to provide a good quality management and maintenance service, together with adequate allowance for stock investment into cyclical works for example to include replacement windows and roofs and so forth.

23. What if right to buy were to be extended, would this affect the general fund?

The primary purpose of the Joint Venture is to increase supply of lower cost rental and sale homes for low income working households in the city..

There is no indication that the Government intends to extend legislation to cover private corporate entities or partnerships such as LLPs, which are widely used in the private sector. If the Government was to legislate for LLPs to be subject to Right to Buy this would affect a significant number of private / commercial property investors. The risk of Right to Buy legislation being extended to cover these homes is therefore considered low.

If Right to Buy legislation were to be extended to cover these homes it is likely that the legislation would be like current proposals for Housing Associations, with the discount funded from public sector budgets. The financial impact on the Joint Venture would therefore be minimal and potentially financially beneficial. However, as outlined in answers above, a wide range of scenarios and combinations of scenarios have been tested which demonstrate the financial model is robust and could manage a range of negative financial impacts without putting additional strain on the General Fund.

The average cost to market value ratio between development costs and market value of the homes is 52% which demonstrates a paper margin of 48% in investment, this is a considerable buffer against the various risks of the JV.

24. How are rent increases calculated? Could they be 'pegged' to the National Living Wage

Rent increases will be in line with the Consumer Price Index (CPI). This will ensure that rents do not rise at a higher rate than the cost of living and should keep pace with wage increases. This is lower than usual rent increases for Housing Associations and Council's which are generally at CPI+1%.

It is not possible to 'peg' rents to the National Living Wage as these increases are politically controlled. It is not prudent or sensible to make a significant investment decision based on an unknown factor and would not be agreed by the financial advisors for either party in the Joint Venture.

LEGAL ISSUES

25. How would disputes between the JV partners be resolved?

There are two scenarios where dispute resolution would apply.

Firstly deadlock – i.e. no one is in breach of a contractual obligation but there is a lack of agreement between the investors on how to take the JV forward and given both parties have a 50% vote, nothing can progress. This risk is significantly mitigated through a clear Business Plan that is agreed upon and adopted at the outset and which forms part of the JV legal agreement. Therefore the risk is that things change and the business plan cannot be delivered and a disagreement arises on how to proceed. If such a dispute could not be resolved at LLP Board level it would be escalated within each organisation (likely up to the Chief Executives and potentially then Chairman to Council Leader) and non-binding

mediation would be used if required. If agreement cannot be reached following mediation the parties would have options to sell to each other in the first instance (bidding against each other for each other's shares), if this was not taken up by either party there would be an option to sell to third parties or wind up the JV and liquidate the assets. This would be the 'nuclear' option for each investor and a very serious difference of opinion would need to arise for such a route to be taken due to the financial risks involved.

The second scenario is if one party is in breach of its contractual obligations. In this scenario, whilst dispute resolution would hopefully resolve the matter (as above), there would always remain, as with any contract, the risk that the other party could bring litigation. This is the same position as any contract with a third party and the Council will manage it by being clear on the obligations it is signing up to and ensuring it complies with them. If Hyde was in irremediable breach of contract and the Council took legal action, then the Council would also seek reimbursement of its costs together with any other losses incurred.

This is a standard approach to dispute resolution in Joint Ventures and LLPs.

26. Is there a budget for dealing with legal disputes?

The Council would not set aside a separate budget line for potential legal disputes over the 60 years as it is not entering the JV with the intention of becoming embroiled in a dispute and litigating. However, if the Council believed there to be the potential for litigation in the future, then it could consider allowing for a risk provision in its future financial planning with the likely source of funding this provision from LLP returns. This is standard practice when reviewing and monitoring major projects.

If the Council had to litigate for breach of contract then in addition to its losses it would also seek an award for its costs against the defendant.

27. Could the Joint Venture be legally challenged for not using a traditional procurement route?

The Council and Hyde jointly setting up a Limited Liability Partnership (LLP) and agreeing to invest equal amounts into building 1,000 new affordable homes is not classified as procurement of goods or services. The risk of legal challenge has been carefully considered; moreover the setting up of the Joint Venture (JV) is not considered to be procurement, there is no risk of a third party bringing a successful challenge against the Council in relation to the JV. This has been confirmed by independent legal advice.

Our legal advisors have provided advice that the Council can enter into the JV without a procurement process for the following reasons:

- There is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services;*
- This is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions;*
- Public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.*

28. What happens in the event of Hyde running into financial difficulties or ‘going out of business’?

In the unlikely event of Hyde going out of business or wishing to leave the Joint Venture due to financial difficulties the agreed exit processes would be triggered. The JV proposes an initial lock-in period aligned to the development phase of the partnership where either party were not able to exit. However, if Hyde did go out of business or decide to exit after the lock-in period the Council would have the first option to buy out Hyde’s share of the JV. If the Council were not to take this up Hyde could dispose of their share to another organisation. The buyer would need to meet set criteria to ensure they were appropriate and would also be required to continue to provide the housing as envisaged in the business plan.

Hyde have been in operation for 50 years and now have a portfolio of 50,000 homes making it is one of the largest Housing Associations in the UK. Hyde is a stable and well run business which has consistently demonstrated the ability to trade through difficult financial circumstances, growing its profitability consistently year on year, whilst investing significantly in providing affordable homes for local people in housing need.

The LLP Member’s Agreement would deal with circumstances in which either Hyde or the Council has defaulted on its obligations under the Member’s Agreement or ceased trading.

In the unlikely circumstances either party was found to be in default of its obligations under the Member’s Agreement, “the defaulting party”, in the event the defaulting party did not act to remedy the breach, that party would become liable to transfer its interest in the LLP to the other party at a discount to Fair Value (typically at 90%). In the event of insolvency (or equivalent default for the Council), the defaulting Member’s share would be transferred at 100% of Value or sold to another party, subject to the agreed Business Plan.

These are usual and customary provisions which would be expected to be incorporated into a Limited Liability Partnership Member’s Agreement.

GOVERNANCE

29. Will councillors be on the JV Board?

It is for the Council to determine who represents it on the JV Board and this could include elected member representation. There are arguments for and against, in the case of the latter largely around potential conflicts of interest. However, in response to feedback from Councillors officers are working on the basis that the JV Board would require elected member involvement to enable agile decision making. This is ultimately a decision for elected members.

30. Who will chair JV Board meetings and will they have a casting vote?

The Chair will not have a casting vote. It is likely that the Chair would change annually with each investor taking it in turn to Chair.

HYDE HOUSING ASSOCIATION

31. Have financial checks of solvency been carried out on Hyde?

Yes - preliminary checks have been completed and it is considered that Hyde's financial standing is acceptable to the Council for this project. A further full and in depth review of the group, including assessments of future risks, will be undertaken as part of the due diligence process, which is standard council practice for any major projects.

32. Why did the London & Quadrant Housing Association and East Thames merger not go ahead?

Both Hyde and L&Q mutually agreed to end their merger discussions when it became apparent to the Shadow Board that the practical difficulties of merging two large and complex organisations meant that the operational efficiency savings envisaged would take longer than expected and therefore would not deliver sufficiently against the merger business case.

Hyde is financially sound and well governed, as indicated by its financial and regulatory ratings, and is proceeding with a programme of operational efficiencies to make savings from its core business in order to fund an expansion of its housebuilding programme and expects to make an announcement in this regard shortly. In short Hyde's board felt there was a stronger case for being able to deliver against its core objective of providing quality services to residents and additional investment into affordable house building on its own than was possible joining up with L&Q.

DEVELOPMENT SITES

33. How will the council ensure all sites have the correct valuation?

The sites will be valued by an independent valuer following a process agreed by the council's Property & Design team and any disposal to the JV will be the subject to the agreement of Policy Resources and Growth Committee. This will be a transparent process which follows agreed principles and meets the requirements of Best Consideration legislation.

Entering into the JV does not change the Council's processes or statutory obligations in disposing of land for best consideration.

34. Will the JV get all the council's best sites?

The Council and councillors will have full control over deciding on any sites to be transferred to the JV as all land transfers will need to be agreed by Policy, Resources and Growth Committee under existing arrangements. Consultation would be undertaken with ward councillors and other relevant members similar to for sites used in the New Homes for Neighbourhoods programme.

Any land to be transferred would need to be independently valued to allow the Council to meet its duty to obtain best consideration. This would be undertaken by an independent valuer following an agreed process and principles. The independent valuer would take into account the likely construction costs of developing a given site when calculating the residual land value, so lower construction costs would be reflected in a higher residual land value (i.e. land receipt to the Council) and vice versa.

SHARED OWNERSHIP

35. What is the management company model for Shared Ownership properties once properties are sold?

The shared ownership properties would be managed by either Hyde or the Council depending on who is appointed to provide the LLP with property and asset management services.

Management of shared ownership homes is principally leasehold management consisting of collecting rent and dealing with consents and so forth under the lease. Consents would incur a charge and are therefore self-funding. As for dealing with arrears of rent, this would incur reasonable administration fees which are recovered along with arrears. As there is generally a mortgagee with a charge over the property then arrears of rent and service charge can be passed through to the mortgagee if the leaseholder (the mortgagor) fails to make payments due under the lease.

The lease for shared ownership properties passes the obligation for interior maintenance on to the leaseholder, with an obligation to pay a fair and reasonable proportion for exterior and structural repairs. The service charge includes allowances for the management costs of providing the services (approximately 15%).

36. How would the sale and re-sale of the shared ownership homes be managed?

Unlike some Housing Associations Hyde have a preference for selling shared ownership homes on as shared ownership products rather than on the open market. This means that the affordable home is not lost if the owner decides to sell. This will be applied to shared ownership homes managed by the JV where possible.

Housing & New Homes Committee – Wednesday 16th November
Agenda Item 40 – Housing Delivery Options – Living Wage Joint
Venture

Conservative Group Amendment

That the recommendations on page 62 of the agenda be amended as follows:

2. RECOMMENDATIONS:

2.1 That Housing & New Homes Committee:

- i) Recommends the report to Policy, Resources & Growth Committee as **set out at paragraph 2.2 subject to the following safeguards being put in place to protect the Council:**
- a) **That prior to the signing of any Heads of Terms agreement or other legally binding agreement to form this Joint Venture, Housing and New Homes Committee, Policy, Resources and Growth Committee and Full Council must ratify such a decision, with all members receiving the external advice sought including but not restricted to that from **Queen’s Counsel** on reverse Teckal, VAT and corporation tax liability and the likely outcome should a court conclude that the LLP would breach the requirement to use a company where something is done for commercial purposes as set out in the legal advice. As well as but not exclusively providing members with the ‘Independent financial/treasury management advice that will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum’ as outlined in the report.**

Officer Comments

The advice is that the proposed approach is compliant with legal requirements. Given a level of uncertainty over the question of whether the Council can directly participate in the LLP and the importance of this question an opinion has been obtained from Nigel Giffin QC. This confirms that the Council has two sources of authority to proceed – the Localism Act 2011 (General Power of Competence) and s12 (a) Local Government Act 2003.

The Council's legal advisers will continue to advise on these areas as the project develops, taking into account the opinion received from Leading Counsel on participation in an LLP.

Finance analysis (Part 2) includes an indication of risk if the council were to enter into LLP through its own trading subsidiary company.

Under the existing proposals the Council will delegate authority to senior officers to agree the final Heads of Terms in light of all advice received and

execute all documents necessary to implement the joint venture. Members would retain oversight via the cross party Estate Regeneration Board and Strategic Delivery Board.

The appointment of members to outside bodies is determined by full Council on an annual basis. Approval is required from Policy, Resources & Growth Committee to release funding for individual schemes.

- b) That the appointments from the Council to the management board, shall include as the councils three members of the board, the chair of the housing and new homes committee, the opposition spokesperson of the housing and new homes committee and the minority groups spokesperson of the housing and new homes committee. Such positions should be capable of being substituted for by other members, and relevant council officers may attend purely in an advisory capacity to assist members. The Chair of the Board should also be the chair of the committee, who will hold a casting vote: in perpetuity. Final details of this officer advisors list, should come back to a future Housing and New Homes Committee for final approval, with any future changes to be agreed by later meetings of a committee which holds the same housing functions as this current committee.**

Officer Comments

Bevan Brittan have advised about the potential for there to be conflicts of interest between Council officers or members appointed as directors of the joint venture vehicle, and whether to appoint officers or members and the identity of those appointed is a decision for the Council, based on its preferences. The likelihood of conflict could be higher if H&NH committee members were appointed, particularly if the chair of the Housing and New Homes Committee is chair of the board.

Although the Council and Hyde have agreed that a chair of the board will be appointed, it is intended that this will be done annually by the Council and Hyde in turn and that the chair will not have a casting vote. There has been no agreement requiring the Council to obtain committee approval for identified officers who will attend board meetings and advise members appointed as directors.

Having a chair with a casting vote would not fit with the 50:50 joint venture principle that has been a fundamental principle from the outset, and is unlikely to be agreeable.

Hyde are unlikely to be concerned about how the Council decides which officers can attend board meetings as long as it does not impact on the board's ability to make decisions.

It is proposed that the amendment regarding officer list approval by Housing and New Homes Committee is not accepted as this is an operational matter

that should properly be determined by the Head of Paid Service, having regard to the resources, skills and experience of his officers.

- c) That no HRA asset will be transferred or sold into the Joint Venture and this shall be written into the Heads of Terms, or equivalent legal agreement or final contracts.**

Officer Comments

This amendment can be accepted.

- d) That the HRA will have first refusal of any General Fund land being sold to the Joint Venture, with member oversight of this being considered for any sum above and including zero pence at the Estate Regeneration Board.**

Officer Comments

The council will review options for all sites before they are proposed for disposal to the Joint Venture. This can include a review of potential options for the council to develop the site directly (for example through the wholly owned Housing Company). This would need to happen at the start of the proposed disposal process i.e. before any feasibility or viability work has been undertaken by the JV. To do so later would cause concerns as it could create a situation whereby the JV is being used to set the price for Council land for another party to step in (even if this is the Council itself). There is cost and risk in the JV carrying out work to assess land and produce feasibility work; it would therefore be unreasonable the Council to act in this way.

Please see para 3.35 in the body of the report and FAQ34. The HRA doesn't currently have the borrowing capacity, due to the HRA debt cap imposed following self financing in 2012, for large scale development proposed in the in this project.

- e) That a short 30 day Prior Information Notice be issued to ascertain, and this should be clearly set out in the OJEU Council Documents, whether another registered provider believes their frameworks could provide better value for money for the Council's significant investment than Hyde's: **whilst clearly stating the Council has no legal compulsion to procure in this instance, and if responses to the PIN are received this is not binding for a full procurement process to be gone through.** The results of which should be brought back to a future Housing and New Homes committee meeting, for the committee to assess whether a full procurement process, if any registered provided responds positively to the Prior Information Notice, should be undertaken in the interest of value for**

money. The Procurement Advisory Board prior to the results coming to committee should also consider the results, and make recommendations which will be included in the report back to this committee..

Officer Comments

It is not clear from the proposed amendment what contract the proposed use of the PIN relates to and therefore two scenarios are outlined below.

There is no requirement to issue a PIN if this is proposed in relation to the investment with Hyde and it should be noted that Hyde has raised serious concerns about this proposal. If it were something the Council opt to pursue, Hyde have indicated that they will have to seriously consider their position in progressing the joint venture with the council.

The use of a PIN would also add to the timetable for procuring the relevant goods, works or services, particularly if the results have to be brought back to the relevant Committees for approval and if it was a precursor to a full procurement process. The council would also need to carefully review and consider any speculative approaches from RPs who have no connection or development track record in the City.

In terms of the works and professional services contracts that will be required to build the homes, Hyde's framework agreements were established under EU procurement rules (as outlined in the main body of the report). The Council and Hyde have therefore agreed not to use a PIN as Hyde's framework has already been through a procurement process with value for money tested. An independent project monitor will also be appointed who will be required to monitor value for money on each development, for example by certifying development costs before they can be incurred. In addition the joint venture will run mini-tenders between suppliers on the Hyde frameworks. This is a common approach and provides a further test of value for money.

- f) Further financial modelling should be undertaken and reported back to a future meeting of this committee for approval, as well as Policy Resources and Growth Committee and Full Council. This financial modelling should include SFVM and NPV calculations over **each, 2, 5, 7, 10, 15, 20 and 40 years period, not simply the current 60 years one modelled as earlier exit is a possibility.** This should also be a more extensive combination of sensitivity analysis at each of these time periods of the proposed joint venture. These should include both a best and worst cases scenario for each, but as a minimum should include a rental market reduction of 10%, an interest rate **increase up to and including 8%, stress testing of the current proposed unit cost with additional 10% contingency and fees,** construction costs increases of 20% seen on other council schemes, exposure of the LLP to corporation tax **and VAT** which**

should include tax increases and decreases **down to 12% and up to 40%**, as we are still waiting on Counsel Advice on this. This model should also include provision for legal advice should the dispute resolution mechanisms fail and achieving each element of the council's affordable housing brief in full, not simply partially. This modelling and sensitivity analysis should also include a market value of property reduction of 20%, at any stage, and the likely effect on the sale of shared ownership properties or propensity of ownership default of the shared ownership properties **if the UK entered recession and GDP contracted by 7%**, and the financial impact on the joint venture **and council, including but not exclusively** of mortgage companies having first refusal over the LLP retained, rented percentage of these shared ownership properties, using historic recession trends particularly the results on Housing Associations of the 2008 financial crisis.

Officer Comments

There are an infinite number of potential sensitivities and combinations that could be modelled against the Strategic Financial Viability Model (SFVM), but those chosen by officers to date represent either the most likely or those with the most negative significant impact. For example the modelling of a reduction in all inflation rates by 1% over the entire 60 year period is most unlikely but is one scenario which would have a significant impact.

The sensitivity modelling requested does not mirror the approach being taken to the SVFM or provide a suitable level of stress testing and hence these sensitivities would provide a range of unviable results. Following approval of the SVFM, the approach of the JV will be to undertake individual viability assessments for each scheme as they come forward (at which stage there will be greater certainty around the interest rates and other costs). If the modelling at this stage shows schemes to be unviable they will not be progressed. In addition the JV will prepare annual budgets and Medium Term financial strategies (in a similar way to the council) that would highlight any future potential financial risks providing the opportunity to take action as appropriate. This report is seeking delegated authority to establish a JV after which further approvals will be required by PRG to release funding for individual schemes.

Furthermore the level of stress testing is inappropriate in terms of magnitude, for example in changes in interest rates (which have not reached 8% since 1992) and reference to market value reduction of 20% (and modelling entering a recession) and so forth. The council is clear that a VAT shelter can be operated and therefore no sensitivity is required for this and counsels opinion, which reflects similar projects across the country is that corporation tax does not apply.

Exit strategies are covered in the paper should the most disadvantageous set of circumstances apply to offer members re-assurance as to their options.

With regard to achieving each element of the council's Affordable Housing Brief in full, delivery against the Affordable Housing Brief is subject to National Planning Policy Framework considerations. These include developer viability and, in practice, this results in frequent challenge to full delivery of all elements sought. Hence, despite best efforts, we often do not achieve all elements of the brief. In particular, a key part of the brief is achieving a mix of affordable homes including affordable homes for rent. We have significant challenges on delivery of this element of the Affordable Housing Brief with very little delivery of affordable rented homes, other than via our own Estate Regeneration programme. A key part of this proposal is to address the shortage of homes for affordable rent. All schemes will have their own appraisal and approval process aligned to Business Plan and, if Council Land, landowner consent through the usual routes. This will offer ongoing member scrutiny around compliance with the Affordable Housing Brief. In addition, any schemes approved by Planning will have to meet Planning / Building Regulations around size / space standards.

The homes will meet Lifetimes Home standards for accessibility and Hyde and the Council are committed to meeting wheelchair housing need. The exact proportion of wheelchair housing will be reviewed on a site by site basis.

- g) That the council, in order to protect general fund services, internally underwrite the risk of any exposure to the loan for the LLP, which could result in the joint venture in any one year resulting in a deficit for the general fund; including any extension to right to buy: with the council's existing general fund asset portfolio (as the sale of any of these assets should be used to fill the gap if the sale of the joint venture properties is unobtainable) and/or future in year loans to fill any gap, which the JV profits in subsequent years could repay. This to ensure that should there be a deficit in any year, that in none of these years will the general fund have to make reductions to services to make loan repayments. This being conditional on it being a non-HRA loan. This to form part of the heads of terms, contract or equivalent legal document by the council solely **and/or** the Joint Venture.**

Officer Comments

As mentioned earlier, the JV will prepare annual budgets and Medium Term financial strategies (in a similar way to the council) that would highlight any future potential financial risks providing the opportunity to take action as appropriate. This report is seeking delegated authority to establish a JV after which further approvals will be required by Policy, Resources & Growth Committee to release funding for individual schemes.

The individual viability assessments of each scheme would need to demonstrate that the development was viable in accordance with the LLPs Business Plan and financial model, therefore providing the expected returns, which would enable the council to repay its debt. .

The council cannot offset any exposure with the sale of any of its existing asset portfolio. Any surplus assets would already be accounted for in our capital receipt estimates and other disposals will have revenue implications including the potential loss of rental income. Minimum Revenue Provision (MRP) will be set aside in every year to provide for the repayment of the borrowing which will be included in the Financing Costs budget

This has not been agreed between the parties, and Bevan Brittan would not in any event expect to see such an agreement in the Heads of Terms or any of the other legal documents because it would be an internal matter for the Council. The Council can accrue both usable and unusable reserves, and could explore whether it would be legally possible to create a specific earmarked reserve for this purpose, or as an alternative increasing its unrestricted reserves. It would need to take specific advice before doing so.

Exit strategies are covered in the body of the report and FAQs should the most disadvantageous set of circumstances apply to offer members re-assurance as to their options.

- h) That a full and in depth review spanning the preceding 5 years of Hyde Housing Association and Hyde Housing Group be conducted and reported back to members at a future meeting of this Committee. This should also include a 5 year outline of all credit rating agency ratings, outlining every upgrade and/or downgrade over this period.**

Officer Comments

FAQ 31, states that preliminary checks have been completed, we would have carried out the review detailed in h) for 3 years as a standard council practice following committee approval to progress. Officers have conducted a detailed review of the three year accounts and are comfortable with Hyde's financial viability at this stage. Officers have now also reviewed credit rating agency ratings back to 2010 to satisfy this request. Full due diligence regarding Hyde's long term viability will be undertaken at the next stage of the project.

- i) The Heads of Terms should clearly state at 2.1.6 d) the council or a third party to provide corporate and financial services, with an added, on costs incurred basis. Clarification on the requirement for a procurement process to be undertaken should **these good or services be provided by a** third party should also be set out to members at a future meeting of this committee.**

Legal advice has been obtained which confirms that no procurement process is required. The services will either be provided by the Council or Hyde and it is not envisaged to procure this from a 3rd party.

- j) Legal advice on state aid compliance should be provided extensively at the relevant committee agreement stage for the sale of any council land to the Joint Venture and the annual approval of the business plan approval stage.**

Officer Comments

Bevan Brittan have advised how to ensure compliance with the State Aid rules, and the Council and Hyde will be under an obligation to continue to do so when sites are brought forward for development under the overarching strategic land agreement and in line with a business plan. The advice states that State aid does not create any material issues for the proposed project structure, and this is not expected to change.

We would expect State Aid issues to be raised when Council consent must be obtained in line with the processes outlined in the Heads of Terms. Section 3.4 of the Heads explicitly reserves a right to the Council to obtain independent advice to ensure it is satisfied with any proposed land transfer value, and this will help it ensure compliance with the State Aid rules.

- k) It should be explicit in the heads of terms or subsequent contracts that any profit from the Joint Venture should be split on a 50/50 basis.**

Officer Comments

The Heads of Terms state in section 4.3.2 that the Council and Hyde will each own 50% of the joint venture vehicle. Any distribution will be made in the same proportion. The Heads of Terms can be amended to make this absolutely explicit.

- l) That the Heads of Terms be amended at 3.3.5 g) to delete '(or first phase)' and to instead read 'whole development'.**

Officer Comments

The Council and Hyde have agreed that property can be drawn down when certain conditions are met, including where funding has been agreed for the particular property or for the first phase of the development. Hyde and the Council will continue to refine and seek agreement on the detail of the draw down conditions working under the approved delegations from the H&NH Committee.

- m) That financial solvency checks for its lifetime be conducted on 'Hyde New Build' as outlined at 4.1.2 of the heads of terms.**

Officer Comments

Hyde New Build trading record is a matter of public record via companies house; the company is a trading company providing design and build services to Hyde's construction projects. The company is a wholly owned subsidiary of Hyde Housing Association, which is the only shareholder.

As Hyde New Build is a wholly owned subsidiary of Hyde, the company's viability relies on the viability of the group as a whole, so it is not necessary to undertake separate checks.

- n) Changes to the Heads of Terms be made to ensure that only the Housing and New Homes Committee can agree to a change in the reserved matters list and this cannot form part of the annual business plan to be changed.**

Officer Comments

The reserved matters could only be amended with the unanimous agreement of the Council and Hyde. This would be the same position for any element of the agreements entered into at the outset of the joint venture.

The question of what individual or committee has authority within the Council to exercise rights reserved to the Council is an internal governance matter for the Council and would not be a matter for the contracts with Hyde. The council would need to identify the correct route for decisions based on the council's constitution e.g. if there are financial implications to the council it may require PR&G approval.

- o) The expenses policy of the LLP as set out at 4.10 of the Heads of Terms should be agreed by a future meeting of this committee prior to the Heads of Terms being signed.**

Officer Comments

The Council and Hyde are both agreeable to a policy of zero expenses. Any expenses for Members attendance at board meetings would be a matter for the council to decide.

- p) The Heads of Terms be amended at 4.15 to read that 97% of fair value of 3 independent valuers, including the district valuer, shall be transferred in the event of a default.**

Officer Comments

The Council and Hyde agreed that the figure should be 90% on the basis that it would firstly act as a disincentive to breaching the terms of the Members' Agreement and secondly reflect normal market practice. In line with market practice, it was also agreed that a single independent valuation would be sufficient to calculate fair value. Although there is no legal reason why this cannot be changed to three independent valuers, including the district valuer, the risk is that it would disproportionately complicate the process and increase the timescale for reaching agreement.

It is the view of the council, Hyde and our legal advisers that this should stay at 90% as the surviving member of the JV will incur significant costs and inconvenience in the event that the other party defaults. A 3% discount would be out of line with normal practices and not adequately reflect this.

- q) The Heads of Terms be amended at 4.17 so that any third party must undergo financial solvency checks and be approved by the remaining partner of the Joint Venture.**

Officer Comments

The Heads do not contain a general right to veto over a proposed transfer, and more substantive changes to section 4.16 would be required to provide this. Under the current arrangement, the safeguards are (1) an initial lock-in period followed by a right of first refusal for the remaining party (2) the restriction against transferring to an "unsuitable party" (3) sufficient financial covenant for an intra-group transfer and (4) a continuing obligation to deliver the housing objectives of the joint venture. Bevan Brittan expects that Hyde would object to a general veto as it could allow the Council to prevent it from leaving the joint venture and would undermine the value and security of Hyde's investment. Likewise the Council would not be advised to accept such a veto from Hyde.

2.2 That Policy, Resources & Growth Committee:

- i) Support in principle the living wage joint venture proposal **subject to the further safeguards being put in place outlined above**; and
- ii) Give delegated authority to the Executive Director of Economy, Environment & Culture following consultation with the Executive Lead Officer for Strategy Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
 - a) develop and negotiate the deal with Hyde;

- b) ~~agree and authorise execution of~~ **develop** the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture; **both of which should come back to a future Housing and New Homes Committee, Policy Resources and Growth Committee and Full Council for final approval**
- c) ~~make the appointments~~ **suggestions on the Council officer advisory attendees** from the Council to the management board; **as the councils three members of the board shall be the chair of the housing and new homes committee, the opposition spokesperson of the housing and new homes committee and the minority groups spokesperson of the housing and new homes committee. Such positions should be capable of being substituted for by other members, and relevant council officers may attend purely in an advisory capacity to assist members. The Chair of the Board should also be the chair of the committee, who will hold a casting vote: in perpetuity. Final details of this advisors list, should come back to a future Housing and New Homes Committee for final approval.**
- iii) Note that reserved matters (as detailed in 3.30) will come back to **the Housing and New Homes** committee, **as well as the Policy Resources and Growth Committee** for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV.

Officer Comments

Under the existing proposals the Council will delegate authority to senior officers to agree the final Heads of Terms in light of all advice received and execute all documents necessary to implement the joint venture. Members would retain oversight via the cross party Estate Regeneration Board and Strategic Delivery Board.

The casting vote issue is covered above and is not consistent with a 50:50 JV.

AGENDA ITEM 40
HOUSING DELIVERY OPTIONS – LIVING WAGE JOINT VENTURE
GREEN GROUP AMENDMENT

That the following amendments be made to the recommendations listed under point 2, so that the document reads as follows:

2.2 That the Policy, Resources and Growth Committee:

- i) Give delegated authority to the Executive Director of Economy, Environment and Culture following consultation with the Executive Lead Officer for Strategy, Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
 - a) Develop and negotiate the deal with Hyde; ***in which the following are sought:***
 - 1) ***100% of nominations for Living Wage Rented Housing are provided only for households from the BHCC waiting list, for whom specifically, the market rent for housing in the private sector exceeds 50% of their income.***

This is estimated at an annual gross income of:

- ***£36,000 for a three-bed***
- ***£31,000 for a 2 bed,***
- ***£22,500 for a one bed***
- ***£16,000 for a studio***

Officer Comments

As outlined in paragraph 3.34 of the main report and in response to Frequently Asked Question 4 the Living Wage proposal concurs with the Council's draft Allocations Policy which proposes an income cap against the size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from Living Wage housing.

This proposed amendment is aligned to separate amendments received from Cllr Gibson for Housing & New Homes Committee regarding the Allocations Policy. These proposed amendments to the Allocations Policy will be considered under a separate report to Policy, Resources & Growth Committee. The key issue is that further consultation on the Allocations

Policy would be required for changes to the current draft Allocations Policy to be considered, including with regard to the setting of any income cap.

- 2) That 100% of nominations for shared ownership properties are achieved for residents with a local connection to Brighton and Hove, as defined in the Housing Allocations Policy**

Officer Comments

This is fine in principle however the JV may need to offer sale more widely if there is no take up locally.

- 3) That a 'first refusal' option is agreed in the event Hyde become bankrupt; and/or that in the event that Hyde should separately dispose of their stake in the partnership, that their stake be sold to the council or to a charitable housing association, with charitable objectives;¹**

Officer Comments

The parties have currently agreed that:

- 1. if either defaults under the Members' Agreement (which includes becoming insolvent) the other may acquire its interest in the LLP at 90% of the interest's fair value, as determined by an independent valuer;*
- 2. either can transfer its interest to a third party at any time with the prior written consent of the other;*
- 3. either can transfer its interest to a third party after an initial lock-in period, but only after offering the interest to the other member on the same terms;*
- 4. either can transfer its interest to another member of its group (subject to the new member having a sufficient financial covenant and returning the interest if it leaves the group);*
- 5. there may be no transfer to an "unsuitable person";*
- 6. an incoming third party must adhere to the Members' Agreement and Business Plan then in force.*

Hyde is therefore free to transfer its interest to a third party after the lock-in period has passed if the Council does not exercise the right of first refusal referred to in point 3 above. Under the current proposals, the third party would not need to be a charitable housing association.

The Council could seek to change this position by agreeing with Hyde that if the Council chooses not to exercise the right of first refusal then for a period of [] days, only charitable housing associations would be given the opportunity to acquire its interest (at market value), failing which it would be free to choose the third party.

Hyde might be willing to agree to such a proposal because in both circumstances it will be paid the interest's market value (subject to receiving only 90% of fair value when a transfer takes place after a default).

4) That the rent levels set are reduced to the levels modelled in the 30% of living wage rent sensitivity test, (made possible by lowering the rate of return in the base model)

~~b) agree and authorise execution of the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture;~~

Officer Comments

The rents are currently modelled at 40% of the living wage (based in living wage in 2019), if the rent levels in the financial model are reduced to 30% of the living wage this would add significant risk to the JV proposal, bringing the Internal Rate of Return (IRR) on the affordable rented units to approximately 3%, with the overall IRR for the JV (i.e. including shared ownership units) to 4.5%. This financial risk would not be acceptable to either party in the partnership.

b) the final terms of the agreement be put forward and agreed by full meeting of Council, prior to the completion of the deal;

~~e) Make appointments from the Council to the management board;~~

Officer Comments

Under the existing proposals the Council will delegate authority to senior officers to agree the final Heads of Terms in light of all advice received and execute all documents necessary to implement the joint venture. Members would retain oversight via the cross party Estate Regeneration Board and Strategic Delivery Board.

AGENDA ITEM 40
HOUSING DELIVERY OPTIONS – LIVING WAGE JOINT VENTURE
GREEN GROUP AMENDMENT

That the following addition be made to the recommendations listed under point 2, section (iii), so that the document reads:

- iii) Note that the reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV
- iv) ***That reserved matters for the Joint Venture should include:***

- (a) An option to veto any future rent increases that exceed increases in the National Living wage;***

Officer Comments

The Council and Hyde would not be able to agree to this veto (also see FAQ 24).

To 'peg' rents to the National Living Wage would create financial uncertainty for the Joint Venture, as these increases are politically controlled. It would not prudent to make a significant investment decision based on an unknown factor. Financial modelling assumes rent increases will be in line with the Consumer Price Index (CPI). This provides certainty in financial planning and should also ensure that rents do not rise at a higher rate than the cost of living, keeping pace with wage increases. Note that this is lower than historical rent increases for Housing Associations and Council's which are generally at CPI+1%.

- (b) An option to veto any future rents increases that raise combined rents and service charges above the Local Housing Allowance;***

Officer Comments

The Council and Hyde would not be able to agree to this veto (also see FAQ 24).

Financial modelling assumes rent increases will be in line with the Consumer Price Index (CPI). This provides certainty in financial planning and should also ensure that rents do not rise at a higher rate than the cost of living, keeping pace with wage increases

c) An option to increase allowances for maintenance of properties after year 10 in the model

Officer Comments

These proposals are not contained in the Heads of Terms. Proposed increases set out in the business plan, linked to CPI, would not need approval from the owners. Any variation away from the business plan, e.g. making an increase or decrease other than CPI, would require approval of both parties.

The allowance increase should not be required as the financial modelling includes allowances for management, responsive maintenance and life cycle costs for ongoing stock investment (described as major works sinking fund in assumptions table). These allowances are annually inflated each year. The Council's Finance department have reviewed the assumptions and costs compared to those used in BHCC New Homes for Neighbourhood (NHFN) viability modelling and consider them comparable and adequate to provide a good quality management and maintenance service, together with adequate allowance for stock investment into cyclical works for example to include replacement windows and roofs and so forth.

That the following addition be made to the recommendations listed under point 2, section (iii), so that the document reads:

- iii) Note that the reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV

- iv) ***That should the business model exceed its projected rate of return, all surplus monies be ring fenced exclusively to provide additional council owned emergency accommodation for homeless people and additional living wage rented housing***

Officer Comments

Note the above should read all council surpluses (to be clear the is not all LLP surpluses which would include Hyde's share).

In principle this recommendation seems acceptable and it would seem reasonable for members to agree this in principle. However, the detail and mechanism for how this will operate will need to be considered and will come back to a future Policy, Resources and Growth Committee for approval.

NOTICE OF MOTION**LABOUR AND CO-OPERATIVE GROUP****COMMERCIAL LEISURE ACCOMMODATION**

This Council resolves to request the Chief Executive to write to the Secretary of State for Communities and Local Government to introduce government legislation to licence and regulate 'Commercial Leisure Accommodation' (commonly known as 'Party Houses').

- To incorporate such premises into Planning law, Class C1 (use as a hotel, boarding or guest house, or as a hostel).
- Premises to be subject to current health and safety regulations applying to UK overnight accommodation providers.
- All premises operating prior to the proposed legislation to be required to register once legislation has passed into law.

Proposed by: Cllr Morris

Seconded by: Cllr Cattell

Supported by: Labour and cooperative group of councillors

NOTICE OF MOTION**LABOUR AND COOPERATIVE GROUP****FAIR TAX**

This council resolves to ask the council's Procurement Board to examine ways in which council procurement policies might be able to require or request that companies bidding for service contracts worth more than £173,000 and for works contracts worth more than £4m (or appropriate sums as agreed) answer the more detailed tax compliance questions within 03/14 (PPN 03/14).

Proposed by: Cllr Daniel

Seconded by: Cllr Meadows

Supported by: Labour and Co-operative Group of Councillors

Supporting information:

There are different regulations affecting central and local government procurement.

Local government is bound by 2015 regulations to require bidders to declare whether they have been found in breach of legal requirement to pay tax or social security. These questions are contained in the Procurement Qualifications Questions (PQQs) and relate to service contracts of over £173k and works contracts of over £4m.

However, the government has issued Procurement Policy Note (PPN) 03/14 to cover its own contracts worth more than £5m. PPN 03/14 goes further than PQQs, asking more searching questions about 'incorrect' tax avoidance and 'failed' tax avoidance. PPN 03/14 guidance is optional for public bodies including councils.

According to the Sourced campaign, councils in England alone spend some £45 billion a year buying goods and services from companies
<http://www.christianaid.org.uk/ActNow/tax-justice/index.aspx>

How councils buy their services can have a significant impact on business tax practice.

Independent accreditation can assist companies in demonstrating that they are paying their fair share of tax, for example the Fair Tax Mark scheme
<http://fairtaxmark.net/councils-tackle-tax-avoidance/>

NOTICE OF MOTION**GREEN GROUP****NHS SUSTAINABILITY AND TRANSFORMATION PLAN**

This Council requests the Chief Executive and the Chair of the Health & Wellbeing Board to:

- inform local NHS STP leaders of our unwillingness to cooperate further until there is adequate funding, consultation and democratic involvement for the proposed changes;
- arrange a cross-party meeting with all other Councils in our STP area, to propose that they do the same.

Proposed by: Cllr Page

Seconded by: Cllr Mac Cafferty

Supported by the Green Group

Supporting Information:

The recent publication of the NHS Sustainability & Transformation Plan (STP) for our area, following its secret production over more than 6 months talks of a vision of more preventative, community-based healthcare, but makes only passing reference to the Whitehall requirement of making £865m "savings" out of a budget of £4bn across Sussex and East Surrey.

<http://www.brightonandhoveccg.nhs.uk/your-services/sustainability-and-transformation-plan>

Councils from other areas have refused to cooperate further with their STPs, due in part to their secrecy and lack of meaningful consultation or political involvement, but crucially in opposition to the approximate 18% cuts demanded of acute hospitals. These "reconfigurations" will inevitably lead to increased rationing of essential treatments, and much longer waits and journey times.

Other areas which have refused to cooperate further with their STPs include: Sefton; Cheshire West, North Cheshire and Wirral HWB; Telford and Wrekin Council; Kirklees; Wakefield; Bradford; Leeds and Calderdale; NW London: Ealing, Hammersmith & Fulham; Birmingham; Sutton; Wandsworth; Merton, Croydon; Kingston; North Central London: Camden, Islington, Brent, Barnet, Enfield.

The lack of consultation in relation to STPs has also been condemned by the British Medical Association, whilst a new survey by the County Councils Network (CCN) found 77% of county adult social care directors do not believe their local sustainability and transformation plan (STP) will deliver sustainable care.

<http://www.countycouncilsnetwork.org.uk/news/2016/nov/care-funding-cuts-lead-terminal-impact-services-hold-back-health-integration-report-warns/>

NOTICE OF MOTION
CONSERVATIVE GROUP
ASSET MANAGEMENT PANEL

This Council requests that In light of the predicted £51.2 million budget gap over the next 3 years, and public concern about the future of the Council's downland assets, the Policy, Resources & Growth Committee gives consideration to the reconvening of the cross-party Asset Management Panel at the earliest opportunity, with a remit including, but not restricted to:

- (a) allowing greater member oversight of the management of the Council's commercial and agricultural assets;
- (b) yielding a return figure closer to that of the private sector;
- (c) assisting in reducing the budget gap; and
- (d) promoting regeneration in the city.

Proposed by: Councillor Miller

Seconded by: Councillor G. Theobald

Supported by: Conservative Group of Councillors

Supporting information:

Brighton and Hove's £1.69 billion asset portfolio currently generates an annual return of about 5%.

NOTICE OF MOTION
CONSERVATIVE GROUP
CITY INFRASTRUCTURE

This Council,

- (i) requests that the Chief Executive make contact with HM Treasury at the earliest opportunity in order to make the case for Brighton & Hove accessing the Government's new £2.3 billion Housing Infrastructure Fund and;
- (ii) requests the Policy, Resources & Growth Committee to put infrastructure provision at the heart of the emerging City Plan Part 2.

Proposed by: Councillor Bell

Seconded by: Councillor C. Theobald

Supported by: Conservative Group of Councillors

Supporting information:

This Council notes and acknowledges the concerns of many residents regarding the desperate need for adequate new infrastructure, such as schools, transport, utilities, healthcare, and sports and leisure facilities, to support the Council's City Plan housing target of 13,200 new homes by 2030.

This Council, therefore, welcomes the new £2.3 billion Housing Infrastructure Fund announced by the Chancellor of the Exchequer in his recent Autumn Statement to help support new housing schemes in areas where housing need is highest.

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