

Council

27 March 2014

Agenda Item 105

Brighton & Hove City Council

Subject:	Review of the Council's Constitution 2014		
Date of Meeting:	27th March 2014 20 th March – Policy & Resources Committee		
Report of:	Monitoring Officer		
Contact Officer:	Name:	Elizabeth Culbert	Tel: 29-1515
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Ward(s) affected:	All		

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

- 1.1 This report proposes changes to the Council's Constitution for approval by P&R and Council. The issues set out in the report have been reviewed by a cross party Constitution Working Group and Leaders Group. The report also includes changes to the officer structure proposed by the Chief Executive.

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

- 2.1 That Committee approves the proposed changes to officer delegations set out at paragraphs 3.13 to 3.15 and Appendices 7 (a) to (c) of the report and that the changes come into effect on 1st April 2014;
- 2.2 That the Chief Executive be authorised to take all steps necessary or incidental to the implementation of the changes agreed by Policy & Resources Committee and that the Monitoring Officer be authorised to amend and re-publish the Council's constitutional documents to incorporate all the changes referred to at 2.1 above;
- 2.3 That the Committee recommends to full Council the proposed changes to the Council's constitution as set out in paragraphs 3.2 to 3.11 and Appendices 1 to 6 of the report.

Full Council

- 2.4 That the proposed changes to the Council's constitution recommended in paragraphs 3.2 to 3.11 and Appendices 1 to 6 of the report be approved and adopted from 1st April 2014;
- 2.5 That the Chief Executive be authorised to take all steps necessary or incidental to the implementation of the changes agreed by Council and that the Monitoring Officer be authorised to amend and re-publish the Council's constitutional documents to incorporate all the changes referred to at 2.4 above.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 When Brighton & Hove City Council adopted its new constitution in May 2012, it was recognised that the arrangements would need to be kept under review and that it would be good practice to continue to work with a cross party group of members to consider changes that could be made to improve its effectiveness. The Cross-Party Working Group on the Constitution has met several times and considered a number of issues. The proposals in the following paragraphs represent the first tranche of the proposed changes.

Contract Standing Orders (CSO's)

- 3.2 Amendments to Contract Standing Orders are proposed to ensure that the Council's procurement practices take into account the most up to date legislation, case law and best practice. The changes are summarised below and shown as tracked changes in **Appendix 1**.

Summary of proposed changes to CSOs (Appendix 1)

- (i) To clarify the importance and application of CSOs – in particular to framework agreements;
- (ii) To amend the sealing threshold so that the Council seal is only required for contracts over £250k or over £100k where standard Terms and Conditions are not being used;
- (iii) To clarify the process required to demonstrate value for money in social care contracts. The requirement for a full competitive process does not apply to such contracts, but there is a need to demonstrate “transparency” and “openness.” The revised standing orders 12.8 to 12.15 provide useful guidance that will help achieve greater consistency and certainty;
- (iv) To reaffirm authorisation of the Chief Executive (after consultation with the Monitoring Officer and Chief Finance Officer) to raise non statutory procurement thresholds to keep them at the intended level in real terms.

Council Procedure Rules (CPR's) – Petitions, Deputations, Questions

- 3.3 The Council's arrangements in relation to petitions are currently set out in Council Procedure Rules, the Council's Petitions Scheme and on-line guidance in relation to e-petitions. It is proposed that the guidance be consolidated so that there is one set of guidance which is easily accessible on the Council's website.
- 3.4 The requirement for a Petitions Scheme, including the requirement to hold a full Council debate, was introduced by the Local Democracy, Economic Development and Construction Act 2009. These provisions are no longer in force. However, the ability to trigger a full Council debate with 1,250 petitioners has worked well in the City and has encouraged public engagement at full Council meetings. It is therefore proposed to retain the ability to trigger a full Council debate with the current threshold of 1,250. The Council's Petitions Scheme also states that if a petition contains at least 750 signatures, the relevant

senior officer may be called to give evidence at a public meeting of the Council's Overview and Scrutiny Committee. This is not a provision that has ever been used and it is proposed to remove this from the Petitions Scheme and Council Procedure Rules.

- 3.5 Further amendments are proposed to Council Procedure Rules to better manage the balance of public engagement on matters before Council and Committees. These are summarised below and the full text is shown with tracked changes in **Appendix 2**.

Summary of proposed changes to CPRs regarding petitions, deputations and questions (Appendix 2)

- (i) To amend the procedures so that a member of the public may choose to submit either a petition, a deputation or a question relating to the same agenda item at a Council or Committee meeting. This means it will not be possible to submit a petition, a deputation and a question on the same issue at the same meeting, as has been the case on some occasions.
- (ii) To require deputations to be submitted by a group of more than 3 people and less than 10 to ensure it remains a proper deputation (e.g. not just one person) and avoid large numbers as they are expected to attend and present the deputation. It is also proposed to align the time for presentation of deputations with that for petitions – i.e. 3 minutes.
- (iii) All petitions that Members or the public wish to present at Council are to be referred to Democratic Services by Monday on the week of Council.
- (iv) All petitions either referred to Council for a full Council debate (hitting trigger of 1,250 petitioners), or referred directly to a Committee for a decision, must be referred to Democratic Services 10 days in advance of the relevant meeting. The Chair/Mayor will retain the discretion to take a late petition if it relates to an item on the agenda of an earlier meeting and the issues raised in the petition are addressed in an officer report which is before the meeting for consideration.

Guidance to Members and Officers Serving on Outside Bodies (Appendix 3)

- 3.6 This Guidance is intended to give an overview of the issues which may affect Members and officers who are appointed to represent the Council on outside bodies. It is proposed to refresh the guidance to: reflect new legislation; incorporate the revised declaration of interests requirements in the Code of Conduct for Members; and also to include a summary of 'Do's' and 'Don'ts' for reference at the end of the Guide. A copy of the new guidance is attached at **Appendix 3**.

Delegations to Committee

- 3.7 It is proposed to move responsibility for blue badge parking from the Adult Care and Health Committee to the Environment, Sustainability and Transport Committee. This is on the basis that it will be easier and more transparent for

parking issues to be dealt with together under one Committee. This would also be in line with how it operates in practice at Officer level.

Planning Protocols

- 3.8 A cross party Planning Committee Working Group has undertaken a review of the planning related protocols in the Council's constitution. The working group has proposed the changes summarised below and set out in full in **Appendices 4 , 5 and 7(c):-**

Protocol for Members Regarding Planning Applications (Appendix 4)

- (i) To extend public speaking rights to Rottingdean Parish Council and any neighbourhood forum;
- (ii) To clarify that members of the public cannot approach Members at site visits (in recognition of the quasi judicial nature of the Planning Committee);
- (iii) To reflect current practice in relation to site visits and to ensure all parties at a site visit are treated equally.

Protocol for Public Representations at Planning Committee (Appendix 5)

- (i) To reflect current practice regarding the order of speaking and the new speaking rights referred to above;
- (ii) To clarify the term 'objector' and the status of the protocol.

Webcasting of Council Meetings

- 3.9 It is proposed to use additional capacity for webcasting council meetings under the current contract to webcast the Housing Committee and the Environment, Transport and Sustainability Committee. These meetings have been chosen because they have the highest public involvement of those Committees not currently webcast. There will continue to be flexibility to include some additional meetings and/or events in the webcasting programme.

New legislative requirements – amendments to Council Procedure Rules (CPRs) (Appendix 6)

- 3.10 The Government has enacted the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (the Regulations) which came into effect on 25 February 2014. These Regulations require a local authority to hold a recorded vote before approving its budget. Changes to the Council Procedure Rules are required to bring this into effect. The proposed change to Council Procedure Rule 27 is set out in full in **Appendix 6**.
- 3.11 New regulations are also anticipated in relation to the filming and recording of Council meetings. The draft Openness of Local Government Bodies Regulations 2014 set out a presumption in favour of allowing filming at all Council meetings. The Council already seeks to engage widely with the public in relation to its

Council meetings and, in addition to webcasting, enables recording and photographing of all Council meetings, with the permission of the Chair/Mayor. A minor amendment to CPRs will ensure that the Council is fully compliant with the new proposed legislation – this is set out in full at **Appendix 6**.

- 3.12 It is also proposed to clarify the position by allowing votes by show of hands, electronic voting or by acclamation at the discretion of the person presiding at the meeting.

Officer delegations

- 3.13 The Chief Executive has consulted officers in relation to proposals to move a number of services across the Directorates. The proposed arrangements, and rationale for the changes, are set out in **Appendix 7a**. The consultation in relation to these changes closes on 14th March 2014 and a verbal update will be provided at the meeting in relation to the outcome and feedback from the consultation.

- 3.14 An additional change is proposed in relation to the delegations for the Assistant Chief Executive. This relates to grants to communities and non-profit making bodies that have been approved by Policy & Resources Committee. It is proposed to enable the Assistant Chief Executive to amend such grants in response to budget changes, after consultation with the Members Advisory Group. The revised wording is attached at **Appendix 7b**.

- 3.15 Amendments are proposed to the delegations to the Executive Director Environment, Development and Housing (set out in full at **Appendix 7c**). These amendments are made following the recommendations of the cross party planning committee working group – referred to at paragraph 3.8 above:-

- (i) To ensure that only those most affected by proposed developments have the ability to have their objections counted towards the required number of representations needed for an application to go to Committee. The proposed changes also ensure that the representations made relate to the application in question;
- (ii) To give Rottingdean Parish Council the right to request that applications within the Parish Council are determined by the Committee;
- (iii) To reflect amendments to legislation in relation to the need to obtain prior approval;
- (iv) To reflect the Council's powers to decline to determine applications.

4. COMMUNITY ENGAGEMENT & CONSULTATION

The proposals in this report relate to Council procedure and decision making. Therefore consultation has taken place with the Constitution Working Group, the cross party Planning Committee Working Group and Leaders Group.

5. CONCLUSION

- 5.1 This report continues the work of the cross party Constitution Working Group in reviewing the operation of the council's constitution and suggesting revisions

where it is considered these will have a positive impact on the Council's internal governance.

6. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 6.1 There are no financial implications arising from the recommendations of this report. Budget allocations for Directorates will be amended to reflect the proposed movement of services included at appendix 7 for the 2014/15 financial year onwards.

Finance Officer Consulted: James Hengeveld

Date: 04/03/14

Legal Implications:

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

Lawyer Consulted: Elizabeth Culbert

Date: 020314

Equalities Implications:

- 6.3 Many of the proposals in this report will improve the ability of the public to engage with the Council – for example by extending the webcasting of council meetings, clarifying the guidance on petitions, including a requirement for a recorded vote for budget council and by extending the arrangements in relation to filming and recording council meetings.

Sustainability Implications:

- 6.4 There are no sustainability implications. Changes to the Constitution will appear on the Council's website.

Any Other Significant Implications:

- 6.5 None.

SUPPORTING DOCUMENTATION

Appendices:

1. Contract Standing Orders
2. Council Procedure Rules re Petitions, Deputations and Questions
3. Guidance to Members and Officers on Outside Bodies
4. Protocol for Members regarding Planning Applications
5. Protocol for Public Representation at Planning Committee
6. Council Procedure Rules re filming and recording of council meetings
- 7a. Summary of proposed changes to Officer Delegations
- 7b. Proposed change to delegation to Assistant Chief Executive in relation to Grants
- 7c. Delegations to Executive Director Environment, Development and Housing