

BRIGHTON & HOVE CITY COUNCIL

GOVERNANCE COMMITTEE

4.00PM 1 FEBRUARY 2011

COMMITTEE ROOM 3, HOVE TOWN HALL

MINUTES

Present: Councillors Oxley (Chairman), Brown, Davey, Elgood, Fallon-Khan, Kitcat, Mears, Mitchell, Morgan and Simson

PART ONE

50. PROCEDURAL BUSINESS

50a Declaration of Substitutes

50a.1 Councillor Morgan declared that he was present as a substitute for Councillor Simpson.

50a.1 Councillor Davey declared that he was present as a substitute for Councillor Randall.

50b Declarations of Interest

50b.1 All Members of the Committee declared a personal, but non-prejudicial, interest in Item 58, a report of the Independent Remuneration Panel concerning the Review of Members' Allowances, because they were all in receipt of allowances.

50c Exclusion of Press and Public

50c.1 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential or exempt information (as detailed in Section 100A(3) of the Act).

50c.2 **RESOLVED** – That the press and public be excluded from the meeting during consideration of items 66 onwards.

51. MINUTES OF THE PREVIOUS MEETING

51.1 **RESOLVED** - That the minutes of the meeting held on 4 November 2010 be approved as a correct record.

52. CHAIRMAN'S COMMUNICATIONS

52.1 There were none.

53. CALLOVER

53.1 **RESOLVED** – That all the items be reserved for discussion.

54. PETITIONS

54.1 There were none.

55. PUBLIC QUESTIONS

55.1 There were none.

56. DEPUTATIONS

56.1 There were none.

57. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

57.1 A letter had been received from Councillor Kitcat concerning the protocol and arrangements associated with the council's webcasting systems, including the potential for using the Open Government Licence. Councillor Kitcat stated that he felt that the current protocol was excessively restrictive, particularly in relation to the sharing of webcasts by Members on external media, and that a review of the protocol and contractual arrangements was required to address the problems.

57.2 The Chairman noted that the protocol was amended by the Committee in July 2009 to clarify the arrangements for using webcast images on forums such as You Tube and Facebook and that it was the original protocol that was considered by the First Tier Tribunal, not the amended one. He made the following comments:

- In relation to the original webcasting protocol, the Tribunal had relied on the fact that there were no express restrictions relating to reproducing or capturing information. The amended protocol dealt with the issue and made it clear that it was possible to post material onto external media, having received prior written approval.
- The First Tier Tribunal recognised in its decision that "there is the potential for misuse of such digitally stored information". Thus the amended protocol was intended to facilitate Members to capture and/or reproduce this data safely and appropriately.
- The issue of the Open Government Licence was being considered council wide, but before committing to it the council would work with our partners across the city to agree the most appropriate licence position.
- Under the contract with the webcast supplier Public-I, the intellectual property rights in the content of the webcasts were assigned to the Council under clause 9.1 of the contract, which meant that Public-i could not fetter the Council's use of the webcast material.

The Chairman advised that the council's contract with Public-i was due to expire in March 2011. The contractual arrangements were currently under review and a report would be brought to the next Governance Committee meeting in March covering both the protocol and the contractual arrangements.

57.3 **RESOLVED** – That the letter be noted.

58. REVIEW OF MEMBERS' ALLOWANCES

58.1 The Committee considered a report of the Independent Remuneration Panel (IRP) concerning the Members' Allowance Scheme for 2011/12.

58.2 Councillor Kitcat praised the IRP for the extensive work that went into the previous review and expressed disappointment that the Council had not agreed that report in October 2010. He moved an amendment requesting that the Committee adopt the IRP's previous report for the 2011/12 municipal year, resulting in a budget saving of 18,000.

58.3 Councillor Davey formally seconded the amendment.

58.4 The Chairman thanked the IRP for their work on the review and invited Simon Keane, Chairman of the IRP to introduce the report.

58.5 Mr Keane explained that the panel had produced a shorter report than usual given that the last report had been considered only three months prior. The report noted and acknowledged the concerns raised by Members in relation to the previous report; the panel had concluded that a holding report was appropriate at the current time and that a more detailed review would take place later in the year. The panel always welcomed comments from Members and had addressed concerns in relation to the childcare allowance in the report.

58.6 Councillor Mitchell praised the work of the IRP and stated that Members had adequate opportunity to make representations to the panel. She thanked the panel for reflecting her comments within the report. She stated that the report identified a saving of £18,080 and queried the basis for the additional £18,000 saving identified in the Green Group amendment.

58.7 Councillor Morgan commented that proposals to review the Overview & Scrutiny arrangements would have a significant impact on the Members' Allowances scheme and that it was appropriate to maintain the existing scheme until such changes were implemented.

58.8 Councillor Mears thanked the IRP for acknowledging Members' concerns and producing a balanced report that took account of the range of proposals that could affect the council in coming months. She added that the panel's previous report had been debated fully at Full Council and that the decision made there should be noted.

58.9 Councillor Elgood commented that the Members' Allowances should be a matter for the new Council following the local elections in May and that it was necessary to be mindful of the impact of a return to the committee system. He added that he could not make a

decision on the Green Group amendment without a copy of the IRP's previous report, which was not part of the agenda.

58.10 Councillor Kitcat advised that the £18,000 saving identified within the amendment had been costed by finance officers and was in addition to the savings identified in the report before the Committee. He stated that the IRP's previous report had disagreed with Members' comments about Special Responsibility Allowances (SRAs) and that changes that may be implemented in the future should not prevent the review of allowances now.

58.11 The Chairman advised that significant changes were not a long way off; work was already underway in relation to a revised Overview & Scrutiny structure and, although the current draft of the Localism Bill indicated that the council could not move to a committee system before 2015, there was still time for changes to be made. He stated that the IRP's previous report had not been agreed by the Council because a consensus could not be reached and added that an increase to the basic allowance would have been implemented if the report had been agreed, instead of maintaining it at the existing level.

58.12 Councillor Mears added that the report before the committee did include some changes and also stated that other comments would be considered when a more detailed review took place.

58.13 The Chairman put the Green amendment to the vote, which was lost.

58.14 In putting the recommendations within the report to the vote, the Chairman stated that an amendment to both recommendations was required in order to ensure that the report was referred to the Full Council for the final decision to be made.

58.15 **RESOLVED –**

(1) **That the Governance Committee recommends to Full Council** that, in view of the current economic climate, the current Members' Allowances Scheme be retained and adopted for the 2011/12 municipal year, with effect from the 20 May 2011.

(2) **That the Governance Committee recommends to Full Council** That the Panel's report be noted and a subsequent report be brought before this committee and Full Council later in 2011/12 when the outcome of the Localism Bill is known and further review has been undertaken.

59. POLLING DISTRICT AND POLLING PLACE REVIEW

59.1 The Committee considered a report of the Strategic Director, Resources concerning the statutory review of polling districts and polling places provided for elections within the city.

59.2 The Head of City Services advised that the report gave details of the statutory review of polling stations and explained that, in addition, the council continuously reviewed polling stations and considered ways of improving access. Extensive consultation had taken place between 25 March and 31 December 2010 and the review had been completed

ahead of schedule. The changes identified in the report would be implemented from 1 March 2011, in time for the local elections in May.

- 59.3 Councillor Mears thanked the Electoral Services Team for their work on the review.
- 59.4 Councillor Morgan commented that it now appeared unlikely that the Boundary Committee would periodically review ward boundaries.
- 59.5 Councillor Elgood thanked the Electoral Services Team for their ongoing commitment to reviewing polling stations in light of access issues.
- 59.6 In response to a question from Councillor Elgood regarding the Disability Discrimination Act, the Electoral Services Manager reported that a number of polling stations were yet to be visited to determine whether ramps could safely be fitted; where this was not possible, alternative ways of voting would be identified. In response to a further question regarding the polling station at St Patrick's Church and the merging of two polling districts, the Electoral Services Manager agreed to provide Councillor Elgood with a written response.
- 59.7 In response to a question from Councillor Davey regarding the polling stations at Downs Infant School, the Electoral Services Manager confirmed that, for the local elections, two separate polling stations would continue to be housed in the same building.
- 59.8 Following a question from the Chairman, the Electoral Services Manager confirmed that ward councillors had been notified of any proposed changes within their ward.
- 59.9 **RESOLVED** - That the Governance Committee approves:
- (i) That the proposals for polling districts and places be as outlined in Appendix 1 to this report and any further suggested amendments that may be proposed. In particular that:
 - (a) the polling station for CV, Moulsecoomb & Bevendean Ward, be changed from Bevendean Primary School to the Church Hall, Norwich Drive.
 - (b) that Hertford Infant School be retained as the polling station for GZ, Hollingdean & Stanmer Ward, in the absence of any support for changing this polling station.
 - (c) that the polling arrangements within Patcham Ward remain unchanged, following a wider consultation.
 - (d) that the temporary building (portacabin) be retained as the polling station for JW, Preston Park Ward, in the absence of any support for changing this polling station.
 - (e) that the Friends Centre, Brighton Junction, Stroudley Road, be designated as the polling station for KS, St Peter's & North Laine Ward, as an alternative to St Bartholomew's CE Primary School.

- (f) that the Aldrington Recreation Ground Pavilion, Wish Road, be retained as the polling station for SX, Wish Ward, in the absence of alternatives.
- (ii) That the Electoral Services Manager, on behalf of the Returning Officer and Electoral Registration Officer, be authorised to take the measures, as required by law, to bring the changes into effect.
- (iii) That in the event that any recommendations cannot be implemented in time for the City Council elections on 5 May 2011, any outstanding issues be resolved by the publication of the electoral register on 1 December 2011.
- (iv) That the Committee delegates to the Returning Officer (the Chief Executive), following consultation with the Group Leaders and respective ward councillors, the designation of alternative polling places in the event of any polling place not being available at any particular election.

60. INDIVIDUAL ELECTORAL REGISTRATION

- 60.1 The Committee considered a report of the Strategic Director, Resources concerning Government proposals for the introduction of Individual Electoral Registration (IER).
- 60.2 The Head of City Services explained that IER was part of a wider package of electoral reform proposed by the Government and further reports would be brought to the Committee when more information was made available.
- 60.3 The Electoral Services Manager confirmed that secondary legislation was not expected before mid-2011.
- 60.4 Councillor Mitchell stated that, while she recognised the need for a secure process, she was concerned at the speed at which the proposals were being progressed and that consideration needed to be given to the impact on certain groups who may not find out about the changes or want to provide the required information.
- 60.5 In response to a question from Councillor Mitchell, the Electoral Services Manager explained that those already on the electoral register would be invited to supply the required personal identifiers and would be given one year's grace if their identity could not be verified following the 2015 elections.
- 60.6 Councillor Mitchell added that her main concern was for new electors for whom no details were held.
- 60.7 In response to questions from Councillor Kitcat, the Electoral Services Manager reported that 10 local authorities had been chosen by the Cabinet Office to pilot IER and that the pilots would provide more information on the potential effect of data sharing on the level of registration.
- 60.8 The Head of City Services advised that the £104 million identified by the Government to implement IER nationwide was likely to be allocated by formula. She acknowledged that it would become more difficult to get and keep people on the electoral register and that

expertise would be shared across the City Services delivery unit in order to proactively consider new ways of working.

- 60.9 Councillor Mears welcomed the report and the need for a more secure system of electoral registration.
- 60.10 In response to a comment from the Chairman about raising awareness of IER amongst communities, Councillor Simson existing links would be built upon to ensure that the message was communicated clearly.
- 60.11 Councillor Morgan stated that he was disappointed that the proposals did not include a requirement to vote. He raised concerns about the effect of proposed changes to Parliamentary Boundaries, which would depend on levels of registration; he hoped that any changes to the city's three constituencies would be would not result in areas being from the city as a whole. He added that if the city was required to take in areas currently outside its boundaries, the council would have little time to verify the new electors during a very busy period.
- 60.12 **RESOLVED** - That the Committee notes the government's intentions and the implications of the introduction of IER.

61. LOCALISM BILL

- 61.1 The Committee considered a report of the Strategic Director, Resources detailing the key provisions of the Localism Bill, which deals with Government proposals in relation to local authority governance arrangements, community empowerment, planning and housing.
- 61.2 The Chairman noted that officers from Housing and Planning departments were present to answer questions and that a briefing note for communities on the neighbourhood planning proposals had been circulated (see Appendix 1).
- 61.3 The Acting Assistant Head of Law explained that, although the current draft of the Bill indicated that the council may not be able to move to a committee system until 2015, there remained the option of putting forward alternative governance arrangements. The second reading of the Bill took place on 17 January and the public committee debate stage was now underway and due to finish on 10 March; the report stage would follow and Royal Assent was expected in November 2011.
- 61.4 Councillor Mitchell stated that the Bill contained a mixture of proposals, including some good opportunities for communities, but noted that it would be essential that all sections of the community were empowered to use new mechanisms. She requested that seminars be organised for Members as the Bill progressed.
- 61.5 Councillor Morgan raised concerns about the abolition of the existing Standards Framework, including the independent process for holding Members' to account, and queried how the council would do this in the future.
- 61.6 Councillor Simson advised that Members must play a role in providing clear information to prevent any misunderstanding of the Bill within communities. She added that the

council would do all it could to empower people across the city and target hard to reach communities.

- 61.7 Councillor Elgood welcomed the Bill, which he felt offered wide-ranging opportunities to give more power to local people, particularly in relation to neighbourhood planning. He highlighted the proposals in relation to assets of community value and the opportunities it presented to reclaim building, such as the Old Market, for community use.
- 61.8 Councillor Kitcat suggested that a road map for the future of the Standards regime would be useful to Members and noted that the council would need to be proactive in preventing conflict amongst community groups.
- 61.9 Councillor Mears welcomed the wide-ranging nature of the Bill and agreed that an independent process for holding Members to account was required. She advised that she intended to write to the city's three MPs about the provisions in the Bill in relation to the possibility of returning to a committee system.
- 61.10 The Acting Assistant Head of Law confirmed that no dates had been set for the publication of secondary legislation and that discussions in Parliament had noted the grey areas identified by Members. In relation to the Standards regime, the duty to uphold and promote a high standard of conduct would remain, making it necessary for the council to use some sort of framework.
- 61.11 The Head of Legal & Democratic Services reported that the Standards Committee was shadowing the Bill as it progressed and may establish a working group. The intention was for a framework and report to be presented to the Governance Committee before seeking final approval from the Full Council.
- 61.12 In response to questions from Councillor Fallon-Khan and Davey, the Head of Planning Strategy explained that the Community Infrastructure Levy (CIL) was designed to compliment existing Section 106 arrangements by recognising the need for ongoing development of infrastructure. Local authorities would have the option to impose a CIL and funds could be passed on to neighbourhoods if appropriate. The CIL could also contribute to development citywide.
- He also explained that Neighbourhood Development Plans (NDP) must comply with the Local Development Plan and would therefore be able to promote more, but not less development. He agreed to provide a written response to the Committee detailing the relationship between a NDP and a Neighbourhood Development Order (NDO).
- 61.13 In response to a question from Councillor Mitchell in relation to accountability, the Acting Assistant Head of Law advised that final accountability for the operation of new mechanisms was likely to be determined provision by provision; in the case of assets of community value, local authorities would be required to consider and approve a business case before an asset is transferred to a community group.
- 61.14 **RESOLVED** - That Committee notes the key provisions of the Localism Bill and requests further reports as the Bill progresses, including proposals for implementation in Brighton & Hove.

62. FUTURE OF OVERVIEW & SCRUTINY

- 62.1 The Committee considered a report of the Strategic Director, Resources concerning proposals for the future of the council's Overview & Scrutiny function.
- 62.2 The Head of Overview & Scrutiny explained that the changes proposed were driven by the increased importance of partnership working and shared services, and the introduction of intelligent commissioning. There was a need to engage more consistently with partner organisations and to alter the structure of Overview & Scrutiny (O&S) committees to fit with the council's new internal structure. Two options were detailed in the report: (1) a reduced number of committees, or (2) one O&S commission with ad-hoc panels established for specific purposes. There was opportunity for flexibility under both options and the number of meetings would reduce overall. Informal discussions with partners had already begun and the report had been agreed by the Overview & Scrutiny Commission.
- 62.3 Councillor Mitchell advised that proposals were still being worked on and that the final arrangements would take account of forthcoming legislative changes.
- 62.4 Councillor Kitcat stated that he would prefer the retention of some standing committees because it could be difficult to sit on an ad-hoc panel with no prior knowledge of the subject. The Committees gave Members the opportunity to develop valuable knowledge and expertise before engaging in a review.
- 62.5 In response to a query from Councillor Simson regarding the role of the Community Safety Forum (CSF), the Head of O&S advised that the Environment & Community Safety Overview & Scrutiny Committee (ECSOSC) exercised the statutory function in relation to community safety. There was a dialogue between the ECSOSC and the CSF, and the proposals would not directly affect the role played by the CSF. He also confirmed that the statutory requirement to retain a Health Overview & Scrutiny Committee also remained.
- 62.6 Councillor Morgan noted the potential for conflicts of interest in relation to future commissioning opportunities if partner organisations become involved in the O&S process.
- 62.7 **RESOLVED** - That the Committee agrees in principle the direction of travel as set out in the report and instructs officers to further develop proposals for a partnership based, commissioning friendly scrutiny function.

63. CIVIC AWARENESS COMMISSION: UPDATE

- 63.1 The Committee considered a report of the Strategic Director, Resources updating Members on the work of the Civic Awareness Commission in accordance with its agreed terms of reference.
- 63.2 The Chairman reported that the Commission's work was currently focussed on a number of upcoming anniversaries and celebrations taking place in the city. He confirmed that the Commission, chaired by Adam Trimmingham, had working group status and that all political groups were represented.

63.3 Councillor Mears stated that the Commission was the appropriate body to assist in promoting the celebrations given its cross-party nature.

63.4 **RESOLVED** - That the Committee notes the report.

64. REVIEW OF MEETINGS TIMETABLE

64.1 The Committee considered a report of the Strategic Director, Resources concerning the proposed timetable of meetings for 2011/12.

64.2 Councillor Kitcat highlighted the issue of clashes with meetings of the Police and Fire Authorities.

64.3 Councillor Simson also noted that there were a small number of clashes, which made it difficult for councillors and members of the public. She also reported that the number of personnel appeals had increased during the previous year.

64.4 In response to the comments from Members, the Head of Democratic Services advised that, where possible, licensing panels would hear two applications in one sitting, but that statutory timescales meant that this was not always possible. The timetable had been sent to the Police and Fire Authorities, but they had chosen to set their meeting dates at times which clashed with council meetings.

64.5 The Head of Legal & Democratic Services explained that the Fire Authority also included Members from across the local authorities in East Sussex and that it would be difficult for them to identify times that were convenient to all Members, but that the council would do what it could to prevent clashes in the future.

64.6 **RESOLVED** - That the proposed timetable of meetings for 2011/12 be approved.

65. ATTENDANCE MANAGEMENT

65.1 The Committee considered a report of the Strategic Director, Resources concerning action taken by the council to manage sickness absence within its workforce and how performance compares with other local authorities over the last five years.

65.2 The Head of Human Resources & Development explained that pilot projects using additional resources had been successful in reducing sickness absences, but that improved levels could not be sustained once funding came to an end. The priority now was to sustain reduced levels of sickness absence and the new policy and electronic system designed to tackle this would come into force on 1 April 2011. Training would be provided to managers, who would automatically receive instant data of sickness and e-alerts when triggers were reached. A report on the progress of the new system would come to the Committee after six months.

65.3 Councillor Fallon-Khan expressed concern that improved sickness levels had not been sustained following the pilots. In his former role as Cabinet Member for Central Services, tackling absence had been a priority, with daily reporting and back to work interviews highlighted as necessary to combat stress in the workplace. He requested

clarification as to why the impact of the pilots had not been built upon throughout the organisation.

- 65.4 The Head of HR&D explained that the pilots had been carried out using additional resources and that a team of 10 people had manually reported sickness absence information to managers instantly. This approach was too resources intensive and could not be sustained without extra funding. Subsequently implementation of an electronic system had been approved and this would go live across the April; it would supply managers with instant data without the need for extra resources and would mean the changes seen during the pilots could be sustained in the long term.

She also explained that HR worked closely with managers to bring conclusions to cases of long term sickness and make occupational health referrals where appropriate. She added that there were cases where managers had failed to inform HR that incidences of sickness had ended, but that this would be prevented in the new system.

- 65.5 **RESOLVED** - That the Governance Committee notes the report.

PART TWO SUMMARY

66. PART TWO MINUTES OF THE PREVIOUS MEETING

- 66.1 **RESOLVED** - That the Part Two minutes of the meeting held on 4 November 2010 be approved as a correct record.

67. EQUAL PAY (RESIDUAL ISSUES)

- 67.1 The Committee received a verbal update from the Head of Human Resources & Development concerning residual issues in relation to equal pay.

- 67.2 **RESOLVED** – That the update be noted.

The meeting concluded at 6.00pm

Signed

Chair

Dated this

day of

Neighbourhood Planning - A guide for communities

The Government is introducing new legislation called the 'Localism Bill'.

One part of this bill proposes change to the planning system and aims to give more power to communities, so they that get a bigger say in how their local areas are developed; the Government call this 'Neighbourhood Planning'.

The Bill is not yet law and may be subject to change, but many of its ideas are already being discussed by local people so we wanted to offer you a guide to what the Bill says. Further detail and clarification is expected to come as the bill is debated in Parliament.

The current system for Planning remains in place until the Bill comes into force, which is likely to be in 2012.

The Localism Bill proposes to offer more power and say for local people in regard to Planning matters, however the current draft of the bill does contain some important requirements. It is important that these are appreciated before you consider making any proposals.

- Neighbourhood areas will need to be formally designated by the council through an application process;
- Only a parish council or a designated 'Neighbourhood Forum' will be able to prepare a Neighbourhood Development Plan or Neighbourhood Development Order.
- A Neighbourhood Forum will need to be designated by the council through an application process and certain criteria regarding membership and aims of the forum will need to be met.
- There can be only one designated Neighbourhood Forum per designated neighbourhood area.
- A Neighbourhood Development Plan can set proposals for the development and use of land within the designated neighbourhood area, but cannot give planning permission.
- A Neighbourhood Development Plan can promote *more* but not *less* development than the city-wide local development plan.

Appendix 1

- By preparing a Neighbourhood Development Order, parish councils or Neighbourhood Forums will be able to grant full or outline planning permission in advance for site specific development or specific types of development.
- Provided a neighbourhood development plan or order is in line with national planning policy, with the local development plan, and with other legal requirements, local people will be able to vote on it in a referendum. If the plan or order is approved by a majority, then the council will bring it into force.
- Neighbourhood Plans and Development Orders will sit alongside the existing framework of planning documents prepared by the council
- The council will help prepare the plans and orders by providing technical advice and guidance but it is not required to provide financial assistance;
- The Government will fund sources of help and advice for communities.



How is the Neighbourhood Plan prepared ?

