

**BRIGHTON & HOVE CITY COUNCIL**

**HOUSING & NEW HOMES COMMITTEE**

**4.00pm 21 SEPTEMBER 2016**

**COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 4AH**

**MINUTES**

**Present:** Councillor Meadows (Chair) Councillor Hill (Deputy Chair), Mears (Opposition Spokesperson), Gibson (Group Spokesperson), Atkinson, Bell, Druitt, Lewry, Miller and Moonan

**PART ONE**

**14 PROCEDURAL BUSINESS**

**14a) Declarations of Substitutes**

14.1 Councillor Miller declared that he was attending as a substitute for Councillor Barnett

**14b) Declarations of Interests**

14.2 Councillor Mears declared an interest in item 29 – Part Two Appendix to Housing Delivery Options, as she is a member of the Board of Seaside Homes.

**14c) Exclusion of the Press and Public**

14.3 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

14.4 **RESOLVED** - That the press and public be excluded from the meeting during consideration of the item contained in part two of the agenda.

**15 MINUTES OF THE PREVIOUS MEETING**

15.1 Councillor Mears referred to paragraph 2.2 in relation to the former Oxford Street Housing office. She expressed concerned that a report on this subject was expected and had been withdrawn. Councillor Mears drew attention to paragraph 7.7 which referred to a report back to the committee on St Mungo's.

- 15.2 The Chair confirmed that there would be a report back on the former Oxford Street housing office. The Assistant Director, Adult Social Care reported that he would arrange a presentation from St Mungo's at the committee's convenience.
- 15.3 **RESOLVED** - That the minutes of the Housing and New Homes Committee held on 15 June 2016 be agreed and signed as a correct record.

## **16 CHAIRS COMMUNICATIONS**

### **New Homes**

- 16.1 The Chair was pleased to inform Members that the council had officially opened 12 new homes across the city since the last committee meeting including family houses; flats and wheelchair accessible homes.
- 16.2 Aldwich Mews and Darwell Court were further additions to the council's New homes for Neighbourhoods programme to build at least 500 new council homes on council-owned land, to provide much needed affordable rented housing in Brighton & Hove.
- 16.3 The new flats at St James were the first in a new project aiming to convert redundant spaces in council owned properties to provide extra homes – typically on the ground floor of high-rise blocks, such as former caretaker's rooms or storage areas.
- 16.4 All three projects demonstrated that the council continued to be creative in providing more council homes, whether it is by converting part of an existing building, or building new homes on pockets of little-used council land.

### **Improvements to the repairs reporting service**

- 16.5 The Chair was pleased to advise Members that The Property & Investment team and Mears had been working together to introduce improvements to the council's repairs reporting service.
- 16.6 Residents currently received a reminder text message ahead of their repairs appointment and this service was enhanced from 5 September with text messages confirming the appointment at point of booking and a text request for feedback when a repair is completed which can be directly replied to. This helped Mears to pass on good feedback to the team and also to respond quickly if anything has gone wrong.

### **Temporary Accommodation, hostel and existing council/social tenants Event**

- 16.7 On 9 September there was also a highly successful event for all Temporary accommodation, hostel and existing council/social tenants organised at the Friends Meeting House. 247 visitors attended – with 137 for TA/hostels and 110 for the council/housing association Swap Shop.
- 16.8 Special invitations were sent to under-occupiers who were able to find out more about the Council's new build and adapted new homes, and visitors signed up for Homefinder as well as obtaining advice from Southern Water and Moneyworks.

16.9 To date 40 council tenants had moved since attending a Swap Shop event and the Chair and officers hoped for many more after 9 September.

### **Your Energy Sussex (YES) Partnership Plan**

16.10 The Chair updated the committee on an opportunity for Brighton & Hove City Council to participate in the Your Energy Sussex (YES) partnership plan to establish a local energy tariff scheme to deliver a set of low cost, high value energy tariffs to residents and businesses across the Sussex area.

16.11 As over 70% of domestic customers who had never or rarely switched supplier could save up to £300 per year by switching onto a more competitive deal, the council were keen to promote this project to tackle fuel poverty in the city.

16.12 YES is aiming to procure a licensed energy supplier to deliver the scheme offering householders and businesses the opportunity to purchase their energy from a trusted source that will:

- Offer residents and businesses access to lower cost energy
- Provide excellent customer service
- Ensure customers have easy to understand, more transparent energy bills
- Develop Smarter metering and billing technology

16.13 The procurement process was planned to start in October with the aim of an energy supply partner to be in place in May 2017 with a potential launch of the scheme in Autumn 2017.

(YES is a local authority partnership open to 15 Sussex local authorities working with residents, businesses and other partners to promote energy saving and renewable energy).

### **National Housing Day**

16.14 The housing service took part in the national housing day on social media on Monday 19 September; tweeting over 1,000 followers about all the range of services available from B&HCC.

## **17 CALL OVER**

17.1 It was agreed that all items be reserved for discussion.

## **18 PUBLIC INVOLVEMENT**

### **Petitions**

18.1 The Committee considered the following petition submitted by David Green and signed by 219 people. The petition was presented by David Croydon on Mr Green's behalf. Mr Croydon stressed that as well as the people signing the petition, he had received 200 emails a month on the subject of the petition. 75% of works were deemed

unnecessary, and leaseholders who objected were being faced by a team of barristers, lawyers and council officers.

### **Justice for Leaseholders**

“We the undersigned petition Brighton & Hove Council to - review the contractual relationship, and implementation of contracts, between BHCC and those who have leased property from the council under right to buy legislation. In particular we request that a comprehensive and public investigation be held into:

- The accuracy and validity of Annual Service Charges, cyclical repairs and redecoration.
- The charges for Major Works, in particular the recent city wide cladding programme, wholesale roof and window replacement, and the repair, refurbishment and replacement of lifts. We request that any investigatory body includes experts independent of BHCC and that the terms of reference include;
- The necessity of work carried out
- The validity of the consultation process, particularly with but not confined to leaseholders, Value for Money, the tendering process, and actual costs
- The standard of the work carried out.”

18.2 The Chair responded as follows:

“Thank you for your petition. The council understands the implications to leaseholders when high cost major works are proposed. We do not undertake these lightly, but we have legal obligations to keep our buildings in repair.

To help leaseholders who have difficulty with payment, we offer a number of options we believe are helpful to resident leaseholders.

The petition asks the council to review the contracts and the contractual relationship it has with leaseholders. Each leaseholder has a contract with the council through their lease. The leases are agreed by both parties on purchase of the property and we are confident that we are acting in line with our obligations under those leases. We do take into consideration the financial impact on leaseholders before authorising work whilst ensuring our properties are maintained.

With regard to high cost major works such as cladding, roof and window replacement carried out at some properties, leaseholders are protected in law that:

- The costs have been reasonably incurred
- The works are carried out to a reasonable standard
- The consultation regulations are complied with
- The lease allows the costs to be passed on in the service charge

The council has a 3-stage Leaseholders Disputes Procedure in order to try to resolve matters between the two parties in the first instance.

In addition, leaseholders have the legal right to seek a determination at the First-tier Tribunal if they believe any of these protections apply to particular service charge costs that have been demanded.

In relation to the request that experts independent of the council are instructed, we would very much recommend that it is in the interests of any leaseholders who challenge service charges to take their own legal and professional structural surveying advice in order to evidence their case. This is a matter for leaseholders themselves, as the council already takes its own legal and structural surveying advice in managing our buildings, and is confident that we are managing our buildings, our tenancies and leases properly and in line with our various obligations.

The council's Internal Audit team provides independent, objective assurance of the Council's risk management, internal controls and governance processes. Each year, the internal audit team designs and delivers a programme of work focused on the key risks for the council. In 2015 Internal Audit assessed the leasehold service charge administration as giving substantial assurance. Internal Audit concluded that:

- There are effective controls in place to ensure service charges are accurately and promptly processed.
- There is compliance with major works legislation in relation to consulting leaseholders.
- There are appropriate procedure notes to enable staff to undertake their tasks in a consistent manner and there are also adequate guidance notes available to leaseholders."

18.3 **RESOLVED** – That the petition be noted.

18.4 The Committee considered the following petition submitted by Steve Parry and signed by 39 people. Mr Parry stated that the proposal would save tenants, the courts and landlords money. It would also reduce an enormous amount of stress that people who were homeless were facing. Mr Parry considered that the council's response selected some parts of the guidance but not other sections.

### **Homelessness from an Assured Shorthold Tenancy**

““We the undersigned petition Brighton & Hove Council to adopt a policy that when citizens apply as homeless from an assured shorthold tenancy that BHCC implement the guidelines “that authorities should note that the fact that a tenant has a right to remain in occupation does not necessarily mean that he or she is not homeless" as prescribed by the "HOMELESSNESS CODE OF GUIDANCE" (Under Part 7 of the Housing Act 1996) BHCC should assist citizens that are faced with the certainty of homelessness in the same way as if they are homeless and not wait for the time when Court action is taken, costs incurred, and families are on the street. This is unjust, results in additional costs to BHCC and the family involved, and is socially damaging.”

18.5 The Chair responded as follows:

“Thank you for your petition about homelessness and the ending of private sector tenancies in Brighton & Hove.

Tackling homelessness is a priority for this administration and the council is working hard to maintain and develop its work in assisting households facing homelessness and housing difficulties in an increasingly difficult housing market.

### Practice of Housing services with respect to homelessness from PRS

The Council is increasingly trying to become involved earlier and earlier in situations that are likely to result in homelessness, in order to try and prevent it. To avoid homelessness by either resolving the issues to sustain the accommodation or to work with the household to find alternative accommodation and hence avoid homelessness is a better option for all parties and is at the core of our Homelessness strategy.

In terms of actual homelessness or when households are legally threatened with homelessness, the council has not adopted a policy about the timing of assistance when a private sector tenancy is ending, as we want to be involved at an early stage. However the council does have various roles in such circumstances. We must advise tenants about the legal process of a tenancy ending and this must, necessarily, include advice about the process after a section 21 notice is served by the landlord.

It would be to neglect the council's legal obligations as the statutory provider of good quality, professional, lawful, accurate and free housing advice to do otherwise. The council must necessarily operate within a fine balance of acting to provide advice about rights to occupy and acting on the differing interests of its customers who are both tenants and landlords and the Council itself and this is why each case is considered on its individual merits as per the Code of Guidance.

The statutory homelessness Code of Guidance, which local authorities are required by law to have regard to contains guidance on how authorities should treat homelessness applications in circumstances where a tenant has received a valid s.21 notice. It says that housing authorities should not, in every case, insist upon a court order for possession and that no local authority should adopt a blanket policy in this respect. The Guidance states that if the landlord intends to seek possession and there would be no defence to an application for a possession order then it is unlikely that it would be reasonable for the applicant to continue to occupy the accommodation, *however each case needs to be considered on a case by case basis and balanced against the general cost to the authority*. The relevant sections of the Homelessness Code of Guidance are as follows:

“8.31. In determining whether it would be reasonable for an applicant to continue to occupy accommodation, the housing authority will need to consider all the factors relevant to the case and decide the weight that individual factors should attract. As well as the factors set out elsewhere in this chapter, other factors which may be relevant include the general cost to the housing authority, the position of the tenant, the position of the landlord, the likelihood that the landlord will actually proceed with possession proceedings, **and the burden on the courts of unnecessary proceedings where there is no defence to a possession claim.**

8.32. Each case must be decided on its facts, so **housing authorities should not adopt a general policy of accepting – or refusing to accept – applicants as homeless or threatened with homelessness when they are threatened with eviction but a court has not yet made an order for possession or issued a warrant of execution.** In any case where a housing authority decides that it would be reasonable for an applicant to continue to occupy their accommodation after a valid notice has expired – and therefore decides that he or she is not yet homeless or threatened with homelessness – **that decision will need to be based on sound reasons which should be made clear to the applicant in writing.** The Secretary of

State considers that where a person applies for accommodation or assistance in obtaining accommodation, and:

- (a) **the person is an assured shorthold tenant who has received proper notice in accordance with s.21 of the *Housing Act 1988*;**
- (b) **the housing authority is satisfied that the landlord intends to seek possession; and**
- (c) **there would be no defence to an application for a possession order; then it is unlikely to be reasonable for the applicant to continue to occupy the accommodation beyond the date given in the s.21 notice, unless the housing authority is taking steps to persuade the landlord to withdraw the notice or allow the tenant to continue to occupy the accommodation for a reasonable period to provide an opportunity for alternative accommodation to be found.”**

The costs of private rented accommodation in this area plus the requirements and additional fees charged by letting agents means it is increasingly difficult for households on low and medium income to obtain alternative accommodation and hence it can take longer to find alternative accommodation. It is generally this that causes a household to remain in their home after the expiry of the Notice.

When the council is able to assist, or when a family being helped finds accommodation before this, the council will always advise that the new tenancy starts at the same time as the Notice expires. Sometimes some extra time is requested because of the issues associated with moving that may come up unexpectedly.

What is more difficult is when a family that the council is assisting has not found another home to move to and has no alternatives. In this case the family does become homeless and the council's statutory duties to provide accommodation come into play.

In these cases the council will always consider cases on an individual basis and we have agreed, when necessary and pragmatic to do so, to provide statutory temporary accommodation earlier than a possession order.

The cost, to local tax payers (which include landlords) will be considerable if a policy were adopted to always guarantee to provide statutory temporary accommodation on expiry of the s21 Notice and this also would be contrary to the Code of Guidance which says in 8.32 not to have a blanket policy.

With respect to Mr Parry's specific petition, the council position is as follows:

- The council does assist before the court date, and in many cases it has helped families move before court action is needed.
- It is a fact of law that vacant possession is obtained by order of the court. It is also a fact of law that a homeless duty – to provide statutory temporary accommodation – is only triggered at the time that a household becomes homeless. However the Code of Guidance sets out considerations to be taken

into account when reaching a decision as to when to provide accommodation which the council complies with.

- Families we are assisting do not end up on the street. The council provides statutory temporary accommodation where homelessness cannot be avoided, the time to be determined on a case by case basis.
- Fulfilling the lawful way of ending a tenancy does not result in additional costs to BHCC. To provide temporary accommodation does incur costs and this is taken into consideration when determining at what stage to provide temporary accommodation, as per the Code of guidance.”

18.6 **RESOLVED** – That the petition be noted.

### Questions

18.7 A question had been submitted by Valerie Paynter as follows:

“I have already reported pointing mortar falling onto my own windows from on high but two tenants from Conway Court have spoken to me about wet concrete setting hard on their windows. One tenant requested and got set concrete removed, but says the glass was left scratched by the Bulgarian concrete workers' tools. Can you tell me, please, why the council is unable to get Mears to protect the glass, and UPVC on newly installed windows from slopped and SETTING concrete being put into drilled out banding areas during work directly adjacent to and above individual window areas?”

18.8 The Chair replied as follows:

“Martin Reid, Head of Housing Strategy, Property & Investment has been in correspondence with Valerie regarding the works at Clarendon & Ellen Estate and recently specifically on window replacements.

We are aware that Ms Paynter has some outstanding ‘snagging’ issues to her windows and we are arranging works to be completed.

We have still to cut out the defective concrete on the blocks and carry out full repairs and until this has been completed the new windows are temporarily sealed with expanding foam to offer some protection from the weather. Once the concrete repairs have been completed the windows will be finished off with plastic trims and sealed.

We are doing what we can to minimise the impact and avoid causing any major issues for residents and Mears are fully aware that all new windows should be protected while carrying out concrete repairs. We are confident this is happening.

The Property & Investment team hold monthly progress meetings on site with the contractors where all specific issues are raised and monitored alongside progress reports on the repairs to the blocks. At these meetings both the council’s quantity surveyors and contract manager surveyors attend to ensure value for money and quality checks on the project.

Overall a percentage of new windows are checked by the council’s surveyors after they

have all been installed in the block to gather any operational and installation issues internally. All elevations are checked externally prior to the mast climbers being taken down to make sure there are no issues.

With works of the type and scale that we are carrying out to the blocks along Clarendon Road, there is going to be some dust, noise and potentially loose debris above the windows but we don't expect this to be substantial and if residents have concerns regarding their properties, they are welcome to contact either the council or the Mears Site Managers and we will help resolve the situation.

It is important to highlight that the windows are under a 10 year warranty, therefore, under this contract if are any issues identified with them within this timescale, they will be repaired free of charge.

To date we have installed 140 flats with new windows on the Clarendon & Ellen Estate high rise blocks and have received only seven reported issues with their windows all of which have been inspected and are what is termed as 'snagging' issues that can be easily resolved and works completed.

These works are part of our commitment to improve the quality of our residents homes as part of c£25m per annum HRA capital investment programme approved at January Housing & New Homes Committee, informed by our Housing Asset Management Strategy developed in consultation with tenants and leaseholders”.

- 18.9 Ms Paynter stated that the windows had been installed before the concrete repairs. Mears wet concrete had slopped onto brand new windows and the glass had not been covered with anything. Ms Paynter stated that people were not registering complaints due to intimidation. One person had been told their tenancy was at risk by complaining. Ms Paynter asked the following supplementary question:

“Please inform me how the council will act to reassure tenants regarding contacting Mears and how will they help tenants to feel safe coming to the council so Mears Ltd can be held to account?”

- 18.10 The Chair thanked Ms Paynter for her questions. She stressed that serious allegations had been made and the Head of Housing would investigate this matter. The Head of Housing would need to know who the people concerned were, and when the issues took place.

- 18.11 The Head of Housing stated that she would take up these issues. She was in regular contact with Ms Paynter. There was a three stage complaints process which could be independently assessed. If a tenant was not satisfied they could then go to the Ombudsman. There was no need for a tenant to be fearful about losing their tenancy if they raised a complaint.

- 18.12 **RESOLVED-** That the Public question be noted.

- 18.13 A question had been submitted by Diane Montgomery. The question was presented by Sue Crossley on Ms Montgomery's behalf as follows:

“The Living Rent campaign support the aims and recommendations of the Private Rented Sector scrutiny panel and ask if they could be one of the groups involved in the Rent Smart Partnership Agreement?”

18.14 The Chair replied as follows:

“As Rent Smart is not a council partnership it is not a decision I can make so I am directing Diane’s question to those members of the partnership present at the meeting today.”

18.15 **RESOLVED-** That the Public question be noted.

18.16 A question had been submitted by Jacqueline Madders as follows:

“Will the council consider reviewing the customer service policy in the housing departments, to having recorded phone calls in line with other businesses to prevent the constant intimidation and bullying that so many are experiencing?”

18.17 The Chair replied as follows:

“I am very sorry to hear that even one person may reportedly be experiencing treatment that they consider to be intimidation and bullying, and would like the opportunity to investigate any allegations of this occurring. In the spirit of always seeking to improve our customer service and to assist with staff training, Housing would indeed like to have telephone calls recorded. Used in other businesses, call recording not only helps deliver customer-focused services and sometimes assists with disputes, but it can also protect staff from abuse and false accusations.

Housing will certainly consider this addition to our service alongside any future upgrading of our telephone system. The additional cost of implementing it with our existing system has been investigated, and does not currently provide value for money.

In the meantime, I would kindly request that any customer who is unhappy with the conduct of our staff, or with our service, please let us know at their earliest opportunity so that we can try to put things right. Customers can contact the line manager of the staff member in question, or if it is in relation to our housing landlord services they can contact the Housing Customer Service Team on 01273-293030, or by email to [housingcomplaints@brighton-hove.gov.uk](mailto:housingcomplaints@brighton-hove.gov.uk).

Alternatively customers can raise a complaint to the council’s Customer Feedback team using the following contact details:-

- using a link on the council’s website to an [online comments, compliments and complaints form](#)
- by email: [customerfeedback@brighton-hove.gov.uk](mailto:customerfeedback@brighton-hove.gov.uk)
- by phone: 01273 291229
- using the Complaints, comments & compliments form supplied at council offices
- writing to: Brighton & Hove City Council, Customer Feedback, Kings House, Grand Avenue, Hove, BN3 2LS”

18.18 Ms Madders asked the following supplementary question:

“Is the Chair aware that there is a them and us scenario between Brighton & Hove City Council and residents and that the most vulnerable feel intimidated? People were taking their lives as a result of council intimidation. Where would people go after complaining to the ombudsman?”

18.19 The Chair thanked Ms Madders and informed her that the council would not condone bullying from staff directed at tenants. Tenants could contact Ward Councillors who would take up complaints on their behalf.

18.20 **RESOLVED-** That the Public question be noted.

### **Deputation**

18.21 The Committee considered the following deputation which was presented by Daniel Harris:

“Housing and New Homes Committee, please consider this deputation in which I along with supporting current and previous residents ask for my common sense emergency accommodation proposals and subsequent Green & Tory Amendments be allowed to roll over into the next committee meeting.

Having spent this campaigning tirelessly for the voiceless and vulnerable this year, I feel that giving me less than 24 hours from release of the reports is not long enough for me, residents and service providers to fully review the recommendations proposed from the officers reports.

It seems appropriate that tenants with disabilities & health conditions should be involved in decisions that affect them. Considering recent events including two deaths and a fire it only seems fair that the council take this into account and makes adjustments so that tenants can have their say. At this time tenants need to feel reassured that the council has their safety & well-being in mind and should actively seek to involve. A delay would help this process.

The response from others like myself in emergency and temporary accommodation have phenomenal, so I went on to co ETHRAG which is a fully constitutionalised & democratic residents association. We have had two public meetings and will meet again until the 19th October, having discussed these points with ETHRAG residents, they/we feel that we as a group need time to discuss and agree a way forward.

I am also concerned with the 5 year local connection rule proposed, this would affect vulnerable LGBT people, who are enticed to Brighton and Hove for its equality and diversity values, I hope the committee review these findings with the LGBT community in mind.

So I along with the following professionals, groups and concerned residents ask that this area of consideration be moved to the next meeting. We also invite Councillors to come along to a residents meeting to see the group in action.”

- 18.22 In addition to the written deputation Mr Harris reported that there were a number of people in attendance at the committee who were living in emergency accommodation. There had been an amazing response to ETHRAG which was saving people's lives. ETHRAG was a democratic residents' association with a constitution. It was time the council recognised it. Mr Harris asked for the report to be deferred to allow consultation with the people it affected.
- 18.23 The Chair thanked Mr Harris and stated that she was not inclined to defer the report. It was up to councillors to respond to the report. The Chair stated that she was sure that another report on this subject would be submitted to a future meeting, where all the points being made by Mr Harris could be considered.
- 18.24 **RESOLVED** - That the deputation be noted.

## **19 ISSUES RAISED BY MEMBERS**

- 19.1 There were no Petitions, Written Questions, Letters or Notices of Motion from Councillors.

## **20 RENT SMART PARTNERSHIP AGREEMENT**

- 20.1 The Committee considered a presentation from representatives of Rent Smart and a report of the Executive Director Economy Environment & Culture which drew attention to the Rent Smart Partnership Agreement. Rent Smart, Brighton and Hove was a new citywide partnership of organisations committed to supporting tenants in the private rented sector. The aims of Rent Smart were set out in paragraph 1.4 of the report.
- 20.2 Councillor Hill informed the Committee that she had encouraged a broad range of organisations to get together to look at areas relating to the private rented sector which were outside the remit of the council. Rent Smart had agreed to have a website for tenants which would be launched in November 2016. Councillor Hill asked members to consider requesting an officer report on the council becoming part of the Rent Smart Partnership agreement.
- 20.3 Alex from Brighton Housing Trust and Sarah from Sussex University, Students' Union were in attendance at the meeting. Alex stated that he worked in the Private Sector Housing Team in Brighton Housing Trust and stressed that it had never been so difficult for tenants in the private rented sector. He stated that Rent Smart had a number of key partners and wanted more partners to get involved. The organisation would help to signpost people to relevant agencies.
- 20.4 Sarah stated that Sussex University, Students' Union was involved in representative work and valued the opportunity of being part of the partnership. There were many shared interests and she hoped that it could be demonstrated that organisations are stronger together. The website would be a great resource.
- 20.5 The Chair considered that Rent Smart was a great initiative and a wonderful way forward.

- 20.6 Councillor Gibson welcomed the suggestion that a report be brought back to the committee. He paid tribute to the efforts of Councillor Hill in convening a private rented sector workshop to consider responses to the Private Rented Sector scrutiny report which were outside the remit of the council. Councillor Gibson stressed that Rent Smart was an important group and he was pleased to see that the Living Rent Campaign wanted to be involved.
- 20.7 Councillor Hill asked members to consider adding an additional recommendation 20.2 (2) "That the Committee request an officer report on the council becoming a partner of Rent Smart." This was agreed.
- 20.8 **RESOLVED:-**
- (1) That the attached Rent Smart Partnership Agreement be noted as background information to the Rent Smart presentation and discussion.
- (2) That the Committee request an officer report to the next meeting on the Council becoming a partner of Rent Smart.

## **21 UPDATE ON PRIVATE RENTED SECTOR SCRUTINY PANEL RECOMMENDATIONS**

- 21.1 The Committee considered a report of the Executive Director Economy Environment & Culture which explained that the Private Rented Sector Scrutiny Panel's report and recommendations were published in 2015 and the council's formal response was approved by Housing & New Homes Committee on 11 November 2015. The current report was the first annual update to the Housing & New Homes Committee. The report was presented by the Housing Strategy Manager.
- 21.2 Councillor Druitt asked for clarification about 3.6 (1) – Support a strong and buoyant local private sector housing - which was reported as complete. The Housing Strategy Manager explained that pages 42 and 43 of the agenda gave a more detailed response. The private sector was thriving and supported many residents.
- 21.3 Councillor Druitt stressed that most people he knew were paying a disproportionate amount of their income on rent. The Housing Strategy Manager appreciated that there were many issues, but private sector housing was important to the house market in Brighton.
- 21.4 Councillor Hill pointed out that the wording "strong and buoyant local private sector housing" came from the Scrutiny report. The council was aware of major issues regarding rents and housing. She commented that trading standards work was excellent and that recommendations/responses 4 and 5 listed current discussion about HMOs.
- 21.5 Councillor Atkinson considered this to be a significant piece of work. He noted that encouraging a requirement for 40% affordable housing might perversely be affected by the government's Starter Homes Initiative. This might reduce the 40% figure and put accommodation costs beyond most local people. Councillor Atkinson considered that establishing a Greater Brighton living rental model was a positive move. He questioned

why Housing Associations would want to build properties if they were forced to sell them and asked if the council was receiving money back from Council house sales. Councillor Atkinson noted that 158 council properties had been brought back into use in 2015/16 and 40 in this quarter alone. He strongly supported the extension of licensing of HMOs and would like to see more work carried out. He stressed that housing for key workers was an important issue and that the Living Rent campaign was a positive and important move.

21.6 Councillor Mears noted that the report referred to talking to universities about student numbers. She hoped that there would be a report on this matter.

21.7 Councillor Gibson stated that he welcomed the process of bringing back an update. He referred to the comment about a “strong and buoyant local private sector housing”. Councillor Gibson stressed that 70% of private rented housing was not decent. HMO Licensing worked and if extended should improve this situation. He welcomed the 89% improvement through the licensing scheme and hoped to see reports on further extensions to the scheme and an update on the improvements achieved.

21.8 In response to questions put by Councillor Gibson the following was explained by officers.

- The Living Rent issue needed to be joined up with work on the new delivery vehicle.
- Anston House was not part of the affordable housing offer. There were discussions on whether the wholly owned and special purpose vehicle could carry out that type of activity.
- Officers would hopefully provide a further report on the Licensing of HMO's to the next committee.

21.9 Councillor Bell referred to page 78 with regard to prioritising family housing in the council's housing investment plan. There were gaps on family sized type of accommodation. He referred to page 76 – update – and asked for more information about the Greater Brighton Housing and Growth Working Group.

21.10 Officers responded to Councillor Bell's questions/comments as follows.

- There was a demand for smaller units. Officers were trying to prioritise family housing. It was hoped that a sizable number of family homes could be built at Toads Hole Valley.
- The Greater Brighton Housing and Growth Working Group had been formed to discuss the acceleration of housing delivery.

21.11 Councillor Bell made the point that the Greater Brighton Housing and Growth Working Group was looking at the housing needs of the Greater Brighton area. He stressed that the City had its own housing needs. The Head of Housing Strategy, Property and Investment explained that the work was linked to the City Plan and looking at the Greater Brighton area. Work was carried out with planning as well as housing colleagues. It was not about meeting each other's housing needs but about accelerating growth.

**21.12 RESOLVED:-**

- (1) That the progress made in implementing the Scrutiny Panel recommendations (Summarised in 3.5 and 3.6, and detailed in Appendix 1) be noted.

**22 HOMELESSNESS POLICY PETITION RECOMMENDATIONS**

- 22.1 The Committee considered a report of the Executive Director Economy Environment & Culture which explained that following a petition submitted to full Council by Daniel Harris, the Council and Housing & New Homes Committee were requested to consider a range of recommendations regarding temporary accommodation. The recommendations had been considered and the findings set out in the report. The report was presented by the Acquisitions Manager.
- 22.2 Councillor Lewry referred to page 89 - paragraph d) relating to a review of the no visitor rule. He questioned whether the response was a breach of human rights. The response seemed harsh and he asked if visitors could be vetted.
- 22.3 The Acquisitions Manager drew attention to page 90 which discussed alternative provision. It was stressed that allowing unfettered access had been problematic in the past. The council were exploring with suppliers whether households could gain access to friends and family whilst protecting residents.
- 22.4 Councillor Moonan welcomed the response to the petition's recommendations. Satisfaction surveys would be useful. The council did have contracts with temporary providers and were monitoring contracts. She welcomed the establishment of ETHRAG and proposed that she and Councillor Hill attend the next meeting of the Group. Councillors Moonan and Hill wanted to hold a joint surgery, to enable residents in temporary accommodation to talk to them if there was anything in the contract that was not being adhered to. The priority was to move people through emergency accommodation.
- 22.5 Councillor Gibson stressed the importance of recognising ETHRAG's efforts and achievements. He considered that the recommendations in the report did not go far enough. Councillor Gibson wanted to see the recommendations deferred until the next meeting of the Committee and proposed the following amendment:

"To add an additional recommendation 2.2 as follows:

That further consideration of this item be undertaken and a further report be brought to the next Housing and New Homes Committee to enable:

- a) The Emergency and Temporary Housing Residents Action Group (ETHRAG) to consider with members and supporters and put forward comments.
- b) Details to be provided of sites under consideration for the provision of low cost emergency accommodation.
- c) Development of proposals for joint working between ETHRAG, service providers, landlords, council officers and members to meet together to drive up standards, increase satisfaction and develop recommendations to Housing and New Homes Committee.

d) A report on recognition of ETHRAG with suggestions for partnership working with this group to be presented to the next Housing and New Homes Committee.”

- 22.6 The amendment was seconded by Councillor Mears.
- 22.7 Councillor Moonan stated that she was happy to support the amendment with the exception of b) as this needed further work. This would provide an opportunity to improve dialogue and the residents’ experience.
- 22.8 The Chair explained that Councillor Hill was Lead Councillor for the Private Rented Sector. Councillor Moonan was Lead Councillor for Rough Sleepers. They would hold a surgery without officers.
- 22.9 Councillor Hill reported that she had been contacted by people who had issues with temporary accommodation. Some wanted visitors and others did not. There were a wide range of people in temporary accommodation, including people with small children and many with issues. Councillor Hill stated that council contractors were looking at funding for the installation of Wi Fi. There had been discussions about having welcome packs in temporary accommodation. These could include basic toiletries, basic food, information about a mentoring scheme and contact information.
- 22.10 Councillor Druitt asked why there was an objection to section b) of the amendment. The Head of Housing replied that the new build programme had not progressed to the extent that details could be provided. This section of the amendment was therefore not recommended.
- 22.11 The Director, Economy, Environment and Culture informed the Committee that if the amendment was passed, officers would bring as much detail as possible to the next meeting; however he stressed that it was necessary to consider the ability for officers to deliver within diminishing resources.
- 22.12 The Committee voted on the amendment set out at 22.5 and the amendment was unanimously agreed.
- 22.13 **RESOLVED:-**
- (1) That it be agreed that inspection outcomes and satisfaction surveys are reported to Committee twice a year.
  - (2) That further consideration of this item be undertaken and a further report be brought to the next Housing and New Homes Committee to enable:
    - a) The Emergency and Temporary Housing Residents Action Group (ETHRAG) to consider with members and supporters and put forward comments.
    - b) Details to be provided of sites under consideration for the provision of low cost emergency accommodation.
    - c) Development of proposals for joint working between ETHRAG, service providers, landlords, council officers and members to meet together to drive up standards, increase satisfaction and develop recommendations to Housing and New Homes Committee.

- d) A report on recognition of ETHRAG with suggestions for partnership working with this group to be presented to the next Housing and New Homes Committee.

### **23 SINGLE HOMELESS AND ROUGH SLEEPER ACCOMMODATION & SUPPORT SERVICES REMODELLING & TENDER**

- 23.1 The Committee considered a report of the Executive Director Adult Services which detailed the proposed remodelling and retendering of services to meet the changing needs of homeless people, target resources, and improve the outcomes of this section of the population. The re-modelling proposal included commissioned accommodation and support services for homeless people and rough sleepers; and Hostel accommodation and support services which are directly provided by Brighton & Hove City Council. The report was presented by the Head of Commissioning Contracts and Partnerships and the Commissioning & Performance Manager.
- 23.2 Councillor Mears commented that it was important that the Housing & New Homes Committee had a report back on this matter. She noted that page 99 acknowledged that a sit up bed was a chair and stressed that the Committee had never seen a proper breakdown of the £10 million which had come over from Supporting People.
- 23.3 In response to questions from Councillor Mears it was confirmed that officers would be happy for outcomes to be reported back to the Committee. Staff at New Steine Mews had asked about the possibility of putting in a bid and had been given the link to the website should they decide to make a bid. A great deal of work needed to be carried out at Glenwood to re-model the service. The building would need to be fit for purpose and more work needed to be carried out on the model before going out to tender.
- 23.4 Councillor Druitt referred to the reference on page 95 to the new model providing improved outcomes for individuals and better value for money. He commented that this was getting people to do more for less. He referred to the changing demand for services, and asked what examples could be given where services were currently failing, and what the council was looking for the new model to achieve.
- 23.5 It was explained that the tender was weighted towards quality. Officers had identified gaps in the services which they were trying to fill. The intention was to improve outcomes, and extensive work had been carried out exploring good practice with other local authorities.
- 23.6 Councillor Druitt asked why the current system could not address these matters without a remodelling exercise. Officers explained that it was necessary to go out to tender. A smaller trauma informed women only service was required and there was a need to tender for medium support. The proposals included work around older drinkers and people with dependency and physical health issues.
- 23.7 Councillor Moonan welcomed the re-modelling. With regard to the women only service there would be a greater emphasis on assessment work and focus on older people. She was pleased to see more flexibility within the pathways. There would be peer support and life skills work and multi-agency working. She was pleased to see user involvement but disappointed there were fewer beds. The proposals were about outcomes and targeting work where it was needed.

- 23.8 Councillor Lewry asked for more information about page 103, paragraph 4.5 - Feedback from staff and trade unions. The Head of Commissioning, Contracts and Partnerships explained that she had met with staff at Glenwood Lodge and New Steine Mews and had held two meetings with the unions. Some staff were anxious about tendering to an outside source, whilst others welcomed the changes. There was a mixture of views but generally staff were anxious.
- 23.9 Councillor Miller expressed concern about the loss of bed numbers. He asked what work was being carried out to avoid clogging up the system. He noted that one lease was longer than the tendering length.
- 23.10 It was explained that officers were working with Estate Services regarding the lease of New Steine Mews. A low support service had recently been commissioned. This was about people having access to services and having a large network and resource groups. Move on was a big issue, and officers were working with colleagues across the council on this issue. The proposals had included an element for move on in the tender.
- 23.11 Councillor Gibson stated that it would be hard to improve the service if it was being cut. Staff at Glenwood and New Steine Mews had told him that they could not bid as they were not solvent. He could not support 2.6 of the recommendations (to Policy, Resources & Growth Committee) that the directly provided (in-house) services which are identified in Section 4 of this report be included within the tender for the new accommodation and support model. With regard to moving on, there was a need to move people on smoothly and efficiently. Councillor Gibson expressed concern that there would be less accommodation to offer people. The housing allocation plan might be an opportunity to unblock the system.
- 23.12 Councillor Gibson quoted the minutes of the last meeting as set out on page 10, paragraph 7.10 "An evaluation of the pilot programmes suggested Housing First can deliver savings of up to £15,000 a year". Housing First was a way of unblocking the system, to enable people to move on to appropriate accommodation.
- 23.13 Councillor Gibson proposed the following amendment which was seconded by Councillor Mears:
- To add an additional recommendation at 2.5 as follows and re-number existing recommendation 2.5 and all subsequent recommendations (2.5 as 2.6, 2.6 as 2.7, 2.7 as 2.8, and 2.8 as 2.9):
- 2.5. 'That the service remodelling also include the expansion of Housing First provision, a way of funding this devised by capturing the savings this approach yields, with surplus savings being reinvested in additional service provision'.
- 23.14 The Chair asked for advice about the financial implications of the amendment. The Executive Director, Economy, Environment and Culture explained that the true financial implications for this particular report were not known. It was unclear how the new model would work locally. To include the amendment in the recommendations would cause problems. The Committee could ask that Housing First be looked at in the future but it was difficult to agree a recommendation without understanding the financial implications.

- 23.15 The Senior Lawyer stated that the Committee should not take a decision which has financial implications without an officer report.
- 23.16 Councillor Moonan stated that Housing First worked. It did save money in the wider context, as would all the other hostels. The whole service provided wider savings.
- 23.17 The Assistant Director, Adult Social Care informed members that he was happy to bring back a report on the expansion of Housing First, however, there were financial implications and there was a need to know what they were. There would be a need for a separate report on the expansion of the Housing First model.
- 23.18 The Executive Director, Economy, Environment and Culture suggested that a way forward was for a report to be brought back to the Committee on Housing First which would look at the financial implications of expanding provision.
- 23.19 Councillor Hill asked officers what the implications of the amendment would be. The Senior Lawyer stated that there were practical implications for procurement, if the process was delayed a few cycles. The Commissioning & Performance Manager stated that all contracts ran out in March 2017. There needed to be procurement and it had reached the stage where officers needed to move on with the re-modelling.
- 23.20 Councillor Gibson emphasised that Housing First was relevant to this pathway. He agreed that it might be best to take the report on Housing First to the next committee meeting. Councillor Gibson confirmed that he was withdrawing the wording of his previous amendment and was proposing the following (seconded by Councillor Mears):

New recommendation 2.4 (for the Housing and New Homes Committee).

‘That a report be brought to the next Housing & New Homes Committee on the expansion of Housing First provision, a way of funding this devised by capturing the savings this approach yields, with surplus savings being reinvested in additional service provision’.

- 23.21 Councillors voted on 2.1 to 2.3 and the amendment at 2.4 and these were unanimously agreed.

23.22 **RESOLVED:-**

- (1) That the information provided within the report to remodel and procure accommodation and support services for single homeless people and rough sleepers be noted;
- (2) That the commissioning and procurement plans from October 2016 should be aligned with priorities within the Rough Sleeping Strategy 2016, the Council’s Housing Strategy 2015, the Homelessness Strategy 2014-19, and the Council’s priorities for the integration of social care and health through Better care;
- (3) That ASC Commissioning be delegated authority to review the infrastructure, including the working groups that support services for single homeless people and related strategies;

- (4) That a report be brought to the next Housing & New Homes Committee on the expansion of Housing First provision, a way of funding this devised by capturing the savings this approach yields, with surplus savings being reinvested in additional service provision.

## 24 HOUSING DELIVERY OPTIONS

- 24.1 The Committee considered a report of the Executive Director Economy Environment & Culture which provided an overview of an offer to develop a Joint Venture for the development of new affordable homes and regeneration from Hyde Housing Association and a proposal to establish a wholly owned Special Purpose Vehicle to provide a range of options to increase the supply of homes. Appendix 1 provided an overview of legal advice to date that has been provided by Bevan Brittan in relation to this opportunity. Appendix 2 provided an overview of governance considerations. Appendix 3 provided an overview of legal advice to date on the establishment of a wholly owned Special Purpose Vehicle or Housing Company. Appendix 4 provided a copy of the high level Heads of Terms document. Appendix 5 in Part 2 of the report provided a summary of Strategic Financial Viability Model and sensitivity analysis. The report was presented by the Head of Housing Strategy, Property and Investment, and the Programme Manager, Regeneration.
- 24.2 The Head of Housing Strategy, Property and Investment stated that representatives of Bevan Brittan and Hyde Housing Association were in attendance at the meeting. The key aim of these projects was the provision of affordable housing in the city and addressing issues relating to the retention of lower income families in the city. Bevan Brittan had been appointed as legal advisors. Risks were set out in paragraph 4.1 of the report.
- 24.3 The Programme Manager – Regeneration spoke about the governance of the joint venture (paragraphs 3.26 to 3.30). The proposal was for there to be a board of six; three to be appointed by Hyde, and three by the Council. Meanwhile a detailed business plan would come back to the Committee. Board members could be councillors or officers but conflict of interests would need to be managed. The council would gain capital receipts for all land in the venture. Valuations would follow an agreed process. Consultation would take place with ward councillors and members.
- 24.4 The Joint Venture had the potential to purchase sites through the open market. Allocation would take place through the housing register. The homes would be highly energy efficient. There would be 500 shared ownership properties with the option to take up a 25% or up to 75% share. Residents could increase the share at any point. This could focus on local people. It was estimated that the proposals would lead to 700 opportunities for apprenticeships. The proposal would support construction jobs and bring new council tax revenue. The next steps would be to finalise the heads of terms by the end of the year. The first scheme would be on site by the end of 2017.
- 24.5 The Finance Officer informed Members that the Joint Venture proposal required £105.47 million total investment to develop 1000 new homes over a five year period. The proposal was that Hyde and the council provide 50/50 funding of £52.7 million. The council's investment of £52.7 million would be funded through general fund borrowing. There would be a surplus by year 6. The financial modelling was set out in Appendix 5

on Part Two of the agenda. The Finance Officer stated that there will be an overarching business plan to come back to committee for approval with reserved matters and for each site development individual viability testing will be carried out to satisfy that the development is in accordance with the business plans and is viable.

- 24.6 Councillor Atkinson welcomed the initiative which would result in possibly building up to 1000 plus new homes in the city. He considered this to be one of the most significant items the Committee would discuss over the next few years. He understood that the joint venture approach was one taken by many local authorities. The legal advice appeared robust and the financial modelling appeared sound. Councillor Atkinson stated that the current housing situation was a national scandal, and the proposal would start to deal with this situation on a local basis.
- 24.7 Councillor Miller welcomed the idea of more homes for low earning working households in the city but had concerns on the impact on the General Fund as result of this borrowing. In response to a series of questions put by Councillor Miller, the Head of Housing Strategy, Property & Investment stated that the Council had procured specialist legal advice. Matthew Waters from Bevan Brittan LLP was in attendance. The proposal had come out of the council's Housing Strategy which had undergone extensive consultation over the last 18 months. The Council's legal officers were party to the advice given by Bevan Brittan. Hyde had their own separate legal advice.
- 24.8 The Senior Council Lawyer stated that the Council had run a full tender process to award the contract to Bevan Brittan. The council required specialist legal advice on this particular area of very specialist law in terms of setting up a joint venture.
- 24.9 Matthew Waters from Bevan Brittan answered Councillor Miller's queries as follows;
- There was a requirement by the tender process to have conflict checks. Bevan Brittan did check and there were no conflicts. Bevan Brittan did not act for Hyde on this or any other matter.
  - The issue of the casting vote for the chair was not something that had been discussed or finalised with Hyde. Mr Waters considered that there would not be one on the premise that the board of the joint venture would be tasked with implementing a business plan that had already been agreed by the two parties.
  - It was confirmed that reserved matters would be set and determined by councillors at the start of the process and later submitted to councillors from the board.
  - Regeneration and the living wage would be separate and ring fenced.
  - Council support on a cost incurred basis – If the council provided support then that would be on the same basis which would be people putting things in at cost.
  - Due diligence on the Hyde framework - the supply chain for delivery of this development would go through the Hyde frameworks.
  - LLP and note in the advice on whether the council could enter into the LLP directly - there were many councils who had entered into LLPs. If

the council had concerns it could enter into it via a company in between the council and the LLP.

- Reverse Teckal – There was a gap in legislation on that point, but it was not considered a material concern for the council. It was agreed that both parties should come to the joint venture pooling resources on an equal basis.
- Questions over planning permission had been discussed but not yet finalised.
- Board equivalent to director's question – it was right to view that Board as an equivalent to directors.
- Wholly owned company and the draw down – That was not a level of detail that had been looked at yet. It would be expected that the council would approve a business plan both as an owner and as a funder, and there would then be permission for the vehicle to draw down funding within the parameters drawn down by the business plan.
- Joint Venture – heads of terms and freehold – Those illustrative heads of terms based on discussions to date [freeholders] was not an agreed position.
- Funding of the first phase was not proposed to be allowed for land banking.
- Unanimous basis for reserved matters – If there was a reserve matter it did provide the authority for Hyde to have a veto.

24.10 Council officers further answered questions as follows. It was confirmed that any regeneration projects that involved any of the council's existing properties would be brought back to the committee as separate projects which would have their own financial model. The Strategic Viability Modelling was the overarching model for this business case. Officers had reviewed the model and held meetings with Hyde to discuss the assumptions. Officers would look at further detailed analysis when finalising the Business Plan. The Council would still need to go back to the Policy, Resources & Growth Committee to approve borrowing over coming years. The Council must demonstrate it is following a prudent code and that the scheme is affordable.

24.11 The Executive Director, Economy, Environment & Culture referred to the question of disposal of land under value. If the undervaluation was less than £2 million there was no need to get the Secretary of State's express approval. The council could rely on a general disposal consent. The Executive Director explained that for each parcel of land, a valuation was made by the Property and Design Team. Disposal generally happened post planning and valuation was subject to planning. Decisions were made by Policy, Resources and Growth Committee.

24.12 Councillor Druitt suggested that the make up of the Board should include one councillor and that they should chair the Board. He asked for reassurance that a new joint venture would uphold the high values of the council with respect to pensions, holidays and sickness. Mr Matthews stated that it was agreed that the vehicle would not have a substantial workforce. Staff would be provided by the council or Hyde.

- 24.13 Councillor Druitt asked about the rules of procurement policy, and specifically matters such as sustainability. Mr Waters replied that Hyde was a public body in the same way as the council. The Joint Venture was a public body. A business plan would need to be brought back to the committee.
- 24.14 Councillor Bell expressed concern about the land value. He wanted reassurance that the LLP would not cherry pick land they wanted. He considered that the council should choose the land it wanted to dispose of. Although Councillor Bell welcomed the initiative he had serious concerns about the way it had been presented and stressed that he had not had time to properly review the papers. He asked how long the company would be kept going. He had questions about the share of costs. In the second year there was a deficit in the finances. Councillor Bell referred to page 121, paragraph 3.22. He would expect to see a full proposal laid out and would expect to see a business plan. Buildings would have long term costs and there was a need to know the end of life costs.
- 24.15 Councillor Bell referred to page 122, paragraph 3.30, relating to the Board. He considered that there was a governance issue with any of the officers involved. Hyde members would be employed by Hyde and council officers would have other duties. There were problems over costings and conflicts of interest. He could not be convinced that there should be officers on the Board. Councillor Bell referred to page 125, paragraph 4.1 relating to risks and opportunities. He asked if legal advice had been received on the issue of State Aid. There needed to be clarity with regard to Site identification. Council officers should not be involved in the identification of sites.
- 24.16 The Executive Director Economy, Environment and Culture referred to the disposal of land. There was legislation that governed how land was disposed of. The advice of a valuer was required. Reports on disposal would be submitted to the Committee. The Council must receive best consideration. The Committee would have a say on which sites will be disposed of.
- 24.17 The Finance Officer reported that with regard to the maintenance of homes over the period, financial modelling does include life cycle costs, which does include works such as the replacement of lifts and structure of the building. With regard to the deficit, both Hyde and the Council would have to fund construction costs. Both would show deficits in the early years and the burden was shared equally.
- 24.18 Mr Waters referred to the conflict of interest for officers. He stressed that it was perfectly legally possible for councillors or officers to be members of the Board. Meanwhile there was no concern regarding State Aid.
- 24.19 Councillor Bell asked about the long term plan for the life of the company. The Head of Housing Strategy, Property and Investment explained that there was a 60 year business plan. The Executive Director stressed that within the business plan there were options to exit.
- 24.20 Councillor Miller asked how costs would be calculated and what they were.

The Finance Officer explained that management costs were set out in the Part Two appendix. Assumptions were based on existing costs on a cost basis.

- 24.21 Councillor Miller asked why general fund tax payers had not consulted on borrowing from the general fund. The Finance Officer replied that a report would be submitted to the Policy Resources & Growth Committee in order to have any approval of borrowing within any given year. Consultation would be carried out as part of that process.
- 24.22 Councillor Miller asked what would happen if two parties disagreed and the dispute mechanism did not work. Mr Waters explained that ultimately, there would be escalating procedures. If the parties could not agree they would have to agree to exit the arrangements.
- 24.23 Councillor Miller asked if the joint venture could be funded by HRA borrowing if the cap was lifted at the autumn statement? The Finance Officer replied that she did not believe it could. She thought that it would have to be ring fenced within the HRA.
- 24.24 Councillor Miller asked about likely impact. If in a number of years there was disagreement there would be a deficit which would affect the general fund. The Finance Officer explained that cash flows showed a surplus. Each development needed viability testing. There would be no loans until viability testing had been carried out.
- 24.25 Councillor Miller asked why the report had not been presented to the Members Procurement Advisory Board for comment. The Executive Director replied that he was happy to take the report to the Board.
- 24.26 Councillor Miller asked about Right to Buy. He asked what would happen if the Government extended the Right to Buy Scheme. This would have an impact on the general fund. The Finance Officer replied that no assessment had been carried out with regard to that scenario.
- 24.27 The Chair stressed that it was not possible to predict what future governments would be elected. She stressed that she did not want to see Right to Buy affecting these delivery options. The council were trying to protect social housing.
- 24.28 The Finance Officer stated that the proposal was a joint venture with Hyde. Board members would review the business plan. If in 20 years time Right to Buy was extended the council would review the business model.
- 24.29 Councillor Miller asked about HRA asset transfer. The Executive Director explained that there was not a proposal to put HRA properties into the joint venture. It was about finding land to put into the Joint Venture. Meanwhile reserve matters were delegated to officers. A list of reserved matters would be presented to the three council members of the Board.
- 24.30 Councillor Miller asked about heads of terms and construction costs. He was

informed that the Heads of Terms were draft. There could only be a higher cost with the agreement of members. Each business plan would be agreed.

- 24.31 Councillor Miller asked about the financial model and potential disputes. The Finance Officer reported that the council and Hyde would have to bear the costs of disputes.
- 24.32 Councillor Miller asked about the appropriateness of Hyde as a partner. Had any assessment been carried out? He was informed that officers had taken legal advice and had not had any other approaches. Hyde approached the council.
- 24.33 Councillor Miller stated that Hyde coming forward did not satisfy him that they were the most appropriate partner. Surely there should be a competitive framework to ensure Hyde were the most appropriate partner. He was informed that there had been a full competitive process for Hyde's frameworks. Mr Waters, Bevan Brittan stated that it would be open to the council to appoint its supply chain as it wished. The proposal to date was to make use of Hyde's frameworks because they were a means of taking things forward at an accelerated rate. The manner in which the council market tested the framework would be in both parties' interest. Hyde was not making any money from using its supply chain.
- 24.34 The Executive Director stated that there was a great deal of data to see if the VFM was better in one framework against another. The Programme Manager, Regeneration confirmed that there would be a project monitor who reported to the council and Hyde at the end of each tender that comes forward.
- 24.35 Councillor Miller had concerns about the reverse Teckal, and quoted paragraph 4.6 on page 135. Mr Waters stated that there were multiple bodies owning a vehicle. It was relevant to consider reverse Teckal. If one or other party was entering into a contract and making a profit from the Joint Venture, then there would be a question mark. This was mitigated through working on a shared basis. The use of the competitive procurement route to appoint the developers would mitigate it further.
- 24.36 Councillor Miller stated that the proposals were hugely risky for the council and there were many unanswered questions. He felt that the proposal had been rushed and was not ready. There was no member oversight and the Conservative Group wished to make an amendment to defer the report.
- 24.37 Councillor Mears stated that she fully supported companies and had led on the LDV that brought forward Seaside Homes. She considered that the proposal was contrary to the allocations policy and that there was an issue about shared ownership. These were the reasons that her Group were asking for a deferment.
- 24.38 Councillor Gibson welcomed both initiatives to address different housing situations. He considered that the council should go ahead with the wholly owned special purpose vehicle proposal. The joint venture was really

welcome and was moving to the principle of providing living rent homes. It was a potentially exciting model and could be a rolling project and go beyond 1000 homes. He considered that building for assets was a good deal for council tax payers. Councillor Gibson stated that he considered the proposal a bit rushed and considered that some of the assumptions were wrong. It relied on property value inflation and lacked building cost inflation.

24.39 Councillor Gibson presented the following amendment as follows:

“To add sub-sections 1-5 to recommendation 2.2 ii (a), as follows:

- a. develop and negotiate the deal with Hyde; in which
  - 1) 100% nominations for Living wage rented housing are provided for households from the BHCC waiting list, for whom the market rent for housing which would meet their needs in the private sector would cost more than 50% of their income (estimated as £36K for 3 bed, 31K for 2 bed, 22.5K for 1 bed and 16K for a studio).
  - 2) 100% nominations are achieved for shared ownership properties for residents with a local connection to Brighton and Hove as defined in the Housing Allocations Policy
  - 3) Hyde commit not to convert vacant social rented properties in Brighton and Hove to affordable rents for the duration of the Limited Liability Partnership
  - 4) A “first refusal” option is agreed to buy Hyde out should they become bankrupt
- 5) There is an agreement that should Hyde dispose of their stake separately from a mutually agreed joint disposal it is sold either to the council or to a charitable housing association with charitable objectives.”

24.40 Councillor Gibson presented a second amendment as follows:

“To remove subsections (b) and (c) from recommendation 2.2 ii) and replace with a new sub-section (b) as follows:

- (b) That the final terms of the agreement be agreed by a full meeting of Council prior to completion of the deal.”

24.41 Councillor Gibson presented a third amendment as follows:

“To add subsection v) to recommendation 2.2 as follows:

- v) That reserved matters for the Joint Venture should include:
  - (a) An option to veto any future rents increases that exceed increases in the National Living wage
  - (b) An option to veto any future rents increases that raise rents over the Local Housing Allowance.”

24.42 Councillor Druitt seconded all three amendments.

24.43 The Executive Director stated that he was concerned about an amendment which asked to develop and negotiate a deal which considered points 1 to 5 (first amendment). It would be difficult for the council to require that a deal was negotiated that required actual points. The implications of these points were

not known and they required action from a third party. If the second amendment was carried then the final papers would come back to council anyway. The Committee Lawyer suggested that the amendments be modified and say that these points are taken into account in the negotiations.

24.44 Councillor Gibson suggested that amendment 1 be changed to read “a. to develop and negotiate the deal with Hyde; in which the following are sought”.

24.45 At this point of the proceedings there was a 10 minute adjournment.

24.46 Following the adjournment Councillor Hill stated that there had been very good questions and that opposition councillors had been right to scrutinise the proposals. Councillor Hill stated that it should be recognised that this was not a procurement process; it was an offer of a joint venture from a particular organisation. This needed to be scrutinised but had there been other offers the Committee would have been informed of them. The Council could not model what might happen if there were changes in government legislation. There needed to be ways of exiting and ways of adapting the model. The Council could not avoid risk but it needed to know what the risks were in order to take things forward. She stressed that there were huge benefits to the proposal and the Committee should not lose sight of what might be gained.

24.47 Councillor Mears requested a deferral to the next Housing and New Homes Committee so that everybody in the three political groups could be satisfied with the proposals.

24.48 The Chair asked for a vote on the proposal to defer the report. The vote was agreed by 6 votes.

24.49 **RESOLVED:-**

(1) 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.

## **25 DRAFT HOUSING ALLOCATIONS POLICY**

25.1 The Committee considered a report of the Executive Director Economy Environment & Culture which presented a new Allocation Policy for approval. City wide consultation was carried out from 1<sup>st</sup> December 2015 to 29<sup>th</sup> February 2016. It was reported that over the last 5 years the Housing Register had continued to grow and now stood at over 24,000 applicants. Data demonstrated that numbers in current allocation Bands A & B are relatively static, whereas the increase in numbers was within Bands C & D on the register. This reflected the lower priority given. The report was presented by the Service Improvement & Interim Homemove Manager.

25.2 The Service Improvement & Interim Homemove Manager reported that the Equalities Impact Assessment had now been signed off by Corporate Equalities with slight amendments which would be brought back to members. Paragraph 7.7 referred to the “Ealing Case” in which a comparable “working positive contribution” preference element was deemed to be unlawful for discrimination.

- 25.3 Councillor Mears considered that it would be appropriate for the report to be forwarded to the Housing Management Area Panels so they could be acknowledged and informed of what was being recommended, and she would propose an amendment to this effect.
- 25.4 The Chair pointed out that the allocations policy was a city wide policy not funded through the HRA. The City Wide Assembly had been consulted on the policy.
- 25.5 Councillor Hill stated that she was Chair of the North Area Housing Management Panel. She was sure that the Chair's note had notified tenants that a consultation was ongoing.
- 25.6 Councillor Gibson reported that he had spoken to his Area Panel and they had not been aware of the proposals, and wanted to be involved in the matter. Huge changes were being proposed and it seemed that the proposals were more draconian. Councillor Gibson wanted to see safeguards for tenants before he would be happy to support the paper.
- 25.7 Councillor Atkinson considered that the council had consulted as widely as possible. It was a significant consultation and he thanked the Service Improvement & Interim Homemove Manager and his colleagues. Councillor Atkinson considered that the increase to 5 years residency was fair. 74% of people who had been consulted agreed to the change. The new policy was concentrating on those most in need.
- 25.8 The Service Improvement & Interim Homemove Manager reported that the list of organisations that responded to the consultation (as set out on pages 202 to 207 of the report) included all officers in Housing and Adult Social Care, Brighton Housing Trust, Rise, the Police, social workers, and housing associations and all BME organisations in the city. He had also attended the LGBT Community Forum and Victim Support to explain the policy and respond to questions.
- 25.9 Councillor Moonan agreed that there had been a very wide and full consultation. 35% of respondents were people on the register. Pages 182 to 183 of the agenda showed a strong response. The current Allocations Policy was out of date and needed to change. These were good proposals and she thought that councillors could view the bulk of the report very positively.
- 25.10 Councillor Mears stated that she had read the list of respondents, but stressed that there was an issue around the Housing Management Area Panels. They should be consulted for the sake of transparency and openness. Councillor Mears was also concerned that some aspects of the policy were draconian.
- 25.11 Councillor Gibson emphasised that his concerns were not about avoiding change, but the need for further consultation, and receiving people's views. He wanted to hear from people who were at the 'sharp end', and wanted to know what other councils were doing.
- 25.12 The Senior Lawyer reported that there was no statutory duty for the council to consult with the Housing Management Area Panels. He stressed that there were elements in the current policy that were unlawful and at risk of challenges (paragraph 7.7 of the report). The Senior Lawyer had seen four separate challenges to local authorities. One

was the 'Ealing Case'. Two challenges had been made last week. There was constant pressure on allocation policies at the moment.

- 25.13 Councillor Mears suggested that there could be a special Housing Management Area Panel meeting to consider the policy. This was why she was asking for the item to be deferred.
- 25.14 Councillor Hill asked for an agreement whereby should the report be deferred, it was agreed that the committee would consider the proposed policy following the Area Panel meetings. It was agreed that the amendment put by Councillor Mears would not open up the whole consultation again.
- 25.15 The Service Improvement & Interim Homemove Manager suggested that one event for all of the Area Panels be arranged. The views of the Area Panel representatives could be added to the consultation as an addendum.
- 25.16 Councillor Druitt stressed that there was agreement to the broad issues in the policy and problems could have been avoided by councillors being consulted at an earlier stage. Councillors need proper time to look at documents.
- 25.17 The Chair asked what the impact of a Judicial Review would be following a deferral. The Senior Lawyer stressed that there would be no personal liability on individual members.
- 25.18 At this point in the proceedings Councillor Mears proposed the following amendment which was seconded by Councillor Gibson. The proposal was agreed by 6 votes in favour and 4 against.

"That the Housing & New Homes Committee agrees to defer consideration of the proposed new Housing Allocation policy until full consultation has taken place with existing tenants through the Housing Management Area Panels."

25.19 The proposal was agreed by 6 votes in favour and 4 against.

25.20 **RESOLVED:-**

- (1) That it is agreed to defer consideration of the proposed new Housing Allocation policy until full consultation has taken place with existing tenants through the Housing Management Area Panels.

## **26 REPAIRS & IMPROVEMENTS PARTNERSHIP UPDATE**

- 26.1 The Committee considered a report of the Executive Director Economy Environment & Culture which provided an update on processes in place within the Repairs & Improvement Partnership with the Mears group to manage quality and avoid overpayments following the results of an internal audit review of overpayments identified by the council in respect of contracted housing repairs. The report was presented by the Business and Performance Manager who explained that the agreed actions undertaken were set out in paragraphs 3.5 to 3.13 of the report. This had included the reduction on the use of sub-contractors (3.8) and onward quality assurance work (3.10). David Miles,

Chief Executive, Mears Group and Lucas Critchley, Managing Director, Mears Group were in attendance.

- 26.2 Councillor Bell referred to paragraph 3.11 on page 283. This related to Mears funding an additional council resource to work alongside the existing team of three quantity surveyors in sample checking the post inspection process. Councillor Bell asked if the quantity surveyors were Mears Group employees. Councillor Bell mentioned that the Committee had heard earlier about dissatisfaction from residents with repairs. Would there be an independent inspection?
- 26.3 The Head of Housing Strategy, Property & Investment explained that the council had its own quality assurance resource and its own clerk of works. The council would look at the client contractor balance in the review being taken forward.
- 26.4 Councillor Miller welcomed the reduction in spend on sub-contractors. He referred to paragraph 3.5 and the fact that Mears had agreed to pay interest. Councillor Miller asked how the repayment was progressing. The Head of Housing Strategy, Property & Investment explained that the council had recovered all loss on the contract including percentage profit. David Miles stated that Mears Group had committed to paying the interest and full charge. Councillor Miller requested that officers check that the interest charge sum had been collected.
- 26.5 Councillor Moonan welcomed the fact that the percentage of sub-contractors was down to 12%. She asked if 12% was a desirable number, and the right balance or was it expected that it would continue to reduce. She noted that the number of jobs was 12% and the cost was 31%. She assumed that they were big expensive jobs.
- 26.6 Lucas Critchley explained that 12% was broadly the right figure for specialist works. Mears would continue to review this. Work such as minor drainage jobs were now carried out in-house. Mears Group sub-contracted the larger more complex jobs which was why they had a higher value.
- 26.7 Councillor Mears stressed that Mears Group needed to provide a good service to the council and should address the concerns of tenants. Councillor Mears was pleased that the investigation had resolved many issues, but emphasised that it was necessary for Mears Group to treat tenants as customers.
- 26.8 The Chair mentioned that the committee had requested six month updates and to the credit of Mears Group, they had been working closely with the council.
- 26.9 Councillor Druitt asked if the figure of £513,113 was the total or was there any re-payment outstanding. He pointed out that if an inspection was carried out at the end of a job there was no way of knowing how many coats of paint had been applied. Councillor Druitt asked for reassurance that there was some kind of quality assurance mechanism that was followed during the period the job was being carried out, in addition to the inspection at the end of the process.
- 26.10 David Miles confirmed that the figure of £513,113 was the total value. However, he did not know if interest was included within that figure. The Business and Performance Manager confirmed that in terms of inspection, that both the council and Mears would

review an ongoing job. Each work stream would have a dedicated supervisor and manager, working for Mears, and a contract manager/clerk of works who worked for the council who would be involved from specification stage. For larger projects they would be involved in regular checks whilst works were underway.

**26.11 RESOLVED:-**

- (1) That the updates on progress following the initial report to both Audit & Standards Committee and Housing & New Homes Committee in January 2016, be noted.

**27 HOUSING MANAGEMENT PERFORMANCE REPORT QUARTER 1 2016/17**

27.1 The Committee considered a performance report of the Executive Director Economy Environment & Culture which covered quarter one of the financial year 2016/17. The report was presented by the Head of Income, Involvement & Improvement, who explained that the redesign of the report was to make it more accessible.

27.2 Councillor Druitt referred to page 293 (1.14 Area breakdown of rent collected). He asked how the trends for these statistics compared with previous quarters. The Head of Income, Involvement & Improvement explained that performance overall had improved. She could extend the trend arrow for the next report.

27.3 Councillor Gibson referred to page 298 - Repairs and Maintenance Indicators. He asked for an explanation of 4.7 – Repairs completed at first visit. The Head of Income, Involvement & Improvement replied that the percentage was not as good as officers would like. Mears were now carrying out more work in house rather than sub-contracting. This was affecting jobs, training and the nature of the work. It was hoped that performance would improve by the next quarter.

27.4 The Chair thanked the Head of Income, Involvement & Improvement for her hard work.

**27.5 RESOLVED:-**

- (1) That the report, a summary version of which went to Area Panels in July 2016, be noted along with the comments of the Committee.

**28 ITEMS REFERRED FOR FULL COUNCIL**

28.1 The following items were referred to Full Council on 20 October 2016, for information.

Councillor Hill referred Item 20 – Rent Smart Partnership Agreement.

Councillor Gibson referred Item 23 – Single Homeless and Rough Sleeper Accommodation & Support Services Remodelling and Tender.

**29 HOUSING DELIVERY OPTIONS - EXEMPT CATEGORY 3**

29.1 The appendix to the report at Item 24 of the agenda was not discussed in Part Two.

**30 PART TWO PROCEEDINGS**

30.1 The appendix attached at Item 29 would remain exempt to the press and public.

The meeting concluded at 11.08pm

Signed

Chair

Dated this

day of