

<b>Subject:</b>	<b>Review of the Council's Constitution</b>
<b>Date of Meeting:</b>	<b>13 May 2021</b>
<b>Report of:</b>	<b>Executive Lead Officer for Strategy, Governance &amp; Law (Monitoring Officer)</b>
<b>Contact Officer: Name:</b>	<b>Abraham Ghebre-Ghiorghis</b>
<b>Email:</b>	<a href="mailto:abraham.ghrebre-ghiorghis@brighton-hove.gov.uk">abraham.ghrebre-ghiorghis@brighton-hove.gov.uk</a>
<b>Ward(s) affected:</b>	<b>All</b>

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT:**

- 1.1 This report proposes changes to the Council's Constitution for approval by Policy & Resources Committee and (where relevant) Council. The proposals set out in the report have been considered by the cross-party Constitutional Working Group (CWG) and by Leaders Group.

**2. RECOMMENDATIONS:**

**That the Policy & Resources Committee:**

- 2.1 Recommends to Full Council the proposal to make changes to the Council's Procedure Rules in Part 3.2 of the Council's Constitution indicated in paragraphs 4.1 - 4.7 inclusive and Appendix 1.
- 2.2 Agrees the proposals to make changes to the Council's Member Working Groups and Advisory Bodies in Part 4 of the Council's Constitution as set out in paragraphs 4.8 to 4.11 inclusive and Appendices 2 & 3.
- 2.3 Recommends that Full Council approve the appointment of a co-optee to represent the perspective of disabled people to Environment, Transport & Sustainability Committee and a representative from Parent Carers' Council (PaCC) to be co-opted onto the Children, Young People & Skills Committee, as outlined in paragraph 4.12 of the report.
- 2.4 Recommends that a report be brought to the next Committee meeting, addressing proposals for the payment of an allowance to those co-optees and standing invitees described in paragraph 4.13.
- 2.5 Agrees the proposal to make changes to the Scheme of Delegations to Officers in Part 6 of the Council's Constitution as set out in paragraphs 4.14 to 4.15 inclusive and Appendix 4 of the report.
- 2.6 Recommends to Full Council the proposal to make changes to the rules on Petitions in Part 8.10 of the Council's Constitution as set out in paragraphs 4.16 to 4.18 inclusive and Appendix 5 of the report.

### **That Full Council:**

- 2.7 Approves the proposed changes referred to in paras 2.1, 2.3 and 2.6 above and as set out in Appendices 1 and 5.

### **That both Policy & Resources Committee and Full Council:**

- 2.8 Authorise the Chief Executive and Monitoring Officer to take all steps necessary or incidental to the implementation of the changes agreed by the Policy & Resources Committee and by Full Council, and that the Monitoring Officer be authorised to amend all parts of the Council's constitutional documents necessary to incorporate the changes, and to republish the Constitution.
- 2.9 That the proposed changes come into force immediately following their approval by Policy & Resources Committee or adoption by Full Council, as appropriate.

## **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Council is required to keep its Constitution under review with a view to achieving efficiency, economy and effectiveness. The cross-party Constitutional Working Group (CWG) was set up to assist with this by considering proposals and advising the Council on proposed changes to the Constitution. The current members of the CWG are Councillors Clare (Chair), O'Quinn and Nemeth. The proposals set out in the report were discussed by the CWG and also by Leaders' Group.

## **4. PROPOSALS**

### **Changes to the Council's Procedure Rules – Part 3.2**

- 4.1 A series of proposals to the rules governing the conduct of the council's meetings are proposed as described below and the relevant updated sections of Part 3.2 of the Constitution are attached as Appendix 1.

#### 4.2 Notices of motion

Currently the total number of Notices of Motion which may be submitted to each meeting of Full Council is six: two per Group. Joint Notices of Motion are not normally counted which has led to some uncertainty and inconsistency. It is proposed that the rules be clarified by providing that – as well as each Group being able to submit two Notices of Motion – each Group is also entitled to co-submit a maximum of two additional Notices of Motion with another Group.

#### 4.3 Voting on Recommendations

Currently there is inconsistency as to whether recommendations are required to be put to the meeting as one vote or whether they are voted on individually. It is proposed that the Rules be amended to include explicit reference to the discretion of the Chair to decide how recommendations are put, the Chair being best placed to judge which approach to adopt on a case by case basis.

#### 4.4 Amendments to written reports

As currently worded, the rules on amendments appear to conflict, with Rule 14 appearing to allow verbal amendments contrary to the notice requirements in Rule 15. It is proposed that Rule 14.2 be amended to ensure clarity.

#### 4.5 Amendments negating the motion

Rule 13.4 currently provides that an amendment 'shall not have the effect of simply negating the motion before the meeting'. It is suggested that the concept of a 'negating amendment' would be clarified by providing the definition as set out in Appendix 1.

#### 4.6 Points of Order

The high number of interjections presented as Points of Order at some Full Council meetings has been observed. It has been noted that many do not meet the definition provided in Rule 15.10, and that dealing with them takes up time in the meeting. To ensure the effective running of the council's business, it is therefore proposed that the Rules be amended to provide that a member who has had two Points of Order ruled as inadmissible will not be permitted to raise a third Point of Order at the same Full Council meeting.

#### 4.7 Smoking

It is considered that the current prohibition on smoking in council meetings is no longer required due to the legal prohibition in place. As a result, it is proposed that it be deleted.

### **Changes to the Council's Member Working Groups and Advisory Bodies - Part 4**

#### 4.8 Following a review of the Council's Member Working Groups and Advisory Bodies, the following bodies are proposed to be deleted, for the reasons indicated:

Cross Party Members and Stakeholder Steering Group for the Disability and Special Educational Needs review	This member working group is no longer necessary now that the Special Education Needs Review has been completed.
Health & Social Care Integration X-Party Members Working Group	This member working group has not met for some months and is not considered to be needed.
Modernisation Member Oversight Group	This member working group has recently been paused as the work of the Council's modernisation programmes are reported to the relevant service Committees as necessary.

Adoption Panel	This body is no longer required due to a change in the law which established a joint body – Adoption South East –from April 2020 to carry out relevant functions.
----------------	---

- 4.9 The following changes are proposed to the Terms of Reference of existing Member Working Groups as set out fully in Appendix 2:
- (i) The Terms of Reference of the Homelessness Reduction Board be amended to future proof it, in case of future changes in political representation.
  - (ii) The remit of the 2030 Carbon Neutral Group be expanded to incorporate the allocation of funding required to deliver the plan (an action previously overseen by a task & finish group which has now been disbanded: the Sustainability & Carbon Reduction Investment Fund Member Oversight Group).
- 4.10 The following additional Member Working Groups are proposed to be established with the Terms of Reference which are set out in Appendix 3 alongside some additional explanatory text which it is proposed be inserted in the Introduction to Part 4 of the Constitution in order to provide additional clarity re the role of Member Working Groups and the principles on which they are established:
- (i) A City Downland Estate Advisory Panel to exist alongside the Asset Management Board (AMB), to provide a dedicated forum for considering relevant issues.
  - (ii) Cross-Party Working Group for Planning Policy to provide Planning Committee with input on planning policy and guidance (NB this was proposed by [Planning Committee](#) but has yet to receive formal approval from Policy & Resources Committee).
  - (iii) Youthwise: an advisory body which aims to demonstrate the council's commitment to listening to the voice of young people and involving them in decisions that may impact on them (NB this was proposed by [Children, Young Persons & Skills Committee](#) but has yet to receive formal approval from Policy & Resources Committee).
- 4.11 In relation to the chairing of Member Working Groups, the current expectation is that the Chair of each MWG shall normally be appointed from the Council's largest political group unless Policy & Resources Committee has made other express provision. It is proposed that the word 'normally' be deleted so as to make that provision unequivocal and thereby ensure clarity and consistency but to also retain the option for Policy & Resources Committee (or other relevant Committee in the case of task and finish Member Working Groups) to agree other provision for chairing when they agree the Terms of Reference, as is currently the case.

### **Co-optees and standing invitees**

4.12 It is proposed that the Council's existing arrangements for encouraging input from relevant groups in the area be enhanced by appointing the following additional non-voting co-optees to those of the Council's Committees specified below. It should be noted that options for future representation on other Committees will be kept under review, while the project to explore all available means of supporting co-optees and standing invitees to participate effectively in the Council's decision-making remains ongoing:

- An additional co-optee to Environment, Transport and Sustainability Committee to represent the perspective of disabled people;
- A representative from Parent Carers' Council (PaCC) to be co-opted onto Children, Young Persons and Skills Committee.

4.13 It is further proposed that a role description is developed for co-optees and standing invitees and that a report is brought back to this Committee to consider whether co-optees and standing invitees who are appointed and attend Council Committee meetings in a personal and voluntary capacity should receive an allowance to acknowledge the value they bring to the Council's decision-making. Such a proposal would also require consideration by the Independent Remuneration Panel.

### **Changes to the Scheme of Delegations to Officers – Part 6**

4.14 It is proposed that the delegations to the Executive Director – Economy, Environment & Culture be amended to make specific reference to the power to enforce the environmental offences included in the updated Environmental Enforcement Framework, which was approved by Environment, Transport & Sustainability in September 2020. The proposed amended wording is set out in Appendix 4.

4.15 It is further proposed that the Executive Director – Housing, Neighbourhoods & Communities is delegated sole responsibility for services to rough sleepers. This proposal is considered to provide greater clarity than the current arrangements where the function is delegated concurrently to two Executive Directors. The proposed amended wording is set out in Appendix 4.

### **Changes to the Council's Petitions Scheme – Part 8.2**

4.16 It is proposed that the council's current Petitions Scheme be amended to embed in it the requirement that all supporters of a petition submitted in paper or via the Council website demonstrate that they live, work and/or study in the area of B&H by providing a relevant postcode.

4.17 The proposed amendments also embed into the Scheme that petitions received from petition portals outside of the Council will also be encouraged to demonstrate that signatories live, work and/or study in the area of B&H by providing a relevant postcode, with the aim of ensuring consistency.

4.18 The proposed amended wording is set out in full at Appendix 5 to this report.

## **5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 5.1 The Committee or Council could decide not to implement the changes set out in this report, with the impact of retaining the status quo. However, the proposals have been made to improve clarity and understanding of the Constitution for both elected members and the public.

## **6. COMMUNITY ENGAGEMENT & CONSULTATION**

- 6.1 The proposals in this report have been reviewed in detail by elected Members in the Constitution Working Group and Leaders Group. The proposals do not represent changes to the decision-making structure or framework and due to the procedural nature of the changes that are proposed it is not considered that community engagement would be appropriate.

## **7. CONCLUSION**

- 7.1 The proposals reflect the Council's ongoing efforts to review its Constitution to ensure that it is reflective of current practice and priorities and to achieve clarity and increased efficiency. As a result, it is recommended that the proposals in this report be approved.

## **8. FINANCIAL & OTHER IMPLICATIONS:**

### **Financial Implications:**

- 8.1 There may be potential cost implications arising from any proposed allowances for co-optees, which will be the subject of a further report and would be subject to approval by the Independent Remuneration Panel. Financial implications will be provided for these reports.

Finance Officer Consulted: Nigel Manvell      Date: 05/05/21

### **Legal Implications:**

- 8.2 Policy & Resources Committee and, where specified in this report, Full Council have the authority to make the changes to the Council's Constitution which are set out in the report. The intention is for the proposals to be implemented with immediate effect following the decision of the relevant decision-making body, unless expressly stated to the contrary.

Lawyer Consulted: Victoria Simpson      Date: 04/05/21

### **Equalities Implications:**

- 8.4 The Council has a public sector equality duty under s149 of the Equality Act 2010. In the exercise of its functions the Council must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those that do not.

- 8.5 The Council's public sector equality duty has been considered by officers and the proposals of this report have been assessed for their equalities impact. There are anticipated benefits to disabled people in respect of the proposal to introduce an additional co-optee to ETS and CYPS Committee and to younger people in relation to the establishment of Youthwise.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

- Appendix 1 – Part 3.2 (tracked changes version)
- Appendix 2 – Part 4 – extracts (tracked changes version)
- Appendix 3 – Part 4 – extracts (tracked changes version)
- Appendix 4 – Part 6 (tracked changes version)
- Appendix 5 – Part 8.10 (tracked changes version)

### **Background Documents**

None

